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January 14, 2025

VIA STAFF ONLINE FORM

United States Securities and Exchange Commission
Division of Corporation Finance
100 F Street, N.E.
Washington, D.C. 20549-7010

RE: Stockholder Proposal Submitted by Marvin McCreary

Ladies and Gentlemen:

Tesla, Inc. (the "Company" or "Tesla") is submitting this letter to notify the staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") of the Company's intention to exclude a stockholder proposal (the "Proposal") from its proxy materials to be distributed in connection with its 2025 annual meeting of stockholders (the "Proxy Materials"). Marvin McCreary (the "Proponent") submitted the Proposal.

The Company respectfully requests that the Staff advise the Company that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its Proxy Materials for the reasons discussed below. In accordance with relevant Staff guidance, the Company is submitting this letter and its attachments to the Staff through the Staff's online Shareholder Proposal Form. Pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Company is simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the Company's intent to omit the Proposal for its Proxy Materials.

Rule 14a-8(k) and Section E of Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D") provide that stockholder proponents are required to send companies a copy of any correspondence that the stockholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if it submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the Company.

The Proposal

The Proposal sets forth the following:

RESOLVED**:** Shareholders request the Board of Directors to adopt and disclose a comprehensive strategy to align the Company's operations and business model with the goals of the Paris Climate Agreement, including but not limited to:

1. Setting science-based targets for reducing greenhouse gas emissions across all operations, consistent with the goals of the Paris Climate Accord.

2. Developing and disclosing a roadmap for achieving these targets, including milestones and timelines.

3. Implementing measures to quantify the Company's AI greenhouse gas emissions and to reduce the climate impact of AI's compute energy consumption.

4. Regularly reporting on progress towards these targets and the effectiveness of the implemented measures.

A copy of the Proposal is attached hereto as Exhibit A.

Basis for Exclusion

The Company respectfully requests that the Staff concur in our view that the Proposal may be excluded from the Proxy Materials pursuant to Rule 14a-8(i)(7) of the Exchange Act, as the Proposal deals with matters relating to the Company's ordinary business operations.

Rule and Analysis

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Rule 14a-8(i)(7) allows the omission of a stockholder proposal from a registrant's proxy statement if the proposal "deals with a matter relating to the company's ordinary business operations." As set out in Securities Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"), there are two "central considerations" underlying the ordinary business exclusion. One is that certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. The other relates to the degree that a proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.

Explaining the standard for micromanagement, the Commission noted in the 1998 Release that consideration of complex matters upon which shareholders could not make an informed judgment "may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies" (footnote omitted). In Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"), the Staff explained that a proposal can be excluded on the basis of micromanagement based "on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management."

In this case, the Proposal implicates precisely these issues— it seeks to impose specific methods for implementing complex policies and also requests overly granular detail. In this regard, the Proposal requests that Tesla's Board of Directors (the "Board") "adopt and disclose a comprehensive strategy to align the Company's operations and business model with the goals of the Paris Climate Agreement," including "[se]tting science-based targets for reducing greenhouse gas emissions across all operations," "[d]eveloping and disclosing a roadmap for achieving these targets, including milestones and timelines," "[i]mplementing measures to quantify the Company's AI greenhouse gas emissions and to reduce the climate impact of AI's compute energy consumption," and "[r]egularly reporting on progress towards these targets and the effectiveness of the implemented measures."

However, the Proposal goes far beyond a request to adopt and disclose an overall strategy to align the Company's operations and business model with the goals of the Paris Climate Accord. Upon a closer read, the Proposal evinces a specific focus on the regulation of the Company's AI operations and reducing emissions related to AI. In addition to the request to implement "measures to quantify the Company's AI greenhouse gas emissions" in the Proposal's resolved clause, the supporting statement provides that Tesla should set "ambitious climate targets" and address "the high electricity consumption of AI operations." The Proposal also asserts that Tesla's "growing interests in Artificial Intelligence (AI) are associated with high electricity consumption" and that "[a]ddressing the energy consumption of AI compute resources is crucial for the Company to maintain its sustainability leadership." Thus, taken together, the Proposal not only requests that the Company adopt particular GHG emissions reductions targets, but it imposes a specific method for doing so by requiring a narrow focus on Artificial Intelligence ("AI") operations. In prescribing its own specific judgments with respect to Tesla's AI operations and related emissions, the Proponent seeks to limit the discretion of the Board and management with respect to the most effective strategy to achieve certain GHG emissions reductions consistent with a net-zero strategy. In doing so, the Proposal attempts to inappropriately substitute the judgment of Tesla's management with the Proponent's.

The Staff has consistently permitted exclusion on the basis of micromanagement of stockholder proposals urging the adoption of policies that impose specific methods for reducing greenhouse gas ("GHG") emissions. For example, in *Valero Energy Corporation* (Mar. 22, 2024), the Staff found that a proposal asking the company to adopt a "1.5° C-aligned, near-term emissions reduction target that does not include the use of carbon offsets and avoided emissions" micromanaged the company. The company argued, among other things, that the proposal micromanaged the company because it not only requested the setting of GHG emissions reduction targets, but also imposed a specific method for doing so by requiring the exclusion of carbon offsets and avoided emissions. Similarly, in *Amazon.com, Inc.* (Apr. 7, 2023, recon. denied Apr. 20, 2023), the Staff permitted exclusion of a proposal that would have required the company to adopt a particular methodology for scope 3 greenhouse gas emissions measuring and reporting that was inconsistent with the company's existing approach. In its response, the Staff noted that "the [p]roposal seeks to micromanage the [c]ompany by imposing a specific method for implementing a complex policy disclosure without affording discretion to management." See also *JPMorgan Chase & Co.* (Mar. 29, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting the company disclose "the proportion of sector emissions attributable to clients that are not aligned with a credible Net Zero pathway, whether this proportion of unaligned clients will prevent the Company from meeting its 2030 targets, and the actions it proposes to address any such emissions reduction shortfalls"); *The Goldman Sachs Group, Inc.* (Mar. 4, 2024) (same); *Bank of America Corporation* (Feb. 29, 2024, *recon. denied* Apr. 15, 2024) (same); *Morgan Stanley* (Mar. 29, 2024) (same); *Chubb Ltd*. (Mar. 27, 2023) (permitting exclusion on the basis of micromanagement of a proposal requesting the adoption and disclosure of a policy for the timebound phase out of the company's underwriting risks associated with new fossil fuel exploration and development projects aligned with limiting global temperature rise to 1.5°C); *JPMorgan Chase & Co.* (Mar. 30, 2018) (permitting exclusion on the basis of micromanagement of a proposal

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requesting a report on the reputational, financial and climate risks associated with project and corporate lending, underwriting, advising and investing for tar sands production and transportation, noting that the proposal sought to "impose specific methods for implementing complex policies").

Similar to *Amazon.com*, the Proposal seeks to impose a particular method for addressing a complex policy that differs from the Company's current approach. As described in Tesla's 2023 Impact Report (the "Impact Report")[1], the Company already has a robust system for both measuring and disclosing its GHG emissions reductions efforts. For example, on page 11 of the Impact Report, the Company explains that it performs physical climate risk assessments for manufacturing and support locations, which includes a Paris-aligned approach. On pages 36 through 46 of the Impact Report, the Company summarizes its vast decarbonization strategy, including reporting on specific projects. On pages 104 through 112 of the Impact Report, the Company describes its approach to supplier-specific decarbonization and collection of high-quality, primary emissions data across its global value chain. As discussed on page 10 of the Impact Report, Tesla's GHG emissions reduction targets and strategies have been carefully developed through informed and extensive analysis that balances highly complex, technical, and competing considerations. Nevertheless, the Proposal seeks to replace this strategy with its own and to micromanage the Company by dictating a focus on AI operations and emissions.

In addition, the Company's GHG emissions reduction strategy, including focal points of the strategy, is precisely the type of matter that is too complex for shareholders. As explained in SLB 14L, in assessing whether a proposal probes into matters that are too complex for shareholders, as a group, to make an informed judgment, the Staff will consider "the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic," along with "references to well-established national or international frameworks." GHG emissions reporting is an incredibly complex matter, yet the Proposal offers no clear references to established frameworks or guidelines in its request. This stands in contrast to the Company's existing approach, which as described on pages 36 through 46 of the Impact Report, includes Scope 1, 2, and 3 and full value chain GHG emissions reporting. Moreover, as discussed in the Impact Report, the Company's climate strategy is aligned with the Task Force on Climate-Related Financial Disclosures' ("TCFD") recommendations and features specific reporting on projects within the Company's net-zero strategy. The Proposal, however, seeks to supplant management's judgment on this complex topic with a narrowly focused request that focuses only on AI reporting and provides no framework of how to do so.

The Proposal also seeks excessive and overly granular detail. Due to the complexity of the topic of the Proposal, the requested report would necessitate quantifying hundreds of data points and providing specific reporting on AI operations. The Staff has routinely concurred in the exclusion of proposals on the basis of micromanagement where the proposals request overly granular detail. See *Air Products and Chemicals, Inc.* (Nov. 29, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting a report disclosing the company's policies and procedures governing lobbying and grassroots lobbying communications, among other things); *Delta Air Lines, Inc.* (Apr. 24, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting a report on "union suppression expenditures," including internal and external expenses); *Paramount Global* (Apr. 19, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting disclosure of the recipients of corporate charitable contributions of $5,000 or more); *Walmart Inc.* (Apr. 18, 2024) (permitting exclusion on the basis of micromanagement of a proposal requesting a breakdown of greenhouse gas emissions for different categories of products in a manner inconsistent with existing reporting frameworks); *Phillips 66* (Mar. 20, 2023) (permitting exclusion on the basis of micromanagement of a proposal requesting an audited report describing the undiscounted expected value to settle obligations for the company's asset retirement obligations with indeterminate settlement dates); *Valero Energy Corporation* (Mar. 20, 2023) (same).

In addition, framing a stockholder proposal as a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the report is within the ordinary business of the issuer. See Exchange Act Release No. 20091 (Aug. 16, 1983) (the "1983 Release"); see also *Johnson Controls, Inc.* (Oct. 26, 1999) ("[Where] the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business… it may be excluded under [R]ule 14a-8(i)(7)") and *Netflix, Inc.* (Mar. 14, 2016). The Staff also has consistently found that proposals calling for a study or report may be excluded on micromanagement grounds. See, e.g., *PayPal Holdings, Inc.* (Mar. 6, 2018) (permitting exclusion on the basis of micromanagement of a proposal asking the company to prepare a report on the feasibility of achieving net-zero emissions by 2030); *Devon Energy Corporation* (Mar. 4, 2019) (permitting exclusion on the basis of micromanagement of a proposal requesting the board provide disclosure of short-, medium- and long-term greenhouse gas targets aligned with the Paris Climate Agreement). Moreover, it is well established that a proposal that seeks to micromanage a company's business operations is

[1] Available at https://www.tesla.com/ns_videos/2023-tesla-impact-report.pdf

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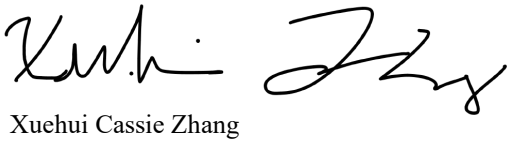
excludable under Rule 14a-8(i)(7) regardless of whether the proposal raises a "significant social policy issue." See Staff Legal Bulletin No. 14E (Oct. 27, 2009) at note 8, citing the 1998 Release for the premise that "a proposal [that raises a significant policy issue] could be excluded under Rule 14a-8(i)(7), however, if it seeks to micro-manage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment."

The Company agrees that addressing climate change is important. Indeed, the Company's mission is to accelerate the world's transition to sustainable energy and few companies have done more than Tesla to promote this transition. Nevertheless, the Proposal is overly prescriptive in its request and seeks to interfere with the Company's policies relating to its energy usage and corresponding disclosures. Decisions concerning the Company's net-zero strategy and GHG emissions reduction plans require complex business judgments and assessments by the Company's teams across various functions regarding what the Company considers to be reasonable and achievable and will serve the best interest of its business and its clients. Further, in pursuing its goal of a transition to a low-carbon economy and determining the specific projects and focal points of its strategy, the Company must consider other factors both within and outside of its control, including, among other things, the pace of technological advancements, the evolution of consumer behavior and demand, and the potential impact of legal and regulatory obligations. How the Company addresses this complex issue, after considering numerous factors described above, involves exactly the type of day-today operational decisions that the 1998 Release and SLB 14L recognized as appropriate for exclusion under Rule 14a-8(i)(7). By mandating that the Company focus on one aspect of its climate-related efforts and provide related disclosure, the Proposal seeks to impose specific methods for implementing complex policies and, therefore, probes too deeply into matters of a complex nature upon which shareholders, as a group, are not in a position to make an informed judgment.

Conclusion

The Company respectfully requests that the Staff concur that it will take no action if the Company excludes the Proposal from the Proxy Materials. If the Staff has any questions with respect to the foregoing, or if for any reason the Staff does not agree that the Company may exclude the Proposal from its Proxy Materials, please do not hesitate to contact me at cassie.zhang@tesla.com. In addition, should the Proponents choose to submit any response or other correspondence to the Commission, we request that the Proponents concurrently submit that response or other correspondence to the Company, as required pursuant to Rule 14a-8(k) and SLB 14D, and copy the undersigned.

Sincerely,



Xuehui Cassie Zhang
Associate General Counsel

cc: Marvin McCreary

EXHIBIT A

Marvin R. McCreary

[redacted]

To: Tesla, Inc.
1 Tesla Road
Austin, Texas 78725
Attention: Legal Department

December 11, 2024

cc: shareholdermail@tesla.com

Re: Shareholder proposal attached

Dear Tesla Legal Department,

I'm writing as a long-term shareholder who intends to hold TSLA stock for many years to come.

I am submitting a shareholder proposal for the 2025 annual meeting. The proposal is attached to this letter.

As required by the SEC Rule 14a-8(b), I have continuously held at least $25,000 of the company's securities entitled to vote on the proposal for at least one year by the date of submission. This letter also serves as a written statement that I intend to continue to hold the securities through the date of the meeting. I have included my name, address, and proof of ownership of the securities.

In accordance with SEC Staff Legal Bulletin 14L, the intent of this proposal is to address a significant social policy under Rule 14-a-8(i)(7).

I am submitting this proposal no later than 120 calendar days before the date of the company's proxy statement release for the previous year's annual meeting. I will not submit more than one proposal for the same meeting.

I am available during your normal business hours to discuss this further via the methods noted in the header above.

Thank you for your attention to this matter.

Sincerely,

Marvin R McCreary MD

Marvin McCreary
Tesla Shareholder Since 2016

Alignment of Artificial Intelligence development with the Paris Climate Agreement ***

PROPOSAL:
Climate change poses significant risks to the global economy, public health, and the environment. The Paris Climate Accord, an international agreement adopted in 2015, aims to limit global warming to well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 degrees Celsius.

Tesla, Inc. (the "Company") has demonstrated a commitment to sustainable energy and innovation, and as a leader in the electric vehicle market, has a critical role in addressing climate change.

The Company's growing interests in Artificial Intelligence (AI) are associated with high electricity consumption and could have a significant negative climate impact.

Addressing the energy consumption of AI compute resources is crucial for the Company to maintain its sustainability leadership therefore it's energy supply should align with the goals of the Paris Climate Agreement.

RESOLVED, Tesla, Inc. (the "Company") shareholders request the Board of Directors to adopt and disclose a comprehensive strategy to align the Company's operations and business model with the goals of the Paris Climate Agreement, including but not limited to:

1. Setting science-based targets for reducing greenhouse gas emissions across all operations, consistent with the goals of the Paris Climate Accord.
2. Developing and disclosing a roadmap for achieving these targets, including milestones and timelines.
3. Implementing measures to quantify the Company's AI greenhouse gas emissions and to reduce the climate impact of AI's compute energy consumption.
4. Regularly reporting on progress towards these targets and the effectiveness of the implemented measures.

SUPPORT:
As shareholders, we believe that aligning with the Paris Climate Agreement will not only contribute to global efforts to mitigate climate change but also enhance Tesla's competitive advantage, resilience, and long-term value. By setting ambitious climate targets and demonstrating leadership in sustainability, Tesla can further solidify its reputation as an innovative and responsible company committed to a sustainable future. Addressing the high electricity consumption of AI operations is essential to ensure that all aspects of the Company's business contribute to these sustainability goals.

Therefore, we urge you to vote FOR this proposal.