

This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (LPDD). For background information on the project, see <https://lpdd.org>

Be it enacted by the Legislature of the State of __:

Section 1. Findings.

The legislature finds and declares that:

- a. Electric vehicle technology is improving, with the result that electric vehicles are now feasible alternatives for serving the transportation needs of the citizens of the State.
- b. Motor vehicle manufacturers are offering an increasing variety of electric vehicles for sale or lease in the State. Accordingly, the number of such vehicles is expected to proliferate over the next few years, and such growth is expected to continue for decades into the future.
- c. The widespread deployment of electric vehicles is consistent with the public policy of the State, due to the energy security, environmental and health benefits that the expanded use of such vehicles provides by reducing the consumption of fossil fuels and the emission of street-level air pollutants and carbon dioxide.
- d. It is of critical importance that a statewide system of accessible, available and reliable infrastructure be put into place to charge such vehicles, as necessary for the safety and convenience of the traveling public, at a pace commensurate with the rapidly increasing demand for, and operation of, electric vehicles in the State.
- e. A statewide system of electric vehicle charging infrastructure must afford convenient access to charging stations not only in higher-income communities, but also in disadvantaged communities around the State.
- f. A statewide system of electric vehicle charging infrastructure should be developed in a manner that stimulates innovation, enables options in charging equipment and services, attracts private investment and establishes general conditions ensuring long-term market growth.
- g. The efficient, economic, equitable and rapid deployment of such infrastructure will require coordinated planning of electric infrastructure networks and transportation systems by State agencies, electric companies, private industry providers and other stakeholders.

Section 2. Title

This Act shall be known and cited as the Transportation Electrification Infrastructure Act of 2020.

Section 3. Definitions

“**Critical Travel Corridors**” means those high volume public roadways providing primary travel corridors within and through the State that are designated as critical travel corridors by the Commissioner of Transportation in accordance with Section 5 hereof.

“**Direct Current Fast Charger**” or “**DCFC**” means electric vehicle service equipment that provides at least 50 kilowatts of direct current electrical power for charging a plug-in electric vehicle through a standardized connector, and which is approved for installation for this purpose under the National Electric Code through Underwriters Laboratories Certification or equivalent.

“**Disadvantaged community**” means a municipality or subset of such municipality where the median income of the area is equal to or less than two hundred percent of the federal poverty level.

“**Electric vehicle charging station**” means a facility or equipment designed to charge batteries within plug-in electric vehicles by permitting the transfer of electric energy to a battery or other storage device in such vehicle. The equipment may charge batteries through connective or inductive means.

“**Electric vehicle service equipment**” or “**EVSE**” means equipment, including but not limited to devices that provide electric power in appropriate form for the on-board battery charging of a plug-in electric vehicle and which may include switching controls, point-of-sale equipment and functions, network connectivity, a user interface, and other controls. EVSE may deliver either alternating current or direct current electricity.

“**Essential public access network**” means a system of DCFC charging stations located along critical travel corridors at different levels according to industry standards and depending on the electrical power rating of the equipment.

“**EV charging infrastructure**” means electric vehicle charging stations, EVSE, and electric grid distribution system components required to serve such facilities and equipment.

“**Plug-in electric vehicle**” or “**PEV**” means any vehicle that includes a battery or equivalent energy storage device that can be charged from an electricity supply external to the vehicle through an electric plug. PEVs include pure battery electric vehicles and plug-in hybrid vehicles that can be charged from a source of electricity external to the vehicle, but shall not include hybrid vehicles that do not include a plug for charging from an external source. PEVs may be light duty, medium duty, or heavy duty vehicles.

“**Third-party owner or operator**” means an entity that is not an electric company, which owns and operates EVSE equipment for public use by PEV drivers. An “owner or operator” may be a site host or a third party contracted by the site host for the purposes of owning and operating EVSE on the site host’s property.

“**Transportation electrification plan**” means a plan, to be filed by each electric company operating within the State in accordance with Section 4.I.f., for a program to participate in, support and enhance the development of a robust system of electric vehicle charging infrastructure within its service area.

Section 4. Transportation Electrification Infrastructure

The [Public Utilities Law] is amended to add the following:

I. Electric Company Transportation Electrification Plans

- a. No later than sixty days from the date of enactment, the Commission shall convene a collaborative technical conference to consider the role of electric companies in the development of a statewide system of EV charging infrastructure. The purpose of such technical conference shall be to inform the Commission in the development of guiding principles for the preparation of proposed transportation electrification plans by electric companies in accordance with Section 4.1.f. . The collaborative technical conference may consist of one or more meetings and follow-up activities conducted over a period of no more than one hundred twenty days from the date such conference was convened.
- b. The Commission shall invite a range of stakeholders to participate in the technical conference, including electric companies, PEV manufacturers, third-party owners or operators, transportation planners, ratepayer representatives, state agencies, municipalities and other stakeholders at the discretion of the Commission.
- c. At the technical conference required under Section 4.I.a. the Commission shall consider issues relevant to the development of transportation electrification plans, including the following topics: (i) appropriate electric company roles in deploying, and in supporting, encouraging and enhancing deployment by third-party owners or operators of EV charging infrastructure and electric vehicle charging services within its service area; (ii) appropriate electric company roles in encouraging PEV adoption by ratepayers within its service area; (iii) whether and how new rates, tariffs and demand charges should be allowed to encourage deployment of EV charging infrastructure and PEV deployment; (iv) location considerations, including the need to give priority to the creation of an essential public access network along critical travel corridors, system requirements, customer need, and community and equity considerations; (v) compatibility with ongoing regional initiatives and other state's programs; (vi) the need to assure that disadvantaged communities are adequately served by accessible and reliable electric vehicle charging stations; and (vii) additional issues relevant to the development of a robust system of EV charging infrastructure in the State, at the discretion of the Commission.
- d. Within ninety days after the close of the technical conference convened in accordance with Section 4.I.a., the Commission shall issue for stakeholder comment draft guiding principles for the development of transportation

electrification plans. Such guiding principles shall, among other things, encourage an electric company to develop and propose a transportation electrification plan that will: (i) result in the robust deployment of EV charging infrastructure and electric vehicle charging services in its service area; (ii) provide ample EV charging infrastructure and services in all portions of the electric company service area, including disadvantaged communities; (iii) give priority to the early creation of an essential public access network along critical travel corridors; (iv) include incentive programs for the deployment of electric vehicle charging stations by third-party owners or operators; (v) be designed to be implemented in a nondiscriminatory manner; (vi) propose innovative rates and tariffs such as time-of-use and demand management rates that would encourage ratepayers to use PEVs and to charge them during periods of low demand; (vii) include a proposal, at the election of the electric company, for one or more pilot programs to test the efficacy of such innovative rates; (viii) propose new rates and tariffs, which may include adjustments to demand charges, to encourage the deployment of electric vehicle charging stations by third-party owners or operators; (ix) upon approval of the Commission, allow the electric company to recover through utility rates all reasonable and prudent costs of incentive programs, infrastructure investments, education costs and other costs incurred in implementing a transportation electrification plan approved by the Commission; and (ix) propose principles for cost allocation among ratepayers for the just and reasonable recovery of prudently incurred costs. The period for the submission of comments on the draft guiding principles shall be forty five days.

- e. Within sixty days after the close of the comment period required under Section 4.I.d., and after due consideration of any comments received, the Commission shall adopt final guiding principles for the development of electric company transportation electrification plans.
- f. Within one hundred twenty days after adoption by the Commission of the final guiding principles called for under Section 4.I.e., each electric company subject to Commission jurisdiction shall file a proposed transportation electrification plan, in accordance with such guiding principles.
- g. The Commission shall thereupon consider each such plan in a proceeding convened by the Commission and conducted in accordance with Commission procedures, which proceeding shall be completed no later than one hundred eighty days from the date that the proposed transportation electrification plan is duly filed in accordance with Section 4.I.f. . In its discretion, the Commission may consider the plans filed by the electric companies in accordance with this Section in a consolidated proceeding. In the event the Commission determines to convene a consolidated proceeding, such proceeding shall be completed no later than one

hundred eighty after the last submitted transportation electrification plan is timely filed in accordance with Section 4.I.f. .

- h. If the Commission determines not to approve a plan submitted in accordance with Section 4.I.f. hereof, it shall describe in detail the reasons for disapproval, and the electric company shall, within sixty days, file a revised plan to address the deficiencies identified by the Commission. A revised plan shall be approved or disapproved by the Commission within 60 days after it is filed.

II. Exemption from Definition of “Public Utility”

The term “public utility” when used in [**cite the State Public Utility Law**] shall not include any person not otherwise a public utility who engages in the retail distribution of electricity for vehicular fuel. The charging of an electric vehicle shall be deemed a service and not a sale of electricity by an electric power supplier.

Section 5. Critical Travel Corridors

The [**cite the Transportation Law**] is amended to add the following:

I. Critical Transportation Corridors

- a. Within 180 days from the date of enactment, the Commissioner of Transportation shall designate critical travel corridors, which shall include: (i) federal interstate highways; and (ii) primary travel corridors within and through the State that consist of numbered federal or State roads with at least 50 miles of roadway located in the State, which roadways the Commissioner determines, in light of the volume of traffic and travel patterns they serve, merit creation of an essential public access network of DCFCs.