Fill in this information to identify the case:

Debtor Proterra Operating Company, Inc.

United States Bankruptcy Court for the: _____ District of Delaware (State)

Case number 23-11121

Official Form 410
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) **that you received.**

Part 1: Identify the Claim

1. **Who is the current creditor?**

BC Transit
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?**

☑ No
☐ Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?	**Where should payments to the creditor be sent?** (if different)
BC Transit c/o Amir Gamliel, Esq. Perkins Coie LLP 1888 Century Park East, Suite 1700 Los Angeles, California 90067	Roland Gehrke 520 George Road East, PO Box 9861 Victoria, BC V8W 9T5, Canada
Contact phone 310-788-3276 Contact email agamliel@perkinscoie.com	Contact phone _____ Contact email RGehrke@BCTransit.com

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

_ _

4. **Does this claim amend one already filed?**

☑ No
☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

☑ No
☐ Yes. Who made the earlier filing? _____

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Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**

☑ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. **How much is the claim?** $ 186,972.00 . **Does this amount include interest or other charges?**

☑ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. **What is the basis of the claim?**

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.

Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).

Limit disclosing information that is entitled to privacy, such as health care information.

Contract, late delivery damages. See attachment.

9. **Is all or part of the claim secured?**

☑ No

☐ Yes. The claim is secured by a lien on property.

Nature or property:

☐ Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed)_____%

☐ Fixed

☐ Variable

10. **Is this claim based on a lease?**

☑ No

☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**

☑ No

☐ Yes. Identify the property: _____

23111212311090000000000013

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☑ No

☐ Yes. *Check all that apply:*

	Amount entitled to priority
☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$_____
☐ Up to $3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$_____
☐ Wages, salaries, or commissions (up to $15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$_____
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$_____
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$_____
☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$_____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. 503(b)(9)?**

☑ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

$_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☑ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 11/09/2023
MM / DD / YYYY

/s/Roland Gehrke
Signature

Print the name of the person who is completing and signing this claim:

Name: Roland Gehrke
First name Middle name Last name

Title: Vice President, Finance and Chief Financial Officer

Company: BC Transit
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 520 George Road East, PO Box 9861, Victoria, BC, V8W 9T5, Canada

Contact phone _____ Email RGehrke@BCTransit.com



KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (888) 251-3076 | International (310) 751-2617

Debtor:
23-11121 - Proterra Operating Company, Inc.
District:
District of Delaware

Creditor:
BC Transit
c/o Amir Gamliel, Esq.
Perkins Coie LLP
1888 Century Park East, Suite 1700
Los Angeles, California, 90067
Phone:
310-788-3276
Phone 2:
Fax:
310-788-3399
Email:
agamliel@perkinscoie.com

Has Supporting Documentation:
Yes, supporting documentation successfully uploaded
Related Document Statement:

Has Related Claim:
No
Related Claim Filed By:

Filing Party:
Creditor

Disbursement/Notice Parties:
Roland Gehrke
520 George Road East, PO Box 9861
Victoria, BC, V8W 9T5
Canada
Phone:
Phone 2:
Fax:
E-mail:
RGehrke@BCTransit.com
DISBURSEMENT ADDRESS

Other Names Used with Debtor:

Amends Claim:
No
Acquired Claim:
No

Basis of Claim:
Contract, late delivery damages. See attachment.

Last 4 Digits:
No

Uniform Claim Identifier:

Total Amount of Claim:
186,972.00

Includes Interest or Charges:
No

Has Priority Claim:
No

Priority Under:

Has Secured Claim:
No
Amount of 503(b)(9):
No
Based on Lease:
No
Subject to Right of Setoff:
No

Nature of Secured Amount:
Value of Property:
Annual Interest Rate:
Arrearage Amount:
Basis for Perfection:
Amount Unsecured:

VN: A5683A6EC220183FE891B4A64CFFEED6

Submitted By:

Roland Gehrke on 09-Nov-2023 7:12:08 p.m. Eastern Time

Title:

Vice President, Finance and Chief Financial Officer

Company:

BC Transit

Optional Signature Address:

520 George Road East, PO Box 9861

Victoria, BC, V8W 9T5

Canada

Telephone Number:

Email:

RGehrke@BCTransit.com

ATTACHMENT TO PROOF OF CLAIM

1. BC Transit's proof of claim consists of a claim of at least $186,972 (USD) in monetary damages, in addition to contingent and unliquidated claims related to Proterra's performance under the BC Transit Contracts (as defined below) as of August 7, 2023 (the "Petition Date"), all as more fully set forth in this attachment.

Late Delivery Damages

2. BC Transit is a provincial crown corporation responsible for delivery of public transportation within British Columbia, Canada. On May 16, 2022, Debtor Proterra Operating Company, Inc. ("Proterra") and BC Transit entered into the Master Contract 20.092 (the "Master Contract") and other ancillary agreements as reflected by executed statements of work ("SOW"), change orders and various executed agreements (collectively, the "BC Transit Contracts"), which provided for the procurement of heavy-duty battery electric buses ("Buses"), the installation and delivery of charging equipment ("Chargers"), and the construction and design of charging infrastructure ("Infrastructure"). The agreements also included a commitment by Proterra to provide indemnities, warranties, and ongoing support services, including operational support, software support, and other IT and network support. A true and correct copy of the Master Contract is attached hereto as **Exhibit A**.[1]

3. Pursuant to the Master Contract, Proterra and BC Transit entered into Statement of Work No. 20.092 A ("SOW-A") which called for Proterra to produce ten Buses (the "Initial Buses"), Chargers, and the CCDC14 Design Build Contract (the "CCDC14") for designing the

[1] BC Transit has not attached copies of the remainder of its BC Transit Contracts to this attachment to its proof of claim, as the BC Transit Contracts are voluminous, and copies are in the Debtors' possession. A copy of all other agreements that comprise the BC Transit Contracts can be provided upon request to counsel.

Infrastructure. BC Transit later executed Statement of Work 20.092-C ("SOW-C"), which called for the procurement of an additional forty-nine Buses.

4. SOW-A sets forth certain "Milestone Dates" for delivering the Initial Buses. Proterra was required to deliver the first electric bus on May 11, 2023, with all Initial Buses to be delivered no later than July 3, 2023. Proterra was also required to meet all technical specifications for the Initial Buses as described in Annexes to the Master Contract before BC Transit certifies (in exercise of its sole discretion), accepts and issues "Milestone Payments" (as defined in the Master Contract) for each electric bus.

5. To date, Proterra has not delivered the Initial Buses. Accordingly, under Article 3.27 of Annex 1 to the Master Contract, Proterra is now subject to late delivery damages of $25,000 (CAD) per bus, and $250,000 (CAD) in total for the Initial Buses. At conversion rates as of the Petition Date, that results in a $186,972 (USD) (the "**Late Delivery Damages**").

6. The Late Delivery Damages are liquidated and non-contingent in nature.

Additional Damages

7. In addition to the Late Delivery Damages, BC Transit has identified a number of deficiencies with Proterra's manufacturing of an initial prototype bus, which deficiencies constitute further defaults under the Master Contract and related warranties. These deficiencies include, but are not limited to, excessive weight, inadequate passenger capacity, accessibility issues with the rear facing wheelchair stanchion, headlight configuration preventing safe use of bicycle racks, incorrect paint application, missing tethers from the power steering cap, missing diagnostic ports, faulty APC units, incorrect USB ports, and nonconforming software (collectively, the "Bus Deficiencies"). A non-exhaustive schedule of the Bus Deficiencies and breaches identified by BC Transit and reported to Proterra is attached hereto and incorporated by reference

herein as **Schedule 1**.[2] Certain of the Bus Deficiencies must be cured before the Initial Buses can be approved by British Columbia's Commercial Vehicle Safety and Enforcement (CVSE) for use on public roads. Failure to secure regulatory approval from the CVSE will prevent the Initial Buses from operating in British Columbia.

8. BC Transit has likewise identified a number of existing and/or potential deficiencies with the Chargers and Infrastructure (the "Other Deficiencies" and together with the Bus Deficiencies, the "Deficiencies"). A non-exhaustive schedule of the Other Deficiencies identified by BC Transit and reported to Proterra is attached hereto and incorporated by reference herein as **Schedule 2**.[3] As with the Initial Buses, untimely delivery of Chargers, which can impact or delay Infrastructure construction, entitles BC Transit to collect late delivery damages that are calculated at 0.5% per Business Day for the value of the delayed equipment (all as more fully set forth in Article 3.3.11 of Annex 2 to the Master Contract).

9. Since Proterra has not yet delivered any of the Initial Buses, BC Transit cannot verify whether the Chargers that have been delivered are fully operational or whether the Infrastructure—portions of which are still in development—is compatible with the Chargers and Buses. Accordingly, BC Transit may be entitled to additional damages for Chargers and Infrastructure that it has already purchased, for which it may not be able to fully utilize. Similarly, as existing deficiencies with the Buses, Chargers, and Infrastructure may become apparent, BC Transit may have warranty claims and claims for indemnification (including attorneys' fees) and

[2] Schedule 1 remains subject to further revision as BC Transit continues to identify additional deficiencies, some of which may ultimately be remedied by Proterra in advance of any hearing to consider this objection.

[3] Schedule 2 remains subject to further revision as BC Transit continues to identify additional deficiencies, some of which may ultimately be remedied by Proterra in advance of any hearing to consider this objection.

the BC Transit Contracts. BC Transit reserves all rights, including the right to amend its proof of claim, with respect to any such damages.

10. To the extent that Proterra or its successor in interest is unable to cure the Deficiencies pursuant to a Court-approved assumption and assignment of the BC Transit Contracts, BC Transit may be entitled to additional compensatory and consequential damages ("Additional Damages"), consistent with section 4.14 and 12.12 of the Master Contract, in an amount to be determined subject to proof at an evidentiary hearing. BC Transit thus has a contingent, unliquidated claim as of the Petition Date arising from the Additional Damages.

Reservation of Rights

11. By filing this proof of claim, BC Transit does not (1) waive or release the right to assert any and all claims, causes of action, defenses, setoffs (including setoffs against future payments), recoupments, or counterclaims against the Debtors, (2) waive the right to draw down on the Letter of Credit currently posted at Bank of America, N.A. in the amount of $755,686.50 for the benefit of BC Transit; (3) consent to this bankruptcy court's entry of final judgments, except for those matters in which it has express Constitutional authority to do so; or (4) waive the right to seek arbitration with respect to any issues and claims.

12. BC Transit reserves the right to amend and/or supplement this proof of claim.