



Shell
ENERGY

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Washington Department of Ecology

Via Upload

RE: Climate Commitment Act Development

Shell Energy North America (US), L.P. (“Shell Energy”) appreciates the opportunity to provide comments on Washington’s draft Climate Commitment Act (CCA) program. Shell Energy markets and trades natural gas, power and environmental products and provides risk management support to its wholesale and retail customers throughout North America. Shell Energy’s goal is to provide more energy to meet growing demand while providing cleaner energy to reduce carbon emissions.

I. LINKAGE IS PARAMOUNT

Shell Energy supports Washington’s goal to reduce emissions and believes that successful deployment of the CCA depends on one crucial factor: linking to other regional programs, namely the Western Climate Initiative (WCI). The WCI Cap-and-Trade program has not only proven to reduce emissions, but its program design assures a level playing field for similarly situated resources and helps avoid market distortions. Linking the CCA with other states and provinces’ allowance trading programs would result two major benefits: (1) lower overall costs due to the ability to reduce emissions across a wider geographic region, and (2) eliminating the potential for emissions leakage because of consistent carbon pricing across jurisdictions. Ecology should review the language that would support linkage with other programs and consider what modifications can be applied based on the sectors it plans to regulate under the CCA.

At minimum, to facilitate linkage to the WCI, Shell Energy encourages Ecology to align the emissions threshold with WCI. The concurrent rulemaking on Reporting of Greenhouse Gas Emissions for compliance entities, including Electric Power Entities (EPEs), has not yet been finalized. Accordingly, for EPEs, it is not presently clear which emissions are subject to a compliance obligation. Washington should align its emission threshold with WCI jurisdictions to

ensure consistency and in recognition of the fact that this level has been shown to provide the appropriate incentive to reduce overall emissions.

II. OFFSETS

Shell Energy appreciates Ecology's efforts to align the draft language with the offset provisions of California's Cap-and-Trade rule. Offsets are an important tool in responding to volatility and complying with existing cap and trade programs. The use of offset credits encourages voluntary GHG emission reduction programs, promotes innovation, and can help reduce GHG emissions in all sectors of the economy, not just those industries or sectors covered by a carbon pricing system. On the matter of offsets, Shell Energy presents a few points for consideration in the development of the proposed CCA program.

First, Shell Energy is concerned by the limitations implicated in proposed section WAC 173-446-600 (Compliance Obligations). This section sets a quantitative usage limit on offset credits to 5 percent of a covered or opt-in entity's compliance obligation in the first compliance period. The quantitative usage limit declines to 4 percent in the second compliance period. While Shell Energy recognizes that these limits are set by statute, we note that RCW 70A.65.170(3)(c) also allows modification of those limits "when appropriate to ensure achievement of the proportionate share of statewide emissions limits . . . and to provide for alignment with other jurisdictions to which the state has linked." Shell Energy urges Ecology to raise this percentage limitation from 5% to 8%, consistent with California's initial limits. We also recommend that Ecology extend the 8% limitation across compliance periods. Raising the quantitative usage limit on offset credits would not compromise the path toward reducing statewide emissions so long as the annual allowance budgets are coordinated. Moreover, this modification would provide entities with flexibility as they further develop their understanding of compliance with the program and drive certainty around investments in offset projects eligible under existing WCI protocols.

Second, the draft regulation on Compliance Obligations is ostensibly overly simplistic and limiting in that it requires that all (implying 100%) offsets must provide direct environmental benefits to the state; instead, Shell Energy recommends that the regulation mirror the language of RCW 70A.65.170(3)(a). The statute differs materially in two respects: first, as a matter of clarity, the "direct environmental benefits" must flow from the offset projects, not from the "offsets" themselves; and second, this "direct environmental benefit" showing is only required of 50 percent, rather than all, of an entity's compliance obligation. In modifying section WAC 173-446-600 to mirror the language of the statute, the draft program will better capture the intent of the CCA and provide entities improved flexibility for compliance.

Third, this section largely limits offset project eligibility to those projects located in Washington, when many offset projects eligible to generate credits under the WCI are located outside the participating jurisdictions. To the extent Washington sets jurisdictional boundaries on the location of offset projects, Shell Energy recommends that the regulation be revised to make eligible those offset credits sourced from projects located in the United States more broadly.

Relatedly, certain sections (such as WAC 173-446-595 and *passim*) of the draft regulation also tie the eligibility of offset projects to location. WAC 173-446-595 specifies that offset projects must be located within the State or help avoid GHG emissions within the State to be considered as providing direct environmental benefits in the State. Projects located outside the State may submit additional information to demonstrate that it provides direct environmental benefits. In addition, at the December 16, 2021 presentation, Ecology staff clarified its plan to mirror CARB's offset rules and the benefits of using existing offset registry infrastructure. As above, Shell Energy recommends that Ecology clarify the draft proposal to accept compliance credits generated by offset projects approved by linked jurisdictions or otherwise located in the United States. Such modification is already consistent with staff's plan to leverage existing carbon registries and would enable the fungibility of offsets across jurisdictions and facilitate linkage.

Finally, Shell Energy recommends that Ecology expand the types of projects that are eligible to create offsets. Landfill, Forestry and Livestock, Mine Methane Capture (MMC), Carbon Capture Use and Storage (CCUS), Ozone Depleting Substances (ODS) destruction, grasslands, soil carbon, wetlands and pneumatic valves are all projects that have been proven to provide environmental benefits. The Washington program should also recognize Nature Based Solutions as viable offsets. For example, the use of sustainable aviation fuel (SAF) and the use of biomass-based diesel fuel in heating oil should be counted toward the ability to generate offset credits.

In Attachment A hereto, Shell Energy submits specific textual changes to accomplish the above recommendations. Additional adaptations to the regulation may be needed for further consistency.

III. AUCTIONS

A. AUCTION PURCHASE LIMIT

Ecology's draft proposal currently sets the auction purchase limit to 10% of the allowances available (WAC 173-446-330 (Purchase Limits)). Shell Energy finds that this purchase limit is unnecessarily constrictive and mis-aligned relative to rules established by other

programs. The auction purchase limit should be raised to 25% for covered entities, consistent with both WCI and the Regional Greenhouse Gas Initiative (RGGI) rules.

B. INITIAL AUCTION

In workshops, Ecology indicated the first auction would be held in 2024. Shell Energy echoes the call for an initial auction in late 2022, as raised by Western Power Trading Forum in comments submitted concurrently. Without an initial auction in late 2022, entities will begin accruing an obligation, beginning in 2023, in advance of obtaining access to allowance supplies. Ecology should follow the California example, in which the Air Resources Board (ARB) held the first auction in 2012, ahead of the 2013 compliance start.¹

C. PRICE CEILING

The draft program proposes to set auction ceiling prices administratively (WAC 173-446-335). Shell Energy opposes price caps as they stifle market signals and do not accurately reflect the true cost of carbon. Instead, auctions under the CCA should allow the market to naturally determine the upper price boundaries. A strong price would help achieve state goals for limiting greenhouse gas emissions while sending a transparent market signal that zero or low emission resources, as well as efficient flexible resources that provide needed reliability services, are economically desirable. Ecology should eliminate the price ceiling.

IV. HOLDING LIMIT

A. CONFIDENTIALITY

The draft proposal would allow Ecology to publicly post information about the contents of each holding account, including but not limited to the number of allowances in the account. WAC 173-446-150(4). Shell Energy opposes the sharing of information related to the contents of individual accounts as, among other reasons, it would adversely affect the competitive position of those entities participating in auctions or engaging in trading. Disclosure of individual account information would further be contrary to the confidentiality protections afforded by RCW

¹ See Auction Notice – November 14, 2012, California Air Resources Board, available at: https://ww2.arb.ca.gov/sites/default/files/cap-and-trade/auction/november_2012/auction_notice_updated.pdf?ga=2.266013579.544764394.1643069563-462493798.1626968752 (issued Sept. 14, 2012).

70A.15.2510. However, Shell Energy is amenable to the sharing of holding limit information in the aggregate, as is done in California.

B. LIMITED EXEMPTION

Shell Energy appreciates Ecology's efforts to align its holding limit language (WAC 173-446-150) with that of California. However, the draft regulation omits a Limited Exemption to the Holding Limit as provided under California's Cap-and-Trade program (see 17 California Code of Regulations Section 95920(d)(2)). The limited exemption from the holding limit ensures covered and opt-in entities can plan ahead for compliance and are able to accumulate sufficient allowances to meet their compliance obligations. Ecology should add a Limited Exemption provision, like California, that is commensurate with an entity's annual reported and verified emissions data reports to estimate how many allowances to exempt from the Holding Limit calculation.

These modifications to the draft rule will facilitate compliance and strengthen Washington's important contribution to reducing emissions in the region. Shell Energy appreciates the opportunity to comment and looks forward to continued collaboration.

Respectfully submitted,

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ATTACHMENT A
Shell Energy – Recommended Textual Changes

WAC 173-446-600 Compliance obligations.

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(6) A portion of each covered entity or opt-in entity's compliance obligation may be met by transferring to Ecology offset credits. Each offset credit is worth one metric ton of carbon dioxide equivalent.

(a) Unless modified by Ecology by rule as authorized in RCW 70A.65.170(3)(c), ~~for the first compliance period (January 1, 2023 through December 31, 2026)~~, no more than 58 percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by providing Ecology with offset credits.

(i) Unless Ecology has linked with an external GHG trading system, ~~all offsets must provide direct environmental benefits to the state. at least 50 percent of any offset credits used by a covered entity or opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington State. The other 50 percent must be located in the United States.~~

(ii) If Ecology has linked with an external GHG trading system, at least 50 percent of any offset credits used by a covered entity or opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington State. The other 50 percent must be located in the United States or approved by a jurisdiction with which Ecology has linked.

~~(b) Unless modified by Ecology by rule as authorized in RCW 70A.65.170(3)(c), For the second compliance period (January 1, 2027 through December 31, 2030), no more than 4 percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by offset credits.~~

~~(i) Unless Ecology has linked with an external GHG trading system, all offsets must provide direct environmental benefits to the state.~~

~~(ii) If Ecology has linked to an external GHG trading system, at least 75 percent of any offset credits used by a covered entity or an opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington State, unless Ecology determines there is not a sufficient supply of offsets in Washington to meet offset demand. The other 25 percent must be located in a jurisdiction with which Ecology has linked."~~