



In the Community to Serve®

January 26, 2022

ATTN: Luke Martland
Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

RE: Cap-and-invest program rules (Chapter 173-446 WAC)

Cascade Natural Gas (Cascade) appreciates the opportunity to provide further comments on the Washington Department of Ecology's draft cap-and-invest program rules (Draft Rule). Cascade recognizes the speed at which the Climate Commitment Act (CCA) requires Ecology to conduct this rulemaking and notes that it has collaborated with Puget Sound Energy, Avista, and NW Natural to provide consistent recommendations, to the extent possible, for the Draft Rule.

About Cascade Natural Gas Corporation

Cascade is a local distribution company and was formed in 1953 to serve communities in Oregon and Washington with clean, affordable natural gas. Cascade serves a diverse territory covering more than 32,000 square miles. Interstate pipelines transmit Cascade's natural gas from production areas in the Rocky Mountains and western Canada to rural areas that rely on natural gas. Throughout our service areas, our focus is on maintaining safety, comfort, affordable rates and reliability for our customers. Today, Cascade serves nearly 300,000 customers located in smaller, mostly rural communities across Washington and Oregon.

Cascade is depended upon as an essential energy provider in Washington and will continue supplying our customers with clean, reliable, and affordable energy. Today, our utility operates extensive infrastructure that should be leveraged in the future to deliver a blend of low-carbon fuels, including renewable natural gas (RNG) and hydrogen. Our infrastructure also serves an essential role in addressing reliability challenges associated with intermittent renewable resources and the resilience of the overall energy system—especially in remote areas—as demonstrated by increasingly extreme weather conditions.

We share a strong commitment to addressing climate change and supporting the communities we serve. Cascade steadfastly supports energy efficiency innovation efforts and has participated as a founding partner of EPA's Natural Gas Star Methane Challenge Program since 2016. Since 2008, Cascade's customers have saved more than 7 million therms, and the company has issued

approximately \$35.5 million in rebates.¹ Our company is committed to reducing greenhouse gas emissions through innovative measures.

Recommendations

Cascade provides the following recommendations for enhancing the effectiveness and efficient implementation of the CCA program rules.

1. The schedule for reducing no-cost allowances for gas utilities should be adjusted to minimize impacts felt by customers during the initial implementation period.
2. Ecology must remove its discretion over whether to sell price ceiling units needed to provide cost protection for customers.
3. An allowance auction should be held before compliance obligations begin to minimize customer impacts from initial program implementation.
4. WAC 173-446-020(1)(o) should expressly state that RNG purchased to comply with the CCA does not have to be tracked by molecule to specific end-users.
5. The Washington Utilities and Transportation Commission (WUTC) should oversee compliance cost collections and the distribution of any revenue from the no-cost allowance sales.
6. The program baseline should be transparent and released promptly.
7. The final rule should maximize the possibility of linking with other programs.
8. Ecology should petition the Washington legislature to not make public the allowance volumes in entity holding accounts.

Detailed support for Cascade’s recommendations is provided in the comments, below.

Comments

- 1. The schedule for reducing no-cost allowances for gas utilities should be adjusted to minimize impacts felt by customers during the initial implementation period.**

Ecology should revise WAC 173-446-240(2) so that no-cost allowances provided to gas utilities are reduced less in the first compliance period (2023-2026) and more in the second compliance period (2027-2030). Starting the program with more no-cost allowances for gas utilities would—consistent with the CCA—minimize program impacts on gas customers and provide gas utilities the time needed to transition to low-carbon options.

¹ Cascade Natural Gas, *Environmental Priorities*, <https://www.cngc.com/in-the-community/environmental-priorities/> (last visited Jan. 26, 2022).

Despite best efforts by the WUTC and gas utilities, there likely will be greater lag times between the imposition of customer costs and distribution of customer rebates, as well as other inefficiencies, at the outset of the program. Also, like other gas utilities, Cascade’s allowance need is likely to be greater in the first compliance period than the second compliance period, because of the time it will take for Cascade to get approval for and implement emission-reducing measures.²

The sharp decline in no-cost allowances during the first year particularly, and initial compliance period generally, will exacerbate the cost of initial inefficiencies to customers—and will be felt *most especially* by low-income households. Cascade and other gas utilities provide essential public services and are regulated to ensure reliability and affordability.³ We serve residential customers that rely on our services to meet their daily energy needs, even and especially during the coldest weather events.⁴ Thus, it is critically important that Ecology revisit the rate of decline in no-cost allowances early in the program to minimize customer impacts.⁵

2. Ecology must remove its discretion over whether to sell price ceiling units needed to provide cost protection for customers.

Cascade strongly recommends that the discretion Ecology has granted itself over price ceiling units be removed from WAC 173-446-385(4) and (6).⁶ Under the Draft Rule, a covered entity “must also demonstrate to Ecology’s satisfaction that it tried, but was unable to acquire sufficient compliance instruments to meet its compliance obligations for the immediately upcoming compliance deadline.”⁷ This requirement exceeds Ecology’s authority under the CCA, creates untenable uncertainty for utilities, intrudes on duties executed by the WUTC, and creates barriers to linkage in violation of the intent of the CCA.

First, Section 18 of the CCA statute does not grant Ecology the authority to limit price ceiling units in this way. Rather, the statute directly states, “In the event that no allowances remain in the allowance price containment reserve, the department *must* issue the number of price ceiling units for sale *sufficient to provide cost protection for facilities* as established under subsection (1) of this section.”⁸ This is an unambiguous mandate.

² Cascade does not have unilateral discretion over customer rates or how to invest those rates in clean energy projects; the WUTC must approve these kinds of decisions that give us the ability to impact emissions. Cascade needs sufficient time to innovate and implement necessary investments.

³ Importantly, gas utilities have a statutory duty to serve all customers who request our services while also ensuring that rates charged for these services are “just, fair, reasonable and sufficient”—a determination made by the WUTC. See RCW 80.28.010, 80.28.110.

⁴ Weather challenges are anticipated to only grow in the future.

⁵ Cascade further notes that the proposed emission reduction obligation is not proportionate to the percentage of greenhouse gas emissions from the natural gas sector.

⁶ See redline in Attachment 1.

⁷ WAC 173-446-385.

⁸ Climate Commitment Act, Sec. 18(2) (emphasis added).

Second, the requirement creates untenable uncertainty for gas utilities that must meet customer demand and electric utilities that must reliably provide power. Ecology provides no guidance on what would constitute a “satisfactory demonstration.” Utilities need to be able to rely on the sale of price ceiling units if unforeseeable variation in gas demand occurs—for example, weather varies year to year and has significant impacts on customer energy needs and gas usage or our large industrial transport customers may vary in their operation. What happens if Washington experiences an unexpectedly cold winter or demand from an industrial customer unexpectedly surges and such an event results in any utility being short of allowances? Could Ecology refuse to grant price ceiling units because it determines that an entity should have banked more allowances in previous compliance periods? Injecting uncertainty into the sale of price ceiling units reduces utilities’ ability to rely on them to help protect customers from unforeseen events.

Third, the requirement intrudes on the purview of the WUTC by effectively creating a duplicative review of utilities’ resource decisions. The WUTC reviews utility operations for prudence, and such processes are governed by rigorous regulatory regimes. Ecology need not create a duplicative prudence review, because the statutes implemented by the WUTC already safeguard against mismanagement.

Finally, the requirement would create a barrier to linkage with other jurisdictions in direct opposition to the CCA’s mandate in Section 12(10) to design allowance auctions to allow linkage with other jurisdictions, “to the maximum extent practicable.”

3. An allowance auction should be held before compliance obligations begin to minimize customer impacts from initial program implementation.

Ecology should hold an auction *before* compliance obligations begin, so that covered entities can plan according to the price signal they receive. In order to appropriately price CCA compliance costs into rate recovery and approve corresponding rebates for our customers, utilities and the WUTC need to understand market prices. Without the cost information provided by an auction, utilities may need to charge customers the ceiling price as the most prudent course subject to WUTC approval—considering potential weather variability, the uncertainty during the first year of the program, and the first year’s steep decline in no-cost allowances.

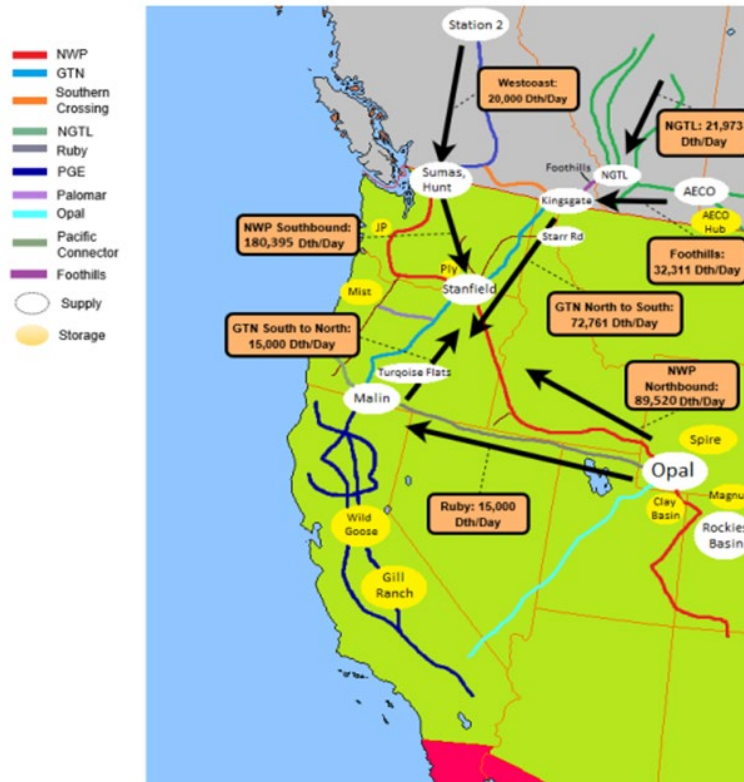
4. WAC 173-446-020(1)(o) should expressly state that RNG purchased to comply with the CCA does not have to be tracked by molecule to specific end-users.

Ecology should clarify in the definition of “biomass-derived fuel” at WAC 173-446-020(1)(o) that fuel such as RNG purchased to comply with the CCA program does not have to be tracked to the specific end-user of where the fuel is delivered.⁹ Currently, WAC 173-446-040(2)(a)(i) exempts carbon dioxide emissions from the combustion of biomass or biofuels from covered emissions under the cap. Clarifying that molecules of exempted fuels need not be tracked to specific end-users is crucial to maximizing regulated entities’ use of RNG to reduce their covered emissions.

⁹ See redline in Attachment 2.

The recommended approach is consistent with Washington’s long-standing renewable portfolio standard for electricity. RNG, like renewable electricity, is purchased on behalf of customers, but it is impracticable to track the actual molecules to a specific location upon delivery—see Figure 1, below. Even so, the addition of any RNG to the interstate pipeline system displaces fossil-based natural gas, thereby reducing greenhouse gas emissions.

Figure 1. Cascade Gas Systems Service Areas and Flows



This ‘book and claim’ concept is well accepted in environmental markets and spurs growth in renewable energy sources. Indeed, the California Air Resources Board (CARB) recognizes and addresses this concept by including additional types of biomass-derived fuel contractual arrangements in their emissions reporting requirements, and those additional biomass-derived fuels qualify as emissions reductions. Purchase contracts are used to demonstrate that biomethane was procured and received by a covered entity in reporting these emissions to CARB whether or not the biomethane molecules are physically delivered. Receipt of the biomethane does not necessarily mean that these molecules were delivered to a specific location, but rather, that the biomethane procurement benefitted the system as a whole.

The recommended approach also is consistent with the CCA. The CCA states that the program shall not cover “[c]arbon dioxide emissions from the combustion of biomass or biofuels.”¹⁰ Thus, it would be squarely within the statute for Ecology to clarify, in the definition of “biomass-derived fuels” at WAC 173-446-020(1)(o), that covered entities can use RNG purchased on behalf of customers in Washington to help meet their compliance obligation.¹¹

5. The WUTC should oversee compliance cost collections and the distribution of any revenue from the no-cost allowance sales.

It is of the utmost importance that Ecology work in lockstep with the WUTC to ensure smooth program implementation while respecting their distinct jurisdictions. Under Washington’s statutes, Ecology and the WUTC are charged with implementation and oversight of discrete but equally important program components. On one hand, Ecology distributes allowances and ensures covered entities submit allowances to meet their compliance obligations. On the other, the WUTC approves the rates necessary for compliance and oversees and approves how utilities distribute customer benefits.¹² Because the WUTC has knowledge of existing billing tariffs, utility billing infrastructure and capabilities, and low-income customer rate exposure, it is well-positioned to approve collection of greenhouse gas allowance costs and oversee distribution of any revenue from the sale of no-cost allowances, consistent with CCA objectives.¹³

6. The program baseline should be transparent and released promptly.

Historically, Washington has required greenhouse gas emission data reporting by most covered entities, but no formal data verification or auditing has been conducted. In determining the program baseline and the associated schedule of no-cost allowance reductions described in our first recommendation above, Cascade recommends that Ecology make the source data and methods it used to calculate the baseline as transparent as possible. Ecology should also make this information available as soon as possible so that covered entities and the public can review it for quality control purposes.

Additionally, Ecology should ensure that the program baseline is based on an average of years that represent current residential customer natural gas needs and incorporates cold weather cycles, market surges, commercial and industrial customer production cycles, and other factors that have an impact on natural gas usage.

¹⁰ *Id.* at Sec. 10(7).

¹¹ Likewise, if a utility blends RNG or hydrogen with natural gas, the associated life-cycle carbon emission reductions should be taken into account.

¹² RCW 80.01.040(3) (“The utilities and transportation commission shall . . . [r]egulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation.”).

¹³ *See, e.g.*, Climate Commitment Act, Sec. 14(4).

7. The final rule should maximize the possibility of linking with other programs.

As noted in the previous joint comments joined by Cascade, the CCA directs Ecology to develop rules that allow for linkage of Washington’s cap-and-invest program with similar programs in other jurisdictions.¹⁴ The ability to link, whether immediately or in the near future, must be preserved through the initial rulemaking process. Linkage would allow the program to maximize market efficiencies and reduce greenhouse gas emissions at the lowest cost possible.

Specifically, Cascade encourages Ecology to ensure it adopts a CCA program that is as consistent as possible with CARB’s cap-and-trade program in order to maximize the possibility for future linkage with the Western Climate Initiative. Ecology should therefore adopt the same price floor and ceilings, price containment mechanisms, and relevant offset protocols as CARB’s program. This would increase certainty for regulated entities, and it would protect against adverse competitiveness impacts, as well as emissions leakage.

8. The final rule should not make entities’ allowance holding accounts public.

Ecology should petition the Washington legislature to **not** make public the volume of allowances in entity holding accounts, as the CCA statute and the Draft Rule currently require.¹⁵ Confidentiality in market positions is critical to a well-functioning allowance market, and making this information public risks the integrity of the market. Posting this information publicly also contradicts the CCA statute’s instructions that Ecology’s rules “minimize the potential for market manipulation.”¹⁶

Conclusion

Cascade appreciates the opportunity to raise these points and looks forward to continued dialogue throughout the rulemaking process. Should you have any questions, please reach out to me at abbie.krebsbach@mdu.com or 701-222-7844.

Sincerely,



Abbie Krebsbach
Environmental Director
Cascade Natural Gas Corporation

Enclosures

cc: Cory Fong – Director of Governmental Affairs and Communication
Scott Madison – Executive VP, Business Development & Gas Supply
Lori Blattner – Director of Regulatory Affairs

¹⁴ *Id.* at Sec. 8(3).

¹⁵ Climate Commitment Act, Sec. 11(7)(b); WAC 173-446-150(4).

¹⁶ Climate Commitment Act, Sec. 12(8).

Attachment 1

Proposed Redline of WAC 173-446-385

WAC 173-446-385 Price Ceiling Unit Sales

- (1) Price ceiling unit sales shall only be held between the last Allowance Price Containment Reserve Sale before a compliance deadline and the compliance deadline itself.
- (2) Price ceiling units shall be sold at the ceiling price.
- (3) Price ceiling unit sales shall be held only if a covered entity or opt-in entity requests a price ceiling unit sale.
- (4) In a request for a price ceiling unit sale, the covered entity or opt-in entity must provide an accounting to Ecology showing that it has insufficient compliance instruments to meet its compliance obligations for the next compliance deadline. ~~The covered entity or opt-in entity must also demonstrate to Ecology's satisfaction that it tried, but was unable to acquire sufficient compliance instruments to meet its compliance obligations for the immediately upcoming compliance deadline.~~
- (5) Ecology shall review any requests and notify requesters of Ecology's response.
- (6) If a covered entity or opt-in entity provides an accounting to Ecology showing that it has insufficient compliance instruments to meet its compliance obligations for the next compliance deadline ~~Ecology agrees to sell price ceiling units~~, Ecology shall instruct the financial services administrator to begin to accept cash payment for purchases from price ceiling sales no earlier than ten business days after the previous Reserve sale and to cease accepting payments no later than seven days thereafter.
- (7) The financial services administrator will inform Ecology of the amounts of payments received from covered entities no later than one business day after it ceases to accept payments.
- (8) After a sale, Ecology will transfer purchased price ceiling units directly to each purchaser's compliance account for retirement at the next compliance deadline.

Attachment 2

Proposed Redline of WAC 173-446-020(1)(o)

WAC 173-446-020(1)(o)

(o) "Biomass-derived fuels," "biomass fuels," or "biofuels" means fuels derived from biomass that have at least 40 percent lower GHG emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute. **This includes such fuel that is purchased to comply with Chapter 173-446 WAC and is not tracked to the specific end-user of where the fuel is delivered.**