



Washington Rural Electric  
Cooperative Association  
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***Filed Via Web Portal***

Attn: Cooper Garbe  
Washington Department of Ecology  
Air Quality Program  
PO Box 47600  
Olympia, WA 98504-7600

**Re: Comments on draft rules to implement the Climate Commitment Act Program, Chapter 173-446 WAC**

Northwest Requirements Utilities (“NRU”), the Washington Public Utility Districts Association (“WPUDA”), the Washington Rural Electric Cooperatives Association (“WRECA”), and PNGC Power respectfully submit the following comments regarding the draft rules released January 5, 2022 by the Washington Department of Ecology (“Ecology”) establishing program rules to implement the Climate Commitment Act (“CCA”).

Most of our collective member utilities are BPA “preference customers.” These utilities rely on electricity products marketed by the Bonneville Power Administration (“BPA”) to serve retail load. Many are full requirements customers, meaning that BPA provides all transmission, energy, capacity and balancing services. NRU is comprised of 56 members from across the region, of which 18 are Washington utilities. PNGC Power has 4 member utilities serving load in Washington as do 14 WRECA member utilities. WPUDA has 23 member utilities that provide retail electric service; 20 of which are BPA customers.

We recommend the following changes and considerations for inclusion in the CCA program rules.

**1. The rules should ensure that a federal power marketing administration (i.e., Bonneville Power Administration) may voluntarily elect to comply with the program.**

The draft rules (in WAC 173-446-040(3)(e)(ii)) eliminate the option for BPA to be considered the electricity importer and apply a compliance obligation to all utilities, regardless of whether they are under the 25,000 metric ton emissions threshold over which an entity has a compliance obligation. This is contrary to statute, which establishes the 25,000 metric ton emissions threshold for incurring a compliance obligation (see RCW 70A.65.080) and allows BPA to choose

to be the electricity importer (see RCW 70A.65.010(27)(e)). The draft rules should be modified to align with statute.

~~Recommendation to delete WAC 173-446-040(3)(e)(ii): A utility that purchases electricity for use in the state of Washington from a federal power marketing administration is the importer and first jurisdictional deliverer of that electricity. Such a utility is a covered entity under this program and has the compliance obligation for the GHG emissions associated with that electricity.~~

And, add the following language in its place: “If the importer is a federal power marketing administration over which the state of Washington does not have jurisdiction, the federal power marketing administration may voluntarily elect to comply with the program. If the federal power marketing administration does not elect to comply as the electricity importer, the electricity importer is the next purchasing-selling entity or, if there is no additional purchasing-selling entity, then the electricity importer is the electric utility that operates the Washington transmission or distribution system, or the generation balancing authority.”

- 2. We recommend additional modifications to WAC 173-446-040 (beyond recommended change #1, above) addressing covered emissions to more closely align with statute and also provide a more complete picture of compliance obligations.**

WAC 173-446-040(3)(e)(i) addresses covered emissions for a first jurisdictional deliverer and would align better with statute if it included a reference to the 25,000 metric tons threshold.

Recommendation to modify WAC 173-446-040(3)(e)(i): “GHG emissions associated with imported electricity exceeding the 25,000 metric ton threshold are covered emissions for the first jurisdictional deliverer serving as the electricity importer for that electricity.”

- 3. WAC 173-446-050 addressing covered entity registration should include direction for utilities that register as opt-in entities to receive free allowances without incurring a compliance obligation if they are under the covered entity threshold but above the reporting threshold of 10,000 metric tons.**

As drafted, this section of the rules would apply a compliance obligation to utilities registering as opt-in entities that are under the 25,000 covered entity threshold, but over the 10,000 metric ton threshold for reporting emissions. WAC 173-446-053 addresses utilities with emissions under the reporting threshold of 10,000 metric tons, appropriately requiring registration to receive no-cost allowances. The draft rules should provide a path for utilities under the covered entity threshold to register in order to receive allowances, and also not incur a compliance obligation as a result.

The purpose behind this recommendation is to align with statutory direction to provide utilities allowances as a way to mitigate increased costs of power resulting from this statute. The objective here is to ensure utilities can mitigate the cost burden of the program, without also

creating a compliance obligation which is inconsistent with statute. One possible approach to address this issue is to enable these utilities to register and not incur a compliance obligation, as outlined in WAC 173-446-053 for utilities under the reporting threshold. Another possible approach is to modify WAC 173-446-050.

Recommendation to modify WAC 173-446-053: All electric utilities in Washington that do not report GHG emissions under Chapter 173-441 WAC exceed the 25,000 metric ton covered entity threshold must register to receive no cost allowances.

Or, alternatively, recommendation to add a new section to WAC 173-446-050: **An electric utility that is not a covered entity shall register as an opt-in entity for purposes of receiving no-cost allowances but will not incur a compliance obligation as if they were a covered entity.**

- 4. The draft rules should more closely align with the statute basing allowance allocation on forecasts approved by governing boards or the Utilities and Transportation Commission, and also identify when utilities are required to submit supply and demand forecasts, what elements need to be included in the plans to support Ecology's allocation of allowances, known emissions factors of resources included in a utility's portfolio rather than utilizing only proxy emissions factors, and when Ecology will distribute allowances to electric utilities.**

The statute directs that allowance allocations to electric utilities must be consistent with a forecast "that is approved by the appropriate governing board or the utilities and transportation commission." (RCW 70A.54.120(2)(b)) The draft rules appear, instead, to leave the determination to Ecology.

Additionally, we recommend adding detailed language that clearly identifies what information and when a utility is required to submit information, along with when Ecology will allocate allowances. Below are the pieces of information that we recommend adding to the rules.

Our specific recommendations include:

- It is currently unclear if all utilities with emissions exceeding 10,000 metric tons of CO<sub>2</sub>e will begin reporting in March 2022 or if the reporting deadline is March 2023. While this is an issue with WAC 173-441, we believe it is an important element for understanding the emissions attributed to the electric utility sector and approach to allowance allocation for the first compliance period. We recommend providing a clarification of that reporting date and, if the reporting deadline is March 2023, direction regarding how allowances during the first year of the first compliance period which begins in January 2023 will be allocated without this information being submitted in 2022.
- The rules must specify a date upon which utilities will need to submit a supply and demand forecast to be used as the basis for Ecology's allowance allocation.
- WAC 173-446-230(1)(b) includes an identification of different plans that may be utilized by utilities to prove their cost burden. Included in the list is a utility's clean energy implantation plan (CEIP), which is neither useful for identifying a utility's supply nor its

demand since the clean energy targets are listed in percentages of retail electric load and the years addressed by the CEIPs that have been submitted do not align with the first compliance period in the Climate Commitment Act. While we appreciate the recognition that utilities may need some flexibility in the plan utilized for the basis of allowance allocation, we believe this section should be modified to align with the statute. We recommend modifying the draft rules to identify specific data pieces that should be submitted to Ecology. For example, the direction could be: “Utilities shall submit supply forecasts for the compliance period included in a plan approved by the governing body or Utilities and Transportation Commission.”

- The emissions factors of many resources included in a utility’s supply portfolio are known. Therefore, it is unclear why it is necessary for Ecology to utilize a proxy emissions factor, except to the extent that the emissions factor is unknown. We recommend allowing a utility to submit known emissions associated with its generation and supplementing with proxy emissions factors where that data is unknown.
- The draft rules should specify that Ecology will release the first allowance allocation methodology by October 1, 2022 (in alignment with statute) and distribute allowances by January 1, 2023.

Recommendation: Because the revisions to implement these recommendations would be relatively extensive, we are ready to work with you to develop rules to properly implement the statute and provide greater specificity to utilities.

**5. The rules should direct Ecology to consider the impact of electrification on electric utility allowance allocation.**

The Washington 2021 State Energy Strategy identified that its “modeling suggests that electricity demand in Washington could grow by 13-20% over 2020 levels by 2030. Electricity load growth then accelerates, and by 2050 is up to 92% above the 2020 level...” (see pg. 116 “Washington 2021 State Energy Strategy”). Policymakers recognized this potential shift in load to the electricity sector and directed, at RCW 70A.65.120(7), “Rules establishing the allocation of allowances to consumer-owned utilities and investor-owned utilities must consider the impact of electrification of buildings, transportation, and industry on the electricity sector.” This provision is not included in the draft rules and should be added to align with statutory direction. One option for implementing statutory direction to recognize electrification could have an impact on electric utility emissions and also ensure the cost burden of the emissions is mitigated is to allow electric utilities to utilize additional no-cost allowances from the allowance price containment reserve if experiencing unanticipated load growth from electrification within the compliance period.

Recommendation to add the following language to WAC 173-446-230(1)(a): (a) Ecology will use utility-specific forecasts that provide retail electric load. The utility will include an adjustment to its retail electric load reflecting the forecasted amount of electrification of buildings, transportation, and industry for the utility in the compliance period. To the extent the utility experiences electrification beyond its forecast, no-cost allowances will be assigned to the

electric utility from the allowance price containment reserve to mitigate the utility's cost burden.

**6. The rules should allow a transfer of allowances between Bonneville Power Administration and electric utilities for direct compliance.**

In RCW 70A.65.120(6), Ecology is directed to allow for allowances to be transferred between Bonneville Power Administration and electric utilities and used for direct compliance. It does not appear that this provision is enabled in rules, and we request its addition. This provision will enable greater efficiencies in administration of the program for Bonneville and its customers.

Recommendation to add a new subsection to WAC 173-446-230: Allowances may be transferred between a federal power marketer and an electric utility and used for direct compliance.

**7. Allowance allocation for electric utilities should be based on cost burden associated with the CCA program.**

WAC 173-446-230(1)(b) directs Ecology to determine the resource mix that will be used by the electric utility to comply with the Clean Energy Transformation Act. The rules may be drafted in this way to attempt to isolate the costs of CETA from the CCA. This approach, however, does not align with direction to the agency in RCW 70A.65.120(1), directing that all utilities that are subject to the requirements of CETA will be eligible for allowance allocation to mitigate the cost burden of the [CCA] program on electricity customers. The reference to CETA in RCW 70A.65.120(1) recognizes that CETA solely applies to utilities formed under Washington statutes (see RCW 19.405.020(10)) and not all utilities serving customers in Washington meet this definition. It is, therefore, a way to identify which utilities may receive free allowances. We recommend writing the rules to ensure that the two regulatory programs are separate and distinct, and allowances are allocated based on cost burden as directed in the statute at RCW 70A.65.120(1).

Recommendation to modify WAC 173-446-230(1)(b): Ecology will determine the generation resource fuel type forecasted to be used to provide retail electric load for a utility for the compliance period. This determination will be based on the following sources, ~~in the order necessary to most accurately determine the resource mix that will be used by that electric utility to comply with the clean energy transformation act, RCW 19.405.~~

**8. Ecology should establish a minimum number of allowances allocated to utilities.**

It is likely that as the CCA program matures allowances will become scarce. In California's cap-and-trade program, to ensure all utilities eligible for allowances receive some allowances to mitigate their cost burden, the California Air Resources Board allocates a minimum amount of allowances (5% of a utility's load) to each utility that is eligible for allowances. We recommend adopting a minimum threshold in Washington as well to ensure all utilities, small or large, will receive some support to mitigate their cost burden, either based on load or percentage of

emitting resources in a utility’s resource portfolio. Below is one possible way of approaching this issue that we recommend for your consideration.

Recommendation to add to WAC 173-446-230: Ecology will establish a minimum allocation level for each utility eligible to receive allowances.

**9. Ecology should use an unspecified emissions rate (0.428 metric tons of CO<sub>2</sub>e/MWh) aligning with California and Oregon.**

In RCW 70A.65.060, Ecology is directed to “consider opportunities to implement the program in a manner that allows linking the state’s program with those of other jurisdictions.” Ecology has discretion to determine the appropriate emissions rate for unspecified power sources. The emissions rate that Ecology has proposed in WAC 173-444-404 of 0.437 metric tons of carbon dioxide equivalents per megawatt-hour includes an adder for transmissions losses that bumps the Washington rate above the rate utilized by California and Oregon (0.428 metric tons). The draft rules also establish a separate calculation to address transmission losses.

We recommend utilizing a consistent emissions rate for unspecified transactions with California and Oregon to further support the ability of the program to link with other states and create consistency in electricity products to aid in efficiencies in the electricity market. And, entities could utilize the transmissions calculation separately to account for transmission losses.

Recommendation to modify WAC 173-444-040: Update Equation 4 in WAC 173-444-040 such that UCO<sub>2</sub>e = 0.428 metric tons CO<sub>2</sub>e/MWh of electricity rather than 0.437.

Thank you for considering these recommendations. We look forward to continuing to work with you to establish final rules to implement the CCA. Please do not hesitate to contact us if you should have questions.

Sincerely,

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