

NW Natural

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January 26, 2022

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

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

NW Natural appreciates the opportunity to provide further comments on the Washington Department of Ecology's (Ecology) Climate Commitment Act (CCA) cap-and-trade program. In particular, NW Natural believes that maximizing the possibility for future linkage will be crucial in efficiently reducing greenhouse gas emissions. Our customers are our priority and more efficient emissions reductions will help keep essential energy services affordable.

NW Natural is committed to helping Washington transition to a low-carbon, renewable-energy future while ensuring energy reliability for more than 770,000 customers across the Pacific Northwest. Already, we are ahead of the target we established in 2016 to meet our 30% carbon savings goal by 2035, based on 2015 emissions associated with our operations and the use of our product by customers.¹ We also have established "Destination Zero", which lays out our pathway to achieve a carbon-neutral future by 2050.²

NW Natural recognizes the speed at which Ecology must conduct this rulemaking under the CCA statute and notes that it has engaged in extensive collaboration with other utilities, including Puget Sound Energy, Avista, and Cascade Natural Gas Corporation. To the extent possible, NW Natural has aimed to provide recommendations consistent with the positions of these three utilities.

Recommendations

1. Preserving the potential to link with other programs benefits customers.

NW Natural fully endorses Ecology's partnership with the Western Climate Initiative. As noted in the previous joint comments supported by NW Natural, the CCA directs Ecology to develop rules that allow for linkage of Washington's cap-and-trade program with similar programs in other jurisdictions.³ The ability to link, whether immediately or in the near future, must be preserved through the initial rulemaking process. Linkage *protects customers*, especially low-and middle-

¹ NW Natural Holdings, *2020 Environmental, Social and Governance (ESG) Report*, 18 (Aug. 2, 2021), available for download at <https://www.nwnatural.com/about-us/the-company/sustainability>.

² *Id.* at 24.

³ Climate Commitment Act, Sec. 8(3).

income customers, by allowing the program to maximize market efficiencies and reduce greenhouse gas emissions at the lowest cost possible.

NW Natural encourages Ecology to ensure it adopts a CCA program that has the same price floor and ceilings, price containment mechanisms, and relevant offset protocols as the California Air Resources Board's (CARB) cap-and-trade program. Doing so would increase certainty for regulated entities, and it would protect against adverse competitiveness impacts, as well as emissions leakage.

2. The sale of price ceiling units needed to provide cost protection for customers should not be discretionary.

NW Natural recommends that the discretionary language be removed from WAC 173-446-385(4) and (6).⁴ 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."⁵ 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."⁶ This is an unambiguous mandate.

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." For example, if Washington experiences an unexpectedly cold winter that results in any utility being short of allowances due to unanticipated heating needs, could Ecology refuse to grant price ceiling units because it determines that an entity should have banked more allowances in previous compliance periods? Or what if an unexpected issue occurred at a renewable generation plant or key transmission lines such that a utility required more fossil fuel generation than expected to meet demand?

Third, the requirement is unnecessary because the WUTC already reviews utilities' resource decisions. The WUTC routinely reviews utility operations for prudence, and such processes are governed by rigorous regulations. If a utility is found to be imprudent, the WUTC can issue remedies and/or disallowances. 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."

⁴ See redline in Attachment 1.

⁵ WAC 173-446-385.

⁶ Climate Commitment Act, Sec. 18(2) (emphasis added).

3. The schedule for reducing no-cost allowances should be adjusted to minimize customers impacts 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 (2023-2036) 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 time needed to transition to low-carbon options.

NW Natural supports achieving significant emissions reductions in the energy sector through the Climate Commitment Act and other measures. However, while NW Natural will make every effort to comply with the CCA program, we are concerned that the steep decline in the no-cost allowance allocations for gas utilities in the first compliance period⁷ does not account for (1) regulated utilities' statutory duties to meet the public's energy needs⁸ and (2) the time it takes to realistically bring new renewable energy sources online.⁹ NW Natural urges Ecology to adjust the no-cost allowance decline to minimize customer impacts from administrative uncertainties and maximize emissions reductions over time.

4. Utilities need adequate pricing information to minimize customer impacts.

In order to appropriately price CCA compliance costs into rate recovery and approve corresponding rebates, the WUTC will need to know, to the extent possible, the auction prices and price ceiling for allowances. The expected rate information will also be important for customers to have for planning their household budgets, especially low-income customers that can be impacted more by rate volatility.

NW Natural notes that throughout the program, utilities will have to price proxy compliance costs into their rates before an auction occurs, as the price of allowances may fluctuate between auctions. Given this inherent market uncertainty in the program, both utilities and the WUTC will have to determine prices for ratepayers based on incomplete information, which will likely cause unnecessary volatility in rates as the program plays out. In this regard, the more Ecology can do to send clear market signals and encourage predictable auction prices in advance of auctions, the better.

5. The rules should be clear 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 RNG is delivered.¹⁰ 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.

⁷WAC 173-446-240(2), <https://ecology.wa.gov/DOE/files/ad/add4891c-0c4e-4253-a784-d02051c77633.pdf>.

⁸ See RCW 80.28.010, 80.28.110.

⁹ Although such innovative resources take time to implement, just as wind and solar projects do, NW Natural is already investing in renewable natural gas and hydrogen technologies.

¹⁰ See redline in Attachment 2.

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.

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 gas molecules or electrons to a specific location upon delivery. Even so, the addition of any RNG to a common carrier pipeline, regardless of whether the specific RNG molecules are injected or delivered within the state, displaces fossil-based natural gas, thereby reducing greenhouse gas emissions.

This 'book and claim' concept is well accepted in environmental markets and spurs growth in renewable energy sources. Clarifying that RNG purchased to comply with the CCA does not have to be tracked to specific end-users would align with other cap-and-trade programs, such as CARB's cap-and-trade program, as well as the recently finalized Climate Commitment Program in Oregon, which regulates many of the same utilities that Washington's CCA program will affect, including NW Natural, Avista, and Cascade.¹¹

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

In determining the program baseline, NW Natural 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 the public can review it for quality control purposes. Additionally, Ecology should ensure that the program baseline is based on weather-normalized conditions.

7. The WUTC should oversee compliance cost collections and the distribution of any revenue from the free 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 allowance and ensures covered entities submit allowances to meet their compliance obligations. On the other, the WUTC sets 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 free allowances, consistent with CCA objectives.¹³

¹¹ Oregon Department of Environmental Quality, *Oregon Environmental Quality Commission Special Meeting*, 313–314 (Dec. 16, 2021), https://www.oregon.gov/deq/EQCdocs/121621_ItemA.pdf (“The biomethane can be sourced from projects anywhere in North America, as long as the biomethane is injected into a common carrier pipeline network. The natural gas utility can claim the same volume of biomethane via displacement, also known as book and claim, without tracking the gas to a specific end-user.”).

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).

NW Natural 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 us at mary.moerlins@nwnatural.com or kellye.dundon@nwnatural.com .

Sincerely,

/s/ Mary Moerlins

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NW Natural

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Enclosures

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.**