



# PUBLIC UTILITY DISTRICT NO. 1

Cowlitz County, Washington

961 12th Avenue

Longview, Washington

July 15, 2022

Washington State Department of Ecology  
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*Submitted by online form at [ecology.wa.gov](http://ecology.wa.gov)*

## **Re: Comments on CR-102 Proposed Rule (Chapter 173-446 Climate Commitment Act)**

Cowlitz PUD appreciates the opportunity to comment on Ecology's CR-102 Proposed Rule 173-446 that will implement Washington State's Cap and Invest program authorized by the Climate Commitment Act (CCA). The PUD provides electric service to over 52,000 customers throughout Cowlitz County and delivered over 4.4 million megawatt hours of electricity through retail power sales in 2020, 90% of which was free of greenhouse gas emissions.

In addition to the general comments below, the PUD expresses its support for and alignment with the comments submitted by the Public Generating Pool and Joint Utilities. We understand the monumental scope of the task that Ecology has been directed to perform in standing up a functional statewide cap and trade program within a tremendously tight deadline. To that end, we hope Ecology will consider the comments and feedback provided by the electric sector and incorporate the Utilities' suggestions and revisions into the final rule. Working together with its stakeholders, Ecology can implement a program that effectively reduces GHG emissions and fully mitigates the cost burden to the electric sector in alignment with the plain language of the CCA statute.

### **Mitigating the Electric Sector's Cost Burden**

Electric utilities have been charged under the Clean Energy Transformation Act (CETA) to serve its Washington retail electric load with 100% clean resources by 2045 and to demonstrate progress toward meeting that goal over multiple compliance periods that will result in meaningful decarbonization along the way. Additionally, significant investments will be made to remove coal-fired resources from utility portfolios by 2026

and achieve GHG Neutrality by 2030 where at least 80% of load-serving resources must be clean or non-emitting. The CCA recognizes the investments mandated by CETA and explicitly authorizes the mitigation of the cost burden imposed by the Cap and Invest program on electricity customers through the issuance of free allowances. Customers should not be subject to multiple layers of regulatory compliance on the path to decarbonization.

The PUD is concerned that the rule's proposed procedures for determining the electric sector's baseline emissions using fuel mix disclosure reports generated by the Department of Commerce will result in incomplete data that understates emissions from imported electricity, thus impacting the total number of allowances available to the electric sector for allocation. In addition, we disagree with Ecology's aim to determine individual utilities' cost burdens using a compendium of data sources in lieu of strictly following the statutory direction in RCW 70A.65.120(2)(a) and (b) to adopt rules establishing the methods and procedures for allocating allowances for utilities and adopting an allocation schedule that's consistent with a UTC or governing board-approved forecast of each utility's supply and demand, and associated cost burden. The utilities' role is to forecast and calculate the cost burden of the program on its customers, while Ecology's role is to establish the methods and procedures to allocate the appropriate number of allowances to mitigate that burden.

We also note the October 1<sup>st</sup>, 2022 statutory deadline set for Ecology to adopt, by rule, the methods and procedures as well as the allocation schedule for electric utilities. It is difficult to see either an accurate electric sector emissions baseline or reliable allowance allocation schedule developed to meet the deadline due to a) the lack of complete data gathered pertaining to electricity imports and b) the lack of guidance provided to utility governing boards necessary to approve cost burden forecasts for the first compliance period.

We ask that Ecology reconsider its approach toward cost burden determination and take the time necessary to collaborate with utilities, Commerce and the UTC to ensure that allowance allocation sufficiently mitigates utility customer cost burden and prevents the redundant application of compliance costs for emissions reductions.

### **Consider "True-up" Mechanism for Allowance Allocation**

Utility load forecasting is an iterative process involving inputs with a high degree of variability. Cowlitz PUD's resource portfolio is heavily dependent on hydropower from both the Federal Columbia River Power System and its own Lewis River project, where the amount of emissions-free output is influenced by precipitation and snowpack levels, temperature, and timing of runoff. Additionally, the amount of load attributed to the PUD's industrial manufacturing customers is subject to both market and economic pressures and is difficult to predict over a multi-year period. Siting of new industries within a service area is nearly impossible to forecast. All of these factors can result in

substantial variation in utility portfolio emissions, and expose utility customers to unforeseen cost burden impacts for which there are no mitigating allowances allocated. The PUD recommends Ecology explore instituting a “true-up” mechanism for allowance allocation that ensures the unforeseen costs of compliance and premium for market purchases are mitigated when actuals do not align with utility forecasts. Such an approach would reduce the pressure on utilities to make extreme load scenario estimates geared toward risk management, and would likely improve the accuracy of cost burden forecasts in the aggregate.

### **Allowance Allocation and Electrification**

The proposed rule does not currently reflect consideration of the electrification of buildings, transportation and industry on the electric sector when allocating allowances to mitigate cost burden as required by RCW 70A.65.120(7). The PUD requests the inclusion of this consideration in the final rule and allow electric utilities to petition for a supplementary allocation of allowances within a compliance period to address any unforeseen cost burden associated with increased loads due to electrification.

### **Determination and Timing of Electric Power Entities’ Designation as Covered Entities**

The PUD seeks clarity from Ecology when a utility (electric power entity) will be designated as a covered entity. One of the determining factors is whether a utility is the first jurisdictional deliverer of electricity imports whose cumulative annual total of emissions for any calendar year between 2015 and 2019 equals or exceeds 25,000 MtCO<sub>2e</sub>. However, under the proposed rule, an FJD in operation between 2015-2019 that did not have to report its emissions will become a covered entity:

- a) in the calendar year when its emissions first equal or exceed 25,000 MtCO<sub>2e</sub> or,
- b) when Ecology provides notice that the FJD is expected to exceed the emissions threshold.

Electric utilities do not report their emissions until June 1<sup>st</sup>, 2023, and it is unclear what information Ecology will use to determine whether a utility will meet the threshold to be designated a covered entity.

A potential complexity for several utilities, including Cowlitz PUD, hinges upon the timing and outcome of BPA’s decision to accept designation as the first jurisdictional deliverer. If BPA chooses to be the FJD, Cowlitz will likely not be a covered entity. If BPA declines, then Cowlitz anticipates exceeding the emissions threshold and will be covered under the program. The PUD would prefer to have its covered entity designation postponed until BPA issues a decision, or as an alternative, not be obligated to remain a covered entity if BPA chooses to be the FJD at some point during the first compliance period. We urge consideration of flexibility in the initial years of the program so as not to add new compliance burdens on individual utilities that will become moot if BPA becomes the FJD.

## Summary

The size and complexity of the Cap and Invest program as well as the short timeframe allowed by statute in which to develop it has resulted in an expedited rulemaking process that unfortunately has prioritized speed of adoption over collaborative process facilitation. In the absence of complete and accurate data related to imported electricity emissions and without a decision from BPA as to whether it will be an FJD, the PUD is concerned that the program, as proposed, will struggle to fully mitigate the electric sector's cost burden. We respectfully request Ecology to deliver a final rule that meets the requirements of the statute and contains procedures that equitably and efficiently implement the program without duplicating the direct cost and administrative burdens placed on the electric sector by other clean energy policies.

Thank you for the opportunity to comment, and we look forward to continuing this dialogue throughout the rulemaking process and program implementation.

Sincerely,

*Steve Taylor*

Steve Taylor  
Director of Regulatory & Regional Affairs