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November 8, 2023

Washington Department of Ecology (ECY)

Via Upload to www.ecy.wa.gov

RE: Comments on 2024 Agency Request Legislation

To the Washington Department of Ecology:

Shell Energy North America (US), L.P. ("Shell Energy") markets and trades natural gas, power and environmental products and provides risk management support to wholesale and retail customers throughout North America. Shell Energy is also a covered entity under the Climate Commitment Act ("CCA"). Shell Energy welcomes the opportunity to comment on the 2024 Agency Request Legislation: Carbon market linkage with California and Quebec.

Shell Energy is pleased to see the Ecology Director's preliminary decision to pursue linking the CCA program with California and Quebec. As Director Watson rightly explains, connecting the Washington market to similar programs would create a larger, more liquid market, "providing price stability and assurances to participating businesses that would incentivize wise long-term strategies to reduce emissions."[1] Shell Energy agrees that linkage is the clearest and cleanest path forward to achieve Washington's climate goals and overall supports the Director's preliminary decision.

Shell Energy notes that, in addition to price stability, success of the CCA program relies on ensuring the affordability of the program for end-users. In Shell Energy's view, Ecology can help assure affordability through pursuing a few key proposals contemplated by the agency for statutory amendments relevant to linkage.

> First, on the matter of offsets, Ecology is considering seeking amendment to the CCA to allow offset credits from California or Quebec to be used as compliance instruments in Washington, so long as they are from offset projects that are located in or provide Direct Environmental Benefits to California or Quebec.
>
> Second, Ecology would add flexibility to allow covered entities to fulfill up to 5% of its compliance obligation using offset credits from any eligible offset project, whether on Tribal lands or not, with an additional 3% that must come from projects on Tribal lands. This flexibility would apply to the requirements for offset credits during the second compliance period as well.

[1] "Stronger Together: The Promise to Connecting North America's Clean Energy Leaders", Department of Ecology Blog, available at: https://ecology.wa.gov/blog/november-2023/stronger-together-the-promise-of-connecting-north-america-s-clean-energy-leaders?utm_medium=email&utm_source=govdelivery

Shell Energy strongly supports both proposals surrounding offsets as broad usage of such credits (including those from linked jurisdictions) serve as a critical tool in responding to volatility and are a more cost-effective means of managing compliance with carbon programs; ultimately, this translates into greater affordability for end-users.

Shell Energy also recommends the following changes not raised in the request for legislation:

- RCW 70A.65.170(5)(Offsets) requires offsets used to be from reporting periods wholly after July 25, 2021 or within two years prior to July 25, 2021. Ecology should request that the Legislature remove this clause to make compliance instruments of all vintage years fully fungible, an objective of linkage.
- RCW 70A.65.170(5)(c) requires that offsets must be "consistent with offset protocols adopted by the department". This section should be amended to read: "consistent with offset protocols adopted <u>or offset credits otherwise accepted</u> by the department". This amendment would give effect to Ecology's proposal to accept offset credits issued by California and Quebec, including usage of offsets from protocols and project types not available in Washington, such as the Mine Methane Capture protocol adopted in California.
- As a regulatory matter, Ecology should amend the CCA regulation to remove the requirement that an allowance is retired in the year immediately following the surrender of an offset. Under California's program, the majority of offsets have historically been surrendered at the final compliance deadline. If compliance entities in Washington behave similarly, there would be a step down in allowances available in 2028 (budget year after the final first compliance period) which could result in price volatility. Ecology should instead spread out the allowance retirements over a 3-4 year period (e.g. 20 million offsets surrendered in 2027 – remove 25% or 5m from the 2028 budget, another 25% or 5m from the 2029 budget, etc.)

Electric issues raised by Ecology will also affect the affordability of the program. On the matter of removing the netting reporting requirement for Electric Power Entities ("EPEs"), Shell Energy recommends that Ecology clarify that removal of the reporting requirement would not prohibit EPEs from continuing to net their hourly unspecified imports and exports in the calculation of their covered emissions. If removal of the netting reporting requirement would disable netting entirely, Shell Energy opposes removal. Netting remains a useful mechanism for transparent accounting of emissions associated with the net impact of sinking of unspecified power in-state, helps manage costs of compliance and once again, affordability for end-users.

Finally and separately, to help meet Ecology's goal of assuring price stability, providing certainty for covered entities and other general market participants should be the supreme consideration. On the matter of the Allowance Price Containment Reserve (APCR), while nothing is explicitly proposed in the request for legislation, Shell Energy recommends that Ecology mirror California's APCR distribution methodology and affirm this by regulatory rulemaking. A methodology for APCR distribution affirmed and adhered to in regulation would provide covered entities and other market participants a greater sense of program stability and boost confidence in Washington's program to other program regulators. Consistent with this, Shell Energy cautions Ecology from liberally construing and exercising its "broad authority to adjust annual allowance budgets"[2], as doing so creates uncertainty for the market and hesitation from other program regulators responsible for decisions to link.

Shell Energy appreciates the opportunity to comment and looks forward to further engagement.

Respectfully submitted,

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Shell Energy North America (US), L.P.

[2] Preliminary Linkage Analysis at p. 42, Publication 23-14-005, available at https://apps.ecology.wa.gov/publications/documents/2314005.pdf (citing RCW 70A.65.070(3)).