November 8, 2023

Washington State Department of Ecology
Air Quality Program
P.O. Box 47600
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Avista Corporation, Cascade Natural Gas Corporation, NW Natural, and Puget Sound Energy, Inc. (collectively, "Local Distribution Companies" or "LDCs") submit these comments in support of Director of the Washington Department of Ecology Laura Watson's November 2, 2023 preliminary decision to pursue linking Washington's cap-and-invest program under the Climate Commitment Act ("CCA") with the California-Quebec carbon market.

The LDCs agree that linking with California and Quebec offers Washington "the best path to a successful, stable carbon market that will allow us to meet the greenhouse gas emission limits set in state law."[1] With a suite of comprehensive climate laws in place, Washington is at the forefront of climate policy in the United States and North America. Linking with the California-Quebec market is the logical next step to cost-effectively accelerate emission reductions under these programs.

To help facilitate a speedy and seamless linkage process, the LDCs urge Ecology to recommend the following legislative and regulatory changes to the Climate Commitment Act ("CCA").

1. **Amend RCW 70A.65.100(6)(a) to increase the allowance purchase limit**. A linked market with uniform rules for its participants is an efficient and fair market. To best create these market efficiencies, the single auction purchase limit for Washington covered entities should match that of the California-Quebec market. Currently, covered and opt-in entities in the Washington program "may not buy more than 10 percent of the allowances offered during a single auction." RCW 70A.65.100(6)(a). In the California-Quebec market, covered and opt-in entities have a single auction purchase limit of 25 percent. Cal. Code Reg. tit. 17 § 95911(d)(2)(A); Quebec Official Publisher, Q-2, r. 46.1, III.50. Amending the CCA to match the purchase limit of the California-Quebec market will ensure that every entity under a Washington-California-Quebec program is afforded the same opportunity at each allowance auction, and that the sale of allowances continues seamlessly post-linkage.

2. **Amend RCW 70A.65.010(12) to confirm exclusion of biomethane.** The CCA does not cover emissions from "biomass-derived fuels," "biomass fuels," or "biofuels." RCW 70A.65.010(12); RCW 70A.65.080(7)(d). However, the definition should more clearly explain that the requirement that such fuels "have at least 40 percent lower greenhouse gas

[1] Washington Department of Ecology Director Laura Watson, *Stronger together: The promise of connecting North America's clean energy leaders*, (Nov. 2, 2023), https://ecology.wa.gov/blog/november-2023/stronger-together-the-promise-of-connecting-north-america-s-clean-energy-leaders.

emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute" does not apply to biomethane. RCW 70A.65.010(12).

RNG used for non-transportation purposes does not serve as a substitute for petroleum products. And California does not impose an emissions threshold for defining these and similar terms, and, in calculating an entity's compliance obligation, California does not include emissions from the combustion of biomethane and biogas from animal, plant, or other organic waste or landfills and wastewater treatment plants. *See, e.g.*, Cal. Code Reg., tit. 17 § 95852.2(a)(8). As such the LDCs recommend the following amendment to RCW 70A.65.010(12):

(*12) "Biomass-derived fuels," "biomass fuels," or "biofuels" means fuels derived from biomass that have at least 40 percent lower greenhouse gas emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute. However, this 40 percent requirement shall not apply to fuels derived from biomass delivered by a natural gas company."*

3. **Codify the allowance price containment reserve to align with California-Quebec.** The allowance price containment reserve ("APCR") is maintained to "assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments." RCW 70A.65.010(2). Ecology has long anticipated that "[i]f Washington links with the California/Quebec trading program, we will need to set the floor price, ceiling price, and APCR tier prices at values that are compatible with the program." CES at 198. Given that Ecology has been considering adopting the California-Quebec APCR procedures and methodology from the beginning, and to further Director Watson's preliminary decision, Ecology should, under WAC 173-446-370, align its APCR procedures to help facilitate market stability and consistency upon linkage.

4. **Clarify the national security facilities and installations emission exemption**. When calculating covered emissions compliance obligations, Ecology should ensure it is subtracting emissions associated with natural gas *delivery to* national security facilities and installations. The CCA currently exempts only those emissions from facilities with North American industry classification system ("NAICS") code 92811 (national security). RCW 70A.65.080(7)(f); WAC 173-446-040(2)(a)(ii)(B). To ensure that emissions associated with keeping this important defense infrastructure functioning properly are exempted, the CCA should be clarified to ensure that covered emissions do not include emissions from the delivery of natural gas to, or from the operation of, national security facilities. This exemption should apply to "national security facilities" generally, rather than a specific NAICS code, to ensure that national security facilities under a multitude of classifications are properly exempted.

5. **Amend RCW 70A.65.100 to harmonize with disclosure obligations.** RCW 70A.65.100 should be amended to allow regulated entities to disclose past market participation and historical purchases with regulators like the Washington Utilities and Transportation Commission and the Securities and Exchange Commission. The CCA places material compliance obligations and financial impacts on the utilities that must be disclosed to

economic and financial regulators. Disclosures at the Utilities and Transportation Commission can be made confidentially, but some level of transparency is needed for regular disclosures made with the SEC (10-Q and 10-K reports) due to materiality. The LDCs recognize the sound reasoning for prohibiting the public disclosure of *future* auction participation and bidding strategy, and the proposed amendment would not disturb that policy choice.

6. **Amend the timing requirements for bid guarantees.** The CCA statute or regulations should be amended to expedite the release of bid guarantees and/or increase the time between APCR and regular auctions by two weeks. Currently, minimum bid guarantees must be submitted at least 12 days prior to an auction and must be valid for 26 days post-auction. WAC 173-446-315(1)(c); WAC 173-446-325(1)(b). With this setup, there is the potential for overlapping lines of credit being open, leading to several issues:

    - Entities may be only able to obtain a reduced number of allowances, as they may have an open bid guarantee for one auction while minimum bid guarantees are required for the next. Maintaining two bid guarantees simultaneously is very expensive and disfavors smaller entities and their customers;

    - Demand for allowances will be pushed out over time, potentially piling up at auctions held later in the year, leading to an increase in price per allowance; and

    - Customers will incur the costs from elevated allowance prices and interest rates from the extended period that a minimum bid guarantee remains open.

    Expediting the release of bid guarantees post-auction and/or increasing the time between APCR and regular auctions by two weeks will help alleviate these issues and put Washington's market in a healthier position heading into potential linkage negotiations.

7. **Amend WAC 173-446-325(1)(c) to permit regulated utilities to submit a letter of commitment or attestation in relation to their bid guarantees.** Currently, WAC 173-446-325(1)(c) requires bid guarantees for all covered entities to be in the form of either a wire transfer, an irrevocable letter of credit, or a bond. This adds unnecessary costs for regulated utilities and could subject ratepayers to increased costs as well. Because utilities are already heavily regulated by the WUTC and aim to minimize ratepayer costs, Ecology should alter this provision to allow utilities to submit a letter of commitment or attestation for their bid guarantees.

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The LDCs appreciate the opportunity to engage with Ecology and share their support for linking Washington's cap-and-invest program to the California-Quebec market before the second compliance period commences in 2026. If you would like to further discuss this letter or have any questions, please reach out to Lorna Luebbe (lorna.luebbe@pse.com), Bruce Howard (bruce.howard@avistacorp.com), Abbie Krebsbach (abbie.krebsbach@mdu.com), and Mary Moerlins (mary.moerlins@nwnatural.com).