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See attached comments submitted by the Public Generating Pool (PGP).



November 8, 2023

***Submitted via Web Portal***

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**RE: PGP Comments on 2024 Agency Request Legislation: Carbon Market Linkage with California & Quebec**

The following comments are submitted by the Public Generating Pool (PGP) in response to the Washington Department of Ecology's (Ecology) proposed 2024 agency request legislation pertaining to carbon market linkage with California and Quebec. PGP is a trade association representing nine consumer-owned utilities that own and operate their own generating resources in Oregon and Washington. PGP appreciates the opportunity to comment on this proposed legislation.

General Comments

As previously noted in the Joint Utility comment letter on carbon market linkage dated May 15, 2023, PGP supports the pursuit and execution of full program linkage with California and Quebec under the Climate Commitment Act (CCA) no later than January 1, 2026. Linkage is expected to allow Washington to meet its state greenhouse gas (GHG) emissions commitments at a lower cost to covered entities and their customers than the current standalone market, and will create one shared, rather than two divergent, GHG price signals in both existing and developing centralized electricity markets in the Western Interconnection. Ecology's agency request legislation on carbon market linkage should harmonize Washington's policy with those of California and Quebec as necessary to facilitate linkage and include incremental improvements to Washington's cap-and-invest program that are informed by lessons learned from the first year of program implementation.

PGP offers the following comments on the specific items identified by Ecology in its proposed outline for the legislation and recommends a couple of additional changes that Ecology should consider.

Potential Statutory Amendments Relevant to Linkage

**Reporting of electricity (RCW 70A.15.2200(5)(a)) and electricity imports (RCW 70A.65.080(1)(c)).**

*PGP recommends that Ecology include in this legislation provisions clarifying and simplifying its opt-in process for the Bonneville Power Administration (BPA) to serve as the first jurisdictional deliverer (FJD) for all federal power sales into Washington state.*

PGP observes that Ecology's proposed removal of both the 10,000 metric ton of carbon dioxide equivalent (MTCO<sub>2</sub>e) per year GHG reporting threshold and the 25,000 MTCO<sub>2</sub>e/year emissions threshold for electricity imports will have immediate implications for electric utility customers of the Bonneville Power Administration (BPA), which has discretion under the CCA to opt into the program. This discretion is a point of contrast with California's program, which includes BPA as a covered entity. The current thresholds mean that the majority of BPA's preference customers in the state have neither GHG reporting nor compliance obligations associated with their purchases of electricity marketed by BPA. Removal of the thresholds would thereby constitute a dramatic increase in the number of utilities covered under the cap-and-invest program.

Under Ecology's current CCA Program Rule, if the importer of electricity into the state is a federal power marketing administration over which the state of Washington does not have jurisdiction (i.e., BPA), and the federal power marketing administration has not voluntarily elected to comply with the program, then any utility that purchases electricity for use in Washington from that federal power marketing administration may provide by agreement for the assumption of the compliance obligation by the federal power marketing administration. Ecology must be notified of such an agreement at least 12 months prior to the compliance period for which the agreement is applicable or, for the first compliance period, 12 months prior to the first calendar year to which the agreement is applicable. Upon effect of the agreement, the covered emissions for the utility are the responsibility of the federal power marketing administration as long as the agreement is in effect. If no agreement is in place for a utility that purchases electricity from that federal power marketing administration, then the requirements for assigning the compliance obligation to the next purchasing-selling entity in the physical path on the NERC e-tag apply to the GHG emissions associated with that electricity.<sup>1</sup>

PGP finds that this utility-by-utility opt-in process is confusing, unnecessarily onerous, and does not address BPA's surplus sales, its sales to non-utility trading partners, or its participation in centralized electricity markets. If Ecology's agency request legislation removes the GHG reporting and emissions thresholds for electricity imports, thereby expanding the scope of the cap-and-invest program to include more BPA preference customers, then PGP recommends that Ecology include provisions clarifying and simplifying the opt-in process for BPA to serve as the FJD for imports of federally marketed electricity into Washington state, including imports of surplus electricity and imports via centralized electricity markets.

#### **Electricity imports (RCW 70A.65.010(27)).**

PGP supports amending the definition of "electricity importer" to include additional scenarios for imported electricity that should be covered under the cap-and-invest program, as recommended in the March 2023 electric power entity (EPE) white paper on the "Consideration of Electricity Imports and Determination of the Electricity Importer Under the Climate Commitment Act."<sup>2</sup>

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<sup>1</sup> WAC 173-446-040 (3)(e)(iii)

<sup>2</sup> <https://apps.ecology.wa.gov/publications/documents/2302051.pdf>

**Removing the requirement that “netting” be reported (RCW 70A.65.010(42)(d)).**

*PGP recommends that Ecology preserve the netting language in statute at this time, and instead work with EPEs to develop appropriate reporting guidance before the June 1, 2024, reporting deadline for 2023 emissions.*

PGP is concerned by the proposed removal of the netting provision under the current statutory definition of “imported electricity.” PGP supported the inclusion of this provision in the original CCA legislation, which was intended to clarify that imports and exports of electricity in the same hour for balancing purposes are not subject to regulation under the cap-and-invest program. PGP is also concerned that the removal of the netting provision will invalidate the MID-C hubbing practices outlined in the EPE white paper and accepted by Ecology, overestimate GHG emissions, and ultimately increase EPEs’ compliance burdens.

PGP members that completed the first year of EPE GHG reporting have observed that the issue is not the netting provision itself, but rather the ambiguity with respect to its application within the EPE GHG Reporting Tool. PGP therefore recommends that Ecology preserve the netting language in statute at this time, and instead work with EPEs to develop appropriate reporting guidance before the June 1, 2024, reporting deadline for 2023 emissions.

Potential Statutory Amendments that Are Not Relevant to Linkage

**Changes to Washington GHG emissions reporting requirements.**

PGP supports Ecology’s proposal to develop its own GHG reporting platform akin to the “California e-GGRT” platform. PGP recommends that Ecology also evaluate other opportunities for streamlining federal and state emissions reporting requirements.

Other Potential Changes that Ecology May Consider

**Including a mechanism for Ecology to be able to modify certain provisions via rule.**

PGP supports the inclusion of a mechanism for Ecology to be able to modify certain cap-and-invest program provisions by rule. The example provided by the evolution of California’s Cap-and-Trade Regulation and Mandatory Reporting Regulation demonstrates the need for flexibility to accommodate multiple rulemaking iterations as Washington’s cap-and-invest program matures.

**Providing no-cost allowances tied to emissions used to balance the bulk electric system for Balancing Authorities and market sales.**

PGP supports providing no-cost allowances tied to emissions used to balance the bulk electric system for Balancing Authorities and market sales.

**Addressing confidentiality provisions to increase transparency in communications between certain utilities and their regulators.**

PGP supports addressing confidentiality provisions to increase transparency in communications between utilities and their regulators. As consumer-owned utilities, PGP's Washington members are regulated by public governing bodies that must comply with Washington's Open Public Meetings Act and other public transparency and public disclosure requirements. PGP's member utilities must be able to freely communicate with their governing bodies about their participation in the cap-and-invest program without risking violating the CCA's provisions on collusion and market manipulation.

Additional Changes Ecology Should Consider

**Clarifying the electric utility no-cost allowance allocation adjustment mechanism.**

PGP requests that Ecology confirm our current understanding of the electric utility no-cost allowance allocation adjustment mechanism provided in WAC 173-446-230(2)(g), which states that "the initial allocation of allowances will be adjusted as necessary to account for any differential between the applicable reported greenhouse gas emissions for the prior years for which reporting data are available and verified in accordance with chapter 173-441 WAC and the number of allowances that were allocated for the prior year through this process." Ecology originally published the electric utility allowance allocation schedule for the first compliance period in April 2023, and subsequently updated it in September 2023 following the mid-year update of utility supply and demand forecasts under WAC 173-446-230(2)(j). Ecology has already distributed vintage 2023 and vintage 2024 no-cost allowances based on that updated allocation schedule.

PGP's current understanding of the allocation adjustment mechanism is that, for example, Ecology will re-evaluate each utility's scheduled allocation of vintage 2025 allowances based on the utility's actual 2023 emissions (reported by June 1, 2024) and whether the utility submits a mid-year update of its supply and demand forecasts by July 30, 2024. The updated allocation schedule would then be published by October 1, 2024, and vintage 2025 allowances distributed by October 24th. This process would subsequently be repeated for vintage 2026 allowances in calendar year 2025.

If this understanding is incorrect, then Ecology should clarify the adjustment mechanism so that electric utilities can appropriately manage their no-cost allowances and CCA costs.

**Clarifying the taxability of no-cost allowance consignment.**

PGP recommends that Ecology work with the Department of Revenue to develop provisions that clarify the taxability of revenue from no-cost allowance consignment. The current lack of regulatory clarity means that utilities may be prevented from consigning their allocated allowances if tax obligations are unable to be addressed.

Conclusion.

Thank you for the opportunity to provide input on Ecology's proposed agency request legislation pertaining to carbon market linkage under the CCA. PGP looks forward to continued dialogue with Ecology as the linkage process advances.

Sincerely,

*/s/ Mary Wiencke*

Mary Wiencke  
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Public Generating Pool