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Submitted via Web Portal

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RE: April 24th Draft Cap-and-Invest Program Updates & Linkage Rule Language

On April 25, 2025, the Washington Department of Ecology (Ecology) announced the publication of a draft of the Cap-and-Invest Program Updates and Linkage rule language (dated April 24th). Ecology subsequently held a public meeting on April 30, 2025, to provide an overview of the rulemaking and April 24th draft rule language.

The Public Generating Pool (PGP) is a trade association representing eight consumer-owned utilities in Washington and one in Oregon that own and operate their own generating resources. PGP offers the following comments on the April 24th draft rule language and April 30th public meeting. PGP appreciates the opportunity to comment at this early stage of the rulemaking.

General Comments

PGP supports the approach taken by Ecology, previously outlined in a March 17th Climate Commitment Act (CCA) Market Notice¹ and recently reiterated during the April 30th public meeting, to consolidate various rulemakings implementing the CCA into one single Cap-and-Invest Program Update and Linkage Rulemaking, including the previously announced Linkage Rulemaking and the second phase of Ecology's Electricity Markets Rulemaking. This consolidation will streamline Ecology's and stakeholders' consideration of intersecting policy elements that must be codified in rule by October 1, 2026, particularly those relating to electricity sector topics. PGP would like to express particular appreciation for the approach articulated by Ecology staff during the April 30th public meeting to continue to host dedicated workshops and Cap-and-Invest Electricity Forums on rule elements relating to electricity imports and electric utility allocation. This approach will facilitate two-way dialogue between Ecology staff and stakeholders on technically complex electricity sector topics in parallel with the broader public processes under the consolidated

¹ Dept. of Ecology, *CCA Market Notice: Update on Cap-and-Invest rulemaking topics and timeline*. Retrieved from: <https://content.govdelivery.com/accounts/WAECY/bulletins/3d70206>.

rulemaking. PGP looks forward to continuing to engage with Ecology and the stakeholder community on these issues as the rulemaking proceeds.

Comments on April 24th Draft Rule Language

PGP recognizes that the April 24th draft rule language is largely consistent with the draft Linkage Rulemaking language previously published on July 1, 2024, and thus does not reflect the broader consolidated scope of the present rulemaking at this time. However, PGP would like to offer the following comments on discrete electricity topics included at this stage of the drafting process.

Electricity – Reporting Threshold & Cap-and-Invest Emissions Threshold

E2SSB 6058 (Nguyen, 2024) amended RCW 70A.15.2200 (WA Clean Air Act) to give Ecology rulemaking authority to require electric power entities (EPEs) to report emissions of greenhouse gases (GHGs) from all electricity that is purchased, sold, imported, exported, or exchanged in Washington. The legislation further directs that, to the extent practicable, Ecology’s rules must seek to minimize reporting burdens through the utilization of existing reports and disclosures for EPEs who report GHG emissions that equal 10,000 metric tons of carbon dioxide equivalent (MTCO_{2e}) or less annually from all electricity that is purchased, sold, imported, exported, or exchanged in Washington. At the same time, the legislation amended the Cap-and-Invest Program emissions threshold such that first jurisdictional deliverers of electricity are covered entities under the program when the cumulative annual total of emissions associated with imported electricity from unspecified sources exceeds 0 MTCO_{2e}.

Ecology’s April 24th draft rule language for Ch. 173-441 WAC (the GHG Reporting Rule) clarifies that beginning with the 2027 emissions year reported in 2028, GHG reporting will be mandatory for an owner or operator of an EPE for all electricity that is purchased, sold, imported, exported, or exchanged in Washington. PGP appreciates this clarification, and believes it appropriate for Ecology to give smaller EPEs whose emissions are less than the current 10,000 MTCO_{2e} reporting threshold some lead time before reporting becomes mandatory.

However, PGP respectfully requests that Ecology clarify how the timeline for EPE GHG reporting is intended to align with the new emissions threshold for first jurisdictional deliverers of electricity under the Cap-and-Invest Program. Draft WAC 173-446-050(1) of the CCA Program Rule states that *“any first jurisdictional deliverer of electricity reporting under chapter 173-441 WAC that delivers any amount of unspecified electricity in the state will receive notice to register as a covered entity in the program.”* PGP understands this provision to mean that an EPE who (A) does not meet or exceed the current 10,000 MTCO_{2e} GHG reporting threshold but who (B) does deliver some amount of unspecified electricity in the state will not receive notice to register as a covered entity in the Cap-and-Invest Program until after their first GHG emissions report is submitted June 1, 2028. PGP would appreciate it if Ecology could either confirm or correct this understanding.

Balancing Energy

E2SSB 6058 gave Ecology the discretion to adopt a definition of “electricity importer” for balancing energy but does not require it. In PGP’s December 20, 2024, comments to Ecology on Linkage Rulemaking electricity considerations,² PGP recommended that Ecology forego adopting a definition for the “electricity importer” of balancing energy at this time, given that balancing energy provided by balancing authorities to in-state variable energy resources is expected to be de minimis to zero when evaluated on a net basis on longer timescales. PGP is therefore encouraged that the April 24th draft rule language for Ch. 173-441 WAC removes the previous placeholder addressing balancing energy in the “electricity importer” definition. We look forward to continued conversation on this issue.

Conclusion

PGP appreciates the opportunity to comment. PGP looks forward to participating in forthcoming electricity-focused workshops and/or Cap-and-Invest Electricity Forums and engaging in this rulemaking as it continues to develop.

Sincerely,

/s/ Mary Wiencke

Mary Wiencke
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Public Generating Pool

² Public Generating Pool. December 20, 2024. Comments RE: Linkage Rulemaking Electricity Considerations. Retrieved from: https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did200118/pid_209832/assets/merged/k502ihkrffb_document.pdf?v=13654.