

September 5, 2025

Submitted via Ecology's Online Public Comment Form

Washington Department of Ecology
Climate Pollution Reduction Program
P.O. Box 47600
Olympia, WA 98504-7600

Re: PacifiCorp's Informal Comments on Ecology's July 28, 2025, Cap-and-Invest Linkage Rulemaking Amendments

PacifiCorp appreciates the opportunity to comment on the Washington Department of Ecology's (Ecology's) proposed amendments to Chapter 173-446 and Chapter 173-441 of the Washington Administrative Code (WAC). Ecology published its most recent proposed amendments on July 28, 2025, as part of its ongoing public rulemaking facilitating the linkage of the Washington carbon market with that of California and Quebec (Linkage Rulemaking). PacifiCorp continues to support Ecology's efforts to link Washington's carbon market with the California-Quebec carbon market. The limited informal comments provided below propose that Ecology adjust the allowance price containment reserve (APCR) tier 2 price, as required by Washington House Bill 1975's (HB 1975) amendments to the Climate Commitment Act (CCA), and the tier 1 price sooner than and separate from this Linkage Rulemaking to allow for public input, and highlight several language revisions proposed by Ecology which create ambiguity. PacifiCorp's comments refer to Ecology's most recent amended rules, but some revisions made by Ecology earlier in the rulemaking process are also addressed.

I. Ecology Should Request Public Input on the APCR Tier 1 and Tier 2 Price Adjustments to Reflect the \$80 Price Ceiling Required by HB 1975 in a Separate Workstream

Passed in 2025, HB 1975 amended the CCA by adjusting auction price containment mechanisms and ceiling prices, addressing Ecology's authority to amend rules to facilitate linkage, and provided for market dynamic analysis. Specifically, HB 1975 established an \$80 price ceiling for CCA allowances for calendar years 2026 and 2027 and directed Ecology to update the allowance price containment reserve tier 2 price to reflect the updated \$80 price ceiling. Ecology is currently implementing these requirements of HB 1975 as part of its Linkage Rulemaking. However, according to information provided during Ecology's August 7, 2025, workshop, the Linkage Rulemaking is scheduled for adoption in the summer of 2026, well after the agency's anticipated publication of the 2026 tier 2 price. Therefore, Ecology should update its rules to include the \$80 price ceiling and the tier 2 price for 2026, adjusted to reflect the newly established price ceiling, in a separate workstream to provide certainty to market participants around auction price containment mechanisms.

WAC 173-446-335(6) and 173-446-370(4)(b)(iv) state that the agency will calculate and issue notice of updated price ceiling, tier 1, and tier 2 prices on the first day of December each year for the following year. Ecology's August 7, 2025, Linkage Rulemaking workshop forecasted a proposed final draft of the rule would be ready in spring 2026 for adoption in summer 2026. Based on this timeline, the amended rule would not be adopted until after Ecology's first, and possibly second, auction for calendar year 2026. The updated APCR tier 2 price that must reflect the new allowance price ceiling of \$80, and the \$80 price ceiling itself, would not be included in the rule for at least these two auctions. PacifiCorp encourages Ecology to propose an updated APCR tier 2 price, consistent with the CCA amendments contained in HB 1975, and allow for public input on the methodology ahead of the December 1, 2025, deadline, to give market participants more price certainty and input.

Additionally, Ecology has not discussed, but should consider, updating the tier 1 price when it adjusts the tier 2 price. While the legislature did not expressly direct Ecology to adjust the tier 1 price in HB 1975, adjusting the tier 1 price may be necessary to ensure the tier 1 and tier 2 price mitigation measures are properly spaced from each other to provide ample price mitigation room. If Ecology does not update the tier 1 price, then the gap between the tier 1 and tier 2 price will narrow, meaning less pricing mitigation between the two tiers.

II. WAC 173-446-020 – “Market Position” Definition Language

Ecology has updated the definition of “market position” to include a sentence stating, “knowledge of a general market participant’s current and/or expected holdings of compliance instruments is knowledge of the general market participant’s market position.” This new sentence seems to contradict the first sentence of this definition, which defines market position as including both “the current and/or expected holdings of compliance instruments by a registered entity” and “the current and/or expected covered emissions of that registered entity.” Leaving the original sentence defining “market position” unmodified and consisting of two components including compliance instruments and emissions, when the definition of “knowledge of a general market participant’s... general market position” only includes compliance obligations, creates ambiguity. When the term “knowledge of” is not explicitly used in sections of Chapter 173-446 WAC to describe knowledge of a participant’s market position, it is unclear which standard should be applied. For example, WAC 173-446-050(1)(c)(ii), WAC 173-446-105(7), and 173-446-105(7)(b) do not use the term “knowledge of” to modify “market position” when describing steps that individuals and consultants must take to disclose knowledge of the market position of more than one entity. Therefore, it is unclear if individuals and consultants must disclose to Ecology when they have knowledge of both the compliance obligations and emissions of both entities, or if knowledge of compliance instruments alone is enough to require disclosure.

Also, Ecology’s modifications to its definitions section have not accomplished its stated objective of clarifying, “that compliance obligations do not factor into the definition of ‘market position’” as stated in the table on page 2 of its most recent Linkage Rulemaking amendments.

III. WAC 173-441-085 – Independent Reviewer Requirements

The definition of “lead verifier independent reviewer” or “independent reviewer” in WAC 173-441-085(3)(b)(iii) explains that the Independent Reviewer does not also need to meet the requirements for a “sector specific or project specific verifier.” The Company requests additional information or a reference to what additional requirements are meant by “sector specific or project specific verifier” that an independent reviewer would not be required to meet.

IV. Conclusion

PacifiCorp appreciates the opportunity to provide informal comments in response to Ecology's Linkage Rulemaking. The robust public process conducted by Ecology is greatly appreciated, and PacifiCorp looks forward to further opportunities to comment and provide feedback.

Sincerely,

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