

May 16, 2025

Filed Via Ecology Website [Public Comment Form](#)

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**Re: Cap-and-Invest Program Updates and Linkage Rulemaking
Informal Comment Period #1 (April 16, 2025 12:00AM PT - May 16, 2025 11:59PM PT)**

Puget Sound Energy, Inc. (“PSE”) appreciates the opportunity and respectfully submits the following comments. These comments are in response to draft rule changes proposed by the Department of Ecology (“Ecology”) and discussed during their Public Meeting on April 30th, 2025,¹ to aid Ecology in developing concepts and drafting rule language to improve implementation of the Cap-and-Invest Program.

Background

PSE is Washington State’s oldest and largest investor-owned energy utility, serving approximately 1.2 million electric and over 900,000 natural gas customers with safe and reliable energy services. PSE supported the passage of the Climate Commitment Act (“CCA”),² and has dedicated substantial resources and time to engage with, implement and ultimately comply with the Cap-and-Invest Program.

Comments

PSE joined peer utilities in submitting joint comments filed concurrently separately. These are additional comments from PSE.

¹ Department of Ecology, *Cap-and-Invest Program Updates and Linkage public meeting* (Apr. 30, 2025), available at <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-441-446-cap-and-invest-program-updates-and-linkage> (the “April 30th Public Meeting”).

² Climate Commitment Act, 2021 Wash. Sess. Laws, ch. 316, Engrossed Second Substitute Senate Bill 5126 (codified as Chapter 70A.65 RCW).

Re: WAC 173-446-400(8)

In the April 30th Public Meeting, Ecology shared draft proposed rule changes to the CCA program rule for the Cap-and-Invest program (“Draft CCA Rule Changes”).³ Specifically, WAC 173-446-400(8) proposes:⁴

A registered entity, except for those registered under WAC 173-446-052, may only hold compliance instruments for its own use and may not hold compliance instruments on behalf of another party having an ownership interest in or control of the compliance instruments. An entity may not hold allowances pursuant to an agreement that gives a second entity control over the holding or planned disposition of allowances while the instruments reside in the first entity’s accounts, or control over the acquisition of allowances by the first entity. Provisions specifying a date to deliver a specified quantity of compliance instruments, or specifying a procedure to determine a quantity of compliance instruments for delivery and/or a delivery date, do not violate the prohibition.

PSE would like to highlight our concern that the rule changes as proposed may create unintended restrictions for combined electric and gas utilities, such as PSE, by potentially limiting our optionality to conduct allowance transfers between Compliance Instrument Tracking System Service (“CITSS”) Entity IDs (e.g., Gas and Electric accounts) when shared with a single parent company. From an ownership perspective CITSS, Puget Sound Energy, Inc. has 100% ownership of both WA3441 and WA3438 under a Consolidated Entity Account (CEA). Under the proposed rule language, it is not entirely clear if a transfer between these accounts might be allowable or restricted. Due to PSE’s unique situation of having a CEA, it is also uncertain if Ecology’s interpretation would treat each separately registered entity with a unique ID within a CEA as a second entity of control over the first. PSE respectfully requests clarification if a registered entity is limited to its corporate ownership, or to a more expansive interpretation which would include each covered entity under a CEA. PSE requests clarity and consideration of our unique situation so as to not create undue compliance and administrative burden in the interest of our customers.

Re: WAC 173-446-054 and WAC 173-446-040

PSE also offers a minor clarifying edit to address the allotment of covered emissions for first jurisdictional deliverers of imported electricity when the importer is a Federal Power Marketing Administration (Federal PMA) who has voluntarily elected to participate the program. The draft rules currently describe the registration of Federal PMAs in WAC 173-446-054, and the allotment of emissions when a Federal PMA does or does not voluntarily elect to participate in the program in WAC 173-446-040. As written, section –040 says the Federal PMA will assume the compliance

³ Washington Department of Ecology, *DRAFT PROPOSED CHANGES TO THE CLIMATE COMMITMENT ACT PROGRAM RULE FOR THE CAP-AND-INVEST PROGRAM UPDATES AND LINKAGE RULEMAKING* (Apr. 24, 2025), available at <https://ecology.wa.gov/getattachment/90614a0f-ce0f-4366-bfc9-9661251f4e66/Draft-rule-language-173-441-Changes-to-the-Reporting-of-Emissions-of-Greenhouse-Gases-rule-April-2025.pdf> (the “Draft CCA Rule Changes”).

⁴ See *id.*

obligation for those emissions “upon the opt-in election taking effect”. But in section –054, the rules say:

“beginning January 1st of the calendar year in which the federal power marketing administration assumes the compliance obligations associated with federally marketed electricity in the state, a covered or opt-in entity must not include in its covered emissions the emissions associated with federally marketed electricity in the state for which the federal power marketing administration has assumed the compliance obligation.

For the purposes of clarity, PSE suggests Ecology align the language in these two sections to establish January 1st as the date at which the obligation for covered emissions begins or ends when a Federal PMA elects to participate in the program. PSE also suggests referencing the registration requirements in section –054 in section –040.

WAC 173-446-040 Covered emissions.

[...]

(3) Allotment of covered emissions to avoid double counting or counting emissions from fuels that are delivered outside of Washington. [...]

(e) Allotment of covered emissions for first jurisdictional deliverers of imported electricity.

[...]

(ii) If the electricity importer is a federal power marketing administration over which the state of Washington does not have jurisdiction, and the federal power marketing administration has not voluntarily elected to comply with the program consistent with WAC -446-054, then the party deemed to be the electricity importer is the next purchasing-selling entity in the physical path on the NERC e-tag, or if there is no additional purchasing-selling entity over which the state of Washington has jurisdiction, then a utility that purchases electricity for use in the state of Washington from that federal power marketing administration or the generation balancing authority. Such a utility or generation balancing authority is a covered entity under this program and has the compliance obligation for the GHG emissions associated with that electricity.

(iii) If the electricity importer is a federal power marketing administration over which the state of Washington does not have jurisdiction, the federal power marketing administration may voluntarily elect to comply with the program in accordance with the requirements of RCW 70A.65.320, and/or under RCW 70A.65.090,

either for all sales into Washington, or for resources attributed into Washington in a centralized electricity market for which the federal power marketing administration is the deemed market importer. Beginning January 1st of the calendar year in which the federal power marketing administration makes such a voluntary election. ~~Upon the opt-in election taking effect,~~ the federal power marketing administration will assume the compliance obligation for covered emissions consistent with its election. If no such election has been made by that federal power marketing administration, then the requirements of (e)(ii) of this subsection apply to the GHG emissions associated with that electricity.

Conclusion

Thank you for the opportunity to provide comments to inform rule changes for the Cap-and-Invest Program. PSE appreciates and looks forward to continued engagement with Ecology and fellow utilities and other interested parties on these and other matters in this Cap-and-Invest Program Updates and Linkage rulemaking.

Please contact Kelima Yakupova, State & Regional Policy Consultant, PSE Regulatory Policy, at (425) 462-3588 or kelima.yakupova@pse.com, for additional information about this filing. If you have any other questions, please contact me at (425) 462-3051.

Sincerely,

/s/ Wendy Gerlitz

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