August 15, 2025

Re: Comments of the Northwest & Intermountain Power Producers Coalition on the Department of Ecology's Allocation of Cap-and-Invest No-Cost Allowances

The Northwest & Intermountain Power Producers Coalition ("NIPPC") appreciates the opportunity to comment on the Washington State Department of Ecology ("Ecology") Cap-and-Invest Program Updates, including the proposed amendments to Washington Administrative Code ("WAC") Chapters 173-441 (Reporting of Emissions of Greenhouse Gases) and 173-446 (Climate Commitment Act Program Rule) pertaining to the opportunity to potentially consign no-cost allowances beginning as early as Washington's second compliance period, as discussed at the public meeting on July 22, 2025.[1]

As a regional membership organization representing competitive power participants in the electricity sector in the Pacific Northwest and Intermountain region,[2] NIPPC applauds Ecology for refining its carbon market policies in close collaboration with stakeholders ahead of the second compliance period, and respectfully recommends Ecology maintain parity among all utilities in Washington, including both investor owned utilities ("IOUs") and consumer owned utilities ("COUs") when considering new consignment rules. NIPPC also suggests Ecology implement new consignment rules well in advance of day-ahead markets going live. Each of these topics is described in more detail below.

1. Consignment of No-Cost Allowances at Quarterly Auctions Should Provide Benefits to Ratepayers Without Exacerbating Existing Competitive Advantages

Ecology has requested feedback on benefits or disadvantages regarding the consignment of no-cost allowances at quarterly auctions, including whether any potential rules should be applied across all utilities. NIPPC will not revisit its previous comments regarding the provision of no-cost allowances to *only* utilities (as opposed to also providing no-cost allowances to independent generators that are also subject to the Clean Energy Transformation Act) but will note that RCW 70A.65.120(4) references both IOUs and COUs generally, and thus, treatment of no-cost allowances should be similar across all utilities generally. NIPPC does not believe there

[1] Additional information on the Cap-and-Invest Program Updates, including the presentation materials from the public meeting are available at https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-441-446-cap-and-invest-program-updates-and-linkage.

[2] NIPPC members include owners, operators, and developers of independent power generation and storage, power marketers, and affiliated companies.

is a compelling justification for applying consignment rules to only a subset of utilities and therefore requests that Ecology draft rules aimed to maintain competition in Washington's wholesale electricity markets rather than exacerbate any existing competitive advantages due to the allocation of no-cost allowances. To meet that objective, Ecology should direct all utilities that receive no-cost allowances to consign 100 percent of those no-cost allowances at the quarterly auctions.

2. *Ecology Should Implement Broadly Applicable Consignment Rules Before Utilities Begin Participating in Day-Ahead Markets*

NIPPC also highlights that requiring all utilities to consign their no-cost allowances will be important to put utilities on an equal playing field before day-ahead markets go live in the West. NIPPC acknowledges that Ecology is working to link its markets with the California and Quebec markets, and that California currently requires IOUs but not COUs to consign, but does not believe Ecology should extend California's outdated rationale for that decision to its own implementation without carefully considering potential impacts in the day-ahead markets. As a threshold matter, the California regulations include stringent requirements regarding the use of proceeds from allocated allowances that apply to both IOUs and COUs that do not appear to be included in Washington's program. Additionally, California's bifurcated approach to consignment was adopted before the COUs had joined an organized wholesale market (for example, Los Angeles Department of Water and Power joined the Western Energy Imbalance Market in 2021) and, more significantly, before the COUs had joined a day-ahead market (an event which will not occur until 2026 at the earliest). In other words, the consignment distinction in California was made when the consideration of potential broader wholesale market impacts was simply less relevant.

With both the California Independent System Operator's Extended Day-Ahead Market (EDAM) and the Southwest Power Pool's Markets+ anticipated to go live within the next two years, the market implication of Ecology's decision about consignment requirements is different than the analogous decision in California made a decade and a half ago. Providing one set of market participants a potential competitive advantage over others warrants careful scrutiny. For example, in 2011, the California Air Resources Board ("ARB") explained its reasons for its final consignment rules (among other cap-and-trade rules) distinguishing between COUs and IOUs.[3] Stakeholders including IOUs (Southern California Edison, Sempra/San Diego Gas & Electric), IOU ratepayers, and generators and marketers all objected to treating the two types of utilities differently. ARB's reasoning relied on COUs not participating, or participating only infrequently in, wholesale markets, and, further, not relying on third-party generators to meet their power needs: "POUs [publicly-owned utilities] and IOUs operate differently with respect to electricity generation. POUs generally own and operate generation facilities which they use to provide electricity directly to their end-use customers."[4] Both of these assumptions are unlikely to hold in Washington in the coming years: Washington utilities have already committed to participate in

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[3] California Air Resources Board, California's Cap-and-Trade Program Regulation: Final Statement of Reasons (October 2011), 561-565, available at https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2010/capandtrade10/fsor.pdf.

[4] *Id.* at 564.

EDAM and Markets+, and load growth is leading to more third-party contracting with independent generators by COUs.

Day-ahead markets are generally deeper, more liquid, have more associated revenue, and have stronger unit commitment impacts than real-time or imbalance markets. Accordingly, the wholesale market effects of a split consignment regime may have a stronger impact than when California originally considered this issue in 2010-2012. To that end, Ecology should refine its approach beyond California's current consignment requirements and implement consignment rules that promote competitive wholesale markets well in advance of the new day-ahead markets' go-live dates.

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NIPPC looks forward to reviewing the other public comments filed on these no-cost allowance allocation topics and to working with stakeholders to provide input on refining the draft rules.

Thank you for your consideration of these comments.

Sincerely,

Sidney Villanueva

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