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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 November 13, 2025, Cap-and-Invest No Cost Allowance Workshop

On November 13, 2025, the Washington Department of Ecology (Ecology) requested informal comments on Climate Commitment Act (CCA) cap-and-invest no cost allowance workshop. PacifiCorp receives no cost allowances commensurate with its service of Washington retail customers, and is a covered entity under the CCA, both as the owner of an in-state emitting natural gas generation facility that serves retail customers in and out of Washington and as an electric investor-owned utility (IOU).

PacifiCorp remains concerned by Ecology's continued framing of the CCA and the Clean Energy Transformation Act (CETA) as co-equal, "complementary tools" for the decarbonization of the electricity sector. While both laws contribute to reductions of the state's total greenhouse gas emissions, as stated in prior comments, CETA is the primary driver of decarbonization for the electricity sector*,* not the CCA. Ecology's improper framing of the CCA and CETA as complementary tools is inconsistent with the State of Washington's statements in other venues[1] and the clear legislative intent of the CCA. Furthermore, this erroneous framing of the law coincides with the agency's apparent intention to push the boundaries of its jurisdiction, proposing rule concepts that will significantly impact the affordability of electricity in Washington, which falls squarely within the jurisdiction of the Washington Utilities and Transportation Commission (UTC or the Commission).

Concurrent to these comments, PacifiCorp has co-authored and submitted joint comments with Avista Corporation and Puget Sound Energy. The following comments are supplemental to

[1] Brief for Respondent at 5, *Invenergy Thermal LLC v. Sixkiller*, No. 24-1027 (U.S. June 30, 2025), https://www.supremecourt.gov/DocketPDF/24/24-1027/364182/20250630155801822_StateBIO_Centered.pdf. "The Legislature in the Climate Commitment Act chose to grant "no-cost" allowances to electric utilities. The Legislature's reason for doing so is clear: a separate statute adopted several years before the Climate Commitment Act (the Washington Clean Energy Transformation Act) already requires Washington utilities to rid their portfolios of fossil fuel power by 2045. Wash. Rev. Code § 19.405.010(2). Because Washington consumers are already paying for the cost of decarbonizing Washington's retail energy sector, the Climate Commitment Act provides that all electric utilities subject to the Clean Energy Transformation Act are eligible for no-cost allowances "in order to mitigate the cost burden of the [Climate Commitment Act] on electricity customers." Wash. Rev. Code § 70A.65.120(1). The amount of allowances utilities receive is based on the amount of power the utility is forecasted to supply to Washington consumers. Wash. Rev. Code § 70A.65.120(2)."

the joint comments and address Ecology's requested feedback in the order presented in the workshop materials.

I. Allocation Design Feedback: Ecology's proposal to amend the criteria for making an after the fact allocation adjustment (WAC 173-446-230(2)(g)) and remove the ability for a utility to submit a revised forecast (WAC 173-446-230(2)(j)), when considered together, will unnecessarily increase costs for customers

Considered on its own, PacifiCorp generally supports Ecology's amendment of WAC 173-446-230(2)(g) to limit the circumstances under which Ecology will make an adjustment to future allowance allocations to account for actual retail load and covered emissions from previous calendar years. Specifically, PacifiCorp supports limiting an after the fact adjustment to situations where 1) the utility provided a misleading supply and demand forecast that was not based on best estimates at the time, 2) where actual supply and demand diverged from the forecast by over 15%, and 3) where the utility requests an adjustment.

Ecology's WAC 173-446-230(2)(g) proposal should be expanded to address the harmful lag in time between the year that triggers the adjustment and the actual distribution of additional no cost allowances. Under the current practice and Ecology's proposal, an adjusted distribution of no cost allowances likely occurs three years after the triggering year. For example, if actual covered emissions for 2026 diverged by more than 15% of forecasts, Ecology would not have the utility's third-party verified reporting year (RY) 2026 data until August 10, 2027,[2] which Ecology signaled is too close in time to the October 1 deadline to publish an updated allocation schedule.[3] Therefore, the adjusted allocation of no cost allowances would occur in 2028, with an adjustment of vintage 2029 allowances, three years after the obligation was incurred. Furthermore, if Ecology continues its practice of spreading adjustments over a five-year period, the utility will not receive the full adjustment amount until it receives its vintage 2033 allowances – a full seven years after the compliance obligation was generated. If the utility sought an upward adjustment in no cost allowances through this after the fact mechanism, it would likely not have enough allowances to cover a shortfall and would need to purchase allowances to meet two compliance period deadlines in November 2027 and November 2031. These purchases could be significant, creating unnecessary cost pressure on customers that could be easily avoided by allowing utilities to retain the ability to submit revised forecasts or move to an annual forecasting process as described below. While PacifiCorp supports Ecology's proposed limited circumstances to pursue an adjustment based on actual supply and demand, Ecology should seek in rule to deposit no cost allowance

[2] WAC 174-441-085(6)(a) requires the third-party verifier to submit a complete report to ecology by August 10, for greenhouse gas emissions that occurred in the previous year. Most of this data relies on Federal Energy Regulatory Commission (FERC) Form 1 data, which is filed in April. It takes several months to calculate the obligation and undergo third-party verification even if covered entities begin work immediately after the FERC Form 1 is filed.

[3] Note that the October 1 deadline to publish an adjusted schedule is in WAC 173-446-230(2)(j), which Ecology has proposed deleting in its entirety. If this subpart is deleted it is unclear when Ecology would make an after the fact adjustment.

adjustments as quickly as possible after an adjustment to minimize impacts and maximize certainty to customers.

PacifiCorp strongly opposes Ecology's proposal to eliminate the ability for utilities to submit revised forecasts under 173-446-230(2)(j). Removing a utility's ability to revise a forecast will lead to less accurate no cost allowance distributions and unnecessary costs to customers, especially if Ecology maintains a static four-year forecast for the compliance period and the cumbersome after the fact adjustment discussed above is the only method of reconciliation.

As PacifiCorp has stated in past comments and filings,[4] four-year forecasts, based on Integrated Resource Plan (IRP) or a Clean Energy Implementation Plan (CEIP) modeling, are helpful tools to understand a utility's long-term trajectory, but their accuracy diminishes with each successive year. A four-year supply and demand forecast can be significantly off in the final year or two due to unforeseen intervening circumstances, such as unanticipated annual meteorological conditions impacting resource generation or load, major changes in emerging electricity markets, new load from electrification and large customers, and unanticipated changes to federal energy policy. PacifiCorp reiterates its past comments and strongly recommends that Ecology move away from relying exclusively on four-year forecasts and adopt a rule *requiring* an annual supply and demand forecasting process, based on net power cost modeling. This will reduce regulatory complexity, increase efficiency, and enhance the accuracy of no cost allowance distribution, which will in turn enable Ecology to better manage its annual allowance budget – all in the public's interest. Ecology's current proposal to rely exclusively on a four-year forecasting process and eliminate the option to revise a forecast, will increase inefficiency and have the opposite of its intended effect.

If Ecology seeks to eliminate a perceived administrative burden from revised supply and demand forecasts, Ecology should host a joint workshop with the UTC on proposals to streamline the process that ensures the statutory goals of both the Commission and Ecology are met and create a similar workshop process focused on consumer-owned utilities not governed by the UTC.

II. PacifiCorp generally supports Ecology's simplified, low-barrier method to administrative cost allowance allocation but urges Ecology to increase the number of administrative cost allowances allocated for more complex entities, and entities with larger obligations

[4] See *PacifiCorp's Informal Comments on Ecology's July 22, 2025, Cap-and-Invest No Cost Allowance Workshop*, dated August 15, 2025, at 8. https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did200118/pid_210883/assets/merged/1h0eineh90g_document.pdf?v=19470. See also *Redacted Errata to Petition for Approval of Revised Climate Commitment Act Forecast, on behalf of PacifiCorp d/b/a Pacific Power & Light Company*, UE-220789, dated June 12, 2025, at 10. https://www.utc.wa.gov/casedocket/2022/220789/docsets

PacifiCorp supports Ecology's proposed principle of a lightweight, low-barrier method for allocating administrative allowances, as opposed to the current rule that requires "documented and verified administrative costs derived from audited financial statements[.]"[5] PacifiCorp reiterates past comments detailing the challenges and complexity of the current rule and appreciates Ecology's recognition of the current rule's infeasibility.[6] In addition, PacifiCorp supports Ecology providing utilities with advance notice of the number of no cost allowances allocated to cover administrative costs. This will help utilities decide whether to consign those allowances in the year the allowances are deposited. The proposed low-barrier method to administrative cost allowance allocation is simple and predictable and minimizes inconsistencies and extraneous efforts to define which activities qualify for administrative allowances and how to track and report the time.

Of the options presented, PacifiCorp prefers Concept 2, which provides administrative allowances based on a set dollar value ($50,000 for a utility with retail load greater than 500,000 MWh) a utility will be allotted for administrative burden in the second compliance period. Concept 1, based on an allocation of a set number of allowances, may vary significantly in value subject to fluctuating allowance prices. Concept 2 does not state, however, when Ecology will calculate the number of allowances based on what price. PacifiCorp supports current and accurate pricing under Concept 2 and would support Ecology using an average of the last four non-APCR auction clearing prices prior to the administrative burden allowance deposit to determine the number of allowances allocated. This ensures that no single auction drives the administrative allowance revenue.

Although PacifiCorp generally supports Ecology's framework for Concept 2, the company encourages Ecology to increase the amount of no cost allowances provided and include extra consideration for more complex utilities and utilities that occupy a larger role in Washington's carbon market. For example, PacifiCorp is a particularly complex regulated entity because it not only has multiple direct affiliates covered under the program, but also a total program obligation that includes diverse emissions sources – both in-state generating facilities and electricity imports – while operating as a multijurisdictional electric company. The total number of administrative allowances proposed in either of Ecology's concepts significantly underestimates the actual administrative costs of compliance, which spans work across multiple business units, including net power costs, energy supply management, compliance, finance, treasury, and regulation.

The legislature recognized the increasing complexity of the CCA on the electricity sector, requiring Ecology to develop a rule addressing imported electricity associated with a centralized electricity market[7] and noting that the second allocation schedule "must reflect the increased scope of coverage in the electricity sector."[8] Taken together, these sections of the law recognize that the electricity sector is getting more complex, and Ecology should recognize this progressive complexity with more, not less, administrative allowances during the second compliance period.

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[5] WAC 173-446-230(2)

[6] See PacifiCorp's *Informal Comments on the Distribution of Administrative Cost Allowances Under the Climate Commitment Act,* dated November 22, 2024. Available here: https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did200118/pid_210883/assets/merged/lg0xinb87rk_document.pdf?v=41479

[7] RCW 70A.65.080

[8] RCW 70A.65.120(2)(c)

Finally, PacifiCorp requests Ecology clarify whether utilities are expected to track administrative costs from 2026-2029 in anticipation of third compliance period administrative burden data requests or if tracking the final year or two of the second compliance period will be sufficient.

III. Ecology should not force electric utilities to consign no cost allowances and its discretion to do so is severely limited by the CCA

PacifiCorp strongly opposes any requirement for electric utilities to consign no cost allowances because it will not further incent efficient GHG reductions and will only result in increased costs for electricity customers. As explained in previous comments, and as an initial matter, the clear text and context of the CCA allows Ecology to adopt a rule that requires electric utilities to consign zero no cost allowances.[9] In addition, as previously explained, requiring consignment in a volatile carbon market only introduces risk to electricity customers in clear contravention of the purpose of no cost allowances, without any meaningful programmatic benefit.[10] Furthermore, requiring consignment will also increase fees associated with participating in auctions. If electric utilities are required to consign allowances, simply to buy them back at an auction, they will have to increase auction bids and corresponding lines of credit. Banks charge credit fees, which can run as has high as 1% of the total credit amount. For example, if a utility is allocated 1 million no cost allowances and must consign half of them - just to buy them back for compliance - the utility will need to purchase an additional 500,000 allowances. Assuming a price of $65 per allowance, the utility will need a line of credit in the amount of $32.5 million, and will be charged a credit fee of $325,000, just to buy back the no cost allowances it was previously distributed. Extrapolating this across the 15.3 million no cost allowances Ecology allocated for 2025, total cost credit fees for forced consignment across all utilities would have cost nearly $5 million. Further, these estimates do not include the costs of APCR auctions, which are regularly oversubscribed and require significantly higher lines of credit for a covered entity to secure even the minimum number of needed allowances. This represents a completely unacceptable and unnecessary cost imposed by Ecology's proposal to require the requirement of no cost allowances.

Even if Ecology pursues an unnecessary forced consignment requirement, the CCA severely limits Ecology's discretion on how many no cost allowances electric utilities must consign. The CCA allows electric utilities to use no cost allowances for compliance equal to their covered emissions for calendar year 2030[11] and beyond[12] so long as the utility is not subject to potential penalty under CETA. If a utility's forecast is accurate, and it receives no cost allowances equal to

[9] See *PacifiCorp's Informal Comments on Ecology's July 22, 2025, Cap-and-Invest No Cost Allowance Workshop*, dated August 15, 2025, at 2. https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did200118/pid_210883/assets/merged/1h0eineh90g_document.pdf?v=19470.
[10] *Id.*
[11] RCW 70A.65.120(3)(b)
[12] RCW 70A.65.120(2)(d)

emissions associated with energy that serves Washington retail load, then all of the no cost allowances may be transferred to the utility's compliance account and retired toward its obligation – without any required consignment. Furthermore, this applies beginning in *calendar year* 2030, which imposes an obligation for the retirement of vintage 2029 allowances. In order not to conflict with the CCA, PacifiCorp assumes Ecology's proposal requiring consignment of 50% of no cost allowances, with a vintage of 2027-2030 only applies to no cost allowances in excess of a utility's obligation – which for some utilities may be zero.

There are a number of issues Ecology will have to work through in its rulemaking to address the CCA's clear and broad electric utility consignment exception discussed above. The timing and finality of a CETA compliance determination presents a challenge to implement any forced allowance consignment regime. Any alleged violation of CETA carries a due process right to an adjudication, which can start at the end of the four-year CETA compliance period and take years to resolve. And, Ecology could not force consignment onto a utility until the violation is final and no longer contestable, likely several years after the violation occurred. It is unclear how Ecology intends to treat a utility that uses no cost allowances to meet its compliance obligation when it is much later found to have been in violation of CETA. Under this circumstance, would Ecology attempt to require a utility to consign previous vintage no cost allowances and then buy back allowances at a current vintage and a higher price, all to the detriment of its customers? How will Ecology implement a forced consignment regime if the no cost allowances were already retired for compliance in a year a utility was later found subject to penalties? If CETA compliance is evaluated on a four-year compliance period, will consignment apply to all four years in a compliance period if a utility is found in violation of CETA or just the years a utility did not meet the CETA standards? Since the exemption triggers in calendar year 2030, are there only two vintage years (2027 and 2028) where a forced consignment regime could apply to no cost allowances needed for compliance?

Requiring consignment creates new costly processes – as discussed above and in previous comments. PacifiCorp fails to see the wisdom in establishing forced consignment for the electric utilities if it is severely limited after two years. The CCA is a market-driven decarbonization tool, designed to allow covered entities flexibility to determine the best path for compliance. Forced consignment of no cost allowances constrains the carbon market and denies electric utilities flexibility to decide when and if to consign allowances, to plan the best compliance path for their customers.

IV. PacifiCorp generally supports Ecology's proposed timing for the 2nd compliance period schedule and administrative allocation timing, and requests extending the deadline for a 2027-2030 forecast

PacifiCorp generally supports Ecology's proposed timing for the publication of the 2nd compliance period schedule, the distribution of administrative cost allowances and requests that Ecology consider an extension of the deadline for investor-owned utilities (IOU) to submit 2027-

2030 resource supply and demand forecasts. Since the Commission must approve IOU forecasts, and has jurisdiction over their accuracy and validity, an extension of the deadline from July 30, 2026, to September 5, 2026, as proposed by Ecology in a previous workshop, is appropriate.[13] The additional time ensures accurate forecasts and ample opportunity for IOUs to work with Commission staff.

V. Conclusion

PacifiCorp appreciates the opportunity to provide informal comments in response to Ecology's November 13, 2025, CCA Workshop on no cost allowance topics. PacifiCorp reiterates its past comments and again encourages the agency to prioritize electricity customer affordability in proposals to implement the CCA.

Sincerely,

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[13] July 22, 2025, Ecology no cost allowance workshop, slide 32. Available here: https://ecology.wa.gov/getattachment/b219bf6f-930c-4d72-96a0-b8752483a108/ElecAllocation_072225.pdf