PACIFIC POWER
A DIVISION OF PACIFICORP

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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 April 17, 2025, Cap-and-Invest: No-cost Allowance Allocation for Electric Utilities Workshop**

On April 17, 2025, the Washington Department of Ecology (Ecology) hosted a workshop on the electric utilities no-cost allowance allocation under the Climate Commitment Act's (CCA) Cap-and-Invest program. Ecology requested written feedback on the following allowance allocation topics; the vintage 2026 allocation, adjustments to allocation, and administrative allowance allocation. PacifiCorp receives no-cost allowances commensurate with its service of retail customers in Washington 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 appreciates Ecology's continued efforts to seek the utilities input on outstanding CCA implementation issues, including the allocation and distribution of no-cost allowances. The distribution of no-cost allowances to electric utilities subject to the Clean Energy Transformation Act (CETA) is an essential element of the CCA that protects Washington electricity consumers from the cost burden and market pressure of the Cap-and-Invest program. Washington law recognizes that electric utilities subject to CETA and serving Washington customers should not be subject to the market pressure of the Cap-and-Invest program "because CETA already requires them to decarbonization, and on a faster schedule." [1] PacifiCorp encourages Ecology to continue to frame its implementation of the CCA with this understanding of the expressly unique, semi-regulated position of electric utilities under the law.

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[1] *PacifiCorp v. Watson*, No. 3:23-cv-06155 (W.D. Wash. 2024). See also, *Washington State Climate Commitment Act, Summary of Market Modeling and Analysis of the Proposed Cap and Invest Program*, 22-02-038, September 2022, describing CETA as the "key driver" of electricity sector decarbonization, not the CCA, in Ecology's own carbon market modeling analysis.

**1. PacifiCorp supports Ecology's planned approach for vintage 2026 allocation and requests Ecology affirm that a revised forecast from an investor-owned utility may be based on any source approved by the Washington Utilities and Transportation Commission that accurately predicts compliance with the Clean Energy Transformation Act.**

As an initial matter, PacifiCorp supports Ecology's clarification that a utility may elect to submit an updated forecast for retail supply and demand for only one calendar year, 2026, the final year of the first compliance period. PacifiCorp agrees with Ecology's current and past statements that a revised forecast need not be based on a four-year compliance period planning window.

PacifiCorp requests that Ecology affirm that an IOU's revised 2026 forecast may be based on any source approved by the Washington Utilities and Transportation Commission (UTC) that accurately predicts CETA compliance. PacifiCorp recognizes that the current rule requires that a revised 2026 forecast from an IOU be approved by the UTC on or before July 30, 2025, and that Ecology must update its schedule for 2026 no-cost allowance distribution by October 1, 2025.[2] Furthermore, PacifiCorp appreciates Ecology's *request* that utilities submit an approved 2026 forecast by August 15, 2025, so that Ecology may have adequate time to evaluate the approved forecast prior to the October 1 deadline to publish a revised schedule of no-cost allowance distribution.[3] However, PacifiCorp requests that Ecology recognize that, to receive the most accurate revised 2026 forecast to determine CETA compliance, this compressed approval schedule may render some of the acceptable sources of a forecast impractical, namely an Integrated Resource Plan (IRP) or a Clean Energy Implementation Plan (CEIP). Furthermore, PacifiCorp requests that Ecology recognize that its rule includes a catch-all category for an acceptable forecast source, allowing "another source that provides a utility's supply or demand forecast that is, based on ecology's analysis, consistent with an existing forecast approved by the [UTC]."[4] This catch-all category acknowledges there are circumstances, such as a revised forecast for the final year of a compliance period, where more reliable and accurate supply and demand forecasts are found outside of utility IRPs and CEIPs.

[2] WAC 173-446-230(2)(j).
[3] The UTC has provided direction to PacifiCorp that a revised forecast must be filed with the UTC on or before June 15 of the year preceding the forecast. *Docket No. UE-220789, Order 01*. On April 16, 2025, well in advance of the June 15 deadline, PacifiCorp filed with the UTC a Petition for Approval of a Revised Climate Commitment Act Forecast for calendar year 2026. PacifiCorp requests that Ecology exercise its reasonable enforcement discretion and waive the July 30, 2025, deadline in WAC 173-446-230(2)(j) if UTC's approval of the petition is not timely.
[4] WAC 173-446-230(2)(c)(iv).

## 2. PacifiCorp generally supports Ecology's proposed guidance limiting the use of the allowance adjustment mechanism and recommends Ecology adopt additional clarifications.

PacifiCorp supports Ecology's proposed guidance considerations for adjustments to no-cost allowance allocations, authorized by WAC 174-446-230(2)(g). Specifically, PacifiCorp supports and recognizes Ecology's intention to increase certainty for utilities that receive no-cost allowances and Ecology's role as a regulator, responsible for maintaining the integrity of the Cap-and-Invest program and preventing the intentional manipulation of a utility's unique position as a recipient of no-cost allowances. Utilities, and their Washington customers, will benefit from the regulatory certainty of this guidance and Ecology's understanding that supply and demand forecasts are complex tasks that often produce inexact results.

First, PacifiCorp supports the scenarios under which Ecology proposed it would not seek adjustments:

- market-optimization behavior resulting in lower covered emissions or cost burden relative to forecasts based on the best estimates of retail supply at the time, and
- additional or overachievement of decarbonization or efficiency efforts relative to forecasts based on the best estimates of retail load or supply at the time.

Electing not to adjust allowances downward under these scenarios will correctly reward utilities – and therefore their Washington customers – that procure energy with lower emissions as compared to the submitted forecast. This will become even more important as utilities move towards cleaner day-ahead centralized energy markets and 2030 CETA compliance. For IOUs, PacifiCorp recommends that Ecology consider any forecast approved by the UTC, and subject to its rigorous independent oversite, as "best estimates of retail load or supply at the time."

Second, PacifiCorp supports Ecology's limited use of the allowance adjustment mechanism to instances of a "misrepresentation" of a supply and demand forecast. However, PacifiCorp requests that Ecology clarify that a "misrepresentation" takes its plain dictionary meaning of an intentionally false representation or omission with an intent to deceive. This additional clarity will help set a high bar for Ecology to determine whether to adjust future no-cost allowances, giving the agency the oversight necessary to maintain the integrity of the program and utilities the certainty that their no-cost allowance allocations will not be adjusted so long as forecasts were not intentionally manipulated to "game" the allowance distribution schedule.

Third, PacifiCorp requests that ecology provide additional clarification on how it defines "significant divergence" and "high-density load." Many use cases could fall under "high-density load," including new multistory commercial or residential developments or high-voltage electric vehicle charging infrastructure with multiple charging ports that may have a high-density load during a few peak charging times. Additional clarifications into these terms will help utilities determine which loads can expect to receive coverage for no-cost allowances and if not, determine who should bear the responsibility for the allowance cost in contract negotiations.

Lastly, PacifiCorp supports Ecology's decision to allow utilities to request allowance adjustments under WAC 173-446-230(2)(g). Utilities are best positioned to demonstrate how and why a forecast underestimated or overestimated an obligation. Moreover, allowing utilities to request an upward adjustment will help mitigate the cost burden of the program on Washington customers. Under these circumstances, Ecology should endeavor to allocate additional allowances with a vintage year within the compliance period when the under-forecast occurred. Without reasonable certainty that a utility will be "made whole" with allowances of the appropriate vintage, it will be forced into an impossible position risking either non-compliance or the unreasonable over procurement of allowances. However, PacifiCorp recognizes that the existing timelines in rule for adjustments, GHG emissions reporting, no-cost allowance distribution, and compliance will make it difficult for Ecology to allocate additional allowances in response to an upward adjustment for an under-forecast in the final year of the compliance period. For example, if a utility's forecast for 2026 underestimates the actual 2026 obligation, the utility may petition Ecology to adjust its no-cost allocation schedule only after August 10, 2027, when the utility's final verified GHG emissions report is complete.[5] Then Ecology would have to adjust its schedule for distribution and distribute additional no-cost allowances before the November 1, 2027 deadline for utilities to comply with the first year of the compliance period.[6] PacifiCorp requests that Ecology consider this challenge as it develops its guidance for adjustment of no-cost allowance allocations.

[5] WAC 173-446-230(2)(g), WAC 173-441-050(2)(a)(i), and WAC 173-441-085(6)(a)

[6] WAC 173-446-400(3)

3. **PacifiCorp supports Ecology's proposal to develop a standardized calculated method to mitigate administrative costs and recommends Ecology distribute administrative cost allowances with a vintage year within the compliance period when the costs were incurred.**

PacifiCorp appreciates Ecology's responsiveness to utilities' universal position that the current administrative allowance rule has severe, if not impossible, implementation challenges. In addition, PacifiCorp supports Ecology's plan to amend WAC 173-446-230(2)(h) and develop a calculated method to determine a utility's administrative costs under the Cap-and-Invest program and allocate additional no-cost allowances. Finally, PacifiCorp reiterates its past comments on the administrative allowance topic, submitted on November 22, 2024, and encourages Ecology to continue to consider a flat allocation of administrative cost allowances for all compliance years to date where there has not been any guidance on how to properly log administrative costs.

PacifiCorp encourages Ecology to issue administrative allowances with a vintage year within the compliance period when the costs were incurred. Alternatively, Ecology could allocate administrative allowances as "vintage-less" by pulling them from the pool of allowance price containment reserve allowances. If HB 1975 is signed into law, the allowance price containment reserve will have an even greater allowance pool for Ecology draw from and still give ample certainty to participants that there is price stability. If utilities are not able to retire administrative allowances towards costs incurred during the first compliance period, Washington customers and the Cap-and-Invest program may be harmed. Washington's carbon market will most likely link to that of California and Quebec in 2027, after Washington's first compliance period. And, Washington allowance prices are widely expected to significantly decrease after linkage as the higher priced Washington carbon market equalizes with the lower priced, but much larger, California and Quebec market. Therefore, allowances of a first compliance period vintage will continue to command a much higher price than allowances of a second compliance period vintage, such as 2027. If, on October 24, 2026, prior to the expected linkage price decrease, Ecology distributes 2027 vintage administrative allowances to account for costs incurred during the first compliance period as planned, it will significantly under allocate administrative allowances. These 2027 administrative allowances will not retain any first compliance period value and Ecology should not guess what a post linkage price might be. Therefore, Washington customers that pay for administrative costs in rates will be harmed, in clear contravention of the CCA's mandate to mitigate the cost burden of the program on Washington's electricity consumers.

PacifiCorp also encourages Ecology to distribute administrative allowances prior to the planned October 24, 2026, distribution date. PacifiCorp understands that Ecology must first amend its rules to distribute allowances under a proposed calculated method. Nonetheless, an earlier distribution, not tethered to the annual no-cost allowances distribution, may provide additional benefits to the Cap-and-Invest program. First, this would allow utilities to pass on any revenue from allowance sales sooner, providing earlier relief to customers. And second, administrative allowances could be sold or consigned at multiple first compliance period auctions, thereby reducing existing cost pressure in the Washington carbon market.

**Conclusion**

PacifiCorp appreciates the opportunity to provide comments in response to Ecology's allowance allocation guidance topics. Thank you for your thoughtful consideration of this program. We look forward to further discussion.

Sincerely,

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