PUGET SOUND ENERGY

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Re: Cap-and-Invest Program Updates and Linkage Rulemaking – CR-102 Proposed Rule Amendments to Chapter 173-441 WAC Reporting of Emissions of Greenhouse Gases and Chapter 173-446 WAC, Climate Commitment Act Program Rule

Puget Sound Energy, Inc. ("PSE") respectfully submits the following comments in response to the Washington State Department of Ecology ("Ecology") June 1 CR-102 notice of proposed rule amendments to the Climate Commitment Act ("CCA")[1] Cap-and-Invest Program Rule (Chapter 173-446 of the Washington Administrative Code, or "WAC") and the Reporting of Emissions of Greenhouse Gases ("GHG") Rule (Chapter 173-441 WAC).[2] In addition to this submission, PSE has joined peer natural gas investor-owned utilities ("IOUs") in submitting joint comments on this CR-102 which were filed separately. This document includes additional comments from PSE on matters not covered in the joint gas IOU comments, primarily regarding issues for the electricity sector.

PSE appreciates Ecology's continued engagement with interested parties and the public on CCA implementation, as well as the substantial effort that has gone into developing the proposed amendments to WAC Chapters 173-446 and 173-441. PSE recognizes that Ecology has incorporated numerous recommendations from interested parties during this rulemaking and made several improvements that provide additional clarity, transparency, and administrative certainty for regulated entities. In particular, PSE appreciates Ecology's efforts to prepare the program for potential linkage with other GHG trading systems, clarify market and account structure definitions, refine provisions governing affiliated entities and market participation, improve consistency across related regulations, make program adjustments to improve liquidity, and provide greater specificity regarding compliance obligations and program administration. At

[1] Climate Commitment Act, 2021 Wash. Sess. Laws, ch. 316, Engrossed Second Substitute Senate Bill 5126 (codified as Chapter 70A.65 RCW). The CCA went into effect on January 1, 2023.
[2] Washington Department of Ecology Rulemaking "Chapters 173-441 and 173-446 WAC – Cap-and-Invest Program Updates and Linkage" https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-441-446-cap-and-invest-program-updates-and-linkage?utm_medium=email&utm_source=govdelivery

the same time, PSE has several concerns and recommendations regarding the proposed rule revisions and respectfully offers the following comments for Ecology's consideration.

PSE's overarching concern is that the CCA, largely due to the rules adopted by Ecology, is having very significant and unintended impacts on electric utilities and their customers. When it was passed in 2019, the Clean Energy Transformation Act ("CETA") was designed to be the chief state policy driving emissions reductions in the electric utility sector. The architects of the CCA, which was enacted in 2021, two years after CETA, recognized this and drafted provisions to avoid CCA cost impacts to electric utility customers via no-cost allowance allocation to mitigate the cost burden on electric utilities, including the administrative cost of CCA compliance.[3]

When the CCA was enacted, PSE did not anticipate that the program would result in significant direct compliance costs for electric customers due to the statutory allocation of no-cost allowances to electric utilities. However, as the program has been implemented and the rules have evolved, electric customers have incurred significant and increasing CCA-related costs beyond what is incurred due to CETA. PSE supports targeted rule changes to address this overarching concern, yet in several areas, the CR-102 draft rules fall short. Specifically, PSE has concerns about the draft rules regarding allocation of electric no-cost allowances, consignment of electric no-cost allowances, the provision of no-cost allowances for electric administrative costs, and several other areas that complicate utility compliance efforts and increase costs for customers. The following sections discuss these specific concerns and associated recommendations.

I. WAC 173-446-230 -- Concerns regarding electric no-cost allowances consignment requirement

1. Ecology's proposed formulae for determining exemptions from consignment and required consignment amounts are overly complicated and warrant additional review with interested parties.

Given the significant customer affordability implications associated with no-cost allowance allocations and consignment requirements, methodologies should be as straightforward, transparent, and predictable as possible. The methodology proposed in the draft rules is complex, difficult to evaluate, and the practical assessment of the complex formulas relies on future no-cost allowance and compliance information that is not known and difficult to accurately predict through 2045, creating uncertainty that undermines long-term compliance planning and customer cost management.

The consignment exemption and required consignment formulae in Equations 230-2, 230-3, and 230-4 in the CR-102 represent a significant new approach that was not previously presented in

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3 Joint Electric Investor-Owned Utility Comments (PSE, Avista Corporation, d/b/a Avista Utilities, and PacificCorp, d/b/a Pacific Power (PAC)) to the Department of Ecology, December 5, 2025, pp. 1-2. Available at: https://ecology.commentinput.com/comment/extra?id=x2VP3cC5uQ à https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did200118/pid_210883/assets/merged/dh08i7zj81i_document.pdf?v=41736.

draft rule language and therefore has not benefited from meaningful interested party review and discussion. Based on the information currently available, PSE has attempted to assess how the formulae would operate in practice but has limited confidence that its interpretation is consistent with Ecology's intent. The rule language and supporting materials do not provide sufficient explanation, examples, or implementation guidance for utilities to understand how the formulae would be applied under different scenarios and circumstances. This lack of clarity increases the risk of inconsistent interpretation and implementation.

Prior to adopting final rules, Ecology should simplify the calculations wherever possible, provide additional examples and implementation guidance, and prioritize transparency, predictability, and ease of administration. PSE continues to believe that no-cost allowance allocation and consignment rules should be designed to support the development of long-term compliance planning, minimize customer costs, and provide regulated utilities with requirements that are clear, understandable, and flexible for utility specific circumstances and customer needs.

2. *Electric utilities should be allowed to retain no-cost allowances needed for compliance*

PSE strongly urges Ecology to provide clear language in the rules that ensures the ability of each utility to use electric no-cost allowances for all direct compliance obligations across a compliance period. Requiring consignment of no-cost allowances runs a substantial risk of unnecessarily increasing CCA compliance costs to electric customers already bearing the cost burden of meeting the CETA requirements. Preserving the flexibility to surrender allowances directly for compliance, up to full compliance obligation or for future compliance, if needed, is critical to mitigating compliance costs for electric customers, supporting effective compliance planning, and advancing the statutory objective of providing no-cost allowances for the benefit of customers.

In its Regulatory Analysis, Ecology evaluated an alternative under which electric utility no-cost allowances would not be subject to mandatory consignment.[4] Ecology ultimately rejected that alternative, concluding that a consignment requirement is necessary to promote market liquidity, support a stable and functioning carbon market, and strengthen decarbonization incentives. Yet Washington has now signed a linkage agreement with California and Québec, and the linked market itself is expected to provide substantially greater liquidity, a larger pool of market participants, greater trading volumes, and improved price discovery. Given these developments, it is not clear that requiring electric utilities to consign a specified portion of their no-cost allowances remains necessary to achieve Ecology's liquidity objectives. Ecology should evaluate whether the market benefits that may have been associated with mandatory consignment in a standalone Washington market will already be achieved through linkage, making additional consignment requirements unnecessary.

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[4] Washington State Department of Ecology, Publication No. 26-14-045 (June 2026), "Preliminary Regulatory Analyses for Chapter 173-446 WAC, Climate Commitment Act Program Rule and Chapter 173-441 WAC, Reporting of Emissions of Greenhouse Gases (Cap and Invest Program Updates and Linkage)," Section 6.3.1, p. 128. Available at: https://apps.ecology.wa.gov/publications/SummaryPages/2614045.html?utm_medium=email&utm_source=govdelivery.

Moreover, the pace and trajectory of electric sector decarbonization are already driven by CETA. Utilities are required to transition to increasingly clean and non-emitting resources under CETA irrespective of carbon allowance prices. To the extent the electric system has not yet fully decarbonized, requiring utilities to consign additional no-cost allowances does not accelerate the availability of clean resources, transmission, storage, or other infrastructure needed to comply with CETA. Instead, it primarily increases compliance costs if no-cost allowances are no longer used for mitigating compliance directly. In this context, the asserted decarbonization benefits of mandatory consignment appear limited, while the customer cost impacts are real and significant.

Accordingly, PSE recommends that Ecology explicitly state in rule that an electric utility is not required to consign any no-cost allowances that are reasonably needed to satisfy the utility's current compliance period obligation. At a minimum, the rule should clarify that utilities may retain and directly retire sufficient no-cost allowances to meet their compliance obligations before any mandatory consignment requirement applies. This clarification would align with the legislature's intent that no-cost allowances mitigate compliance costs borne by utility customers.

3. ***Ecology should develop and publish a clear timeline for no-cost allowance process and other key compliance milestones of the rule***

PSE further recommends that Ecology develop and publish a comprehensive implementation timeline describing the sequence of key program milestones applicable to electric utilities, including utility forecast submissions, Ecology review periods, no-cost allowance allocation determinations, compliance obligation determinations, consignment exemption and required consignment amounts determinations, auction schedules, auction registration deadlines, bid guarantee requirements, verification timelines, and other key compliance milestones with Ecology's notice/publications dates and covered entity requirement deadlines. Development of this timeline will help Ecology and stakeholders ensure that the many new elements in these draft rules work together and are practical to implement or identify areas that may need to be revised due to conflicts or complications associated with the timing of various requirements.

4. ***Requirement deadlines for consignment by following year end should be extended***

If Ecology proceeds with requiring utilities to consign a specified portion of electric no-cost allowances, the required deadline to consign the allowances by the end of the following year for which allowances were provided should be extended to allow utilities more time to manage procurement and consignment strategies. PSE encourages Ecology to consider the timeline of the consignment requirements in the draft rule in relation to compliance determinations and auction requirements to ensure that the full set of draft rules is workable for utilities. PSE has concerns that the draft rules, taken together, create uncertainty in consignment requirements that will lead to challenges in managing other aspects of compliance. Because this requirement was introduced for the first time in the CR-102, interested parties have not had a meaningful opportunity to evaluate its practical implications or discuss alternative approaches. More thorough consideration of the timing of various components of the rule is needed prior to adoption.

5. ***Forecast adjustments and finality schedule***

PSE also recommends that Ecology establish in rule a clear schedule governing forecast adjustments and final allocation determinations. The rule should specify when utilities may request adjustments, when Ecology may independently initiate adjustments, and the deadlines applicable to both. In addition, Ecology should put into rule an explicit deadline for its notice regarding final no cost allowance allocations that are no longer subject to adjustment, including finality of no-cost allowance allocations, compliance obligations, consignment exemptions, and required consignment amounts.

6. Role of Ecology to adjust Commission-approved forecasts

PSE reiterates its concerns that the proposed rule language appears to provide Ecology broad discretion to adjust utility forecasts and associated allowance allocations,[5] even where those forecasts have been reviewed and approved by the Washington Utilities and Transportation Commission ("UTC") through established regulatory processes. The UTC is the agency charged with regulating investor-owned utility rates, resource planning, forecasting methodologies, and customer cost impacts, and is therefore best positioned to evaluate the reasonableness of utility forecasts and associated assumptions. The CCA statute vests the UTC with the responsibility to approve the forecasts that utilities submit to Ecology for determination of no-cost allowances. Allowing Ecology to make substantive adjustments to UTC-approved forecasts creates the potential for inconsistent regulatory outcomes, duplicative review, and uncertainty for utilities and customers. PSE believes Ecology's role should focus on implementing the statutory allowance allocation framework using forecasts that have been approved through the UTC's established processes, except in limited circumstances where a clear error or statutory compliance issue has been identified.

II. WAC 173-446-230 – No-cost allowances for administrative costs

PSE appreciates Ecology's efforts to simplify the methodology for determining no-cost allowances associated with electric utility administrative costs and for adopting directional improvements to the concepts proposed by Ecology in previous workshops. However, PSE remains concerned that the proposed allocation does not adequately reflect the actual administrative burdens incurred by larger electric utilities on behalf of their customers. As utilities previously communicated to Ecology,[6] administrative costs associated with implementing and complying with the CCA have been substantial and include establishing and maintaining compliance programs, allowance tracking and management, preparation of required documentation and financial instruments, regulatory filings, and extensive engagement in rulemakings and related proceedings. These costs significantly exceed the narrow set of activities reflected in the proposed methodology. The legislature intended no-cost allowances to help mitigate the costs of the program for electric utility customers, but the proposed administrative cost allocation methodology does not appropriately account for the full scope of utility compliance and implementation costs, particularly for larger utilities with more substantial program obligations.

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[5] As stated in December 2025 Joint Utility Comments (p. 6): "As a general rule and to be consistent with the statutory language, for investor-owned utilities regulated by the UTC, the UTC must have jurisdiction over the determination of the appropriate forecasting methodologies and accuracy of the forecast during their approval process. These forecasts involve complicated utility operational modeling and estimations that fall in the purview of the UTC, not Ecology. Therefore, the utilities do not support Ecology's proposal to modify WAC 173-446 to provide rules related to specific methods of forecasting." *See supra note 3.*

[6] Joint Utility Comments December 5, 2025 (*see supra note 3*, at p .4).

In PSE's comments submitted to Ecology on August 22, 2025,[7] PSE estimated its limited costs associated with Cap-and-Invest Program (WAC 173-446) and GHG Reporting (WAC 173-441) to be about $1,000,000 from 2022-2026, including about $270,000 in 2026, covering:

(1) Staff hours for establishing and maintaining compliance accounts, tracking compliance, managing compliance instruments, and meeting reporting and verification requirements;
(2) verification contract to meet verification requirements of WAC 173-446; and
(3) staff hours to perform greenhouse gas emission reporting (WAC 173-441).

These limited administrative costs are estimated at around $1,128,000 for the second compliance period (2027-2030).[8]

Using the ceiling price of $80 per allowance, Ecology's proposed 7,000 no-cost allowances for the first compliance period represent about $560,000 – which is far below the $1,000,000 estimated limited administrative costs PSE reported to Ecology. Using the same assumptions for the second compliance period, Ecology's proposed 7,000 no-cost allowances would again represent $560,000, which is only half of the $1,128,000 PSE anticipates spending on the limited administrative costs for running the Cap-and-Invest Program. Further, while PSE's annual estimates are in the range of over $250,000 per year, the no-cost allowances proposed by Ecology after 2030 of 750 allowances per year could cover only about a third of the administrative burden if assuming a $100 allowance price. Furthermore, PSE is incurring additional expenses as a result of the implementation and participation in the Cap-and-Invest Program requirements that are not included in the allowed list of administrative costs.[9] Therefore, the proportion of total administrative costs that the proposed allowances in the CR-102 would cover is even smaller when considering the full scope of administrative costs.

PSE is the largest utility in Washington State, and its customers should get proportionate mitigation of benefits from the no-cost allowances allocated for administrative burdens. Large utilities should be provided with additional no-cost allowances for the benefit of their customers compared to what Ecology is currently proposing.

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[7] Comments of Puget Sound Energy to Department of Ecology, submitted on August 22, 2025. Available here: https://ecology.commentinput.com/comment/extra?id=x2VP3cC5uQ.

[8] Calculated as four times $282,000 which is the estimate for 2027, calculated as $131K at 3% growth rate (GR) from 2026 (Staff Costs WAC 173-446) + $98K at 5% GR from 2026 (Verification Contract WAC 173-446) + $43K at 3% GR from 2026 (Staff Costs WAC 173-441). *See supra note 7*.

[9] PSE has additional expenses related to the implementation and participation in the Cap-and-Invest Program requirements not captured in these numbers, including: regulatory and legal responsibilities to review materials and prepare rulemaking comments; regulatory and front office responsibilities to prepare forecast, compliance, and tariff filings to Ecology and the UTC; customer communications and customer-facing employee training; changes to the billing systems and reporting related to charging and crediting customers for CCA compliance; and accounting responsibilities to implement accounting system changes, reporting, documenting emissions data, designing, and implementing IT and business process controls. *See supra note 7*.

III. WAC 173-441-124 - Bonneville Power Administration ("BPA") Backstop Importer

PSE incorporates by reference the concerns and recommendations included in its February 20, 2026,[10] and May 20, 2026,[11] comments regarding the treatment of electricity sourced at BPA and sunk in Washington by a backstop importer.

Ecology's backstop compliance entity rules in its Electricity Importer[12] definition overstate Washington program emissions and create a significant new financial exposure for PSE or other entities purchasing electricity at Mid-Columbia ("MIDC"). PSE offers a recommendation in these comments for Ecology to address these unintended consequences in interim guidance until such time as affected parties can collaboratively develop solutions or until BPA elects to comply with the CCA.

Not doing so has the following negative consequences:

- Incentivizes thermal dispatches that would be displaced by lower carbon intensity market purchases if assigned an accurate emissions factor;
- Results in overstated program emissions;
- Exacerbates affordability concerns with the program; and
- Results in higher costs for customers.

BPA's system is modeled outside the state for the purposes of the CCA, and therefore its sales at MIDC are considered imports into the state. Unless BPA opts to comply with the CCA, PSE and other MIDC purchasers that sink electricity in Washington become the "next-in-the-chain" compliance entity for imports into Washington sourced from BPA. When PSE purchases electricity directly from BPA – an Asset Controlling Supplier – that electricity is assigned BPA's Asset Controlling Supplier ("ACS") rate. But PSE must also make short-term purchases at MIDC on an exchange ("ICE"), or from a broker when it is balancing its system or when such a purchase is a more economic short-term decision than dispatching its emitting resources. In these cases, PSE will not know until after-the-fact that it has been matched with a BPA source. The most problematic case is when a financial intermediary has purchased and resold the electricity at MIDC. In this transaction, the financial intermediary is on the contract path of the e-tag, and avoids the import obligation, which is then transferred to the entity on the physical path of the e-tag – presumably the utility sinking the electricity in Washington.

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10 Comments of Puget Sound Energy to Department of Ecology, submitted on February 20, 2026, p. 1. Available here: https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did200118/pid_210619/assets/attachments/17592/4m03i94n2mj_document.pdf?v=34128.

11 Comments of Puget Sound Energy to Department of Ecology, submitted on May 20, 2026, p. 2. Available here: https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did200118/pid_210619/assets/attachments/73830/8k0ti7d8qbt_document.pdf?v=44977.

12 WAC 173-441-124 (2)(f)(v).

Even though the electricity is sourced from BPA's system, the backstop importer is not able to claim the ACS emissions factor of BPA's system because it did not transact directly with BPA and is instead assigned an unspecified emissions factor at ten –to twenty times the ACS obligation, even though the characteristics of that BPA-sourced electricity have not changed. This leaves backstop importers serving load in Washington with a much higher obligation that they cannot anticipate, avoid, or fully mitigate, and overstates Washington program emissions by the same factor. PSE is only one entity impacted by this issue. Estimates suggest 80-90% of short-term trading at MIDC may be implicated by this overstated emissions rate.

PSE acknowledges Ecology rules regarding the backstop importer and the physical path of the e-tag draw on statute[13]. But PSE recommends Ecology publish interim guidance in its Electric Power Entity Reporting Guidance[14] to mitigate this issue, recognizing there are different pathways for transacting electricity that is sourced at BPA. All three of these approaches are consistent with the statutory assignment of the backstop *Electricity Importer* and assign an accurate emissions factor to the electricity and a more accurate compliance obligation to the importer.

1. **Apply an ACS designation to all short-term transactions.** Amend language to reflect a specified source designation for all three categories – 1) electricity that is transacted with BPA, or 2) with an intermediate seller, or 3) with an exchange or Broker when that electricity can be demonstrated via the e-tag to be sourced as 'BPA Power' or 'BPA Slice'.
2. **Apply an ACS designation to non-exchange transactions.** Amend language to reflect a specified source designation for 1) electricity that is transacted with BPA, or 2) with an intermediate seller, or 3) with a Broker when that electricity can be demonstrated via the e-tag to be sourced as 'BPA Power' or 'BPA Slice'. Apply an unspecified source designation to electricity transacted over an exchange (Intercontinental Exchange/ICE).
3. **Modify seller warranty requirements.** Amend the BPA specified source evidence requirement for intermediate seller or broker transactions to require a seller warranty or BPA ACS notation in either the Contract field or Misc. Info field of an eTag for a valid ACS claim and drop reference to seller warranty requirements. This approach utilizes the information available in an e-tag to identify electricity that is sourced from BPA's system.

PSE encourages Ecology to continue working with utilities, BPA, marketers, and other stakeholders to identify potential regulatory, market, and legislative solutions, but in the interim

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[13] RCW 70A.65.010 (43)(c), "Electricity from a system that is marketed by a federal power marketing administration shall be construed as "imported electricity," not electricity generated in the state of Washington" and WAC 173-224-124 2(f)(v), "... and the federal power marketing administration has not voluntarily elected to comply with this chapter, then the electricity importer is the next purchasing-selling entity in the physical path on the e-tag..."

[14] Washington State Department of Ecology, Publication No. 23-02-090 (August 2023), "Interim Guidance for Electric Power Entity Reporting." Available at: https://apps.ecology.wa.gov/publications/UIPages/documents/2302090.pdf.

Ecology should consider alternatives it could implement in EPE reporting guidance, within the constraints of statute, to mitigate this issue.

In addition, PSE urges Ecology to restore subsection (2)(f)(xii)(C), which Ecology included in its June 2025 workshop proposal but removed from the CR-102 draft rule language. That provision would clarify that electricity provided by a Federal Power Marketing Administration ("FPMA") in a centralized electricity market is treated as a specified source, providing greater certainty for emissions reporting and the development of pro-rata allocation methodologies.

IV. Considering defined electric allocation schedule to enhance certainty and decarbonization incentives

PSE's comments submitted to Ecology in August[15] and December 2025[16] recommended that Ecology consider rule amendments for the second compliance period allocation, specifically to explore alternative approaches for setting electric allowances. These alternatives were intended to improve certainty and predictability, strengthen emission reduction incentives, ensure objectivity and fairness, and enhance implementation efficiency, while also aligning with CETA requirements and linkage considerations and serving the best interests of Washington customers.

PSE proposed three alternative options to the current forecast-based rules. However, none of these recommendations were addressed by Ecology at any point in the rulemaking process. The options were not mentioned during the November 13, 2025 workshop, and parties were not given the opportunity to provide feedback or hear perspectives from others. The process for future compliance period allowance allocation warrants further discussion among interested parties, and PSE encourages Ecology to hold an open, public workshop to revisit this issue and consider the options proposed by PSE and others. The current electric allocation process, which Ecology is largely keeping unchanged in the proposed rules, is cumbersome; relies on forecasts that are likely to need continuous updating across a multiyear compliance cycle; and provides little to no predictability from year to year for utility planning purposes. PSE encourages Ecology to revisit the rules related to the provision of electric no-cost allowances and take more time to explore further improvements.

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Thank you for the opportunity to provide comments on proposed rule changes to the Cap-and-Invest Program WAC 173-446 and GHG Reporting Rule WAC 173-441.

Please contact Kelima Yakupova, State & Regional Policy Consultant, PSE State 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,

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15 Comments of Puget Sound Energy to Department of Ecology, submitted on August 15, 2025, available here: https://ecology.commentinput.com/comment/extra?id=x2VP3cC5uQ.

16 Comments of Puget Sound Energy to Department of Ecology, submitted on December 5, 2025, at pp. 1-2. Available here: https://ecology.commentinput.com/comment/extra?id=x2VP3cC5uQ.

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