



NW Energy Coalition
for a clean and affordable energy future

October 17, 2023

U-230161

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Kathy Hunter, Acting Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: Docket U-230161 – Commission-led Workshop Series on Climate Commitment Act

Dear Acting Director Hunter:

Climate Solutions and the NW Energy Coalition (“NWECC”) thank the Washington Utilities and Transportation Commission (“UTC” or “Commission”) for the opportunity to provide comments in response to the Commission’s Notice of Workshop and Opportunity to Provide Comments on August 30, 2023. Climate Solutions is a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. The Northwest has emerged as a hub of climate action, and we are at the center of the movement as a catalyst, advocate, and campaign hub. Established in 1981, NWECC is an alliance of over 100 environmental, civic, and human service organizations, progressive utilities, and businesses in Oregon, Washington, Idaho, Montana and British Columbia. Our mission is to advance clean, equitable, and affordable energy policies and promote the development of renewable energy, energy efficiency, consumer protection, equitable and affordable clean energy services for all consumers, and fish and wildlife restoration on the Columbia and Snake rivers.

Due to the short timeline provided by the Notice, we appreciate the Commission’s commitment to consider comments submitted after the requested deadline (September 7th, 2023) and we look forward to engaging in the future workshops scheduled in this series.

1). What are the necessary elements for an equitable, fair, and reasonable risk-sharing mechanism, as required by Order 01 in Docket UG-230470?

An equitable, fair, and reasonable risk-sharing mechanism will appropriately balance the financial and operational risks that may arise from compliance with the Climate Commitment Act (“CCA”), such as the future costs associated with purchasing allowances. A risk-sharing mechanism will enable the utility to recover timely and prudently incurred costs through customer rates while protecting its customers from price volatility.

The Climate Commitment Act’s allowance price serves two primary purposes: first, to generate revenue for climate investments; and second, to send a price signal to covered entities and consumers signaling to invest in cost-effective decarbonization measures rather than to continue business-as-usual. As it stands, however, investor-owned utilities (“IOUs”) such as Puget Sound Energy (“PSE”) have filed tariffs which pass through 100% of forecasted CCA allowance costs to their ratepayers. This pass-through of allowance

costs eliminates any price signal the IOU would feel itself, and thus undermines the intent of the CCA mechanism.¹ This violates the well-established regulatory principles of balancing risks between the utility and customers, and establishing regulation to mirror the nature of for-profit businesses operating in a competitive market.

According to these principles, the utility should assume a reasonable portion of the risk of higher allowance costs or lower consignment revenues in the market – similar to unregulated covered entities. In exchange, the Commission offers the utility the opportunity to earn a reasonable rate of return. While we accept that the CCA will have rate impacts, it is the Commission’s duty to ensure that its regulatory oversight over CCA costs is effective in protecting customers in both the short-term and long-term, aligning regulatory incentives, and providing sufficient opportunity for public participation and review. The Commission should reject an approach which inappropriately shifts all of these risks to customers.

Finally, a risk-sharing mechanism should bolster the CCA’s purpose to serve as a market signal for IOUs to reduce emissions in order to reach Washington’s statutory greenhouse gas emissions targets. The mechanism should be designed in such a way that IOUs benefit from reducing greenhouse gas emissions consistent with the limits set by RCW 70A.45.020 and, accordingly, face ramifications for exceeding their proportional share of greenhouse gas emissions limits set by RCW 70A.45.020.

As such, we believe the necessary elements for an equitable, fair, and reasonable risk-sharing mechanism are:

1. A fair and equitable balance of risk between the utility and customers;
2. A regulatory incentive for the utility to invest in measures that reduce emissions (mirroring the nature of a covered entity operating in a competitive market); and
3. Annual review of baseline assumptions and adjustments to account for reasonable treatment of known and measurable factors that may contribute to cost variability, such as weather.

2). At what frequency, and under what conditions, should utilities be required to file CCA forecast updates, as required by Order 02 in Docket UE-220797?

Climate Solutions and NWECA support the schedule for CCA forecast updates proposed by UTC staff comments² requesting electric utilities refile their forecasts every year by April 30 when appropriate. Refiling CCA forecast updates will be appropriate when an electric utility has made “substantive changes” to its supply and demand forecast that was already approved by the Commission. We also note that the Commission has the authority to require a utility to update its forecast due to an unforeseen event or major change in circumstances that would warrant a change in supply or demand forecasts, such as loss of a major load, or a major unplanned generation outage.

¹ See July 3, 2023 Comments of NW Energy Coalition and Climate Solutions on Puget Sound Energy’s Gas Climate Commitment Act Tariff (UG-230470)

² See Comments of UTC Staff on Facilitation of a Commission-led workshop series on the Climate Commitment Act (UG-230161) <https://www.utc.wa.gov/casedocket/2023/230161/docsets>

3). Under what circumstances should utilities create separate tariffs for recovery and pass-back of CCA costs and proceeds?

While we generally believe that the Commission should reserve separate single-issue tariffs for extraordinary circumstances, we note that the Commission's current practice allows for a proliferation of deferrals and tracking mechanisms outside of general rates. Given this practice, and the move toward multi-year rate plans, it is our recommendation that utilities should create separate tariffs for recovery and pass-back of CCA allowance costs and proceeds so that these costs may be reviewed more frequently, and for all utilities at once. General rate cases are lengthy proceedings, requiring interested parties to have represented counsel, and substantively cover a wide range of issues that have impacts on rates. For these reasons, general rate cases have a high barrier to entry for the public to engage on an important policy implementation such as the CCA. NWECC and Climate Solutions do not have time or resources to intervene in every IOU General Rate Case - nor do we think this would be an efficient or effective way to review CCA allowance costs.

Tariff filings are the most accessible, straightforward, and efficient way to address singular issues such as CCA allowance cost recovery and pass-back of proceeds. A tariff filing provides the most opportunity for public and stakeholder engagement through comment opportunities and consideration by the Commission at an Open Meeting; both of these notices can be easily found on the Commission website. The Commission may approve, reject, or suspend a tariff filing, and set the matter for a formal hearing, if it finds that the filing has major issues that cannot be addressed through an informal stakeholder process.

4). Under what circumstances should utilities incorporate CCA costs and proceeds into general rate cases?

To the extent that the utility considers capital expenditures or fuel costs (for example, in the case of RNG purchases) to be "CCA costs", these should not be included in a tariff rider, but should be reviewed in general rate cases, with very limited exceptions.

At this time, we caution the Commission against endorsing an expansive definition of "CCA costs" that includes costs beyond allowance purchases. While we certainly expect utilities to incur costs to reduce emissions, these costs should not be considered "CCA costs" for the purpose of alternative cost recovery treatment.

5). In Workshop 2, interested persons indicated that utility Low-Income Advisory Groups were best situated to discuss the requirements concerning low-income customers under the CCA. Should the Commission convene a "Joint Low-Income Advisory Group," which could convene, discuss outstanding issues relating to low-income customers under the CCA, and submit a proposal to the Commissioners? The outstanding issues include those identified in the agenda for Workshop 2 and discussed in comments in this docket.

Climate Solutions and NWECC support the Commission convening of a "Joint Low-Income Advisory Group" to determine the best practices related to CCA implementation for all IOUs. We would like this Advisory Group to discuss the benefits for low-income customers if IOUs were to use CCA revenue to

invest in an electrification program, and strategies to ensure such a program does not adversely affect low-income customers but rather addresses and meets the specific needs of low-income customers.

6). What guidelines should the Commission issue to ensure long-term utility plans are consistent with CCA rules? For example:

What should the ramifications be if a utility's long-term plans:

1) Exceed the emissions ceiling set by RCW 70A.45.020,

There are no immediate ramifications provided by Commission rule or statute if a utility's long-term plans exceed the emissions limits set by RCW 70A.45.020. However, if a utility uses such a plan to justify continued investment in emitting generation or fossil gas infrastructure, the Commission should disallow these costs due to the utility's failure to reduce its compliance obligation under the CCA. The utility may also face financial ramifications, such as increased borrowing costs, if investors become aware that the utility's liabilities associated with its greenhouse gas emissions will increase significantly in the future. A lowest reasonable cost plan is one that meets the emissions ceiling at the lowest reasonable cost and risk.

2) Require purchasing excessive price ceiling units pursuant to RCW 70A.65.160, or

A utility should not assume that it may purchase price ceiling units in excess. In our view, this is not a prudent assumption, given the number of covered entities competing for those units.

3) Model allowance purchases that are greater than a utility's proportional share of statewide allowances?

It is important that utilities continue to model a range of assumptions in their long-term plans. Stakeholders, the Commission, and the Company all benefit from developing a record of possible futures, and these help inform the development of a preferred portfolio and action plan, and capital planning by the utility. However, the Commission and utilities should be wary of adopting preferred portfolios and action plans that rely on the utility purchasing allowances beyond its proportional share of statewide allowances. While purchasing allowances is a legitimate means of complying with the CCA, purchasing allowances above a utility's proportional share of statewide allowances merely reduces the pool of allowances that are available for other covered entities, and drives the cost of allowances in the market up. This scenario would likely have an inflationary impact on costs for customers and utilities, and we advise that these costs be accounted for when evaluating an integrated resource plan for lowest reasonable cost. It would be preferable for a utility to invest in measures or projects that actually reduce emissions and deliver direct benefits to customers.

In the case of the scenarios above, how should utilities demonstrate that decarbonization, or other methods for CCA compliance, are NOT the least reasonable cost pathway?

The utility should compare commercially available measures for reducing emissions (i.e., energy efficiency, electrification, clean fuels, etc.) and develop a plan that balances costs and risk, consistent with statutory requirements and UTC rules. In the near term, it is our view that a balanced plan would include a

combination of an array of emissions reduction measures beyond what the utility was already planning to, and allowance purchases.

7). Are there any other priority issues that have arisen since comments were last filed?

No.

Thank you for the opportunity to provide comments and for your consistent engagement with interested parties. We are grateful for the opportunity to contribute these recommendations and we look forward to working with the Commission as it continues to play a leading role in implementing Washington's landmark climate policy.

Sincerely,

/s/

Megan Larkin
Washington Clean Buildings Policy Manager
Climate Solutions
megan.larkin@climatesolutions.org

/s/

Lauren McCloy
Policy Director
NW Energy Coalition
lauren@nwenergy.org