



November 3rd, 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

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

Dear Acting Director Hunter:

NW Energy Coalition (“NVEC”) thanks 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 dated October 23rd, 2023. Established in 1981, NVEC 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.

In 2021, Washington passed the Climate Commitment Act (“CCA”), which established an economy-wide declining cap on greenhouse gas emissions with the goal of reducing Washington’s emissions by 95% by 2050. NWECC believes that the following goals should be met when designing a cost recovery mechanism for -gas utility allowance purchases under the CCA: (1) incentivize gas utilities to reduce emissions consistent with the allocations determined by the Department of Ecology necessary to meet Washington’s greenhouse gas emissions limits; (2) ensure that customers only pay fair and reasonable costs for CCA allowances; (3) ensure utilities have the opportunity to recover prudently incurred costs for allowances, while balancing the interests of customers. The following provides direct responses to the questions posed in the October 23rd notice.

1) For a potential CCA risk sharing mechanism, what risks associated with the CCA are under utility control? Examples may include market risk, energy procurement, conservation levels, etc.

As an initial matter, NWECC disagrees with the premise that a risk needs to be under the utilities’ control in order for the utility to bear that risk. Like all businesses, utilities face risks that are outside of their control. A tenet of public interest regulation is that customers are protected from undue risk, and utilities have the opportunity to earn a fair and reasonable rate of return on their investments in exchange for providing essential energy services. Over time, the risk profile varies based on many factors outside of the utility’s control – including, but not limited to: macroeconomic conditions; supply chain trends; climate and weather patterns; national and global security; and local, state, and national policy changes. Given these and many other

circumstances outside of a utility's control, the economic regulator must balance the interests of regulated utilities and customers.

The CCA program establishes a statewide emission cap, which is reduced over time to reduce the amount of greenhouse gases emitted. Covered entities, such as electric and gas utilities, can acquire allowances via quarterly allowance auctions, on the secondary market, or directly from the Department of Ecology via no cost allowance allocation. As the cap declines, and the number of no cost allowances declines with it, energy utilities will have to compete with other covered entities throughout the state, purchasing allowances through the auction process or the secondary market. The utilities need to decarbonize their system in order to manage market risk as the cap declines. The Climate Commitment Act's allowance price generates revenue for state climate investments, and sends a price signal to covered entities and consumers to invest in cost effective decarbonization measures.

While there are external factors like weather, customer growth, and economic conditions that can influence the effectiveness of the utilities' decarbonization strategies, utilities have significant agency over reducing energy system emissions. In order to meet state climate goals, energy utilities should deploy capital towards supply side resources, and work to develop and maximize demand side resources that reduce emissions over the short and long term, such as energy efficiency, demand response, and electrification.

2) How should a potential CCA risk-sharing mechanism be structured?

A risk-sharing mechanism should enable the utility the opportunity to recover incurred costs through customer rates, while incentivizing the utility to protect customers from price volatility in the allowance market. NWECC has submitted an initial concept for discussion in this docket,

and continues to be willing to work with staff, utilities, and stakeholders to develop a risk-sharing mechanism for CCA allowance expenditures.

The following principals are important to a CCA risk sharing mechanism:

- The risk sharing mechanism should provide the utilities with an incentive to decarbonize the energy system.
- The risk sharing mechanism should not be a 100% pass-through of CCA allowance costs on to customers. A 100% passthrough would make utilities indifferent to reductions in system emissions, and may expose customers to future risk if a utility primarily relies on allowances to comply with the CCA. It is important that the risk-sharing mechanism appropriately balance the risks of a program between customers and utilities.
- Any performance incentives embedded in the risk sharing mechanism should have an earning test associated to protect customers. For example, in NWECC's July 18th Concept, NWECC proposed that earnings test be established based on the threshold established by RCW 80.28.425(6).
- The risk sharing mechanism should include a baseline that accounts for factors that may contribute to cost/ emission variability such as weather.

3) What should the Commission consider when assessing utility actions for prudence as they relate to the CCA?

NWEC does not view a prescriptive approach to CCA prudence as necessary at this time, especially in this early phase of the CCA program. The utilities have considerable internal and external resources available to evaluate how to respond to the CCA program. The utilities should be actively analyzing the lowest reasonable cost method to comply with state regulations, and decarbonize their systems consistent with state policy.

In order to seek cost recovery for costs from customers at the UTC, the utility bears the burden of proof that its actions were prudent. In a tariff filing, the utility must demonstrate that it has comprehensively evaluated alternatives available when incurring a cost. As part of its burden, the utility must provide contemporaneous records and the data and methods that will allow the Commission to evaluate its decision-making process. In a future prudence review, the utilities should be prepared to defend their decisions around CCA compliance, and demonstrate that they were nimble in responding to the CCA.

4) When should the risk sharing mechanism allow for prudence determination? Every auction, yearly, every four-year compliance period, or another frequency?

If the Commission makes the determination that CCA costs should be subject to a tariff rider, annual forward-looking projection of costs should be reviewed for reasonableness prior to being put into rates. If the tariff is adjusted annually, an annual review for reasonableness and true-up of risk-adjusted baseline costs would be appropriate. Since final compliance costs for the CCA will not be known until after the end of each compliance period, it is reasonable for the final prudence review for the CCA tariff to be conducted after the end of each CCA compliance

period. Therefore, a final prudency review should be conducted after every four-year compliance period.

Respectfully submitted,
/s/ William Gehrke
William Gehrke
Senior Technical Analyst
NW Energy Coalition
811 1st Ave, Suite 305
Seattle ,WA 98104
will@nwenergy.org