



U-230161

ATTORNEY GENERAL OF WASHINGTON

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Amanda Maxwell
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: *Relating to the Commission-led workshop series on the Climate Commitment Act,*
Docket U-230161

Dear Director Maxwell:

The Public Counsel Unit of the Washington State Attorney General's Office (Public Counsel) respectfully submits these comments in response to the Washington Utilities and Transportation Commission's (Commission) Notice of Opportunity to File Written Comments dated April 10, 2023 (Notice). The Notice requested public comment regarding the proposed scope and timing of the Commission-led workshop series on the Climate Commitment Act (CCA). Commission Staff (Staff) posed the following questions for comment:

1. Do you have any thoughts, concerns, or suggestions on the proposed work plan?
2. What are the most important issues for the Commission to address during this proceeding?
3. Do you have any other comments you would like to offer on the implications of the CCA for investor-owned utilities (IOUs) and ratepayers?

Public Counsel thanks the Commission for the opportunity to provide these comments and we offer the following responses to Staff's questions.

Question 1. Do you have any thoughts, concerns, or suggestions on the proposed work plan?

As written, the proposed work plan appears to outline a schedule of workshops and comment opportunities to discuss proposed topics, goals, and outcomes and establish the scope, goals, and expectations of a final proposed action plan for Commissioner consideration. It is unclear from the proposed work plan if the workshops and comments, which are scheduled through the

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remainder of this year, are intended to address specific issues raised by parties. The Notice and proposed workplan are also unclear regarding the ultimate goal of this proceeding and expected deliverables. This process appears to develop a list of issues to be discussed and a plan to address the topics but is not intended to actually develop recommendations to resolve the specific issues raised by parties.

If the proposed process will only result in a plan to discuss issues, Public Counsel is concerned that the extended timeline to develop this plan will be detrimental to efforts to implement the requirements of the CCA. There are particular issues regarding the implementation of the CCA that may require immediate attention from the Commissioners such as the proper use of revenues from consignment of allowances at auction. If the proposed process is intended to develop a set of recommendations to address outstanding CCA issues, the workplan should be modified to clarify the ultimate goal and deliverables of this process.

Public Counsel therefore raises the following questions regarding the proposed work plan:

- Is this proposed work plan a plan to develop a plan?
- Is Commission Staff developing a CCA implementation plan with recommendations for the Commission to address specific issues and concerns raised by parties?
- Will issues be prioritized in order of urgency?
- Will Staff be recommending actions for the utilities through this planning process?
- Is the goal to discuss and come to a consensus on key issues or to inform Staff's recommendations to the Commissioners?

Question 2. What are the most important issues for the Commission to address during this proceeding?

Public Counsel submitted written comments to the Commission on the CCA four-year demand and resource supply forecasts in Docket UE-220770 (Avista), Docket UE-220789 (PacifiCorp), and Docket UE-220797 (Puget Sound Energy or PSE) on January 6, 2023. Public Counsel also submitted written comments regarding the CCA deferral petitions in Dockets UE-220974/UG-220975 (PSE), UG-220803 (Avista), UG-220926 (NW Natural), and UG-220759 (Cascade) on February 23, 2023. Public Counsel offered a number of recommendations to the Commission in those dockets. We believe that issues related to the CCA forecasts, the consignment of no-cost allowances, and CCA compliance costs and recovery remain unresolved and should be addressed in this proceeding.

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CCA Forecasts

Last year, investor-owned utilities individually submitted to the Commission four-year demand and resource supply forecasts.¹ The format of these dockets differed between the utilities, and two of the utilities (PSE and PacifiCorp) submitted these forecasts while their Clean Energy Implementation Plans (CEIPs) were being contested. Thus, Public Counsel provided recommendations that would improve transparency and fair processes. Public Counsel recommended that the approval of the forecasts should not pre-empt the CEIP or Integrated Resource Plan processes, that the Commission should require reporting on the use of allowance revenues and on allowance corrections, that the proper use of allowance revenues should be discussed with interested parties, and that the Commission should require robust documentation from the utilities.

During the open meeting on January 23, 2023, NW Energy Coalition and Climate Solutions raised concerns that the annual true-up mechanism in Chapter 173–446 to adjust utility no cost allowances each year depending on verified emissions could incentivize utilities to pollute more. WAC 173-446-230(2)(g)² could create perverse incentives for utilities to pollute more, or at the very least not reduce their emissions beyond the no-cost allowances granted to them. The utilities were uncertain about what the true-up mechanism meant for them, and they had different interpretations of what Ecology would do to adjust their allowances. A number of questions remain pertaining to CCA demand and resource supply forecasts that should be addressed in this CCA workshop series:

- When should utilities update their CCA forecasts if they are based on a submitted CEIP that have materially different interim targets than the utility's most recently approved CEIP?
- Where and how should utilities report their forecasted emissions, actual verified emissions, allowances received for emissions, allowances received for administrative costs, and allowance adjustments annually?
- What outstanding issues and questions are there for Ecology about the CCA rules, and how should these issues be resolved, managed, or mitigated?
- How can the UTC coordinate with Ecology over remaining issues and modify the scope of this proceeding to incorporate additional issues as needed?
- What standards should companies follow in reporting their CCA supply and demand forecasts?

¹ See Comments on behalf of Public Counsel, *In re: the Petition of Avista Corp., PacifiCorp, and Puget Sound Energy for an Order Approving Its Four-Year Demand and Resource Supply Forecast Pursuant to RCW 70A.65.120, Climate Commitment Act*, Dockets UE-220770 (Avista), UE-220789 (PacifiCorp), and UE-220797 (Puget Sound Energy) (filed Jan. 6, 2023).

² WAC 173-446-230(2)(g) says that Ecology will adjust the initial allocation of allowances “as necessary to account for any differential between the applicable reported greenhouse gas emissions for the prior years for which reporting data are available and verified ...” Ecology has not specified how it will adjust the initial allocation of allowances.

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Consignment of No-cost Allowances

Public Counsel recommended in the CCA four-year demand and resource supply forecast dockets³ that utilities should report the use of their allowance revenues. Additionally, in both the CCA demand and resource supply forecast dockets⁴ and the CCA deferred accounting petition dockets,⁵ Public Counsel recommended that the Commission issue guidance to utilities regarding the proper use of revenues from allowances consigned at auction. WAC 173-446-300(2)(b)(i) requires that electric utilities with revenue from consignment of no-cost allowances prioritize mitigation of low-income energy burden. WAC 173-446-300(2)(b)(iii) requires that natural gas utilities with revenue from auction of no-cost allowances eliminate low-income energy burden. Natural gas utilities must also provide non-volumetric credits on customer bills, and/or invest in other activities that minimize cost impacts on low-income, residential, and small businesses such as weatherization, decarbonization, conservation, and bill assistance. The statute provides for broad potential uses of revenues, and more discussion is required to determine how to best benefit customers with these revenues. The following questions remain regarding the consignment of no-cost allowances that should be addressed in this proceeding:

- Where and how should utilities report how they use revenues from the allowance consignment process?
- What does "consignment for the benefit of ratepayers" mean?
 - How do the requirements on consignment revenues differ between electric and natural gas utilities?
 - How much of the revenues from consignment should go towards bill assistance, decarbonization, conservation, or other types of benefits?
 - What types of decarbonization investments should be allowed, and what types of decarbonization investments should not be allowed (i.e., R&D)?
 - Should revenues received from consignment of no-cost allowances for administrative costs be treated differently from no-cost allowances received to cover an electric utility's emissions?
 - Natural gas utilities are required by rule to eliminate low-income burden: would this be exclusively through bill credits or would conservation or clean energy programs be allowed to contribute towards this requirement?

³ See Comments on behalf of Public Counsel, *In re: the Petition of Avista Corp., PacifiCorp, and Puget Sound Energy for an Order Approving Its Four-Year Demand and Resource Supply Forecast Pursuant to RCW 70A.65.120, Climate Commitment Act*, Dockets UE-220770 (Avista), UE-220789 (PacifiCorp), and UE-220797 (Puget Sound Energy) (filed Jan 6, 2023).

⁴ *Id.*

⁵ See Comments on behalf of Public Counsel, *In re: Petitions of Puget Sound Energy, Avista Corp., Nw. Nat. Gas Co., and Cascade Nat. Gas Corp. for Orders Authorizing Deferral of Costs associated with the Climate Commitment Act*, Dockets UE-220974/UG-220975 (PSE), UG-220803 (Avista), UG-220926 (NW Natural), and UG-220759 (Cascade) (filed Feb. 17, 2023).

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- How should benefit to ratepayers be measured and evaluated?
- What does it mean to prioritize low-income customers after eliminating the additional cost burden to these customers?
 - Should the remaining CCA auction revenues be directed towards further low-income credits and assistance programs? If not, what percentage of the remaining revenues should be applied towards low-income customers?

CCA Compliance Costs and Recovery

PSE, Avista, NW Natural, and Cascade each filed petitions to defer costs associated with CCA compliance.⁶ In those dockets, the utilities sought recovery of different types of costs. PSE sought to defer revenues and costs directly related to the purchase and sale of CCA allowances. Other utilities sought to recover administrative costs, energy efficiency, acquisition of renewable natural gas, and research and development (R&D) costs. During the February 23, 2023 open meeting, the Commissioners established appropriate account types for CCA compliance cost deferral. Chair Danner expressed discomfort with R&D costs being included, and the decision resulting from that meeting resulted in the exclusion of R&D costs. The Commissioners agreed that further discussion around cost-recovery be discussed in this CCA workshop proceeding. The following questions surrounding CCA compliance costs and recovery should be discussed in this proceeding:

- Should the cost of CCA allowances be incorporated into the cost of utility resource dispatch?⁷
 - If CCA allowances are incorporated into the cost of utility resource dispatch, under what recovery mechanism should electricity market purchase costs due to the CCA be recovered?
- What CCA compliance costs should be tracked? How should they be tracked?
- What type of CCA costs are appropriate to recover:
 - annually through a tariff filing?
 - through a general rate case filing?
 - through a purchase gas adjustment or power cost mechanism?
- Should utilities that do not currently track CCA-related costs through deferral accounts be required to create a deferral account for certain CCA-related costs?

⁶ See Comments on behalf of Public Counsel, *In re: Petitions of Puget Sound Energy, Avista Corp., Nw. Nat. Gas Co., and Cascade Nat. Gas Corp. for Orders Authorizing Deferral of Costs associated with the Climate Commitment Act*, Dockets UE-220974/UG-220975 (PSE), UG-220803 (Avista), UG-220926 (NW Natural), and UG-220759 (Cascade) (filed Feb 17, 2023).

⁷ Note that the question of whether and how to incorporate the cost of CCA allowances into dispatch is dependent on how Ecology decides to adjust allowance allocations based on actual emissions.

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Question 3. Do you have any other comments you would like to offer on the implications of the CCA for IOUs and ratepayers?

The CCA has vast potential to reduce carbon emissions in a way that protects electric and natural gas ratepayers, particularly those in low-income and other marginalized communities. Thorough collaboration among all interested parties is required in order for this legislation to reach its full potential in implementation and adequately provide the customer benefits it intends. It may be worth coordinating with Ecology and IOUs on the conversations or workshops they are already having on CCA-related issues, outside of this Commission-led workshop. For example, there are ongoing workshops hosted by PSE related to various CCA matters that may come up in this proceeding and implementation. There may be questions and comments that arise out of those conversations that are valuable to this proceeding.

Further, we encourage the Commission and IOUs to conduct robust public and stakeholder outreach throughout this workshop in order to keep ratepayers and other interested organizations informed and involved.

Public Counsel appreciates the opportunity to provide input on the proposed workplan and implications of the Climate Commitment Act. If you have any questions about this filing, please contact Aaron Tam at Aaron.Tam@ATG.WA.GOV, Shay Bauman at Shay.Bauman@ATG.WA.GOV, and Nina Suetake at Nina.Suetake@ATG.WA.GOV.

Sincerely,

/s/ 

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