

July 22, 2022

Dave Danner and Ann Rendahl
Chair, Commissioner
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: Climate Commitment Act implementation (RCW 70A.65)

Dear Commissioners,

As the Department of Ecology considers rules to implement the Climate Commitment Act (CCA), we have identified a few issues under the Commission's purview, which we recommend the Commission examine before the program goes into effect.

We understand that UTC staff is engaging with the Department on its development of WAC 173-446, and we encourage increased collaboration between the agencies to implement the program for Commission-regulated electric and natural gas companies. Information-sharing between the agencies will be important to ensure robust oversight of the program. Specifically, we encourage the agencies to collaborate on the provisions of the Climate Commitment Act which require the Commission's direct oversight:

- **The Commission must adopt a forecast to be used for the allocation of no-cost allowances to electric utilities.** RCW 70A.65.120 requires the Commission to adopt a forecast, which the Department of Ecology must then use to allocate no-cost allowances for electric utilities, by October 2022. This forecast will have a significant impact on the market of the cap-and-trade program, particularly in the first few years. It is essential that the forecast be based on a model that is well-vetted, robust, and as closely representative of utility system operations under the Clean Energy Transformation Act (CETA) as possible. In order for the forecast to approximate actual system operations under current law, the forecast should be based on statutory CETA targets and the effects of a carbon price on resource dispatch. We encourage the Commission to seek public input on its development of the forecast.
- **The CCA requires that allowances that are consigned to auction be consigned "for the benefit of ratepayers."** Determining whether "benefits to ratepayers" have been achieved is an issue squarely within the Commission's consumer protection and rate-setting purview. No-cost allowances are regulatory assets conferred by the state of Washington to utilities for the purpose of demonstrating compliance with the Climate Commitment Act. While the UTC does not have a role in allocating these allowances or overseeing the auctions, the Commission should exercise oversight over ensuring that

utilities it regulates are achieving the requirement to consign allowances *for the benefit of ratepayers*. One area in which the Commission might exercise its authority could be when allowances are consigned to auction and the utility earns proceeds from the sale of those allowances to another covered or opt-in entity. Those proceeds could benefit customers through additional demand side resource solutions or could be returned to customers in rates, with the first priority being mitigating the long-term program impact or energy burden on low-income customers. (RCW 70A.65.120(4) and RCW 70A.65.130(2))

While not explicitly provided for in the statute, the CCA also implicates other utility business practices, which are under the Commission's purview. We urge the Commission to examine its oversight of these activities and ensure that utilities are taking reasonable steps to implement CCA and mitigate the costs and risks to customers:

1. **Coordinated implementation of CCA and CETA is necessary to ensure that expected benefits to ratepayers are achieved.** CCA relies entirely on CETA to reduce emissions in the electricity sector. This is why CCA provides an allocation of no-cost allowances to electric utilities. The intent of this element of the policy is to avoid double regulation and duplicative cost impacts in the application of both CCA and CETA to electric utilities. Ensuring coordinated implementation of CETA and CCA will be essential to appropriately allocate no-cost allowances, and subsequently achieve the state's emission reduction targets. Because these decisions will have an impact on utility compliance and ratepayer impacts, it is essential that the Commission provide sufficient oversight and transparency to inform the allocation of no-cost allowances to electric utilities.
2. **Electric and natural gas utilities should plan for and take actions to reduce their compliance obligation under the CCA.** To start, utilities must incorporate CCA compliance into all of their planning. This is necessary to inform what actions each utility should take to reduce its compliance obligation at the lowest reasonable cost, even if they are allocated allowances to cover a portion of their compliance obligation at no cost. Consistent with its broad public interest oversight, the Commission should exercise oversight over utility plans for compliance with the CCA. Washington utilities are currently exploring this in the development of their 2023 Integrated Resource Plans and IRP progress reports. We believe that the existing integrated resource planning and clean energy implementation plan requirements are likely sufficient for this purpose; however, it is essential that the Commission ensure that the utility analyses are comprehensive, and provide for robust public participation. The Commission should provide UTC staff and utilities with sufficient information about its expectations during the planning process to allow for proactive and productive engagement with stakeholders in utility integrated resource planning.
3. **Electric and natural gas utilities must plan for and operationalize the price effect of the CCA.** In both planning and real-time operations, it is essential that the price effect of the CCA (based either on a projection or current allowance prices) be reflected in market dispatch. This is important for ensuring that the program has its intended effect on reducing emissions, and also to ensure that the economy-wide policy is implemented

fairly across all sectors and for all covered and opt-in entities. While utilities receive allowances for a share of their compliance obligation at no cost, allowances hold a value and an opportunity cost exists if emissions are not reduced beyond a utility's allowance allocation. Given these considerations, regulatory guidance will likely be necessary in order to incorporate this price effect into planning and real-time operations. In the absence of an organized market, it is unclear how this price effect will be realized, unless it is operationalized in-house by the utilities themselves. We encourage the Commission to direct the Washington investor-owned utilities to include the current market price of allowances in all trading of emitting fuels and dispatch of emitting resources.

4. **Electric and natural gas utilities must exercise transparency and accountability to the Commission, their customers, and the public concerning their management of no-cost allowances for the benefit of ratepayers.** No-cost allowances are regulatory assets conferred by the State of Washington to electric and natural gas utilities for the purpose of demonstrating compliance with the Climate Commitment Act. Therefore, the Commission, utility customers, and the public have an interest in ensuring that these assets are managed in the public interest. We offer four recommendations to provide a minimum level of transparency and accountability:

- a. *The Commission should provide guidance concerning the reinvestment of any proceeds from the consignment of no-cost allowances.* RCW 70A.65.130 allows for the reinvestment of allowance proceeds in projects that provide benefits to ratepayers including, but not limited to, weatherization, decarbonization, conservation and efficiency services, and bill assistance. We recommend that utilities be required to consult with their advisory groups on the optimal pathways for reinvestment of allowance sale proceeds.
- b. *The Commission should require electric and natural gas utilities to file tariff schedules to allow for cost recovery and programs that benefit customers associated with the consignment of no-cost allowances, and the purchase of allowances for compliance with the Climate Commitment Act.* Such tariffs should describe the terms under which utilities will consign no-cost allowances for the benefit of ratepayers, including to mitigate the cost to low-income customers (RCW 70A.65.120). We recommend that utilities be required to consult with their advisory groups prior to filing such tariffs – especially their low-income, conservation/energy efficiency, and equity advisory groups.
- c. *The Commission should require quarterly reporting of CCA allowance data for electric and natural gas companies.* Reporting requirements should include, but not be limited to, the following information:
 - i. The number of no-cost allowances allocated to the utility
 - ii. The number and price of no-cost allowances consigned in the most recent auction
 - iii. The number and price of allowances purchased in the most recent auction
 - iv. The total number of allowances in the utility's holding account

- v. The total number of allowances transferred to the utility’s compliance account and the date of the last transfer

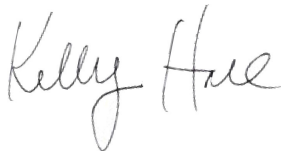
Since the passage of SB 5295, the Commission is allowed to use forecasts for ratemaking purposes. As the Commission transitions to a more forward-looking rate-setting approach, we urge it to think proactively about how the CCA will affect utility investments and customer rates. Reasonable speculation about CCA allowance allocation, price effects, and impacts may be necessary in order to mitigate risks to customers.

Finally, we recommend that the Commission be skeptical of arguments that Washington’s Climate Commitment Act is equivalent to or mirrors the requirements in California’s cap-and-trade program – particularly as it applies to electric utilities. Washington’s regulatory framework is distinct in a number of ways which will necessitate close scrutiny by the Commission of issues under its purview. We stand ready to support a robust public process to ensure that Washington utilities comply with the CCA at the lowest reasonable cost and risk to customers.

Sincerely,



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