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February 17, 2023

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Executive Director and Secretary
Washington Utilities and Transportation Commission
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Re: *In re: Petitions of Puget Sound Energy, Avista Corporation, Northwest Natural Gas Company, and Cascade Natural Gas Corporation 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)

Dear Director Maxwell:

The Public Counsel Unit of the Washington State Attorney General's Office (Public Counsel) respectfully submits these comments in advance of the February 23, 2023, Open Meeting. These comments are in response to the petitions of Puget Sound Energy (PSE), Avista Corporation (Avista), Northwest Natural Gas Company (NW Natural), and Cascade Natural Gas Corporation (Cascade) for orders authorizing the deferral of costs associated with the Climate Commitment Act (CCA).

Public Counsel's Recommendation

Public Counsel recommends that the Commission:

- Order the utilities to exclude R&D from the deferral accounts.
- Order the utilities to separately track CCA compliance costs as a regulatory asset and any revenues from allowances sold at auction as a regulatory liability, without any netting of the two accounts.
- Approve the use of the actual cost of debt as the carrying charge for each utility, but clarify in its order whether the utilities are to use the pre-tax or post-tax cost of debt and how the carrying charge should apply to costs versus revenues.
- Direct utilities not to provide any customer credits using these revenues until the Commission issues an order or guidance concerning how best to use the revenues for the benefit of ratepayers, prioritizing low-income customers.
- Include a sunset provision in its orders approving these petitions and require CCA costs to be included in each utility's next general rate case.
- Initiate workshops so parties can further discuss adequate use of CCA revenues and determine which CCA costs are embeddable into general rates.

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In accordance with WAC 480-07-370(3), PSE (gas and electric), Avista (gas only), Northwest Natural, and Cascade each petition the Washington Utilities and Transportation Commission (UTC or Commission) for an Order authorizing deferred accounting for costs and revenues associated with the CCA in RCW 70A.65, which was approved in Senate Bill 5216 and signed into law by Governor Jay Inslee on May 17, 2021.

Costs Included in the Deferral Accounts

The different utilities each petition for different costs to be included in their respective deferral account. Cascade, Avista, and NW Natural all request to defer incremental costs associated with the implementation and operation of the CCA to FERC account 182.3 Other Regulatory Assets. They include costs such as administrative costs, energy efficiency program costs, purchase and trade of allowances, the incremental cost of renewable natural gas (RNG), and other decarbonization efforts. PSE’s accounting petition covers a narrower scope than the other utilities, and PSE submitted petitions for both its electric and natural gas services. PSE requests to defer the cost of purchasing allowances in FERC account 182.3 Other Regulatory Assets and the proceeds of no-cost allowances consigned to auction as a regulatory liability in FERC account 254 Other Regulatory Liabilities.

Table 1: Summary of Utility CCA Deferral Requests

Docket Number	Utility	Deferral Request
UG-220803	Avista	Costs to comply with CCA including the purchase of Renewable Natural Gas, energy efficiency for natural gas transport customers, and other decarbonization efforts. ¹
UG-220926	NW Natural	Costs to meet its obligations under CCA which includes administrative costs, purchase of emissions allowances at auctions held by Ecology, enhanced energy efficiency programs and measures, and acquisition fo renewable natural gas. ²
UG-220759	Cascade	All incremental costs and revenues of associated with the implementation and operation of the CCA, which includes costs of contracting an independent consultant, administrative costs, energy efficiency programs for interruptible and transport customers,

¹ See Petition of Avista for an Accounting Order Authorizing Deferral of Natural Gas Costs and Revenues Related to Compliance with the Climate Commitment Act at 3, Docket UG-220803 (filed Nov. 1, 2022).

² See Amended Petition of NW Natural for an Accounting Order Authorizing Deferred Accounting Treatment Related to the Climate Commitment Act at 3 & 4, Docket UG-220926 (filed Feb. 13, 2023).

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		purchase and trade of allowances, R&D, incremental cost of RNG, and revenues from voluntary carbon offset programs. ³
UE-220974	PSE	Cost of any allowance purchases to comply with the CCA and proceeds of no-cost allowances consigned to auction. ⁴
UG-220975	PSE	Cost of any allowance purchases to comply with the CCA and proceeds of no-cost allowances consigned to auction. ⁵

Public Counsel has no objection to PSE’s request to defer only the costs and revenues associated with the purchase and sale of CCA allowances. While Public Counsel does not necessarily oppose the deferral of all other CCA-related costs, Public Counsel notes the disparity between PSE’s requested accounting treatment and that of the other utilities. Public Counsel does not believe deferred accounting treatment should be authorized for an unlimited and undefined set of costs nor should they be used indefinitely for costs that can and should be embedded in general rates as a normal cost of doing business.

Public Counsel is particularly concerned with Cascade’s proposal to defer the costs of research and development (R&D). As a general matter, ratepayers should not bear the risk of entirely new R&D. While new developments can certainly benefit customers, ratepayers are not venture capitalists, and the Commission should not allow utilities to gamble with ratepayer dollars. Ratepayers should be only required to bear the cost of investments that are put in service or potentially for limited pilot projects to test how best to use equipment such as smart meters or electric vehicle charging equipment which have been heavily vetted by the industry and other utilities. Utilities should be required to bear the risk of R&D experiments at the outset, not ratepayers. In this specific instance, Cascade has requested to defer R&D costs with essentially few limitations and no parameters. Public Counsel requests the Commission to prohibit the utilities from deferring the costs of R&D in these accounts. At a minimum, Public Counsel requests that significant limitations be placed on the types of costs the utilities may defer related to R&D. Public Counsel acknowledges that deferring these costs does not guarantee recovery, but the uncertainty regarding the ability of parties to fully adjudicate the prudence of these costs creates greater risk that parties will not be able to sufficiently scrutinize these investments and places that risk entirely on ratepayers.

³ See Revised Petition of Cascade for an Accounting Order Authorizing Deferred Accounting Treatment of Expenses Relating to the Implementation of the Climate Commitment Act at 2 & 3, Docket UG-220759 (filed Feb. 14, 2023).

⁴ See Petition of PSE for an Order Authorizing Deferred Accounting Treatment for PSE’s Electric Costs and Proceeds Associated with the Climate Commitment Act at 6, Docket UE-220974 (filed Dec. 29, 2022).

⁵ See Petition of PSE for an Order Authorizing Deferred Accounting Treatment for PSE’s Natural Gas Costs and Proceeds Associated with the Climate Commitment Act at 6, Docket UG-220975 (filed Dec. 29, 2022).

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Separate Tracking of Allowance Costs and Revenues

Under the CCA, the proceeds of all allowances consigned to auction must be used for the benefit of ratepayers. In order ensure compliance with the CCA, Public Counsel requests that the Commission explicitly order the utilities to track revenues from the sale of allowances at auction separately from all other CCA-related costs or revenues. The Commission’s order should also clearly prohibit any netting of the revenues and costs.

CCA rules state that the use of the revenues will be determined by the UTC.⁶ For electric utilities, the CCA requires that the revenues “must be used...for the benefit of ratepayers, with the first priority the mitigation of rate impacts to low-income customers.”⁷ The CCA includes additional requirements for the use of these revenues by natural gas utilities and states,

- Beginning in 2023, 65 percent of the no cost allowances must be consigned to auction for the benefit of customers, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of this chapter...⁸
- Revenues from allowances sold at auction must be returned by providing nonvolumetric credits on ratepayer utility bills, prioritizing low-income customers, or used to minimize cost impacts on low-income, residential, and small business customers through actions that include, but are not limited to, weatherization, decarbonization, conservation and efficiency services, and bill assistance. The customer benefits provided from allowances consigned to auction under this section must be in addition to existing requirements in statute, rule, or other legal requirements.⁹
- Except for low-income customers, the customer bill credits under this subsection are reserved exclusively for customers at locations connected to a natural gas utility's system on July 25, 2021. Bill credits may not be provided to customers of the gas utility at a location connected to the system after July 25, 2021.¹⁰

⁶ WAC 173-446-300(2)(b)

(i) . . . All proceeds from the auction of allowances consigned by electric utilities will be used for the benefit of ratepayers, which, for investor-owned utilities, will be determined by the utilities and transportation commission, and with the first priority the mitigation of any rate impacts to low-income customers. . . . (iii) All proceeds from the auction of allowances consigned by natural gas utilities shall be used for the benefit of customers, as determined by the utilities and transportation commission for investor-owned natural gas utilities, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of the Climate Commitment Act.

WAC 173-446-230(6); WAC 173-446-240(3).

⁷ RCW 70A.65.120(4).

⁸ RCW 70A.65.130(2)(a).

⁹ RCW 70A.65.130(2)(b).

¹⁰ RCW 70A.65.130(2)(c).

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Given the Commission's responsibility to ensure that the revenues from the consignment sale of no cost allowances properly benefit ratepayers and prioritize low-income customers, Public Counsel believes the most transparent way to ensure all revenues from the consignment sale of no-cost allowances are used for the benefit of ratepayers is to avoid any potential commingling of these revenues with all other CCA-related costs or revenues. If the allowance purchase costs, other CCA-related costs, revenues from voluntary allowance sales, and revenues from no-cost allowance consignment are tracked in the same account, it creates a risk of netting the costs against one another.

PSE requested to use separate accounts to track the CCA-related costs and revenues.¹¹ PSE proposed to track the costs as a regulatory asset in FERC Account 182.3¹² and track the revenues as a regulatory liability in FERC Account 254.¹³ Cascade amended its petition to request that CCA-related costs and revenues received from allowance sales be tracked in separate subaccounts or by work order.¹⁴ Public Counsel prefers and supports PSE's approach to separately tracking the costs and revenues and identifying the revenues as a regulatory liability intended to be refunded to customers.¹⁵ Public Counsel believes this approach is more transparent and would reduce the risk of comingling of CCA costs and revenues from consignment of no-cost allowances. Public Counsel requests that the Commission require the other utilities use a similar accounting treatment as PSE's petition.

Interest Rate

Initially, PSE and Avista requested a carrying charge equal to the actual cost of debt, NW Natural requested the FERC rate, and Cascade did not request an interest rate at all. After

¹¹ See Petition of PSE for an Order Authorizing Deferred Accounting Treatment for PSE's Electric Costs and Proceeds Associated with the Climate Commitment Act at 6, Docket UE-220974.

¹² See 18 CFR § 367.1823 - Account 182.3, Other regulatory assets.

¹³ See 18 CFR § 367.2540 - Account 254, Other regulatory liabilities.

¹⁴ See Revised Petition of Cascade for an Accounting Order Authorizing Deferred Accounting Treatment of Expenses Relating to the Implementation of the Climate Commitment Act at 3, Docket UG-220759 (filed Feb. 14, 2023).

¹⁵ See 18 CFR § 367.1 – Definitions

(a)(38) Regulatory assets and liabilities are the assets and liabilities that result from rate actions for regulatory agencies. Regulatory assets and liabilities arise from specific revenues, expenses, gains, or losses that would have been included in net income determination in one period under the general requirements of the Uniform System of Accounts but for it being probable:

(i) That such items will be included in a different period(s) for purposes of developing rates the service company is authorized to charge for its services; or

(ii) In the case of regulatory liabilities, that refunds to customers, not provided for in other accounts, will be required.

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discussions with Commission Staff, Cascade and NW Natural filed revised petitions requesting a carrying charge equal to the actual cost of debt, updated semi-annually.¹⁶

Public Counsel is generally supportive of this change, and appreciates Staff's efforts toward consistency. The actual cost of debt makes more sense in this case than the FERC rate, as the FERC rate is more related to interstate electric transmission. In addition, the Commission recently ordered each of these companies to use the actual cost of debt to calculate interest on the deferrals of the increased costs associated with the updated Commission regulatory fees.¹⁷ The continued use of the actual cost of debt allows for consistency among utility practices.

There remain details related to the petitions that are not entirely clear and require more discussion. First, it is not clear whether the utilities are to use the pre-tax actual cost of debt or the post-tax actual cost of debt. This is an important distinction. Avista's petition specified it would use the post-tax actual cost of debt,¹⁸ but none of the other petitions specified. Public Counsel recommends that the Commission make this distinction clear in its Order.

Additionally, it is not clear how the interest rates proposed should be applied to costs versus revenues, which is further complicated by the variation among costs included by the utilities. For example, PSE proposes to defer only allowance purchase costs and consignment revenues, and specifically proposes that the interest will accrue on the *net* deferred balance between the two.¹⁹ None of the other companies specify whether the carrying charge will apply to the net value of costs and revenues or to each separately. It is possible that applying the carrying charge to the net value may mitigate some of the interest impact to ratepayers, as its impact on costs might be

¹⁶ See Revised Petition of Cascade for an Accounting Order Authorizing Deferred Accounting Treatment of Expenses Relating to the Implementation of the Climate Commitment Act, Docket UG-220759 (filed Feb. 14, 2023); Amended Petition of NW Natural for an Accounting Order Authorizing Deferred Accounting Treatment Related to the Climate Commitment Act, Docket UG-220926 (filed Feb. 13, 2023).

¹⁷ *In re: the Pet. of Avista Corp. for an Ord. Authorizing Deferral of Costs Related to the Increase in the Regul. Fee Approval in Senate Bill 5634*, Dockets UE-220892 & UG-220893, Order 01 (Jan. 26, 2023); *In re: the Pet. of Cascade Nat. Gas. Corp. for an Acct. Ord. Authorizing Deferred Acct. Treatment for Increase in Regul. Fee Costs*, Order 01 (Jan. 26, 2023); *In re: the Pet. of Northwest Nat. Gas Co. for an Acct. Order Authorizing Deferred Acct. Treatment for Increase in Regul. Fee Costs*, Order 01 (Jan. 26, 2023); *In re: the Pet. of Puget Sound Energy for an Acct. Order Authorizing Deferred Acct. Treatment for Puget Sound Energy's Increased Costs Associated with the Updated WUTC Regul. Fee Approved in Senate Bill 5634 (2022)*, Dockets UE-220407 & UG-220408, Order 01 (Jan. 26, 2023).

¹⁸ See Petition of Avista for an Accounting Order Deferral of Natural Gas Costs and Revenues Related to Compliance with the Climate Commitment Act at 4, Docket UG-220803.

¹⁹ See Petition of PSE for an Order Authorizing Deferred Accounting Treatment for PSE's Electric Costs and Proceeds Associated with the Climate Commitment Act at 6, Docket UE-220974.

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considerably larger than revenues. Public Counsel thinks this requires more discussion among parties at the Open Meeting, and clear directive from the Commission in its Order. To leave this open ended could cause parties significant confusion in the future, and clarity at the start of the process could reduce disagreement between parties when the companies request cost recovery. Regardless, as noted above, the gross values specifically of allowance purchase costs and consignment revenues should be tracked separately, and not netted against each other, in order to adequately allocate revenues for the benefit of ratepayers and prioritize low income customers.

Recovery Mechanism

The utilities also request or discuss different methods of eventual recovery of these costs. Table 2 outlines the different proposals.

Table 2: Proposals or Discussions Related to Cost Recovery

Utility	Cost Recovery Request
Avista	Anticipates proposing a tariff rider for recovery in 2023 with adjustments happening annually going forward. ²⁰
NW Natural	No specific discussion or request
Cascade	Annual recovery until it is appropriate to imbed all or a portion of the costs into general rates. ²¹
PSE	Does not request that the Commission address the final rate treatment for recovery of the deferrals. If necessary, PSE will file tariff schedules that will include recovery proposals at a future time. ²²

Public Counsel is sensitive to the fact that this is a new mandate and that utilities should be allowed some method of tracking and recovery to manage prudently incurred costs of compliance. We also note that two of the utilities, PSE and Avista, recently concluded large general rate cases that established base rates for the next two years and do not include CCA compliance costs in those rates. Public Counsel believes there are many details relating to the CCA yet to be determined, and an annual tariff filing may be appropriate to allow for cost

²⁰ See Petition of Avista for an Accounting Order Deferral of Natural Gas Costs and Revenues Related to Compliance with the Climate Commitment Act at 4, Docket UG-220803.

²¹ See Amended Petition of Cascade for an Accounting Order Authorizing Deferred Accounting Treatment of Expenses Relating to the Implementation of the Climate Commitment Act at 3, Docket UG-220759.

²² See Petition of PSE for an Order Authorizing Deferred Accounting Treatment for PSE’s Electric Costs and Proceeds Associated with the Climate Commitment Act at 3, Docket UE-220974; See Petition of PSE for an Order Authorizing Deferred Accounting Treatment for PSE’s Natural Gas Costs and Proceeds Associated with the Climate Commitment Act at 3, Docket UG-220975 (filed Dec. 29, 2022).

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recovery for a short period. However, we take issue with Avista's proposal to recover these costs outside of general rate cases in an annual tariff rider that continues in perpetuity.

The potential costs of CCA compliance are significant. PSE estimated it could near \$200 million annually for its electric operations²³ and \$100 million annually for gas.²⁴ Cascade provides a highly uncertain first-year estimate of anywhere from \$2 million to \$40 million.²⁵ The significant costs and broad scope of some of these petitions as well as the potential complexity of reviewing new types of expenditures will likely require significant review and scrutiny on behalf of regulators and parties to determine prudence.

Utilities must also show that they comply with the CCA requirement to use revenues from the consignment sale of no-cost allowances for the benefit of ratepayers. This may be contentious, and should not take place in an annual tariff filing. As noted above, investor-owned utility compliance with the CCA requirement to use revenues from allowance consignment sales for the benefit of ratepayers while prioritizing low-income customers must be determined by the UTC,²⁶ and further discussion is needed to establish compliance guidelines. Public Counsel does not think it is appropriate to simply refund the revenues as a bill credit or through any other other mechanism without further discussion and scrutiny. This provision in the CCA provides a real opportunity to lower burdens and minimize cost impacts on low-income customers, and parties should be allowed adequate time and process to ensure ratepayers are protected in the implementation of the CCA. Public Counsel requests that the Commission direct utilities not to provide any customer credits using these revenues until the Commission issues an order or guidance concerning this topic. Public Counsel also requests a workshop for interested parties and the Commission to discuss this issue further.

Annual tariff filings do not provide parties adequate opportunity for discovery or the protections inherent in a formal adjudication. The timeline for review of an annual tariff filing is also considerably shorter than that of a general rate case. Transparency of process and adequate time for thorough review will be necessary for parties to determine if the CCA-related costs set for recovery are truly prudent, and if revenues are adequately used to benefit ratepayers and prioritize low-income customers. An annual tariff filing is an inappropriate method to recover

²³ See Petition of PSE for an Order Authorizing Deferred Accounting Treatment for PSE's Electric Costs and Proceeds Associated with the Climate Commitment Act at 5, Docket UE-220974.

²⁴ See Petition of PSE for an Order Authorizing Deferred Accounting Treatment for PSE's Gas Costs and Proceeds Associated with the Climate Commitment Act at 5, Docket UG-220975.

²⁵ See Amended Petition of Cascade for an Accounting Order Authorizing Deferred Accounting Treatment of Expenses Relating to the Implementation of the Climate Commitment Act at 3, Docket UG-220759.

²⁶ WAC 173-446-400(2)(iii)(A).

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these costs in the long-term, and should not be used at all for the refund of revenues to ratepayers until parties have further discussed how to best benefit ratepayers.

In addition to the relative lack of scrutiny in an annual tariff filing, these filings also significantly undermine the primary customer benefits of test year ratemaking if used for a large portion of utility costs. While Public Counsel recognizes that deferred accounting may be appropriate for initial compliance with newly established regulations, at some point, CCA compliance should simply be a part of doing business in the state of Washington and these costs, or a significant portion of the costs, should be included in utility rate cases. Public Counsel requests the Commission's orders approving these petitions to include a sunset provision and require CCA costs to be included in each utility's next general rate case. If necessary, a Commission workshop could help parties determine which CCA costs are embeddable into general rates and which can remain in an annual tariff filing.

Other Issues

Public Counsel noticed that Avista did not file a deferral petition for CCA costs related to its electric services and Pacific Power dba Pacific Power & Light Company (PacifiCorp) did not file a deferral petition for CCA costs in general. We believe that, for consistency, transparency, and accountability, deferral accounts should be established for Avista's electric service and PacifiCorp electric and natural gas services in the event that either utility engages in allowance transactions. Public Counsel recommends that the Commission order that PacifiCorp (both electric and natural gas service) and Avista (electric service) defer costs associated with purchasing CCA allowances in FERC account 182.3 Other Regulatory Assets and defer proceeds of no-cost allowances consigned to auction as a regulatory liability in FERC account 254 Other Regulatory Liabilities.

Public Counsel recommends that Avista create a deferral accounts for CCA allowance costs and proceeds for its electric service. Ecology's final CCA program rules may result in annual no-cost allowance adjustments that may require Avista to purchase additional allowances.²⁷ Additionally, Avista anticipates that it may need to purchase allowances during the final year of the compliance period because hydro or load conditions may differ materially in the last year of the compliance period compared to its forecast.²⁸ Finally, Avista may also be able to consign to auction no-cost allowances depending on how Ecology adjusts allowances and hydro or load conditions. Due to these concerns, Public Counsel believes that it is appropriate to establish

²⁷ See Revised Petition of Avista for an Order Approving its Four-Year Demand and Resource Supply Forecast Pursuant to the Climate Commitment Act ¶ 10, Docket UE-220770 (filed Dec. 27, 2022).

²⁸ See *id.* ¶ 11.

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deferral accounts for Avista's electric service to track the costs of CCA allowances and proceeds from no-cost allowances over time until Avista seeks recovery.

PacifiCorp did not file a deferral petition for CCA costs for its electric and natural gas services. Public Counsel believes that to maintain consistency with other Washington State utilities, PacifiCorp should also defer accounting of CCA allowance purchases and proceeds from no-cost allowance auction sales. The same concerns regarding prudence of CCA allowance purchases and use of no-cost allowance proceeds still apply to PacifiCorp. Unless PacifiCorp plans to embed these costs in general rates, it would be helpful to track PacifiCorp's activities relating to CCA allowances in deferral accounts.

Public Counsel appreciates the opportunity to submit these comments. If you have any questions about this filing, please contact Shay Bauman at Shay.Bauman@ATG.WA.GOV, Aaron Tam at Aaron.Tam@ATG.WA.GOV, and Nina Suetake at Nina.Suetake@ATG.WA.GOV.

Sincerely,

/s/ 

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