**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Commission-led Workshop Series on the Climate Commitment Act	**DOCKET U-230161**

COMMISSION STAFF COMMENTS IN RESPONSE TO NOTICE TO FILE WRITTEN COMMENTS ON CCA WORKPLAN AND FUTURE CCA WORKSHOPS

May 10, 2023

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Introduction

Staff offers these comments in response to the Notice of Opportunity to File Written Comments on CCA Workplan and Future CCA Workshops (Notice).[1] Staff is grateful for the Utilities and Transportation Commission's (Commission) initiative to begin this workshop series amidst many competing priorities, and for the opportunity to comment on the scope of the Commission's Climate Commitment Act (CCA) work. While the implications of the CCA are broad, Staff focuses these comments on what it believes should be the Commission's most immediate priorities in the workshop series. Staff certainly believes other issues not addressed below will also require timely consideration.

Staff's comment proceed as follows. We begin by reviewing the Commission's role within CCA rule. We then discuss the importance of prioritization and decision-making on an issue-by-issue basis. We then cover three top priorities, in descending order, for the Commission to consider in the workshop series: 1) the use of revenues from the consignment of no-cost allowances, 2) the recovery of CCA costs, and 3) the implications of the CCA on utility planning, including risk management strategies, dispatch, consistency of long-term plans with utility rules and policy, and electric utility forecasts of supply and demand per WAC 173-446-230.

Scope and Prioritization of the UTC's Obligations in CCA Rules

The Climate Commitment Act directly implicates the Commission in two specific sections of rule: WAC 173-446-230 and -240, regarding the use of forecasts to inform the Department of Ecology's (Ecology) decision on how many allowances to allocate to investor-owned utilities (IOUs), the use of allowances[2] for auction or other purposes as stated in the rule, and the use of revenues from the sale of no-cost allowances to auction. Staff encourages all entities to keep the limited scope of the Commission's required role in mind as we review various comments in response to the notice.

Staff believes the first task for the Commission, in addition to gathering various issues as the Notice requests, is to prioritize the issues in order of importance and urgency. The Commission should offer guidance on higher priority issues first, rather than waiting until the conclusion of the workshop series to offer guidance on everything. The Commission should also consider offering short-term guidance with requirements to make changes in the long term. For example, in informal presentations to interested parties, Puget Sound Energy (PSE) has indicated they intend to file a tariff revision in June, for rates to become effective in August, to recover CCA costs and distribute revenues from no-cost allowances for the 2023 year. PSE's urgency (before the conclusion of the CCA workshop series) in filing the tariff is in part to prevent CCA costs from continuing to build up without additional guidance on how those costs will be treated.

[1] Filed April 10, 2023 in Docket U-230161.
[2] An allowance is an authorization to emit up to one metric ton of carbon dioxide equivalent. Some allowances to investor-owned utilities are provided at no cost, while the rest must be purchased.

As such, the Commission may need to consider providing guidance exclusive to the year 2023, 2024, or the first compliance period, with requirements to implement certain changes in the future, when there is more time to discuss them.

Staff believes the Commission should address the following priorities in descending order: 1) the appropriate use of no-cost allowances and associated decision-making processes, and the use of any revenues from the sale of no-cost allowances at auction, 2) the appropriate way to charge customers for CCA costs (i.e. cost recovery), and 3) the details of utility planning and forecasts.

1. **Use and Oversight of Revenues**

Staff believes the most urgent and pressing issue requiring Commission guidance is how IOUs should make decisions to sell, deposit, or transfer no-cost allowances and use any revenues from the sale at auction to benefit ratepayers.[3] The CCA imposes new and significant costs, and guidance on how to equitably protect customers, especially low-income, from the impacts, should be of utmost importance.

There is minimal guidance on this question in statute[4] or in Ecology's rules, although given that decisions on the use of revenue would fall within the Commission's jurisdiction, the latter is to be expected. On the electric side, the "first priority" of the use of revenue must be to *mitigate* rate impacts to low-income customers.[5] On the natural gas side, the language is stronger. Natural gas utility revenue from the sale of no-cost allowances must be used "at a minimum" to *eliminate* cost burden to low-income customers.[6] The ways in which this can be accomplished are through nonvolumetric credits on ratepayer bills with a priority on low-income customers, or through actions such as weatherization, decarbonization, conservation and efficiency services, and bill assistance.[7]

As such, Staff believes the Commission's first priority should be to offer guidance on 1) the definition and mechanisms of what it means to "benefit" ratepayers[8], 2) the definition and mechanisms of either mitigating rate impacts (electric) or eliminating cost burden (gas) to low-

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[3] WAC 173-446-230(6) and 173-446-240(3).
[4] RCW 70A.65.120(4): "The benefits of all allowances consigned to auction under this section must be used by consumer-owned and investor-owned electric utilities for the benefit of ratepayers, with the first priority the mitigation of any rate impacts to low-income customers"; *see also* subsection (3)(a): "During the first compliance period, allowances allocated at no cost to consumer-owned and investor-owned electric utilities may be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both…"; RCW 70A.65.130(2)(b): "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…"
[5] WAC 173-446-300(2)(b)(I).
[6] WAC 173-446-300(2)(b)(iii).
[7] WAC 173-446-300(2)(b)(iii)(A).
[8] The following are questions Staff has regarding how to define "benefit." Would selling a no-cost allowance at auction, and then using that revenue to buy allowances for CCA compliance, constitute a benefit? What sorts of weatherization, decarbonization/efficiency, and bill assistance initiatives would the Commission support?

income customers, and 3) the definition and identification of low-income ratepayers. As per CCA rule, the Commission's decision-making should prioritize low-income ratepayers. Once this guidance is offered, the Commission can move on to other issues.

2. Cost Recovery

The Commission should prioritize discussions on how and whether to charge customers for various costs. Some concerns for discussion include:

- The determination of prudent decision-making in the administration of no-cost allowances.
- The use of trackers, riders, and deferred accounting, rather than incorporation of costs into a general rate case.
- The scope of cost impacts that are appropriate for utilities to include in rates. For example, it may not be appropriate for a utility's customers to pay for research and development related to alternative fuels.
- The best use of rate spread, rate design, carrying costs, accounting treatment, and interest to mitigate impacts.

3. Utility Planning

Per WAC 173-446-230, Ecology will allocate no-cost allowances to electric utilities based in part on forecasts of supply and demand approved by the Commission. The Commission approved these forecasts for the first compliance period on January 24, 2023[9], "subject to the modified condition that the Company must notify the Commission if there are any substantive changes, as that term may be defined by the Commission in a subsequent proceeding." There were many issues presented in the context of this forecast approval, that were only indirectly related to forecasts, that the Commission could consider in the context of this workshop series. Staff believes the Commission should prioritize the following issues in descending order: 1) guidelines for considering the CCA in long-term utility plans, and 2) the details and approval of potential future utility forecasts or forecast adjustments.

<u>Guidelines for Long-Term Utility Plans</u>

Since the passage of the CCA two years ago, Staff, utilities and other interested persons have been working to incorporate the law into utility planning. These conversations have been largely without guidance. Since long-range planning underlies all other utility processes, the Commission should offer guidance on how utilities are required to incorporate CCA implications into planning as a high priority. Concerns include:

- Incorporation of carbon price into dispatch: The Commission has both formally and informally indicated a concern with growing unspecified market purchases to serve load, including in discussion of PSE's last integrated resource plan (IRP).[10] As discussed in the

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[9] See Order 01, filed January 24, 2023 in Dockets UE-220770, 220789, 220797.
[10] See Revised Acknowledgement Letter, filed June 19, 2018 in Docket UE-160918 / UG-160919.

context of forecast approval[11], if the Commission desires utilities to minimize unspecified market purchases, a decision to incorporate a carbon price into real-time utility operations, rather than solely in planning, could be a key solution. The consideration should be balanced with awareness of cost impacts to ratepayers.

- Ensuring long-term utility plans are consistent with CCA rules: while forecasts and plans by definition are subject to refinement over time, the workshop series should discuss the ramifications if a utility plan shows that its lowest reasonable cost[12] resource portfolio is potentially inconsistent with CCA rules and statutes, such as: (1) exceeding the emissions ceiling set by RCW 70A.45.020 in aggregate, (2) purchasing excessive price ceiling units pursuant to RCW 70A.65.160, or (3) modelling the purchase of allowances at auction greater than a utility's proportional share of state-wide allowances.

Next Steps on Utility Forecasts of Supply and Demand

The IOUs' forecasts of supply and demand were approved contingent on the requirement that a utility "must notify the Commission if there are any substantive changes" to a forecast, "as that term may be defined by the Commission in a subsequent proceeding."[13] Staff understands "subsequent proceeding" to mean this workshop series, and generally believes the Commission should address certain forecast issues. Issues to discuss include:

- Defining "substantive change," taking administrative burden on the Commission and the regulated companies into account.
- The ability of the market and other factors to substantially alter a utility's forecasts in the very short term on an ongoing basis, which should not signal an updated forecast every time.
- The importance of updated and accurate forecasts for public transparency: While it is in Ecology's purview to allocate allowances and merely "use" UTC-approved forecasts as a basis[14], and the rules have a mechanism place to adjust the amount of allowances based on actual emissions[15], there may be value in requiring the utilities to issue a new or updated forecast for its own sake, rather than for the sake of accurately allocating allowances.
- The importance of timeline: Ecology will allocate the remaining 2023 no-cost allowances on September 1, 2023 for natural gas utilities. On October 24th of this year and every year after, Ecology will distribute no-cost allowances for the following year[16]. In order for a new forecast to be considered in Ecology's allocation, it might reasonably need to be filed by August of 2023, in order to leave time for Commission review and approval, and Ecology consideration in the following year's allowances.

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[11] See Staff Memo, filed January 23, 2023 in dockets UE-220770, 220789, 220797, pg. 7.
[12] Gas: WAC 480-90-238, electric: WAC 480-100-600 through –660.
[13] See Order 01, filed January 24, 2023, in Dockets UE-220770, 220789, 220797, pg. 4.
[14] See generally WAC 173-446-230(2)(a) and (c)(i).
[15] WAC 173-446-230(2)(g).
[16] WAC 173-446-260.

Conclusion

Staff has summarized what it believes to be the most important CCA implications for the Commission to consider first in this workshop series. Staff looks forward to considering these implications alongside other interested persons' comments, and supporting the Commission's next steps in this important series.