BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of WASHINGTON UTILITIES AND TRASPORTATION COMMISSION, Commission-led Workshop Series on the Climate Commitment Act.	))))))))	DOCKET U-230161 COMMENTS OF THE ALLIANCE OF WESTERN ENERGY CONSUMERS

I. INTRODUCTION

1 Pursuant to the Washington Utilities and Transportation Commission's ("Commission") August 30, 2023 Notice of Workshop and Opportunity to Provide Comments in Docket U-230161 ("Notice"), the Alliance of Western Energy Consumers ("AWEC") files these Comments. In response to comments filed in April 2023, the Commission identified priority issues for Commission guidance, which it plans to address through a series of workshops. The next workshop is scheduled for September 15, 2023, with expected topics to include risk sharing mechanisms, incorporating the cost of carbon in dispatch costs, and ensuring long-term planning is consistent with the Climate Commitment Act ("CCA"). In preparation for this workshop, the Commission requested that comments be submitted by September 7, 2023, answering seven questions.

2 As an initial matter, AWEC is concerned about the lack of time between the Notice and the requested date for comments. This timing provides interested parties with eight days to respond, three of which are weekend and holiday days. Given the complexity and importance of these issues, this is simply not enough time to offer comprehensive comments on

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the questions posed by the Commission. As such, AWEC requests that the Commission defer issuing any guidance on the topics from the September 15th workshop until additional process and opportunity to comment has taken place.

What are the necessary elements for an equitable, fair and reasonable risk-sharing mechanism, as required by Order 01 in Docket UG-230470?

3 The necessary elements for a risk-sharing mechanism depend on the type of "risk(s)" that the mechanism is intended to address. The primary risk, from AWEC's perspective, is that a utility will not meet its CCA compliance obligations in the least-cost manner. From that perspective, the Commission's standard regulatory process – where utilities must analyze CCA compliance when making resource decisions as part of their integrated resource plans and then be evaluated for the prudence of those decisions in ratemaking proceedings – should be considered to inherently provide for an equitable, fair and reasonable risk-sharing mechanism for utility CCA compliance. In other words, utilities take the risk of economic disallowances for not achieving CCA compliance in the lowest reasonable cost manner by virtue of existing Commission processes.

4 Through Docket UG-230470 and other proceedings, AWEC understands other parties to have a different perspective on the type of "risk" that a risk-sharing mechanism should address, though additional discussion and engagement on this issue is necessary before Commission guidance should be issued regarding a risk-sharing mechanism design. As an example, though, NW Energy Coalition ("NWEC"), with the support of other interested parties, has submitted comments that advocate for the Commission to create a risk-sharing mechanism that is designed to reduce emissions – full stop – because they do not view the CCA itself as

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adequately creating this incentive on its own given the ability of utilities to utilize a "pay to play" compliance strategy. For the natural gas sector in particular, which does not otherwise have the Clean Energy Transformation Act or other regulatory requirements that serve to explicitly decarbonize the natural gas system, NWEC appears to view the Commission's role as needing to create additional incentives to reduce emissions beyond the natural market forces at play with the CCA.

5 While AWEC is not opposed to a risk-sharing mechanism that results in reduced emissions, that cannot be the only criterion – or even the most important criterion. Cost-effective CCA compliance must be the paramount consideration in any risk-sharing mechanism. Meaning, if it is most cost-effective for the natural gas utility to buy allowances to cover its emissions, as opposed to other measures that would lead to reduced emissions at a higher cost, a risk-sharing mechanism should not disincentivize or otherwise penalize the natural gas utility from utilizing the most cost-effective compliance strategy. In other words, the Commission should not substitute its judgment for that of the Legislature by creating a risk-sharing mechanism that functions to reduce emissions in a non-cost-effective manner beyond the market forces at play with the CCA. To do otherwise has the absolute effect of unnecessarily raising costs for customers, which was not contemplated by the Legislature and will result in disparate impacts between customers of regulated utilities and un-regulated utilities.

6 In sum, the cost-effectiveness of the utility's compliance strategy is both necessary and must be the most heavily weighted criterion in developing any equitable, fair and reasonable risk-sharing mechanism that goes beyond the risk-sharing inherent in economic regulation by the Commission. Cost-effectiveness should be determined in the utility's Integrated

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Resource Plan, which allows for robust analysis and engagement by interested parties, the ability to advocate before the Commission, and culminates in a Commission order that addresses the utility's resource strategy within the context of *all* regulatory requirements, including the CCA.

At what frequency, and under what conditions, should utilities be required to file CCA forecast updates, as required by Order 02 in Docket UE-220797?

7 AWEC does not view an overly prescriptive approach to CCA forecast updates to be necessary or perhaps even ideal. Some situations, such as an updated Clean Energy Implementation Plan or Integrated Resource Plan, may warrant updated CCA forecasts, but those could be addressed in the Commission orders for those proceedings. For circumstances that may be less apparent, a utility is generally in the best position to know when circumstances have changed warranting forecast updates. Additionally, the availability of no-cost allowances creates a natural incentive for utilities to update their forecasts to be as accurate as possible so as to ensure that its CCA compliance costs remain as low as possible. Furthermore, as more experience with the program is gained, the need for out-of-cycle updates should be lessened barring out-of-the-norm circumstances.

8 AWEC supports the Commission's rationale and conclusion in Order 01 in Docket UE-220797[1] that the Commission should allow, but not require, electric utilities to submit an update to the demand and resource supply forecasts as needed. That "need" should be determined on a case-by-case basis. Where feasible, appropriate notice of forecast updates

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[1] This rationale and conclusion were also included in Docket Nos. UE-220789 and UE-220770. *See Avista Corporation d/b/a Avista Utilities' Petition for an Order Approving its Four-Year Demand and Resource Supply Forecast Pursuant to the Climate Commitment Act*, Docket No. UE-220770, Order No. 01 at ¶ 13 (January 24, 2023); *In re PacifiCorp Requesting Approval of Forecasts Under RCW 70A.65.120*, Docket No. UE-220789, Order No. 01 at ¶ 15 (January 24, 2023).

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should be given; however, short notice should not be a basis to automatically preclude Commission consideration of an updated forecast if the whole of circumstances weigh in favor of an update, as was the case with Puget Sound Energy's ("PSE") updated forecast considered and approved in Order 02 in Docket UE-220797.

Under what circumstances should utilities create separate tariffs for recovery and pass-back of CCA costs and proceeds?

9 Utilities should only create separate tariffs for recovery and pass-back of CCA costs and proceeds if doing so is necessary to prevent a substantial pancaking of costs in the utility's next general rate case proceeding in which CCA costs and proceeds would be incorporated into base rates. For example, PSE created a separate tariff for recovery and pass-back of CCA costs and proceeds in Docket No. UG-230470. AWEC did not oppose PSE's recovery of a separate rate recovery mechanism due to concerns that waiting for cost recovery in a general rate case could result in significantly higher rates due to recovering net past costs along with anticipated net costs incurred in during the rate-effective period.[2] However, as indicated in the next response, AWEC supports inclusion of CCA costs and proceeds being rolled into and remaining in base rates.

Under what circumstances should utilities incorporate CCA costs and proceeds into general rate cases?

10 CCA costs and proceeds should be included in general rates at the earliest opportunity (i.e., the utility's next general rate case proceeding). Including costs in base rates

[2] *See* Docket UG-230470 – Supplemental Comments of the Alliance of Western Energy Consumers (July 17, 2023).

provides an appropriate level of incentive for utilities to manage costs and their compliance strategy between rate cases.

Should the Commission convene a "Joint Low-Income Advisory Group," which could convene, discuss outstanding issues relating to low-income customers under the CCA, and submit a proposal to the Commissioners?

11 Low-income customers have representatives and advocates through Commission Staff, Public Counsel and other non-governmental organizations. AWEC would defer to these advocates and representatives on whether convening a Joint Low-Income Advisory Group would be beneficial. Although AWEC would likely not be part of these discussions, it would be necessary and appropriate for AWEC to have the opportunity to respond to any proposals to the Commission that may impact industrial users.

What guidelines should the Commission issue to ensure long-term utility plans are consistent with CCA rules? For example: What should the ramifications be if a utility's long-term plans: 1) Exceed the emissions ceiling set by RCW 70A.45.020, 2) Require purchasing excessive price ceiling units pursuant to RCW 70A.65.160, or 3) Model allowance purchases that are greater than a utility's share of statewide allowances?

12 A utility's long-term plans should be consistent with CCA compliance rules, in that the plans should not assume that the CCA either does not exist or that the realities of the CCA (i.e., prices for allowances, the amount of no-cost allowances likely to be allocated, etc.) would not apply. The relevant portions of a utility's long-term plan should not be acknowledged if the utility has not done appropriate analysis for how it will comply with the CCA *in the most cost-effective manner*. AWEC is concerned that the examples provided in the question above

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seem to suggest that exceeding the emissions ceiling set by RCW 70A.45.020, purchasing excessive price ceiling units pursuant to RCW 70A.65.160, or modeling allowance purchases greater than a utility's share of statewide allowances is not consistent with the CCA rules. However, this is not the case.

13 At its core, the CCA is a market solution for Washington to reduce carbon emissions and the Commission is an economic regulator. In other words, utilities and any other market participants have the option of "paying to play" to comply with CCA requirements, and if the utility fails to make prudent, reasonable decisions to comply with the CCA, the Commission should economically penalize the utility through the appropriate process. The Commission should not penalize, decline to acknowledge, or take any other potentially punitive step if a utility's robust, sound analysis in its long-term plan demonstrates that purchasing allowances as a compliance strategy is the lowest reasonable cost path to CCA compliance. No special treatment, incentives, disincentives or Commission regulatory requirements should apply. If a utility's analysis appears sound in a long-term plan, but circumstances change subsequent to the analysis in the long-term plan where the utility knew or should have known the implications of these changed circumstances, the Commission should use its authority as an economic regulator to order the appropriate ratemaking treatment in a ratemaking proceeding (i.e., a prudence disallowance).

Are there any other priority issues that have arisen since comments were last filed?

14 Since comments were last filed, the Commission issued Order 01 in Docket No. UG-230470, wherein it ordered PSE to include CCA compliance costs with the volumetric component of customers' bills (i.e., not a separate line item), but to reflect CCA revenues as a

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separate line-item credit on customers' bills. AWEC is deeply concerned that this billing treatment is misleading to customers by masking the true rate impacts of CCA compliance while at the same time, giving the impression that CCA compliance is a benefit to customers. The Commission should address billing treatment of CCA costs as soon as possible. If CCA revenues/benefits are to be included as a separate line-item on customer bills, CCA costs must be treated the same. The public interest is not served by obscuring or otherwise misleading customers into the cost and/or rate impacts of state policies.

15 AWEC appreciates the opportunity to provide these comments and looks forward to continued engagement on CCA issues in this proceeding.

Dated this 7th day of September, 2023.

Respectfully submitted,
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