HB 2020 Amendments
Northwest & Intermountain Power Producers Coalition and Avangrid Renewables

Avangrid Renewables ("**Avangrid**") and the Northwest & Intermountain Power Producers Coalition ("**NIPPC**") continues to believe that a well-crafted carbon cap and trade program is in the best interest of Oregon. Avangrid and NIPPC support HB 2020 subject to the following specific modifications necessary to maintain fair competition in the electricity sector:

1. Strike Section 10(2)(c) as follows:

[*(c) Greenhouse gas emissions attributable to an air contamination source described in section 9 (2)(b) of this 2019 Act that are attributable to the generation in this state of electricity that is:*]

[*(A) Delivered to and consumed in another state, accounting for transmission and distribution line losses; and*]

[*(B) For which the capital and fuel costs associated with the generation are included in the rates of a multistate jurisdictional electric company that are charged to the electricity customers in a state other than Oregon.*]

Rationale: This provision would apply to a one half of a single existing Hermiston power plant that is co-owned by PacifiCorp and Perennial Power. PacifiCorp is already receiving free allowances for that portion of power generated by its share of the plant used for Oregon ratepayers. **There is no legal basis to exempt Oregon emissions from this plant that are delivered into states that do not have a price on carbon.** This is not an interstate commerce issue. If PacifiCorp's share of this plant is exempted from compliance, then the entire plant must receive a similar exemption, as should all other independent fossil generation within the state of Oregon. Carving out the PacifiCorp share of the plant would also jeopardize Oregon's ability to link with other WCI jurisdictions.

2. Modify Section 15 as follows:

SECTION 15. Direct distribution of allowances for electric companies. The Director of the Carbon Policy Office shall**, in consultation with the Public Utility Commission,** adopt rules for allocating allowances for direct distribution at no cost to covered entities that are electric companies **for the exclusive benefit of ratepayers, and not for the benefit of shareholders or entities or persons other than ratepayers.**

(1) Rules adopted under this section must**:**

(a) Preserve the incentive for each electric company receiving a direct distribution of allowances to reduce emissions of greenhouse gases from all electricity generated or purchased to serve its customers;

(b) Maintain and support competition within the wholesale and retail electricity markets, including by requiring that each electric company receiving a direct distribution of allowances must include the full cost of greenhouse gas emissions attributable to the generation resource in all

dispatch decisions, bids into competitive power markets and procurement and investment decisions;

(c) Allow for an electric company to use allowances directly distributed under this section to meet compliance obligations associated with generation of electricity to serve the load of the electric company's retail electricity consumers in Oregon **and prohibit use of such allowances or allowance value to meet a compliance obligation with respect to greenhouse gas emissions attributable to electricity sold to serve non-native load or customers outside of Oregon,** subject to the approval **and oversight** of the Public Utility Commission.

(d) Require each electric company receiving a direct distribution of allowances to submit a report to the Office on an annual basis on the use of allowances allocated to it and any proceeds from the sale of such allowances.

(e) Ensure that the allocation of allowances to electric utilities does not create a cost advantage between retail electricity consumers using a cost-of-service rate and those served through direct access and that the value of the allowances be apportioned in a non-discriminatory manner between retail electricity consumers served through the distribution system of an electric company using a cost-of-service rate and those served through direct access.

(2) The rules must include provisions necessary to implement direct distributions of allowances to electric companies as follows:

([*1*]**a)** For the purpose of aligning the effects of sections 8 to 26 of this 2019 Act with the trajectory of emissions reductions by electric companies resulting from the requirements of ORS 469A.005 to 469A.210 and 757.518, the direct distribution to an electric company during calendar year 2021 and for each calendar year until and including 2030 must represent an amount equal to 100 percent of the electric company's forecast emissions associated with the generation of electricity to serve the load of the electric company's retail electricity consumers in Oregon for the calendar year for which the allowances are directly distributed. For purposes of this subsection, forecast emissions must be based on information contained in the most recent integrated resource plan filed by the electric company and acknowledged by order by the Public Utility Commission or in any updates to the integrated resource plan filed by the electric company with the commission, as of January 1, 2021.

([*2*]**b**) Beginning in 2031 and for each following year until and including 2050, the direct distribution to an electric company under this section must decline from the amount of allowances allocated to the electric company in 2030 by a constant amount proportionate to the decline in the amount of allowances available in annual allowance budgets pursuant to section 9 (1)(b) of this 2019 Act.

Rationale: These changes are necessary to ensure that electric utilities which receive free allowances use any value from such allowances for the benefit of Oregon ratepayers and in a manner that (1) does not give them an unfair advantage against competition and (2) does not artificially incent the utilities to use coal-fired generation.

3. Modify Section 43.(2) as follows:

(2) The Public Utility Commission shall require [*proceeds*] **the value** received by an electric company or natural gas utility from the sale **or use** of allowances directly distributed at no cost under sections 14, 15 and 17 of this 2019 Act:

(a) To be spent by the electric company or natural gas utility within the service territory of the electric company or natural gas utility; [*and*]

(b) To be used only for activities that serve to reduce greenhouse gas emissions or provide energy assistance to the electric company's or natural gas utility's retail customers, consistent with the purposes of sections 7 to 41 of this 2019 Act as set forth in section 7 of this 2019 Act[.]**;**

(c) To be used only in a manner that preserves the incentive for each electric company receiving a direct distribution of allowances to reduce emissions of greenhouse gases from all electricity generated or purchased to serve its native retail customers within the state;

(d) To be used only in a manner that maintains and supports competition within the wholesale and retail electricity markets, including by requiring that each electric company receiving a direct distribution of allowances must include the full cost of greenhouse gas emissions attributable to the generation resource in all dispatch decisions, bids into competitive power markets and procurement and investment decisions;

(e) To be used only in a manner that does not discriminate between those retail electricity consumers served through the distribution system of an electric company using a cost-of-service rate and those retail electricity consumers served through the distribution system of an electric company using direct access; and

(f) Prohibits an electric company receiving a direct distribution of allowances from using allowances or allowance value to meet a compliance obligation with respect to greenhouse gas emissions attributable to electricity sold to serve non-native load or customers outside of Oregon.

Rationale: These additions operate in conjunction with the changes to item 2 and are necessary to ensure that allowance value is not used in a manner that diminishes competition in the wholesale or retail electricity markets; is only used for the benefit of Oregon customers of investor-owned utilities; and is not used in a way that discriminates against customers of electric service suppliers.

(A) Forecast for 2021, based on representative years, to be attributable to electricity scheduled by the electric system manager for final delivery [*by consumer-owned utilities*] for consumption in this state; and

(B) Not exempt from regulation under section 10 (2)(e) of this 2019 Act.

4. Modify Section 18(2) as follows:

(2) A covered entity or opt-in entity that is a fossil fuel distribution and storage facility or infrastructure, or an electric generating unit, **placed in**

operation after January 1, 2019 may not receive allowances at no cost under this section and section 14 of this 2019 Act.

Rationale: This modification preserves the discretion for the CPO to find existing facilities to be EITEs, and/or for the Public Utility Commission to retain discretion to direct utilities to provide the allowances that they receive for anticipated load to be used for such load if it ultimately is served by a non-utility electric service supplier from existing facilities.

5. Modify Section 9(2)(c) as follows:

(c) The office shall designate an electric system manager as a covered entity for the purpose of addressing annual regulated emissions from outside this state that are attributable to the generation of electricity that the electric system manager schedules for delivery and consumption in this state, including wholesale market purchases for which the energy source for the electricity is not known, and accounting for transmission and distribution line losses. **The director shall determine by rule the appropriate persons whom shall be designated as covered entities with respect to regulated emissions attributable to generation of electricity outside of the state that is imported into the state via the Energy Imbalance Market.**

Rationale: This addition is necessary to enable the CPO to consider the appropriate point of regulation for emissions associated with electricity imported to Oregon via the Energy Imbalance Market. The definition of Electricity System Manager is not broad enough to impose a compliance obligation on entities that do not manage load in Oregon, but nevertheless import electricity to Oregon via the EIM. Inconsistent treatment of emissions associated with EIM imports between Oregon and California's program could impair program linkage.

6. Strike Clause 9(4)(b) as follows:

[*(b) For purposes of determining the compliance obligation for a covered entity that is an electric system manager, electricity scheduled by the electric system manager that is generated from a renewable energy resource and acquired without acquiring the renewable energy certificate associated with the electricity shall be considered to have the emissions attributes of the underlying renewable energy resource.*]

Rationale: Our understanding is that this bill is intended to align reporting of renewable imports with the 'specified source' rules under California's program. This issue should be addressed, as part of the rulemaking regarding reporting of GHG emissions.