Comments of the Northwest & Intermountain Power Producers Coalition to the Washington Senate Committee on Ways and Means on Senate Bill 5126

March 16, 2021

The Northwest & Intermountain Power Producers Coalition (NIPPC) appreciates the opportunity to submit comments on SB 5126. NIPPC represents competitive power participants in the Pacific Northwest. NIPPC members include owners, operators, and developers of independent power generation and storage, power marketers, and affiliated companies. Collectively, NIPPC represents over 4,500 megawatts of operating generation and an equal amount permitted or under development. NIPPC's comments here follow up on initial comments dated January 18 on the initial draft of this bill referred to the Senate Committee on Energy, Environment and Technology. NIPPC appreciates the clarity added to the bill on numerous topics before it passed that committee.

Given the many compelling moral and economic reasons to mitigate climate change, NIPPC supports adopting policies to decarbonize the power sector and broader economy in a disciplined and efficient manner. NIPPC supports Washington enacting a cap-and-trade program that accomplishes two principal objectives: first, a program that can link effectively with the analogous programs in California and Quebec that form the Western Climate Initiative (WCI); second, a program that treats generation sources on a fair and nondiscriminatory basis. The comments here focus narrowly on changes to SB 5126 that would accomplish those two objectives.

Pricing and reducing carbon are best accomplished through market-based programs with a broad geographic and economic scope. A broad scope, including robust and liquid trading mechanisms, optimizes which emissions are reduced at the lowest cost over time. NIPPC is concerned that the current language in SB 5126 will prevent Washington from either linking with the WCI jurisdictions or linking with them as quickly as possible in order to deliver lower allowance prices and internalize the cost of carbon into regional electricity market sales.

NIPPC urges the Committee to amend the legislation to apply the emissions cap to electricity imports during the first compliance period (under Section 9(1)) rather than deferring until the second compliance period as the bill currently does (Section 9(2)(a)). This is a matter of both equal treatment of generators and program linkage. An emitting generator in Washington that serves Washington load should not be subject to emissions standards that similarly situated generators that happen to be outside of

Washington are not subject to. If this provision is not changed, then Washington utilities are likely to replace purchases of in-state capped generation with electricity from out of state that is not subject to the cap—a classic example of emissions leakage. This outcome is unfair to in-state generators, inconsistent with how WCI jurisdictions treat interstate power flows, and would undermine the program's integrity in its crucial early years.

NIPPC echoes other stakeholders, including the Western Power Trading Forum, in suggesting that the Department of Ecology, the Department of Commerce, and the Utilities and Transportation Commission could and should develop data that establishes the baseline of imported electricity and emissions associated with that electricity. This data could be developed through a one-time survey of electric utilities and through reviewing and validating such data from sources including Form 714 of the Federal Energy Regulatory Commission. The legislation could specify in Section 8(1)(a) that such data may be used.

Should the Committee amend the legislation in this way, it should ensure, first, that covered entities are affected on the basis of electricity imported during the compliance period rather than on the basis of historical imports. Second, existing power contracts between utilities and their counterparties may be newly affected by this change. The Committee should therefore ensure, just as California did in the early years of its program, that such legacy contracts are treated fairly by providing a limited allocation of free allowances to those importers to the extent their contracts do not already allow passing through any carbon costs to customers.

In addition to this key point, NIPPC urges the Committee to address other provisions in the bill that may prevent linkage with the WCI jurisdictions:

1. The emissions containment reserve, as drafted, would establish a second means, in addition to the auction floor price and associated price containment reserve, of restricting the allowance supply. This approach could result in misaligned allowance prices with the WCI jurisdictions, impairing linkage. The trigger price for moving allowances into the reserve should instead be the auction floor price. (Section 2, definitions 24 and 25, and Section 15)

2. Imported electricity should not be excluded, as the current bill does, from being counted in Washington's program by virtue of its associated emissions already being covered in a linked cap-and-trade jurisdiction, but those associated emissions should instead be treated as zero. (Section 2, definition 37)

3. The exemption for "small" imported emissions should be changed from imports associated with less than 25,000 metric tons of carbon dioxide equivalent annually to apply instead to facilities that emit as a whole less than 25,000 metric tons of carbon dioxide equivalent annually. (Section 9(2)(a))

4. The proposal to limit the purchase of allowances at auctions by any individual covered entity to only 10% of auction volume is inconsistent with the 25% limit set by the WCI jurisdictions and could significantly complicate any joint auctions. It should be adjusted to 25% for joint auctions. (Section 11(6)(b))

5. The Committee should remove the condition that the distribution of program benefits or adverse impacts in other jurisdictions (i.e., California, Quebec, and any future linked jurisdictions) must meet Washington's requirements before linkage may occur. Washington's focus should be on ensuring such benefits and impacts treat Washington communities fairly, just as other jurisdictions have had robust and ongoing discussions about how to ensure the same thing relative to their own laws and affected communities. (Section 21(3))

Finally, specifically with respect to the second principal objective described above, NIPPC urges the Committee to retain the bill's requirement that investor-owned utilities consign freely-allocated allowances to auction (Section 13(3)). A requirement to consign is a key element of ensuring that in the course of muting the economic effect of the program on electric ratepayers, the law doesn't provide an unfair advantage to utility generation over independent generators. Allowing the utilities to instead retire those freely allocated allowances for their own compliance purposes would create an unlevel playing field. Washington should avoid that uncompetitive outcome.

NIPPC appreciates the Legislature's hard work on these complex matters and the Committee's consideration of these comments.

Sincerely,

Spencer Gray
Executive Director