



## **Comments of the Northwest & Intermountain Power Producers Coalition to the Washington Senate Committee on Energy, Environment and Technology on Governor Inslee's proposed Climate Commitment Act**

January 18, 2021

The Northwest & Intermountain Power Producers Coalition (NIPPC) appreciates the opportunity to submit comments on Governor Inslee's proposed Climate Commitment Act. 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.

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. Starting from that position, NIPPC analyzes carbon emission pricing proposals, including cap-and-trade programs, with the following principles in mind.

1. *All things being equal, a market-based program with a broader scope is preferable to a narrower scope.*

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. Adopting new carbon policies necessarily turns on the presence of sufficient political support in a given jurisdiction, but as an economic matter, national programs are preferable to regional programs, and regional programs are preferable to programs in single states. Similarly, including more sectors of the economy is preferable to fewer. This principle bears directly on how a single state's policy may link with other states' policies.

2. *Power market participants should be treated on a fair and nondiscriminatory basis.*

The application of carbon pricing should be consistent throughout a given sector. With respect to power generation, regulatory treatment should not turn on how the business model of an owner or marketer of generation is classified. For

example, a thermal electric generator serving Washington consumers should be treated the same under the program whether it is owned by a vertically integrated utility or an independent power producer.

3. *Conflicts with overlapping requirements and markets should be identified in advance and either avoided or resolved.*

In Washington, a cap-and-trade regime would apply to an integrated, multi-jurisdictional power sector that is already part of a regional organized energy market (the Western Energy Imbalance Market (EIM)), host to an important regional power trading hub (the Mid-Columbia hub), subject to mandatory reliability standards, and subject to a sector-specific clean energy procurement law (the Clean Energy Transformation Act (chapter 19.405, Revised Code of Washington)). In addition, Washington also imports and exports power and natural gas used in power generation from jurisdictions such as British Columbia and California that already have carbon pricing.

4. *Implementation rules should be set deliberatively, clearly, and early.*

Market participants can best plan capital-intensive investments and multi-year compliance strategies if they have stable “rules of the road” based on sufficient public input in advance. Public policy must be adaptive to changing reality, but rules that change frequently or unexpectedly undermine decisionmaking by participants.

5. *Electric power must remain affordable and reliable.*

A dramatic recent decline in the cost of zero- and low-emission technology has facilitated more opportunities to decarbonize. But consuming energy remains a major cost for households, particularly for low-income households, and for businesses, particularly for energy-intensive, trade-exposed sectors. Carbon policies must address this differential consumer exposure to higher power costs, in addition to avoiding any decline in the reliability of the grid.

Given the principles above, NIPPC recommends further consideration and changes to the following elements of the governor’s bill and any subsequent legislation based on it:

First jurisdictional deliverer: The bill defines some covered entities in the power sector as a “first jurisdictional deliverer,” (Sec. 2(28)) a term used in California’s cap-and-trade program as well, but does not make explicit enough how imports for consumption and the entities scheduling those imports are to be treated. Placing a compliance obligation further “upstream” (at the state border) is preferable to “downstream” (closer to electric load) in order to create a clearer price signal and to integrate with regional markets. But for contracted power, the bill’s definition of first jurisdictional deliverer (“the first person over which the state of Washington has jurisdiction that generates or procures electricity

for use within the state and delivers the electricity to the first point of delivery into the state”) appears to make the purchasing downstream utility the point of compliance rather than the generator or marketer scheduling the import.

*Recommendation:* NIPPC recommends clarifying this definition to apply to the entity directly responsible for delivery (for consumption in Washington) at the state border.

Border treatment: NIPPC is concerned that the bill does not incorporate important distinguishing features of cross-border power flows in Washington. For example, the state border is not coextensive with the service territory of load-serving entities. The Bonneville Power Administration and two of the three investor-owned utilities (Avista and PacifiCorp) have service territories that cross state borders. Furthermore, as a regional hub for power, with an interconnected transmission network purposefully designed for inter-regional transactions with neighboring and distant jurisdictions, Washington experiences variable power imports and exports through a variety of commercial arrangements.

*Recommendations:*

- NIPPC recommends requiring a calculation of the net import for consumption at the border in order to determine the emissions subject to the cap. Such a calculation will necessarily be an approximation, albeit an accurate approximation, of actual electric power consumed in-state.
- NIPPC also strongly recommends reviewing for further consideration the range of cross-border transactions, including bilateral wheeling arrangements, trading at the Mid-Columbia hub, and dispatch through the EIM, and how the bill affects each type of transaction.

Double counting: NIPPC is also concerned with the possibility of carbon pricing applied multiple times to the same electron, such as if power generated in British Columbia is delivered for consumption to Washington.

*Recommendation:* NIPPC recommends that the statute include explicit flexibility for the Department of Ecology to allow a credit towards the carbon obligation for electric power generation, to the extent the generation is subject to a prior mandatory carbon price in another jurisdiction.

Allowance allocation: In order to avoid disrupting the more stringent sector-specific requirements in CETA, the bill freely allocates allowances to “generators owned by or under contract with a consumer-owned or investor-owned electric utility” (Sec. 11(2)). The nature of being “under contract” here is unclear (for example, how are system sales or real-time spot-market sales from a single generator covered), as is the treatment of direct sales from non-utility providers to some large power consumers. In addition, the bill directs the Department of Ecology to adopt rules for allocating allowances during the second compliance period by October 1, 2026. This date is later than it should be, hampering the sector’s ability to plan compliance in advance. It also implies that free

allocations may end after the second compliance period, partway through compliance with CETA's mandate.

*Recommendations:*

- NIPPC recommends further consideration of whether the free allowance allocation provision creates an uneven playing field by forcing independent generators not under contract with a utility to pay for allowances when their generation is ultimately sold for consumption in Washington.
- NIPPC seeks clarity on the sunset date of this section and how a sunset may affect compliance with CETA.
- NIPPC also recommends that the bill direct the Department of Ecology to adopt rules about allowance allocation sooner.

Offsets: The bill requires (section 15(3)(a)) that in the first compliance period “at least 75 percent of a covered entity's compliance obligation satisfied by offset credits must be sourced from offset projects that provide direct environmental benefits in the state.” NIPPC is concerned that there may be insufficient offset development opportunities that can show direct environmental benefits within Washington on a cost-effective basis, so the target may erode the effectiveness of offsets as a critical tool to reduce program costs. At the same time, NIPPC recognizes the value of encouraging offset creation within the state.

*Recommendation:* As a general matter, NIPPC recommends a lower percentage of offsets required to have “direct environmental benefits” in Washington and recommends conducting a thorough analysis of in-state offset availability to inform whether to increase this percentage or not (as contemplated in Sec. 15(3)(c)).

Linkage: The bill's offset rules (Sec. 15), the “emissions containment reserve” (Sec. 13), the “price containment reserve” (Sec. 14), and its treatment of imports (discussed above) are all likely to affect the possibility of linking the state's program with California. A linked program is the best possible outcome and what legislators should aim to make possible. Understanding and curing possible hurdles to linkage in the bill in advance is therefore a critical task for the Legislature.

*Recommendation:* NIPPC urges the Committee and Legislature to solicit feedback from the state of California and the California Independent System Operator with respect to the likely adequacy of the bill's requirements to facilitate the possibility of linkage with California's cap-and-trade program and the technical capabilities of the EIM.

NIPPC looks forward to continuing to engage with the Committee and the Legislature on this important legislation and appreciates your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Gray', with a stylized flourish at the end.

Spencer Gray  
Executive Director