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Submitted via Web Portal

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RE: Cap-and-Invest: No-Cost Allowance Allocation for Electric Utilities

On April 17, 2025, the Washington Department of Ecology (Ecology) hosted a workshop on no-cost allowance allocation for electric utilities under the Cap-and-Invest Program. The following comments are offered by the Public Generating Pool (PGP), a trade association representing eight consumer-owned utilities in Washington and one in Oregon that own and operate their own generating resources. PGP appreciates the opportunity to offer feedback on the implementation of no-cost allowance allocation under the Cap-and-Invest Program.

<u>Background</u>

The Climate Commitment Act (CCA) allows all electric utilities subject to the requirements of Chapter 19.405 RCW, the Washington Clean Energy Transformation Act (CETA), to be eligible for allowance allocation in order to mitigate the cost burden of the Cap-and-Invest Program on electricity customers.[1] "Cost burden" is further defined to mean:

> *"…the impact on rates or charges to customers of electric utilities in Washington state for the incremental cost of electricity service to serve load due to the compliance cost for greenhouse gas emissions caused by the program. Cost burden includes administrative costs from the utility's participation in the program."*[2]

For each compliance period through 2045, the CCA directs Ecology to adopt an allocation schedule by rule for the provision of allowances at no cost to both consumer-owned and investor-owned electric utilities. Per statute, this allocation must be consistent with a forecast, approved by the appropriate governing board or the UTC, of each utility's resource supply and demand.[3] This

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[1] RCW 70A.65.120(1)
[2] RCW 70A.65.010(21)
[3] RCW 70A.65.120(2)

governance structure is appropriately reflected in WAC 173-446-230(2)(a)-(c) of the CCA Program Rule.

Vintage 2026 Allocation

In October 2024, Ecology announced a revised allocation schedule[4] for 2025 and 2026-2030 allocation to address the following:

- Incorporation of annually updated Bonneville Power Administration (BPA) asset-controlling supplier (ACS) emission factor, consistent with WAC 173-446-230(2)(d)(v);
- Consistency of data sources and calculations for load-following customers of BPA;
- A revised approach for balancing and Energy Imbalance Market (EIM) energy assumptions; and
- Updated utility-specific forecasts and updates to utility-specific calculations.

In a public workshop held October 16, 2024, Ecology stated that adjustments associated with updated methods (BPA's ACS EF and EIM/balancing assumptions) would be retroactively applied to utility resource supply and load forecasts for 2023 and 2024, such that adjustments accounting for any difference from distributed vintage 2023 and 2024 allocation will be applied to vintage 2026-2030 allocations. This approach was subsequently reiterated at Ecology's April 17, 2025, workshop.

Assuming that Ecology does not revisit and revise this approach, PGP respectfully requests that Ecology consider spreading the allocation adjustments for vintage 2023 and 2024 across a longer time period than vintage 2026-2030, i.e. into the third compliance period. Doing so would minimize any deleterious impacts of these unanticipated allocation adjustments to electric utilities and their customers in any given year.

WAC 173-446-230(2)(g) Allowance Allocation Adjustment Mechanism & Guidance

For each allocation cycle, WAC 173-446-230(2)(g) of the CCA Program Rule states that:

> *"The initial allocation of allowances will be adjusted as necessary to account for any differential between the applicable reported greenhouse gas emissions for the prior years for which reporting data are available and verified in accordance with chapter 173-441 WAC and the number of allowances that were allocated for the prior year through this process."*

PGP has long been on record requesting regulatory clarity around this rule language, its interpretation, and its implementation by Ecology. We are encouraged by Ecology's efforts to be responsive to this request, including Ecology's initial thoughts on potential written guidance.

[4] Ecology Publication No. 23-02-031, revised October 24, 2024. *Allowance Allocation to Electric Utilities for the First Compliance Period.* Retrieved from: https://apps.ecology.wa.gov/publications/documents/2302031.pdf.

However, PGP believes that written guidance should serve as an interim approach for vintage 2026 allocation in advance of reevaluating this provision through Ecology's current CCA rulemaking. PGP finds the existing rule language to be unclear with respect to the full scope of circumstances that are contemplated for adjustment; by clarifying the rule language itself, Ecology would be providing the certainty utilities need in order to appropriately manage their distributed no-cost allowance allocations and plan their compliance strategies into the future. Any such clarification should be consistent with the initial allocations' formulaic methodology that recognizes both direct and indirect cost burden.

With respect to any interim guidance or rulemaking, PGP offers the following comments and recommendations on Ecology's approach to allowance allocation adjustments:

- **Certainty:** Ecology's approach should recognize the value of certainty for electric utilities and their customers with respect to both distributed and scheduled allocations of no-cost allowances. Frequent changes to allocations and/or methodological approaches create challenges for electric utilities in terms of managing their compliance obligations and other costs associated with the Cap-and-Invest Program.
- **Annual "Closing of the Books":** In keeping with the value of certainty, PGP supports Ecology's proposal for an annual "closing of the books" for the previous year's allocation after each verification deadline, similar to the approach taken for calendar year 2023 as outlined in Ecology Publication 24-14-085, *Information on adjustments to no-cost allowance allocation for electric utilities.*[5] However, PGP respectfully requests more detail on the implementation of this approach, particularly with respect to any future methodological changes or error corrections. PGP requests that Ecology's approach affirm that any future methodological changes or error corrections to allocation calculations on the part of Ecology will only be applied on a forward basis to future allocation calculations, and will not be applied retroactively to adjust previously distributed no-cost allowance allocations by reducing scheduled allocations. Ecology's approach should also clearly articulate a public process for providing input on any future methodological changes before they go into effect.
- **Consignment:** Ecology's approach should not discourage or penalize either voluntary or mandatory utility consignment of distributed no-cost allowances for the benefit of ratepayers, consistent with RCW 70A.65.120. The CCA clearly provides that during the first compliance period, no-cost allowances may be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both.[6] The CCA also directs Ecology to adopt rules by October 1, 2026, governing the amount of no-cost allowances that electric utilities must consign to auction beginning in the second compliance period.[7]
- **Forecast Accuracy:** PGP recognizes Ecology's interest in the accuracy of utility resource supply and demand forecasts. While it appears that Ecology is not currently proposing to

[5] Retrieved from: https://apps.ecology.wa.gov/publications/documents/2414085.pdf.
[6] RCW 70A.65.120(3)(a)
[7] RCW 70A.65.120(3)(b)

adjust allocations in a way that amounts to a one-for-one "true-up" of a forecast to actuals, Ecology would like some ability to adjust allocations based on forecast accuracy in certain circumstances. PGP recommends additional dialogue if Ecology pursues this approach. Further discussion is needed to understand the circumstances or scenarios that may warrant adjustment based on forecast accuracy and the processes for determining when such an adjustment may be appropriate. In particular, PGP would like to better understand Ecology's concerns around the potential for purposeful misrepresentations or "gaming" of forecasts before any guidance is issued or rules are adopted.

- **High-Density Load & Electrification:** PGP supports Ecology's consideration of adjustments related to significant divergence from forecasted retail demand due to high-density load growth, resulting in cumulative allocation significantly diverging from cost burden. We also respectfully request the addition of electrification to this category of acceptable circumstances for possible adjustment, per RCW 70A.65.120(7): *"Rules establishing the allocation of allowances to consumer-owned utilities and investor-owned utilities must consider the impact of electrification of buildings, transportation, and industry on the electricity sector."*
- **Utility Request:** PGP supports Ecology's consideration of adjustments at the request of utilities.
- **Publication of Draft Allocation Schedules:** To the extent feasible within statutory and/or regulatory timelines, PGP respectfully requests that Ecology consider publishing draft allocation schedules prior to finalizing them in October of each year. This would provide electric utilities and the public the opportunity to review the scheduled allocations and potentially catch any errors prior to the distribution of any allowances.

<u>Administrative Allocation</u>

PGP appreciates and supports Ecology's proposal to develop a "calculated method" for allocating no-cost allowances to mitigate administrative costs incurred from utility participation in the Cap-and-Invest Program, and to incorporate changes to the administrative allocation method in the current CCA rulemaking. PGP looks forward to participating in future public processes around the development of this calculated method. However, PGP strongly recommends that Ecology consider an approach for administrative costs incurred during the first compliance period that would allow utilities to have the option of depositing administrative allowances for compliance by the November 1, 2027, deadline for the first compliance period, consistent with RCW 70A.65.120(3)(a). To accommodate this optionality, PGP recommends that Ecology issue vintage 2023-2026 allowances for the first compliance period. If sufficient vintage 2023-2026 allowances are not available, Ecology should consider issuing "vintageless" allowances, similar to those offered through the Allowance Price Containment Reserve. Such an approach would more closely align with the Legislature's clear intent of incorporating administrative costs in the statutory definition of "cost burden" by allowing utilities to mitigate administrative cost burden in the same compliance period in which those costs were actually incurred.

<u>Conclusion</u>

PGP appreciates the opportunity to offer feedback on Ecology's implementation of no-cost allowance allocation under the Cap-and-Invest Program. We look forward to continuing to engage with Ecology on these issues through future public workshops and CCA rulemaking.

Sincerely,

/s/ Mary Wiencke
Mary Wiencke
Executive Director
Public Generating Pool