December 5, 2025

Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Submitted via online form at ecology.wa.gov

Re: Alliance of Western Energy Consumers' Comments on *Cap-and-Invest: Electric Utility Allocation Rules Update*

Dear Camille Sultana:

The Alliance of Western Energy Consumers (AWEC) appreciates the opportunity to comment on the questions raised by the Department of Ecology (Ecology) during its November 13, 2025 presentation on no-cost allowance allocation for electric utilities.

AWEC represents many of Washington's largest employers and consumers of electricity and natural gas, including companies with facilities designated as covered energy-intensive and trade-exposed (EITE) entities under the Climate Commitment Act (CCA). Our member companies provide tens of thousands of technical, family-wage jobs across industries such as agriculture, aeronautics, air products, metals, pulp and paper, and more. Owing to Washington's hydro-dominated grid, these facilities already operate with some of the lowest carbon intensities worldwide. Because AWEC members consume millions of dollars in electricity each year, affordability and reliability have always been central to our mission—and affordability concerns have become increasingly acute for all Washington ratepayers.

As we emphasized in our July 22, 2025 comments, implementation of the Cap-and-Invest Program already has substantial cost implications for both electricity and natural gas consumers. If electricity rates rise beyond sustainable levels—driven in part by Ecology's implementation decisions regarding mitigation of CCA compliance costs—Washington industry will face reduced competitiveness, leading to lost jobs, reduced investment, and harm to local communities and the state economy. Industries capable of shifting production may relocate out-of-state; others may be forced to curtail or permanently close operations. Ecology must therefore give substantial weight to affordability and customer impacts when finalizing allocation-related rules and guidance.

Our remaining comments respond directly to the specific areas on which Ecology requested stakeholder feedback.

1. Allocation Design

Ecology's proposal to use the allocation schedule from October 2026, adjustable only in circumstances when Ecology determines there to have been "misleading forecasts," a substantial divergence from forecast load that Ecology determines results in a "cumulative allocation significantly diverging from cost burden," or per the request of a utility, is problematic for several reasons. First, the proposal to limit adjustments under WAC 173-446-230(2)(g) is inconsistent with the Legislature's directive that the Clean Energy Transformation Act (CETA) is the primary decarbonization mechanism for the electric sector. Ecology's construct seeks to impose additional decarbonization requirements onto electric utilities in what appears to be an effort to accelerate decarbonization of the electric sector beyond CETA requirements. However, electric utilities (and thereby their customers), unlike other participants, have a statutory mandate for decarbonization through CETA. Thus, utilities that comply with CETA should receive no-cost allowances equal to the emissions associated with serving retail load, consistent with RCW 70A.65.120's plain language. Ecology should not shift significant risk – and therefore costs – onto end-use customers based on the subjective criteria identified.

Additionally, forecasting is inherently uncertain, and they become more uncertain the further into the future the forecast reaches. When forecasts deviate from actuals such that a utility receives fewer no-cost allowances than needed to cover emissions associated with serving retail load, additional allowances should be provided to fully cover the utility's emissions associated with serving its retail load. Otherwise, customers—particularly large employers with energy-intensive operations—bear costs that were intended to be mitigated through the allocation mechanism based on the utility's compliance with CETA. Ecology's proposed limitations would therefore increase financial risk for utilities and their customers.

Finally, before Ecology restricts adjustment mechanisms or alters the allocation design, it should conduct a robust, transparent cost analysis in collaboration with utilities and customers, including AWEC. Without such analysis, Ecology risks inadvertently increasing customer bills, exacerbating affordability challenges, and undermining the Legislature's intent to avoid unnecessary rate impacts during the clean energy transition. It simply does not work for Ecology to design a theoretical program without consideration of the practical implications of its decisions.

AWEC recommends adopting an allocation methodology that ensures all emissions associated with serving retail load are fully covered by no-cost allowances.

2. Consignment Requirements

AWEC strenuously opposes mandated minimum consignment requirements for electric utilities in the second compliance period. It is unclear whether Ecology is suggesting that RCW 70A.65.120(3)(b) requires consignment of at least some amount of no-cost allowances in the second compliance period. A closer reading of the statute shows it does not *mandate* a minimum level of consignment; rather, it directs Ecology to adopt rules that would allow for a consignment minimum if Ecology so chooses.

As we cautioned in our July letter, mandatory consignment is problematic. Although consignment could enhance market liquidity, it would do so at the risk of affordability for all electric customers. Electric customers are already funding decarbonization through their utilities' compliance with CETA. The economic impacts of consignment—positive or negative—will vary widely across utilities depending on individual system characteristics, resource portfolios, and CETA compliance strategies. Therefore, a one-size-fits-all mandate risks shifting costs to customers in ways that cannot be predicted with the information currently available.

Each utility should retain flexibility to determine the least-cost approach to managing compliance with both CETA and the CCA. At minimum, no consignment requirement for no-cost allowances allocated to electric utilities should be adopted without a detailed economic impact analysis assessing customer affordability and compliance interactions. To date, such analysis has not been presented.

Moreover, imposing a consignment mandate only for the second compliance period would create inconsistency between the first, second, and third compliance periods. This inconsistency would increase administrative burdens, complicate utility compliance planning, and create uncertainty for customers—especially large industrial loads with multi-year cost exposure.

Finally, AWEC questions whether, given the restrictions on allowance purchases within the program, every utility could procure enough allowances to meet its compliance obligations for each emissions year and for the second compliance period overall.

Again, the practical implications of Ecology's theoretical approach to designing the Cap-and-Invest program must be considered. For these reasons, AWEC does not support any level of mandatory consignment of no-cost allowances for electric utilities in the second compliance period.

3. Administrative Allocation and Forecasting Issues

AWEC remains concerned with Ecology's approach to aligning Cap-and-Invest implementation with CETA compliance. CETA is the Legislature's primary tool for decarbonizing the electric sector, and customers are already experiencing significant rate increases from CETA-driven investments. Cap-and-Invest implementation should not be viewed as a mechanism to accelerate the decarbonization timeline for electric utilities already established by CETA nor magnify these costs due to administrative design choices.

Ecology's current proposals indicate limited understanding of the administrative burdens and forecasting intricacies faced by utilities, and may be over-simplifying (and therefore under-allocating) allowances to appropriately mitigate administrative costs. The Utilities and Transportation Commission (UTC) and the Department of Commerce have established decades of experience overseeing utility resource planning, load forecasting, and administrative cost recovery. Ecology should leverage this expertise rather than develop forecasting and administrative methodologies in isolation based on theoretical understandings.

We urge Ecology to, instead of making something out of whole cloth, rely on the work products and results of the UTC, the Department of Commerce, the utilities, and customer groups, including AWEC, to develop workable, accurate, and economically sound approaches to forecasting, administrative cost treatment, and allowance allocation.

Thank you for the opportunity to submit these comments. AWEC remains committed to working with Ecology and other stakeholders to ensure that Cap-and-Invest implementation supports Washington's decarbonization goals while maintaining reliability, affordability, and economic competitiveness.

Sincerely,

Bill Gaines
Executive Director
Alliance of Western Energy Consumers