PUGET SOUND ENERGY

Puget Sound Energy
P.O. Box 97034
Bellevue, WA 98009-9734
pse.com

May 2, 2025

Filed Via Ecology Website [Public Comment Form]

Andrew Hayes, Cap-and-Invest Policy Section Manager
Camille Sultana, Cap-and-Invest Environmental Planner
Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Re: Cap-and-Invest: No-cost Allowance Allocation for Electric Utilities

Puget Sound Energy, Inc. ("PSE") appreciates the opportunity and respectfully submits the following comments. These comments are in response to the notice by the Department of Ecology ("Ecology") soliciting written feedback on issues discussed in the April 17th electric utility allocation workshop, to aid Ecology in developing concepts and drafting rule language to improve implementation of the Cap-and-Invest Program.

Background

PSE is Washington State's oldest and largest investor-owned energy utility, serving approximately 1.2 million electric and over 900,000 natural gas customers with safe and reliable energy services. PSE supported the passage of the Climate Commitment Act ("CCA"),[1] and has dedicated substantial resources and time to engage with, implement and ultimately comply with the Cap-and-Invest Program.

Comments

General

PSE appreciates the broadened rulemaking on various topics that require clarity, program improvements, and public engagement. Ecology was given a very limited time to implement the program by the enabling legislation and the initial program, while functional, left work to be done. Almost two and a half years into the first compliance period, there are a number of topics that require clarity and clear guidance. Without such clarity, there is continued uncertainty for business decisions and compliance with the program. PSE appreciates Ecology making progress to address necessary updates to the Cap-and-Invest Program and to provide clear guidance on

---

[1] Climate Commitment Act, 2021 Wash. Sess. Laws, ch. 316, Engrossed Second Substitute Senate Bill 5126 (codified as Chapter 70A.65 RCW).

program implementation and compliance requirements. PSE also supports Ecology's efforts to streamline processes and consider guidance to improve certainty and limit administrative burden.

Allocation adjustments initial guidelines

In the presentation provided by Ecology on April 17, 2025 ("April 17th Presentation"),[2] Ecology explained that WAC 173-446-230(2)(g) enables adjustments of future allowances to account for over- or under-allocation in previous years.[3] Specifically, WAC 173-446-230(2)(g) states:

> 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.

The April 17th Presentation outlined the following guidelines that Ecology will consider adopting related to WAC 173-446-230(2)(g):

Ecology will not seek adjustments related to

- *Market-optimization behavior resulting in lower covered emissions or cost burden relative to forecasts based on best estimates of retail supply at the time*
- *Additional or overachievement of decarbonization or efficiency efforts relative to forecasts based on best estimates of retail load or supply at the time*

Ecology may consider adjustments related to

- *Misrepresentation of forecast load or retail supply that was not reflective of best estimates at the time*
- *Significant divergence from forecast retail load due to high-density load, resulting in cumulative allocation significantly diverging from cost burden*
- *Per request of utilities.*[4]

Generally, PSE is in support of these draft guidelines by Ecology. PSE encourages Ecology to have further discussions around the concepts listed above.

PSE agrees with Ecology that upcoming data center and other high-density loads are challenging to predict, as discussed in the April 17th Presentation,[5] and that Washington load growth may exceed historic trends. PSE is already seeing many more high-density load requests than expected, and PSE's 2027 Integrated System Plan currently under development will be considering high load forecast scenarios. This potential large change in load creates significant

---

[2] Washington Department of Ecology, *Cap-and-Invest: No-cost allowance allocation for electric utilities* (Apr. 17, 2025), available at https://ecology.wa.gov/getattachment/19e9e1c5-fa78-45e6-a0ab-c3c83b8790de/Electric-utility-allocation-workshop-presentation-4-17-2025.pdf (the "April 17th Presentation").

[3] *See id*. at slide 37.

[4] *Id*. at slide 39.

[5] *Id*. at slide 28.

uncertainty for PSE's forecasts that serve as the basis for electric allowance allocations. As such, PSE appreciates Ecology's recognition of this potentially large new load impact issue in the initial guidelines as an allowable reason for why Ecology may consider adjustments to allowance allocations: "*Significant divergence from forecast retail load due to high-density load, resulting in cumulative allocation significantly diverging from cost burden.*"[6]

Finally, PSE appreciates the addition of "*per request of utilities*" as this recognizes that each utility may find itself in a unique situation requiring it to request potential adjustments.

Vintage 2026 allocation (and vintage 2023 and vintage 2024 adjustments)

Overall, PSE supports Ecology's planned updates of vintage 2026 allocations per the BPA emission factor and other necessary updates, outlined in Ecology's October 2024 workshop and repeated in the April 17th Presentation.[7]

However, PSE has concerns regarding Ecology's proposal that "[a]djustments accounting for difference from distributed v2023 and v2024 allocation will be applied to v2026-v2030."[8] PSE recommends that Ecology apply any adjustments for difference from distributed v2023 and v2024 allocation to v2025 and/or v2026 allocations only. In other words, PSE recommends that any such adjustments occur within a compliance period and not across multiple compliance periods. Subject to approval by the Washington Utilities and Transportation Commission, PSE plans to recover from customer rates any compliance costs for an applicable compliance period within that compliance period, and allocation adjustments that affect multiple compliance periods could be problematic. PSE's recommended approach to keep allowance adjustments within a compliance period facilitates the principle of cost causation in ratemaking so that future customers who did not incur emissions do not pay for emissions of, or receive more benefits from adjustments on behalf of, those customers who incurred emissions but have left the system by the time the adjustments are made.

Allocation adjustments guidance implementation

Ecology stated that the Department plans to annually "close the books" for "past year post-verification deadline, similar to the approach for 2023."[9] Ecology provides a link to Publication 24-14-085,[10] which states, in pertinent part, as follows:

> Regarding allocation provided to electric utilities to mitigate the potential cost burden of the Cap-and-Invest Program on Washington customers incurred for calendar year 2023, Ecology has determined:

---

6 *See* April 17th Presentation at slide 39.
7 *See id*. at slide 32.
8 *Id*. at slide 32.
9 *Id*. at slide 40.
10 Department of Ecology, Information on adjustments to no-cost allowance allocation for electric utilities (Nov. 20, 2024), available at https://apps.ecology.wa.gov/publications/documents/2414085.pdf ("Publication 24-14-085").

- Except for adjustments made to account for administrative costs, Ecology will not initiate further adjustments to the allowance allocation schedule accounting for allocation methods, forecasts, or cost burden associated with calendar year 2023, including any adjustments made pursuant to WAC 173-446-230(2)(g). However, *Ecology may make further adjustments for any entity with an adverse verification statement, per WAC 173-441-085.*
- Ecology will not adjust previously allocated vintage 2023 allowances per WAC 173-446-230(2). Accordingly, Ecology will not request that a utility return previously allocated vintage 2023 allowances as part of any adjustment.
- An additional number of allowances will be allocated to account for administrative costs of the Cap-and-Invest Program associated with calendar year 2023, consistent with WAC 173-446- 230(2)(h).[11]

To provide more clarity, PSE recommends that Ecology expand on and explain more about this process of "closing the books" in general, and for calendar years 2023 and 2024, in particular. For example, PSE has several questions on this process:

- Does the publishing of Publication 24-14-085 mean that Ecology has "closed the books" for calendar year 2023?

- If so, why are there potential v2023 adjustments mentioned in the slides on vintage 2026 allocations?[12]

- When is the "verification deadline" for 2023? When is the "post-verification deadline"?[13]

- Is it already known or when will it be known if there will be any adjustments to v2023 for the verification process per WAC 173-441-085 (referred to in Publication 24-14-085)?

- When is the verification deadline for v2024, v2025 and v2026? When will it be known if there will be any adjustments to v2024-v2026 allocations per WAC 173-441-085?

Administrative allocation

RCW 70A.65.010(21) defines the term "cost burden" as

> 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.*

---

[11] *See* Publication 24-14-085 at 1.

[12] *See*, *e.g.*, April 17th Presentation at slide 32 (stating that "[a]djustments accounting for difference from distributed v2023 … allocation, will be applied to v2026- v2030.").

[13] *Id*. at slide 40.

On October 16, 2024, Ecology held a workshop to discuss no-cost allowance allocation and administrative costs. On November 30, 2024, PSE and other utilities submitted comments responding to Ecology's questions on implementation of administrative costs through the provision of no-cost allowances to electric utilities under the Cap-and-Invest Program. In the comments, PSE explained that WAC 173-446-230(2)(h) rule adopted in October 2022 outlined onerous documentation requirements including requiring audited financial statements. PSE and other peer utilities recommended that Ecology consider allocating a standard number of allowances to promote consistency and predictability for all utilities.

In the April 17th Presentation, Ecology stated that, in response to utility requests, it intends to develop a "calculated method" designed to mitigate administrative costs.[14] Ecology outlined the following considerations for a calculated method:

- Mitigate administrative costs associated with participation in program
- Improve certainty of allocated values
- Reduce administrative burden.[15]

PSE appreciates that Ecology is responsive to utilities' comments and recommendations. PSE supports the initial concept and the considerations of improved certainty, mitigation of administrative costs, and reduction of administrative and implementation burden for all parties.

PSE recommends that Ecology amend its rules to remove any language requiring that administrative costs be "derived from audited financial statements of utilities" (which is currently in WAC 173-446-230(2)(h)). Ecology's goal of reducing administrative burden is in direct conflict with any requirement that costs be "derived from audited financial statements." Additionally, PSE would suggest that, depending on the details of the calculated method contemplated by Ecology, auditing costs and associated administrative burdens could likely well exceed benefits of no-cost allowances allocated for administrative costs to implement the Cap-and-Invest Program.

Ecology proposes to implement the administrative allocation using a calculated method for 2023-2026 with v2027 allocation.[16] Similar to PSE's comments on v2023 and v2024 adjustments, PSE recommends that the administrative allocations for 2023-2026 be included as part of v2025 and/or v2026 allocations so that any such adjustments occur within the same compliance period and not across multiple compliance periods.

Additionally, PSE recommends that Ecology clarify if the same calculated approach will be applied consistently to all years subsequent to 2026, and, if so, confirm whether the administrative allocations (using the calculated method) would be included as part of total allocations going forward published in October of each year for the next vintage year.

---

[14] *See* April 17th Presentation at slide 42.
[15] *See id*.
[16] *Id*. at slide 43.

Conclusion

Thank you for the opportunity to provide comments to inform rule changes for the Cap-and-Invest Program. PSE appreciates and looks forward to continued engagement with Ecology and fellow utilities and other interested parties on these and other matters in this Cap-and-Invest Program Updates and Linkage rulemaking.

Please contact Kelima Yakupova, State & Regional Policy Consultant, PSE Regulatory Policy, at (425) 462-3588 or kelima.yakupova@pse.com, for additional information about this filing. If you have any other questions, please contact me at (425) 462-3051.

Sincerely,

/s/ Wendy Gerlitz

Wendy Gerlitz
Director, Regulatory Policy
Puget Sound Energy
PO Box 97034, BEL10W
Bellevue, WA 98009-9734
425-462-3051
Wendy.Gerlitz@pse.com