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

On July 22, 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 Public Generating Pool (PGP) is a trade association representing eight consumer-owned utilities in Washington and one in Oregon that own and operate their own generating resources. PGP respectfully offers the following comments on select areas of requested feedback outlined at the July 22nd Cap-and-Invest workshop.

General Comments

In 2019, Washington enacted the Clean Energy Transformation Act (CETA), the state's first sector-specific statute aimed at laying the groundwork for the transition to a clean energy economy by 2050. The core requirements of CETA are threefold: (1) On or before December 31, 2025, each electric utility must eliminate coal-fired resources from its allocation of electricity used to serve Washington retail electric customers; (2) by January 1, 2030, and through December 31, 2044, each electric utility must ensure that all retail sales of electricity to Washington retail electric customers are greenhouse gas (GHG) neutral; and (3) by January 1, 2045, and each year thereafter, each electric utility must demonstrate that 100 percent of retail sales of electricity to Washington retail electric customers are met using a combination of nonemitting electric generation and electricity from renewable resources. With respect to CETA's 2030 GHG Neutral Standard, the law allows an electric utility to satisfy up to 20 percent of each four-year compliance obligation with an alternative compliance option, such as unbundled renewable energy credits.

Subsequent to the enactment of CETA, Washington enacted E2SHB 2311[1] (Slatter, 2020), which increased the stringency of the state's statutory GHG emissions limits, and E2SSB 5126[2] (Carlyle, 2021), also known as the Climate Commitment Act (CCA), which established the state's Cap-and-Invest Program. In drafting the CCA, the Legislature recognized both the pre-existing policy framework provided by CETA and the pivotal role of the electric sector in decarbonizing the state's economy by providing no-cost allowances to all electric utilities subject to the requirements of CETA through 2045. The statutory purpose of electric utility no-cost allowance allocation is to mitigate the incremental cost burden of the Cap-and-Invest Program on electricity customers relative to the requirements of CETA. "Cost burden" is specifically 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*."[3]

At Ecology's July 22nd workshop on electric utility no-cost allowance allocation, Ecology staff presented a slide on Cap-and-Invest Program allowance budgets relative to simplified utility emissions assumptions under CETA with the assertion that, "Though 2044, CETA compliance may not drive proportionate emission reductions consistent with declining economy-wide Cap-and-Invest Program allowance budgets or state emission limits."[4] Before Ecology adopts rules or makes other definitive policy decisions based on this assertion, PGP recommends that Ecology facilitate further discussion on the interrelationship between CETA and the CCA, which were designed by the Legislature to be complementary policies.

Topic: Use of No-Cost Allowances

The CCA statute and program rules provide that during the first compliance period (calendar years 2023 through 2026), allowances allocated at no cost to electric utilities may be:

- Consigned to auction for the benefit of ratepayers, with the first priority being the mitigation of any rate impacts to low-income customers;
- Deposited for compliance;

[1] Engrossed Second Substitute House Bill 2311. Chapter 79, Laws of 2020. Retrieved from: https://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/House/2311-S2.SL.pdf?cite=2020%20c%2079%20s%202.
[2] Engrossed Second Substitute Senate Bill 5126. Chapter 316, Laws of 2021. Retrieved from https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5126-S2.SL.pdf?cite=2021%20c%20316%20s%2014.
[3] RCW 70A.65.010(21)
[4] Department of Ecology. July 22, 2025. Cap-and-Invest: No-cost allowance allocation for electric utilities. Retrieved from: https://ecology.wa.gov/getattachment/b219bf6f-930c-4d72-96a0-b8752483a108/ElecAllocation_072225.pdf.

- Transferred to an eligible electrical generating facility or federal power marketing administration;
- Held for future use, pursuant to applicable holding limits; or
- Any combination of the above.

While there is no minimum consignment requirement for the first compliance period, RCW 70A.65.120(3)(b) provides that:

> "*By October 1, 2026, the department, in consultation with the department of commerce and the utilities and transportation commission, must adopt rules governing the amount of allowances allocated at no cost* [for the second compliance period] *that must be consigned to auction. For calendar year 2030, electric utilities may use allowances for compliance equal to their covered emissions if not subject to potential penalty under RCW 19.405.090.*"

For compliance periods contained within calendar years 2031 through 2045, RCW 70A.65.120(2)(d) further provides that while Ecology may prescribe by rule an amount of no-cost allowances that must be consigned to auction by electric utilities, utilities may still use allowances for compliance equal to their covered emissions in any calendar year they were not subject to potential penalty under CETA.

PGP offers the following responses to specific questions posed by Ecology on use of no-cost allowances.

Consignment Requirements

Q: Are there benefits or disadvantages of consignment of no-cost allowances?

The primary purpose of electric utility no-cost allowance allocation is to mitigate the incremental cost burden of the Cap-and-Invest Program on electricity customers. This primary purpose can be achieved in two ways:

- **Directly,** by allowing electric utilities to use no-cost allowances for direct compliance equal to their covered emissions such that they do not have to purchase allowances at auction or through the secondary market to meet their own compliance obligations; or
- **Indirectly,** by allowing electric utilities to consign no-cost allowances to auction and use the subsequent proceeds for the benefit of ratepayers, including by offsetting any direct compliance costs passed on to customers through rates.

PGP strongly believes that the specific strategy any utility employs around its use of no-cost allowances is a decision best left to the utility and its appropriate regulatory or governing body. While there certainly are benefits to consignment of no-cost allowances, such as greater allowance market liquidity and monetization of allowance value, those benefits could be outweighed by greater direct compliance costs if a utility is required to "buy back" allowances at a higher settlement price than it receives for its consigned allowances. For a consumer-owned utility, any compliance costs that are not mitigated by the use of no-cost allowances, either directly or indirectly, will ultimately be borne by the utility's customers through rates.

Q: Should utilities be required to consign a specified amount of no-cost allowances?

No, utilities should not be required to consign a specified amount of no-cost allowances for the second compliance period. The holding limits established under WAC 173-446-150(2) already limit the total number of no-cost allowances a utility may keep in its Electricity Allocation Holding Account. In particular, the 50 percent holding limit established under WAC 173-446-150(2)(f) requires a registered entity that meets or exceeds this limit to explain its strategy and reason for holding allowances within 10 business days of a request from Ecology. These holding limits will ultimately induce utility consignment of no-cost allowances consistent with the utility's individual compliance and consignment strategy. However, if Ecology does decide to pursue a minimum consignment requirement for electric utilities, Ecology's rules must still allow utilities to use allowances for compliance equal to their covered emissions in any calendar year from 2030 through 2045 if not subject to potential penalty under CETA, as provided under RCWs 70A.65.120(2)(d) and (3)(b).

Q: Should any potential rules regarding consignment requirements be applied across all utilities?

PGP does not believe that any utilities should be required to consign a specified amount of no-cost allowances for the second compliance period, for the reasons articulated above.

Use of Proceeds from Consigned Allowances

Q: Would guidance be valuable on this topic?

Yes, provided that such guidance is permissive or illustrative and does not introduce constraints on eligible uses of proceeds from consigned allowances.

Equity Focus

Q: How could no-cost allowances be used to maximize ratepayer benefit and support achievement of state emission limits?

Uses of proceeds from consigned allowances that both (A) maximize ratepayer benefit and (B) support achievement of state emission limits are those that directly decarbonize the electric grid, including by increasing the supply of renewable or nonemitting energy or decreasing demand through energy efficiency. Examples can be drawn from the eligible uses of allowance auction proceeds accrued to the state outlined in [RCW 70A.65.260] (the Climate Commitment Account), including but not limited to:

- Programs, activities, or projects that deploy utility-scale renewable energy resources, such as solar and wind power;
- Programs, activities, or projects that deploy utility-scale battery energy storage systems;
- Projects to deploy distributed generation, demand-side technologies and strategies, and other grid modernization projects;
- Programs, activities, or projects that increase energy efficiency or reduce GHG emissions of electric utilities' industrial and commercial customers; and
- Programs, activities, or projects that increase energy efficiency in new and existing buildings.

Q: How could use of proceeds from consigned allowances be applied specifically to protect low-income ratepayers and overburdened communities?

Beyond the non-volumetric credits example provided by Ecology at the July 22nd Cap-and-Invest workshop, other potential uses of consigned allowance proceeds that can be applied specifically to protect low-income utility customers include, but are not limited to:

- Targeted rebates or other incentives for high-efficiency electric appliances and equipment for space and water heating;
- Targeted weatherization programs;
- Community renewable energy projects that allow low-income participants to own or receive the benefits of those projects at reduced or no cost; and
- Increased funding toward energy assistance programs for low-incomes customers.

PGP also notes that the concepts of "overburdened communities" and "vulnerable populations" (also referred to as "named communities"), while pertinent to the implementation of CETA and the Health Environment for All (HEAL) Act, are not directly mirrored in the statutory framework of the CCA with respect to the use of consigned allowance proceeds by electric utilities.

Topic: Allocation Timing

Under the CCA Program Rule, Ecology uses utility-specific demand and resource supply forecasts to calculate a utility's "cost burden effect" under the Cap-and-Invest Program. These forecasts must meet certain requirements outlined in rule and must be approved by the utility's appropriate regulatory or governing body. Current WAC 173-446-230(2)(j) provides that, if a revised forecast of supply or demand is approved by July 30th of a given calendar year, then Ecology may adjust the schedule of allowances by October 1st to reflect the revised information provided by the updated forecast.

At the July 22nd Cap-and-Invest workshop, Ecology presented an initial concept for extending the July 30th revised forecast approval deadline to September 5th of each year in order to better align with existing utility processes. While PGP supports an approach that extends the revised forecast approval deadline for each year, we'd like to understand when those approved forecasts would need to be subsequently submitted to Ecology in order to enable Ecology to potentially publish draft allocation schedules for utility review before the October 1st publication date set in rule.

Topic: Administrative Allocation

The CCA statute directs that Ecology's calculation of utility "cost burden" must include administrative costs incurred from the utility's participation in the Cap-and-Invest Program. 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 reiterates our recommendation 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).

Topic: Allocation Adjustments

For each allocation cycle, current 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.*"

As previously expressed in our May 2, 2025, comments[5] to Ecology, PGP appreciates Ecology's efforts to clarify the interpretation and implementation of this provision. Based on the July 22nd workshop, it is PGP's understanding that Ecology does not intend to adjust allowance allocations based on applicable reported GHG emissions for prior years as provided under the current WAC. If

[5] Public Generating Pool. May 2, 2025. RE: Cap-and-Invest: No-Cost Allowance Allocation for Electric Utilities. Retrieved from: https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did200118/pid_210883/assets/merged/220gihr5smf_document.pdf?v=34068.

our understanding is correct, then PGP strongly encourages Ecology to propose rule language that repeals this WAC and replaces it with a provision that codifies Ecology's approach to allocation adjustments going forward. PGP continues to believe that written guidance should serve as an interim approach for vintage 2026 allocation in advance of reevaluating WAC 173-446-230(2)(g) through Ecology's current CCA rulemaking. By clarifying the rule language directly, Ecology would be providing the certainty utilities need in order to appropriately manage their distributed and scheduled no-cost allowance allocations and plan their compliance strategies into the future

With respect to the updated draft allocation adjustment guidelines presented at the July 22nd workshop, PGP offers the following comments in addition to those previously articulated in our May 2, 2025, comment letter:

- **Forecast Accuracy:** PGP appreciates Ecology's verbal clarification of the types of circumstances under which Ecology may consider adjustments related to "misrepresentation" of forecast load or retail supply. However, PGP recommends that Ecology's guidance or rule language outline the objective criteria by which Ecology would determine whether misrepresentation is suspected to have occurred.
- **Retail Load Variance:** PGP supports an approach that reflects a more general application that could potentially include variance due to both high-density load and electrification. PGP notes, however, that at least one of our Washington members projects the potential for load variance of at least ±15 percent due to normal fluctuations in its high-density load service. Setting the threshold too low could result in some utilities being subject to frequent load variance adjustments, an outcome that would be administratively burdensome to both the utilities and Ecology. PGP would also value additional information as to the temporal basis for adjustment (i.e., is the variance threshold based on forecast vs. actual retail load for the prior year) and whether the retail load variance threshold would be weather-adjusted.

Topic: Second Compliance Period Forecasts & Approach

At the July 22nd workshop, Ecology provided questions for feedback with respect to the approach to utility-specific demand and resource supply forecasts that will be used to calculate a utility's "cost burden effect" for the second compliance period of the Cap-and-Invest Program. PGP offers the following responses to those questions below.

Q: Do entities foresee hurdles to have a 2nd compliance period forecast consistent with WAC 173-446-230(2) no later than September 1, 2026?

> PGP's member utilities do not currently foresee any issues with establishing a submission deadline of September 1, 2026, for demand and resource supply forecasts for the second compliance period.

Q: Ecology may publish guidance to support consistency of utilized forecasts, including treatment of storage, demand response, and distributed resources and energy efficiency programs.

- *Are there other topics Ecology should address in guidance?*
- *By when should guidance be provided to be useful in utility processes?*

PGP does not believe that guidance around the treatment of storage, demand response, and distributed resources and energy efficiency programs in utility demand and resource supply forecasts is necessary at this time. Instead, Ecology should look to the existing statutory requirements related to these topics provided under the Energy Independence Act (Ch. 19.285 RCW), CETA (Ch. 19.405 RCW), and the Integrated Resource Planning statute (Ch. 19.280 RCW) when reviewing utility demand and resource supply forecasts that are submitted for the calculation of the cost burden effect of the Cap-and-Invest Program.

If Ecology decides to address other topics in guidance, then such guidance should be provided as soon as possible to be useful in utility processes, given that utilities are currently in the process of developing their second interim Clean Energy Implementation Plans and biennial Integrated Resource Plan updates for 2026.

Q: Should Ecology pursue rule amendments for 2nd compliance period allocation to further support certainty and decarbonization incentives? For example, an approach that relies on a defined allocation schedule for a compliance period, with no or limited ability for revision or adjustment.

As expressed above, PGP believes that, at a minimum, Ecology should propose rule language in advance of the second compliance period that repeals WAC 173-446-230(2)(g) and replaces it with a provision that codifies Ecology's approach to allocation adjustments going forward.

In addition, PGP supports an approach for second compliance period allocation that recognizes the value of certainty for electric utilities and their customers with respect to both distributed and scheduled allocations of no-cost allowances, while preserving the option for the submission of revised or updated forecasts under WAC 173-446-230(2)(j). 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. Ecology's approach should 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.

Conclusion

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
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