

Sommer Moser

See attached written comments on behalf of the Alliance of Western Energy Consumers.



Alliance of Western Energy Consumers ♦ 3519 NW 15th Ave., #249 ♦ Portland, OR 97212 ♦ 971-544-7169 ♦ awec.solutions

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Camille Sultana, Senior Environmental Planner
Department of Ecology
Climate Pollution Reduction Program
P.O. Box 47600
Olympia, WA 98504-7600

Submitted by online form at ecology.wa.gov

Re: Alliance of Western Energy Consumers' Comments on Cap-and-Invest: Electric utility allocation issues discussed during July 22, 2025, workshop

Dear Camille Sultana,

The Alliance of Western Energy Consumers (AWEC) appreciates the opportunity to provide comments on the questions posed by the Washington Department of Ecology (Ecology) related to the allocation of no-cost allowances for electric utilities raised during Ecology's July 22, 2025 public workshop.

Many of AWEC's members own facilities designated as covered energy-intensive and trade-exposed entities (EITE) under the Climate Commitment Act (CCA). AWEC is a trade organization whose members include many of the State's largest employers and consumers of electricity and natural gas. AWEC's members are responsible for providing tens of thousands of highly paid, technical, family-wage jobs across a broad range of industry sectors such as agriculture, aeronautics, air products, metals, pulp and paper, and more. Thanks to Washington's abundant hydro resources, they also have some of the cleanest processes in terms of carbon emissions in the world. AWEC's members are also significant consumers of electricity, paying millions of dollars in rates each year. Affordability and reliability have long been tenets of AWEC's advocacy and, in recent years, affordability has become of significant concern not just for AWEC's members, but Washington ratepayers generally. Given the energy-intensive nature of many industrial processes, AWEC members are particularly sensitive to the cost of energy, which can make or break the economics of an industrial operation. AWEC's comments herein will focus on the implications of Ecology's allocation of no-cost allowances to electric utilities as this was the focus of the July 22, 2025 workshop, but AWEC also remains engaged in Ecology's implementation of EITE requirements.

Ecology's implementation of the CCA has, and will continue to have, significant cost implications for Washington's electricity ratepayers beyond what the CCA itself requires. If electricity rates become too great to bear, driven in part by Ecology's implementation decisions related to mitigating the cost burden effect of CCA compliance, Washington industry will suffer, which will have a cascading effect on utility ratepayers, local communities, and Washington's economy as a whole—to say nothing of the increased emissions that are likely to result as a consequence of leakage. Industries that are able to shift production and/or operations to out-of-

state locations will do so, and others may have no other option but to shutter operations. Ecology should heavily weigh affordability considerations *for all customers* when making implementation decisions and offering guidance to utilities. AWEC's remaining comments focus on areas of requested feedback from Ecology for which it has specific comments and recommendations at this time.

A. Consignment requirements

1. Are there benefits or disadvantages of consignment of no-cost allowances?

AWEC understands that one perspective supporting consignment of no-cost allowances is to bolster market participation. However, electric customers are already paying for decarbonization efforts through their host utilities' compliance with the Clean Energy Transformation Act (CETA). Economic impacts resulting from mandatory consignment of no-cost allowances may or may not be beneficial to customers, and there is no way to know from the outset how each utility will be impacted, as impacts will be highly dependent on fact-specific circumstances. The risk of requiring consignment of no-cost allowances is that decarbonization of the electric sector may become unaffordable for electric customers. And while the CCA prioritizes mitigating impacts to low-income ratepayers and over-burdened communities, there is also a limit to the cost increases that other customers groups can afford. For this reason, as discussed below, AWEC does not support mandatory consignment of no-cost allowances for electric utilities.

2. Should utilities be required to consign a specified amount of no-cost allowances?

No. Each utility should be permitted to determine its own lowest cost, least risk strategy for CCA compliance. Utilities are differently situated from one another and have unique exposures and risks. A "one-size fits all" approach to how many no-cost allowances must be consigned may create winners and losers within the electric utility sector, which comes at the ultimate expense of the utility's ratepayers. Utilities should remain free to determine whether to consign no-cost allowances, and if so, how many, based on their individual circumstances.

3. Should any potential rules regarding consignment requirements be applied across all utilities?

AWEC does not recommend adopting rules that would require electric utilities to consign specified amounts of no-cost allowances. To the extent that Ecology nevertheless adopts a rule regarding consignment requirements, it should clearly outline its rationale either in the case where it applies consignment requirements equally to all utilities or if it adopts different requirements for different utilities. Regardless, any requirement to consign no-cost allowances should be limited to a small percentage of such allowances to ensure the utilities have maximum flexibility to comply with the CCA in the best interests of their customers.

B. Use of proceeds from consigned allowances

1. Do utilities have questions on use of proceeds from consigned allowances consistent with RCW 70A.65.120(4)?

AWEC is not a utility, and therefore, will not offer comments as to whether utilities have questions on the use of proceeds from consigned allowances. However, as discussed below, AWEC emphasizes that if Ecology is inclined to provide guidance to utilities, it should not be biased and should not be characterized as in any way binding on the utility, or as otherwise insulating the utility from the risk that its use of proceeds from consigned allowances is inconsistent with RCW 70A.65.120(4). There is a myriad of ways that a utility could use proceeds from no-cost allowances to meet the requirements of the statute, and any guidance on this front should not be considered exhaustive.

2. Would guidance be valuable on this topic?

AWEC questions whether published guidance would be valuable on this topic. While it is understandable that an electric utility would find guidance from Ecology attractive, AWEC is concerned based on the examples provided thus far, as well as Ecology's characterization of CCA requirements, that there may not be alignment on what RCW 70A.65.120(4) requires and that any guidance may be inaccurate or otherwise demonstrate a bias in mitigation efforts that is not consistent with statutory requirements.

RCW 70A.65.120(4) provides that “[t]he benefits of all allowances consigned to auction under this section must be used by consumer-owned and investor-owned electric utilities for the benefit of ratepayers, with the first priority the mitigation of any rate impacts to low-income customers.” However, in the example of guidance that Ecology could provide to utilities,¹ Ecology indicated that non-volumetric credits are an example of an “[e]stablished tool to protect residential ratepayers from cost burden while maintaining the carbon price signal and decarbonization incentives.” This example demonstrates a clear misunderstanding of statutory requirements and appears to indicate a bias from Ecology that revenues from no-cost allowances should benefit residential ratepayers above other customer classes. Per the statute, proceeds from consignment must be for the benefit of ratepayers – there is no distinction for customer class – with the first priority to be mitigating rate impacts to low-income customers – not residential customers as a whole. The concept of a non-volumetric rate credit comes from CCA requirements applicable to natural gas utilities and how revenues from consigned allowances must be used.² Importantly, statutory requirements are different for electric utilities.

¹ Washington Department of Ecology, Cap-and-Invest: No-cost allowance allocation for electric utilities at Slide 24 (July 22, 2025), accessed at https://ecology.wa.gov/getattachment/b219bf6f-930c-4d72-96a0-b8752483a108/ElecAllocation_072225.pdf.

² RCW 70A.65.130(2)(b) (“Revenues from allowances sold at auction must be returned by providing nonvolumetric credits on ratepayer utility bills, prioritizing low-income customers, or used to minimize cost impacts on low-income, residential, and small business customers through actions that include, but are not limited to, weatherization, decarbonization, conservation and efficiency services, and bill assistance.”).

As noted above, and acknowledged by Ecology, CETA is the key policy for electric utility decarbonization. Electric customers do not pay for CETA compliance, and thereby achieve decarbonization efforts, on a non-volumetric basis. Generation costs in utility rates are paid based on the volume consumed, meaning that large users of electricity are paying more to decarbonize electric utility operations than smaller users on a per user basis. There is no statutory or policy reason that residential customers should benefit more greatly from revenues from consigned no-cost allowances than other customer classes, and Ecology should not offer guidance that either explicitly or implicitly biases utility use of revenues in such a manner.

Finally, Ecology should consider the implications of its guidance, if given, on programmatic goals. For example, during the workshop, a representative from Cowlitz Public Utility District asked whether using consigned revenues for decarbonization efforts that would reduce overall emissions, and thus benefit all ratepayers, would be an appropriate use of revenues. While Ecology merely pointed to statutory language, indications of its interpretations give AWEC pause. The goal of the Cap-and-Invest program is to reduce emissions. Utilities using revenues from consigned allowances to reduce emissions – and thus costs for all customers – should not be discouraged or interpreted by Ecology as contrary to RCW 70A.65.120(4) as a matter of fact.

3. *Would information sharing of utility use of proceeds examples be helpful?*

AWEC finds that information and transparency may be helpful. However, AWEC has concerns if in sharing the information of how other utilities use proceeds may come with judgments or conclusions about whether the approach is consistent with RCW 70A.65.120(4), particularly given the concerns noted above.

C. Equity focus

1. *How could no-cost allowances be used to maximize ratepayer benefit and support achievement of state emissions limits?*

Fundamentally, Cap-and-Invest is a market-based approach to reducing state emissions – it does not require specific reductions from any one market participant, but does come with financial implications that depend on each market participant’s compliance strategy. The best way to ensure that no-cost allowances are used to maximize electric ratepayer benefits and support achievement of state emissions limits is to allow each electric utility to determine the lowest cost, considering risk compliance strategy for meeting CCA requirements. As stated above, AWEC does not believe that there is a “one-size fits all” approach to maximizing ratepayer benefits in the CCA market mechanism.

2. *How could use of proceeds from consigned allowances be applied specifically to protect low-income ratepayers and over-burdened communities?*

AWEC is again concerned that Ecology's interpretation is inconsistent with plain statutory language. As noted above, RCW 70A.65.120(4) requires that benefits from allowances consigned to auction be used for the benefit of ratepayers, with the first priority being mitigating rate impacts to low-income customers. The statute at issue does not mention over-burdened communities. This is significant, as the law makes explicit reference to over-burdened communities in other sections, indicating that if the Legislature had intended to include these communities as priority beneficiaries of no cost allowances independent of low-income customers, it would have done so.

Furthermore, as noted above, using proceeds to invest in decarbonization measures that reduce the utility's overall emissions should not be minimized or discouraged in favor of efforts that disproportionately benefit low-income customers. In other words, all customers, including low-income customers and customers located in over-burdened communities, will benefit from lower rates resulting from a reduced CCA compliance obligation for their utility. The use of proceeds in this manner should again not be discouraged or discounted because they are not specifically targeted at "protecting low-income ratepayers" at the expense of other customer classes. Using proceeds for decarbonization measures aimed at reducing overall emissions would prioritize rate impacts to low-income customers, it's just that other customer classes would also benefit.

D. Allocation adjustments

Ecology should adopt an allocation adjustment methodology that ensures that all emissions associated with a utility serving retail load are covered by no-cost allowances. If forecasts deviate from actuals such that a utility has fewer no-cost allowances than necessary to cover its emissions associated with serving retail load, additional no-cost allowances should be allocated. Again, because CETA is the decarbonization policy driving the clean energy transition for the electric sector, if a utility is complying with its CETA obligations, it should receive no-cost allowances equal to its emissions associated with serving retail load, consistent with RCW 70A.65.120. Rules that would subject ratepayers – who ultimately bear the costs of compliance – to a 15% swing in cost exposure do not serve the public interest, nor do they appropriately mitigate the cost burden effect of the program as intended by the Legislature.

It is also important to remember that shifting forecast risk directly impacts *customers* all because the *utility* forecasted incorrectly, which is not within customer control. While AWEC assumes that utilities will use best efforts to develop accurate forecasts, deviations occur that are not always in the control of the utility. A program design that would leave significant forecast deviations uncovered by the program will again only contribute to affordability concerns, will double-charge customers for carbon reductions, and constitutes an inappropriate risk shift to electric customers.



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E. Second Compliance Period Approach

- 1. Should Ecology pursue rule amendments for the 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 adjustment.*

AWEC will reserve more specific feedback for any potential proposed rule amendment, but from the outset, has serious concerns about an approach to allocation that prioritizes “decarbonization incentives,” which are unclear to AWEC, over mitigating the cost burden to each electric utility’s customers. As previously noted, CETA is the key policy for decarbonizing the electric sector, and customers are already facing significant rate increases associated with utility compliance. Ecology should not adopt rule amendments for the second compliance period that would exacerbate rate impacts in the name of attempting to artificially accelerate decarbonization incentives. Utilities are already struggling to acquire non-emitting resources due to a lack of transmission and generation options currently. At the same time, demand on electric utilities is materially increasing, in part due to electrification efforts and other policies. If there are no revisions, or a limited ability for revision and adjustment, ratepayers will suffer substantially, and affordability will be compromised. This is an outcome that should be avoided at all costs.

/s/ Bill Gaines

Executive Director

Alliance of Western Energy Consumers