

**BEFORE THE WASHINGTON DEPARTMENT OF ECOLOGY**

**COMMENTS OF THE ENERGY PROJECT ON  
PROPOSED CLIMATE COMMITMENT ACT RULES**

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## I. Introduction

### A. Executive Summary

The Energy Project (TEP) represents low-income utility customers and vulnerable populations in Washington, as well as organizations funded by the Washington State Department of Commerce to provide low-income services, including Community Action Partnership agencies that provide low-income energy efficiency and utility bill payment assistance to customers. TEP frequently participates in administrative proceedings when energy affordability, equitable utility service, energy efficiency, and low-income customer benefits are at issue.

The Washington State Legislature tasked the Department of Ecology (Ecology) with developing rules to implement the CCA.<sup>1</sup> The CCA requires Ecology's rules to direct electric and methane gas utility use of revenues generated by the consignment sale of no cost allowances.<sup>2</sup> The CCA requires utilities to use consigned allowance sale revenues for ratepayer benefit, and to prioritize benefits for low-income ratepayers.<sup>3</sup> Ecology's final rule should give full effect to the legislative mandate to prioritize benefits for low-income ratepayers by adopting the revisions found in Attachment A (TEP's Proposal).

After serving low-income customers, the rule should prioritize benefits for overburdened communities. The Legislature provides Ecology a broad mandate to craft equity-focused

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<sup>1</sup> RCW 70A.65.220.

<sup>2</sup> RCW 70A.65.120(3)(a); RCW 70A.65.130(1)(a).

<sup>3</sup> RCW 70A.65.120(4) ("The 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.*") (emphasis added); 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.") (emphasis added).

regulations, including in these CCA rules. Failing to do so would represent yet another missed opportunity to promote equity in the state. Ecology's final rule should therefore require electric utilities to use consignment sale revenues for the benefit of customers in overburdened communities second.

The rule should also include a reporting framework so the public can track how utilities spend consignment sale revenues. Without public reports, utilities could use these revenues however they see fit. Neither Ecology, ratepayers, the broader public, nor the Legislature would have any information about how utilities spend this money. Transparency creates accountability. Ecology should adopt these reporting requirements to ensure that every utility in Washington prioritizes benefits to low-income customers consistent with RCW 70A.65.120(4) and RCW 70A.65.130(2).

Attachment A to these comments includes redlined rule language that implements TEP's Proposal. The NW Energy Coalition also supports TEP's Proposal found in Attachment A.

## **B. Procedural History**

On August 4, 2021 the Department of Ecology (Ecology) submitted a CR-101 to develop rules to implement the Climate Commitment Act (CCA).<sup>4</sup> The CCA tasked Ecology with implementing the state's new cap and invest program.<sup>5</sup> Ecology must finalize several requirements by October 1, 2022 ahead of the January 1, 2023 program start date.<sup>6</sup>

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<sup>4</sup> WSR 21-16-111.

<sup>5</sup> *Id.* at 1.

<sup>6</sup> *Id.*

TEP submitted its first comments to Ecology concerning the CCA rules on January 26, 2022.<sup>7</sup> TEP recommended Ecology’s CCA rules prioritize low-income households, provide rules for utilities using revenues from the consignment and sale of no cost allowances, and establish utility reporting requirements.<sup>8</sup>

On May 16, 2022 Ecology submitted a CR-102 with proposed rule language.<sup>9</sup> The proposed rule language does not instruct electric utilities to use consignment sale revenues to benefit low-income ratepayers, nor does it establish reporting requirement for said revenues.<sup>10</sup>

On June 3, 2022, Ecology submitted a CR-102 continuance extending the comment deadline to July 15, 2022.<sup>11</sup> TEP respectfully submits these comments pursuant to the CR-102 continuance.

**II. The rule should give full effect to the legislative mandate that the “first priority” in use of consignment sale revenues is to benefit low-income ratepayers.**

Ecology’s proposed rule concerning utilities’ use of revenues generated by consigned allowance sales do not appropriately prioritize benefits for low-income ratepayers. Ecology’s proposed rule does not give full effect to the legislature’s direct instruction that utilities use consigned allowance sale revenues to first benefit electric and methane gas low-income ratepayers.<sup>12</sup> Ecology’s proposed rule only applies that legislative requirement to methane gas

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<sup>7</sup> Shawn Collins, *Re: Chapter WAC 173-446 Draft Rules*, The Energy Project (January 26, 2022), [https://scs-public.s3-us-gov-west-1.amazonaws.com/env\\_production/oid100/did1008/pid\\_202271/assets/merged/qs0qimj\\_document.pdf?v=43N7WMCQH](https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did1008/pid_202271/assets/merged/qs0qimj_document.pdf?v=43N7WMCQH).

<sup>8</sup> *Id.* at 1-2.

<sup>9</sup> WSR 21-11-067; Wash. Dep’t of Ecology, *Proposed Rule Language* (May 16, 2022) (Ecology’s Proposed WAC 173-446), <https://ecology.wa.gov/DOE/files/4f/4ffb375b-2bec-4b66-afb3-9b613645896e.pdf>.

<sup>10</sup> *Id.*

<sup>11</sup> WSR 22-11-067.

<sup>12</sup> RCW 70A.65.120(4); RCW 70A.65.130(2)(b).

utilities.<sup>13</sup> Without a rule from Ecology that implement these statutory requirements, utilities may intentionally or unintentionally flout the CCA's requirement to prioritize the return of funds to low-income ratepayers. Therefore, TEP's Proposal includes several revisions to ensure Ecology's final rule is consistent with the CCA.

WAC 173-446-300 should define how utilities prioritize using consignment sale revenues to benefit low-income customers. TEP's Proposal includes several changes that give effect to the legislative command that utilities first use allowance consignment sale revenues to benefit low-income ratepayers.

For electric utilities, TEP's Proposal includes the legislative mandate to prioritize benefits for low-income ratepayers<sup>14</sup> and specifies how that prioritization is to occur. Utilities would first use any consignment sale revenues to provide low-income customers bill credits and energy efficiency services.<sup>15</sup> The rule would specify that this prioritization occurs until utilities provide low-income customers bill credits sufficient to meet the funding levels set in the Clean Energy Transformation Act, RCW 19.405.120(4)(a)(iii).<sup>16</sup>

For methane gas utilities, TEP's revisions give effect to the legislative mandate to prioritize benefits for low-income customers<sup>17</sup> by requiring that utilities first use revenues from consigned allowance sales to provide low-income customers bill credits before using revenues for other purposes.<sup>18</sup>

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<sup>13</sup> Ecology's Proposed WAC 173-446-300(i); Ecology's Proposed WAC 173-446-300(iii).

<sup>14</sup> RCW 70A.65.120(4).

<sup>15</sup> Attachment A, WAC 173-446-300(2)(ii).

<sup>16</sup> Attachment A, WAC 173-446-300(2)(iii).

<sup>17</sup> RCW 70A.65.130(2)(b).

<sup>18</sup> Attachment A, WAC 173-446-300(2)(vii).

Collectively, the proposed changes to WAC 173-446-300 ensure utilities properly prioritize low-income ratepayers in line with the CCA’s mandate. The requirement that utilities use consignment sale revenues to first provide bill credits and energy efficiency services to low-income ratepayers gives effect to the legislative command that utilities prioritize benefits for low-income ratepayers.

This prioritization is feasible and reasonable. The Clean Energy Transformation Act (CETA) requires electric utilities to establish energy assistance programs for low-income households, and to demonstrate progress in meeting loftier energy assistance goals over time;<sup>19</sup> the CCA requires methane gas utilities to establish an incremental program to provide bill credits to customers.<sup>20</sup>

**III. After serving low-income customers, the rule should prioritize benefits to overburdened communities because Ecology has broad authority to craft equity-focused regulations.**

Ecology’s proposed rules concerning utilities’ use of revenues generated by consigned allowance sales do not appropriately prioritize benefits to overburdened communities. Ecology should act within its undisputed authority to craft rules that promote equity, advance the state’s environmental justice goals, and address disproportionate environmental harms suffered by overburdened communities. Failing to do so would represent yet another missed opportunity to promote equity in the state. Therefore, WAC 173-446-300 should require electric utilities to use consignment sale revenues to benefit of customers in overburdened communities second.

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<sup>19</sup> RCW 19.405.120(2).

<sup>20</sup> RCW 70A.65.130(2)(b) (“The customer benefits provided from allowances consigned to auction under this section must be *in addition to existing requirements . . .*”) (emphasis added).

After meeting the Clean Energy Transformation Act’s funding levels, electric utilities should use consignment sale revenues to benefit customers in overburdened communities.<sup>21</sup> TEP’s Proposal defines such benefits to include energy assistance, home or small business energy efficiency programs, and decarbonization programs. After funding programs in overburdened communities, our proposal allows utilities to use consignment sales revenues to provide other ratepayers energy efficiency and decarbonization programs.<sup>22</sup>

Ecology should construe its rulemaking authority liberally to ensure the CCA rule advances the state’s environmental justice goals. Ecology’s enabling act and the administrative procedure act allow Ecology to consider legislative intent where the department is statutorily tasked with promulgating regulations.<sup>23</sup> Here, the legislature intends that Ecology’s CCA rule will provide “direct and meaningful benefits to vulnerable populations and overburdened communities.”<sup>24</sup>

The legislature’s intent expressed in the CCA is part of a broader statutory framework requiring state regulators to prioritize environmental justice. Ecology must incorporate environmental justice into agency strategy and decision-making as part of the Healthy Environment for All (HEAL) Act.<sup>25</sup> Environmental justice includes addressing disproportionate

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<sup>21</sup> Attachment A, WAC 173-446-300(2)(b)(iii).

<sup>22</sup> Attachment A, WAC 173-446-300(2)(b)(iv).

<sup>23</sup> RCW 43.21A.080 (“The director of the department of ecology is authorized to adopt such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter”); RCW 43.21A.900 (“The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out the broad purposes set forth in RCW 43.21A.020.”); RCW 34.05.322 (“An agency may use the statement of intent or purpose or the agency enabling provisions to interpret ambiguities in a statute's other provisions.”).

<sup>24</sup> RCW 70A.65.005(7).

<sup>25</sup> RCW 70A.02.040.



environmental harms suffered by low-income people and overburdened communities.<sup>26</sup> Ecology can advance state environmental justice goals by ensuring the final CCA rule addresses economic barriers that contribute to cumulative, disproportionate negative health impacts suffered by low-income groups and overburdened communities due to the state’s fossil fuel energy system.<sup>27</sup>

Electric utilities with funds left over after providing energy assistance and energy efficiency services for low-income ratepayers should use those funds to benefit overburdened communities. The Legislature intended revenues generated under the cap-and-invest program to help alleviate historical, environmental inequities.<sup>28</sup> TEP’s Proposal explains how utilities can implement this prioritization and gives effect to this legislative intent.

TEP’s Proposal allows electric utilities to fund energy assistance, energy efficiency, and decarbonization programs in overburdened communities.<sup>29</sup> This is similar set of programs to those authorized by the CCA for methane gas utilities and found in Ecology’s proposed rule language.<sup>30</sup> Ecology should allow utility electrification investments since the legislature made

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<sup>26</sup> RCW 70A.02.005(2) (“[P]eople of color and low-income people continue to be disproportionately exposed to environmental harms in their communities. As a result, there is a higher risk of adverse health outcomes for those communities. This risk is amplified when overlaid on communities with preexisting social and economic barriers and environmental risks...”).

<sup>27</sup> RCW 70A.02.005(2); RCW 70A.02.005(3) (“the state has a compelling interest in preventing and addressing such environmental health disparities in the administration of ongoing and new environmental programs, including allocation of funds...so as to remedy the effects of past disparate treatment of overburdened communities and vulnerable populations.”).

<sup>28</sup> *See, e.g.*, RCW 70A.65.005(3) and (4).

<sup>29</sup> Attachment A, WAC 173-446-300(iii).

<sup>30</sup> RCW 70A.65.130(2)(b) (“weatherization, decarbonization, conservation and efficiency services, and bill assistance”); Ecology’s Proposed WAC 173-446-300(2)(b)(iv) (“weatherization, decarbonization, conservation and efficiency services, and bill assistance”).

electrification projects eligible for appropriations from auction revenues generated by the cap-and-invest program and because electrification is a central pillar of any long-term, deep decarbonization strategy for Washington.<sup>31</sup>

**IV. The rule should clarify the Utilities and Transportation Commission’s authority, and that revenues can only be used to benefit customers entitled to allowance benefits.**

First, to clarify the interaction between these rules and other Utilities and Transportation Commission requirements, TEP’s Proposed WAC 173-446-300(2)(b)(viii) recognizes the authority of the Utilities and Transportation Commission to impose additional requirements on investor-owned utilities (IOUs) for the use of consignment sale revenues.

Second, TEP’s Proposed subsections (2)(i) and (2)(vi) clarify that utilities must use revenues to benefit only the customers entitled to allowances benefits and not any other group or entity. TEP’s Proposed language clarifies that dual-fuel utilities cannot use allowances allocated to the utility’s electric customers to benefit the utility’s methane gas customers, or vice versa.

Without this clarification, some utilities may interpret the rule to allow such cross-subsidization.

**V. To ensure transparency, utilities should publish reports describing how they spend consignment sale revenues.**

Ecology’s proposed rules do not include public reporting on the use of consignment sale revenues. Without public reports, utilities could use these revenues however they see fit. Neither Ecology, ratepayers, the broader public, nor the Legislature would have any information about

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<sup>31</sup> See RCW 70A.65.260(1)(h); Ben Haley et al., *Deep Decarbonization Pathways Analysis for Washington State*, Evolved Energy Research (December 16, 2016), slides 63-65, [https://www.governor.wa.gov/sites/default/files/Deep\\_Decarbonization\\_Pathways\\_Analysis\\_for\\_Washington\\_State.pdf](https://www.governor.wa.gov/sites/default/files/Deep_Decarbonization_Pathways_Analysis_for_Washington_State.pdf). Similarly, electrification investments are allowed under California’s cap-and-trade regulations for utility allowance consignment sale revenues. Cal. Code Regs. § 95892, subd. (d)(3)(B).

how utilities spend this money. For example, a utility could use consignment sale revenues to fund bill credits for large business or high-income ratepayers without first providing any benefits to low-income customers, in violation of RCW 70A.65.120(4). The rule should include a reporting framework to give effect to the legislative edict that utilities prioritize low-income ratepayer benefits when using consignment sale revenues. Ecology must ensure that the public can track how utilities spend consignment sale revenues because the CCA does not task any other agency with implementing the CCA's cap-and-invest scheme.

Moreover, the transparency provided by publishing reports will encourage dialogue concerning the most effective design for energy assistance, energy efficiency, and decarbonization programs. Dialogue among utilities, and between utilities and stakeholders, will promote more informed discussions about how to best use consignment sale revenues.

Accordingly, TEP's Proposal includes a new section of the rule, designated WAC 173-446-XXX, that includes utility reporting requirements to promote transparency. TEP's Proposal draws from the reporting requirements for California utilities under the state's cap-and-trade program,<sup>32</sup> and then simplifies those reports and aligns them with Washington's CCA and rule structure. California requires reporting for both its investor- and consumer-owned utilities, demonstrating that a more modest reporting requirement is practical for Washington utilities.

First, Ecology would be required to notify each utility how many consigned allowances were sold at auction, at what price, and the total revenue generated.<sup>33</sup> Reporting allocation amounts will ensure the public is aware of the funds available to each utility for ratepayer benefit

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<sup>32</sup> See Cal. Code Regs. § 95892, subd. (e); Cal. Code Regs. § 95893, subd. (e).

<sup>33</sup> Attachment A, WAC 173-446-XXX(1)-(2).

programs. Second, utilities would annually publish a report describing allowance consignments, sales, and use of sale revenues, including:

- The number of allowances Ecology allocated to the utility, how many allowances the utility consigned for sale, and the amount of revenue generated by the consignment sales.
- The total and per-ratepayer amounts spent by the utility to provide energy assistance and energy efficiency services to low-income ratepayers.
- The total and per-ratepayer amounts spent by the utility on any other type of ratepayer benefits.
- An estimate of greenhouse gas (GHG) emissions and energy use avoided from all ratepayer benefit spending in the previous calendar year.<sup>34</sup>

Transparency creates accountability. Ecology should adopt these reporting requirements to ensure that every utility in Washington prioritizes benefits to low-income customers consistent with RCW 70A.65.120(4), RCW 70A.65.130(2), and WAC 173-446.

## VI. Conclusion

TEP thanks Ecology for the opportunity to submit these comments. Please do not hesitate to contact me if you have any questions about these comments.



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By:

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<sup>34</sup> Attachment A, WAC 173-446-XXX(2).

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**Attachment A:**  
**TEP's Proposed Redline to Ecology's**  
**Draft Rule Language**

## The Energy Project's Proposed Redline to Ecology's Draft Rule

### WAC 173-446-230 –Distribution of Allowances to Electric Utilities.

(1) Total no cost allowances allocated to electric utilities. Allowances allocated to electric utilities for a compliance period are based on the cost burden effect of the program. Ecology will use the following methods to determine how cost burden and its effect will be used to allocate allowances to each electric utility for each emissions year.

(a) Ecology will use utility-specific forecasts that provide retail electric load.

(b) Ecology will determine the generation resource fuel type forecasted to be used to provide retail electric load for a utility for the compliance period. This determination will be based on the following sources, in the order necessary to most accurately determine the resource mix that will be used by that electric utility to comply with the Clean Energy Transformation Act, chapter 19.405 RCW.

(i) A forecast and supporting information created for the specific purpose of informing this calculation which has been approved by the utilities and transportation commission in the case of an investor-owned utility, or approved by the governing board of a consumer-owned utility in the case of a consumer-owned utility, as long as the forecast is also consistent with the requirements of the Clean Energy Transformation Act, chapter 19.405 RCW.

(ii) The clean energy implementation plan for a utility that is submitted pursuant to chapter 19.405 RCW, the Washington Clean Energy Transformation Act.

(iii) An integrated resource plan, or supporting materials for that plan, that is consistent with or used for the clean energy implementation plan.

(iv) For multijurisdictional electric companies, a multistate resource allocation methodology that has been approved by the utilities and transportation commission. If the commission approves a methodology specific to this purpose, that methodology will be used in lieu of an existing general methodology that may be adapted by ecology using methods consistent with chapter 173-441 WAC.

(v) Another source that is consistent with a forecast approved by the appropriate governing board or the utilities and transportation commission of each utility's electricity supply and resource demand.

(c) Ecology will use the following emission factors to determine the emissions associated with the projected generation mix.

(i) For generation that is projected to be served by natural gas, the factor will be 0.4354 MT CO<sub>2</sub>e/MWh.

(ii) For generation that is projected to be served by coal, the factor will be 1.0614 MT CO<sub>2</sub>e/MWh, unless that generation is coal transition power, as defined in RCW 80.80.010, in which case the factor is zero.

(iii) For generation identified as a nonemitting or a renewable resource in the clean energy implementation plan, use an emission factor of zero.

(iv) For any generation from which the fuel type source is unknown or unknowable, and for unspecified market purchases, use the unspecified emission factor using the procedures identified in WAC 173-444-040.

(d) The cost burden effect from the emissions for each utility will be calculated according to Eq. 230-1. The resulting total emissions represents the cost burden effect for the utility.

$$\text{Cost Burden Effect} = (\text{GenNG} \times \text{EFNG}) + (\text{GenCoal} \times \text{EFCoal}) + (\text{GenNE,RE} \times 0) + (\text{GenRemaining} \times \text{EFUnspecified})$$

Eq. 230-1

Where:

Gen = Generation of natural gas (NG), coal, and nonemitting and renewable resource (NE, RE), and remaining generation.

EF = Emission factor for natural gas (NG), coal, and unspecified electricity.

(e) One allowance will be allocated for each metric ton of emissions of the cost burden effect for each electric utility for each emissions year as projected through this process.

(f) An additional number of allowances will be allocated to account for the administrative costs of the program beginning in the second compliance period. The number of allowances allocated for this purpose will be determined by ecology based on a three-year rolling average of program costs derived from audited financial statements from utilities with a cost burden from the program. The mean allowance auction price from this time period will be used to translate average administrative costs into the appropriate number of allowances.

(2) Total allowances allocated for the purposes of recognizing voluntary renewable electricity purchases. Ecology will allocate allowances to a voluntary renewable electricity reserve account pursuant to RCW 70A.65.090 (9) and (11). The number of allowances allocated to the voluntary renewable electricity reserve account for the first compliance period will be 0.33 percent of the total annual allowance budget for each year as provided in Table 210-1.

(3) If a facility is identified by ecology as EITE under chapter 173-446A WAC, and if allowances have not been otherwise allocated for the electricity-related emissions for that facility and to the facility under other provisions of this chapter, then ecology will allocate allowances at no cost to the electric utility or power marketing administration that is providing electricity to the EITE facility in an amount equal to the forecasted emissions for electricity consumption for the facility for the compliance period.

(4) A consumer-owned utility that is party to a contract that meets the following conditions will be issued allowances under this section for emissions associated with imported electricity, in order to prevent impairment of the value of the contract to either party.

(a) The contract does not address compliance costs imposed upon the consumer-owned utility by the program created in this chapter; and

(b) The contract was in effect as of July 25, 2021, and expires no later than the end of the first compliance period.

(5) Allowances allocated at no cost to electric utilities may be consigned to auction for the benefit of ratepayers, transferred at no cost to an electric generating facility as described in WAC 173-446-425, deposited for compliance, or a combination of these uses. While no cost allowances may be held for future use, they may not be traded or transferred other than as authorized to WAC 173-446-425. [Electric utilities must first use revenue from consigned allowance sales to benefit low-income ratepayers, as described in WAC § 173-446-300\(2\).](#)

### **WAC 173-446-240 – Distribution of Allowances to Natural Gas Utilities.**

(1) Allocation baselines for suppliers of natural gas. Ecology will use the following data sources and methods to facilitate the allocation of no cost allowances to suppliers of natural gas.

(a) Ecology will assign an allocation baseline to each supplier of natural gas using the methods for subtotal baselines established in WAC 173-446-200 (2)(c) for emissions years 2015

through 2019. Allowance allocation is based on the allocation baseline for the supplier of natural gas.

(b) A supplier of natural gas that is a covered entity under WAC 173-446-030(1) must submit a complete GHG report as specified in WAC 173-441-122(4) for each emissions year 2015 through 2021 by March 31, 2022, in order to qualify for no cost allowances. A supplier of natural gas that becomes a covered entity under WAC 173-446-030(1) or 173-446-060 after 2023 must submit a complete GHG report as specified in WAC 173-441-122(4) for each emissions year 2015 through the current reporting year by the reporting deadline in WAC 173-441-050 for the year it becomes a covered entity in order to qualify for no cost allowances.

(c) Prior to the beginning of a new compliance period, ecology may make an upward or downward adjustment in the allocation baseline for a supplier of natural gas effective starting in the next compliance period. Any adjustment must be based on significant changes to emissions from:

(i) Revised reports under WAC 173-441-050(7) for emissions years used in determination of the allocation baseline;

(ii) A new assigned emissions level under WAC 173-441-086 for emissions years used in determination of the allocation baseline; or

(iii) A change in reporting method as described in WAC 173-441-050(4) relative to the method used for reports from emissions years used in determination of the allocation baseline.

(2) Total no cost allowances allocated to natural gas utilities. The following method establishes the total no cost allowances allocated to a given supplier of natural gas for a given emissions year.

(a) Emissions years 2023 through 2030.

(i) The total number of no cost allowances distributed to a natural gas supplier for emissions year 2023 is equal to 93 percent of the supplier's allocation baseline.

(ii) The total number of no cost allowances for 2024 through 2030 distributed to a natural gas supplier decreases annually relative to the previous year by an additional seven percent of the supplier's allocation baseline.

(b) Emissions years 2031 through 2042.

(i) The total number of no cost allowances distributed to a natural gas supplier for emissions year 2031 is equal to their 2030 allowance budget reduced by an additional one and eight tenths percent of their allocation baseline.

(ii) The total number of no cost allowances distributed to a natural gas supplier for 2032 through 2042 decreases annually relative to the previous year by an additional one and eight tenths percent of the supplier's allocation baseline.

(c) Emissions years 2043 through 2049.

(i) The total number of no cost allowances distributed to a natural gas supplier for emissions year 2043 is equal to their 2042 allowance budget reduced by an additional two and six tenths percent of their allocation baseline.

(ii) The total number of no cost allowances distributed to a natural gas supplier for 2044 through 2049 decreases annually relative to the previous year by an additional two and six tenths percent of the supplier's allocation baseline.

(d) A supplier of natural gas must continue to be in compliance with chapter 173-441 WAC and this chapter to continue receiving no cost allowances. No cost allowances are not provided during periods of closure or curtailment.



(3) No cost allowances allocated to natural gas utilities may be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both. No cost allowances allocated to natural gas utilities may not be traded, transferred, or sold. Natural gas utilities must first use revenue from consigned allowance sales to benefit low-income ratepayers, as described in WAC § 173-446-300(2).

**WAC 173-446-300 – Auctions of Current and Prior Year Allowances.**

(1) Each year starting in 2023, ecology shall submit allowances for the purposes of auctions to be held on four separate occasions, each consisting of a single round of bidding.

(2) Only the following allowances shall be auctioned:

(a) Allowances reserved by ecology for the purpose of auctions;

(b) Allowances consigned to auction by electric power entities and natural gas utilities as follows:

(i) Electric utilities may choose at any time to consign up to 100 percent of their allowances to auction. During the first compliance period, electric utilities may choose whether or not to consign no cost allowances to auction, and if so, how many allowances to consign. All proceeds from the auction of allowances consigned by electric power entities will be used for the benefit of ratepayers and will not be used to benefit entities or persons other than electric ratepayers.

(ii) Electric utilities must prioritize benefits for low-income ratepayers by first using proceeds from consigned allowance sales to provide low-income residential ratepayers bill credits (for example through energy assistance programs established via RCW 19.405.120), and energy efficiency programs (for example weatherization, conservation, and efficiency services).

(iii) After providing low-income residential ratepayers bill credits sufficient to meet the funding levels set in RCW 19.405.120(4)(a)(iii), electric utilities must use proceeds from consigned allowance sales to provide overburdened communities energy assistance, home or small business energy efficiency programs (for example weatherization, conservation, and efficiency services), and decarbonization programs (for example initiatives to encourage transportation electrification, building electrification, and distributed energy resources).

(iv) After providing the bill credits and energy services described in subsection (ii) and (iii) of this section, electric utilities must use proceeds from consigned allowance sales to provide other ratepayers home or small business energy efficiency programs (for example weatherization, conservation, and efficiency services), and decarbonization programs (for example initiatives to encourage transportation electrification, building electrification, and distributed energy resources).

~~(iv)~~ Natural gas utilities may choose at any time to consign up to 100 percent of their allowances to auction. Natural gas utilities must consign to auction:

(A) In 2023, at least 65 percent of the no cost allowances allocated to them for 2023;

(B) In 2024, at least 70 percent of the no cost allowances allocated to them for 2024;

(C) In 2025, at least 75 percent of the no cost allowances allocated to them for 2025;

(D) In 2026, at least 80 percent of the no cost allowances allocated to them for 2026;

(E) In 2027, at least 85 percent of the no cost allowances allocated to them for 2027;

(F) In 2028, at least 90 percent of the no cost allowances allocated to them for 2028;

(G) In 2029, at least 95 percent of the no cost allowances allocated to them for 2029;

(H) In 2030, and every year thereafter, 100 percent of the no cost allowances allocated to them for 2030.

(viii) All proceeds from the auction of allowances consigned by natural gas utilities shall be used for the benefit of natural gas customers, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of the Climate Commitment Act.

Auction revenues will not be used to benefit entities or persons other than natural gas ratepayers.

~~(viii) Revenues from allowances sold at auction must be returned by providing Natural gas utilities must first use revenues from consigned allowance sales to provide low-income ratepayers nonvolumetric bill credits, on ratepayer utility bills, prioritizing low-income customers, or used to minimize cost impacts on low-income. After providing bill credits to low-income ratepayers, utilities must use revenues to benefit other residential, and small business customers through actions that include, but are not limited to, weatherization, decarbonization, conservation and efficiency services, and bill assistance.~~

(A) The customer benefits provided from allowances consigned to auction under this section must be in addition to existing requirements in statute, rule, or other legal requirements.

(B) Except for low-income customers, any customer bill credits under this subsection are reserved exclusively for customers at locations connected to a natural gas utility's system on July 25, 2021. Bill credits may not be provided to customers of the gas utility at a location connected to the system after July 25, 2021.

(viii) The Utilities and Transportation Commission may impose additional requirements on investor-owned electric utilities or investor-owned natural gas utilities.

(3) At each auction, ecology shall submit the percentage of current and prior vintage allowances ecology considers appropriate after considering the allowances in the marketplace due to the marketing of no cost allowances issued to EITE facilities, electric utilities, and natural gas utilities.

(a) Ecology shall offer only such number of allowances at each auction as will enhance the likelihood of achieving the GHG emission reductions required in RCW 70A.45.020.

(b) By January 15th of 2024 and each succeeding year, ecology shall publish on its website the dates of the quarterly auctions for that year and the number of allowances of that year's vintage allowances that ecology will submit for each of those auctions.

(4) At each auction, consigned allowances shall be sold first. If at the end of an auction, any consigned allowances remain unsold, they shall be retained to be submitted for sale in the subsequent auction.

(5) If, at the end of an auction, any of the allowances submitted to auction by ecology have not yet been sold, ecology shall hold them to be auctioned in subsequent auctions but only after the settlement price for allowances has been above the auction floor price for two consecutive auctions. If the allowances are not sold within 24 months, ecology shall place them in the emissions containment reserve.

### [NEW SECTION] WAC 173-446-XXX – Utility Ratepayer Benefit Reporting.

(1) For any allowance auction where Ecology sells no cost allowances consigned by electric or natural gas utilities, Ecology must send in writing to the consigning utility how many allowances consigned by the utility were sold at the auction, at what price, and the total revenue generated by the sale of the utility's consigned allowances.

(2) No later than June 30, 2024, and by June 30 each year thereafter, each consumer-owned electric and natural gas utility shall file with Ecology a report on their allocated no cost allowances and the use of any revenues generated by consigning no cost allowances to Ecology.

Each utility must publish on their website the same report filed with Ecology. At a minimum, each utility's report shall include:

(a) The number of no cost allowances allocated to the utility during the previous calendar year.

(b) How many allowances the utility consigned for sale during the previous calendar year.

(c) How much revenue was generated by the sale of consigned allowances during the previous calendar year, and how much revenue was returned by Ecology to the utility during the previous calendar year.

(d) The monetary value of any revenue from previous years' consignment of no cost allowances that remains unspent after being returned to the utility by Ecology.

(e) The total spending for the benefit of ratepayers during the previous calendar year.

Spending must be itemized by:

(i) the total and per-ratepayer amount spent on energy assistance and energy efficiency services for low-income ratepayers.

(ii) the total and per-ratepayer amount spent on any other ratepayer benefit programs .

(iii) A description of each ratepayer benefit program funded that includes the number of ratepayers receiving benefits under each ratepayer benefit program.

(iv) An estimate of GHG emissions and energy usage avoided due to ratepayer benefit program investments in the previous calendar year.

(3) No later than June 30, 2024, and by June 30 each year thereafter, investor-owned electric and investor-owned natural gas utilities must submit a report with at least the contents specified in WAC § 173-446-XXX(2) to the Utilities and Transportation Commission. The Utilities and Transportation Commission may impose additional requirements on investor-owned electric utilities or investor-owned natural gas utilities.