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

RE: Rulemaking – Chapter 173-441 WAC, Reporting of Emissions of Greenhouse Gases

On October 6, 2021, the Washington Department of Ecology (Ecology) issued form CR-102 (WSR 21-20-137) soliciting formal comments on proposed amendments to Chapter 173-441 WAC (Reporting of Emissions of Greenhouse Gases) by November 16, 2021. These comments are submitted jointly by Avista, PacifiCorp, the Public Generating Pool, Puget Sound Energy, Seattle City Light, and Tacoma Power (collectively referred to as "Joint Utilities").

The Joint Utilities' intent in submitting the following comments is two-fold:

I. To ensure that the amendments to Chapter 173-441 WAC relative to electric power entity reporting of greenhouse gas (GHG) emissions do not create an unintentional compliance obligation under Chapter 173-446 WAC (Climate Commitment Act Program) for emissions associated with imports of electricity through the Energy Imbalance Market (EIM) or any other centralized market that would be inconsistent with the Climate Commitment Act (CCA, Chapter 70A.65 RCW); and

II. To ensure that, even on an interim basis, the point of regulation associated with energy imported into the state via centralized markets is, to the extent possible, consistent with the point of regulation for all other electric power imports and that emissions assigned to those imports are appropriate.

The Joint Utilities also have an interest in ensuring that a robust set of rules is adopted at the outset such that future linkages with external cap-and-trade programs will not be jeopardized.

Accordingly, the Joint Utilities recommend that Ecology convene a technical workshop in the near-term to develop an interim solution to address emissions associated with EIM imports. The Joint Utilities believe that sufficient data exist for Ecology to estimate emissions associated with EIM imports in the near-term and that Ecology can put an interim solution in place without a need to assign emissions to EIM purchasers. Given the complexity and importance of these issues, more fully described below, Ecology should take the additional time needed to develop a thoughtful interim solution for the relatively narrow issue of EIM imports while deferring a longer-term discussion regarding treatment of imports associated with the EIM within the context of a broader regional centralized market.

Avoiding unintentional compliance obligations for EIM imports.

Ecology acknowledges in form CR-102 that one of the purposes of updating the GHG reporting requirements in Chapter 173-441 WAC is to "support the CCA and facilitat[e] program linkage with other jurisdictions."[1] Indeed, the draft rule language for the CCA Program references emissions reported under Chapter 173-441 WAC in a number of places, including in determining covered emissions[2] and in allocating responsibility for those covered emissions to whichever entity *reports* them[3].

The general requirements for electric power entities proposed in WAC 173-441-124 state that the owner or operator of an electric power entity must *report* GHG emissions from "all applicable source categories." These applicable source categories are listed as being:

i. Electricity importers and exporters, as defined in the proposed rule;
ii. Retail providers, including multijurisdictional retail providers, as defined in the proposed rule; and
iii. Bonneville Power Administration (BPA).

By defining "electricity importer" in WAC 173-441-124(2)(a)(iii) to mean *the EIM purchaser*[4] for electricity imported through a centralized market, Ecology appears to be inadvertently assigning responsibility for emissions associated with that electricity under the draft CCA Program rule in a manner that is not reflected in the text of the CCA itself[5]. Because the proposed rule has the EIM purchaser *reporting* these emissions, the EIM purchaser thereby becomes responsible for them under proposed WAC 173-446-040(3). Assigning responsibility for emissions associated with EIM imports to

[1] See "Purpose of the proposal and its anticipated effects, including any changes in existing rules," page 2 of form CR-102 (WSR 21-20-137): https://ecology.wa.gov/DOE/files/47/47349f52-2ee6-49cc-8adb-147510926e9a.pdf
[2] Proposed WAC 173-446-040(1)
[3] Proposed WAC 173-446-040(3)
[4] WAC 173-441-124(2) further defines "EIM purchaser" to mean "for a given data year an electric distribution utility or electric power entity that directly or indirectly purchases any electricity through the EIM to serve Washington state load in the data year."
[5] The definitions for "electricity importer" provided in the Climate Commitment Act [RCW 70A.65.010(27)(c)] defer identifying the electricity importer for electricity acquired through a centralized market (i.e. the Energy Imbalance Market) until the Department of Ecology, in consultation with the Department of Commerce and the Utilities and Transportation Commission, adopts by rule a methodology for addressing the issue specifically [RCW 70A.65.080(1)(c)]. Ecology has until October 2026 to complete this EIM-specific rulemaking.

the EIM purchaser is inconsistent with the "first jurisdictional deliverer" approach stipulated by the CCA[6] and runs counter to the Legislature's deferral of the issue to a separate rulemaking.

In addition to the above, Ecology does not have a reasonable basis for assigning emissions to EIM purchasers. Under California's Mandatory Reporting Rule, emissions associated with EIM imports are calculated using a two-step process.[7] First, deemed delivered EIM emissions are reported by EIM participating resource Scheduling Coordinators based on reports from the California Independent System Operators (CAISO) which identify resource-specific imports associated with the EIM delivered to the CAISO balancing authority area (BAA). Second, EIM outstanding emissions are calculated by subtracting the deemed delivered emissions from a calculation of total EIM emissions which equals all EIM imports multiplied by the unspecified emissions factor. The "EIM Outstanding Emissions" are then assigned to EIM purchasers. The basis for this assignment is associated with how the CAISO deems resource-specific imports into the CAISO BAA. It accounts for a phenomenon identified by the California Air Resources Board (CARB) known as "secondary dispatch" where non-emitting resources are deemed delivered to California and emitting resources are backfilled to serve load in the importing jurisdiction.[8] These outstanding emissions are allocated to EIM purchasers because the emissions are actually produced wholly outside of California and California cannot require out-of-state emissions to be reported as part of its program. Because the CAISO does not perform a resource-specific deeming for EIM imports into Washington, there is no secondary dispatch, no associated backfill, and no factual basis upon which to rely in adopting California's approach.

Ensuring program consistency.

The practical differences between the Washington and California market contexts necessitate that Ecology engage thoughtfully with relevant stakeholders, including the CAISO, EIM participant utilities in Washington, and Bonneville Power Administration (BPA). As noted previously by BPA[9], the physical footprints of EIM participants, such as the multi-state BAAs in the Northwest region, and scheduling points do not align neatly with Washington State borders. This brings into question when and whether EIM imports into a multi-state BAA are actually "imports" to Washington State. This complexity is among the reasons why the Legislature provided for additional time for a rulemaking to address the treatment of centralized market purchases such as EIM transfers.

However, the Joint Utilities recognize that a good estimate of emissions associated with EIM imports (and any emissions associated with expanded organized markets across the West) is important for Ecology to ascertain prior to the future rulemaking that would finalize treatment of centralized market

[6] RCW 70A.65.080
[7] *Regulation for the Mandatory Reporting of Greenhouse Gas Emissions* at § 95111(h) (April 2019).
[8] *Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions Final Statement of Reasons* at p. 37-38 (December 2018).
[9] See Bonneville Power Administration comments "RE: Draft rules to Chapter 173-441 WAC (Reporting of Emissions of Greenhouse Gases)" dated August 1, 2021.

transactions. The Joint Utilities are confident that sufficient existing data exists for Ecology to estimate those emissions without requiring reporting from EIM purchasers, specifically through the CAISO and potentially other means. The Joint Utilities believe that a reasonable regulatory standard can be met that ensures consistency across the program and maintains the integrity of the programmatic calculation of total emissions associated with energy imported into Washington.

Recommendation.

The Joint Utilities recommend that Ecology host a technical workshop in the near-term specifically to develop an interim solution for estimating emissions associated with EIM imports. This will require the removal of references to EIM purchasers in the current rules and the Joint Utilities are providing a redline attached to these comments showing these proposed changes (see Appendix A). However, the Joint Utilities are confident that a solution can be reached in a relatively short timeframe and incorporated into the reporting program in such a way that does not delay overall program implementation. It will be critical to invite CAISO staff to the technical workshop, so that stakeholders can have an informed dialogue about the options and data that exist to support those options. With an interim solution in place, Ecology will then have sufficient time to initiate the EIM and centralized market rulemaking directed by the Legislature.

Sincerely,

/s/Therese Hampton
Therese Hampton
Executive Director
Public Generating Pool

/s/Lisa Rennie
Lisa Rennie
Senior Advisor, Policy & Regulatory Affairs
Tacoma Power

/s/Mary Wiencke
Mary Wiencke
Vice President, Market, Regulation and Transmission Policy
Pacific Power

/s/Kevin Booth
Kevin Booth
Senior Environmental Scientist
Avista Corp.

/s/Robert W. Cromwell, Jr.
Robert W. Cromwell, Jr.
Director, Customer Energy Solutions
Seattle City Light

/s/Lorna Luebbe
Lorna Luebbe
Assistant General Counsel, Director of Environmental Services
Puget Sound Energy

APPENDIX A

PROPOSED RULE LANGUAGE
AMENDMENTS TO WAC 173-441-124

[…]

(2) Definitions specific to electric power entities.

(a) "Electricity importer" means:
(i) For electricity that is scheduled with an e-tag to a final point of delivery into a balancing authority area located entirely within Washington state, the electricity importer is identified on the e-tag as the purchasing-selling entity on the last segment of the tag's physical path with the point of receipt located outside Washing-ton state and the point of delivery located inside Washington state;
(ii) For facilities physically located outside Washington state with the first point of interconnection to a balancing authority area located entirely within Washington state when the electricity is not scheduled on an e-tag, the electricity importer is the facility opera-tor or owner;
((~~(iii) For electricity imported through a centralized market, the electricity importer is the energy imbalance market purchaser;~~))

[…]

(b) "First jurisdictional deliverer" means the owner or operator of an electric generating facility in Washington state or an electric-ity importer.
(c) "Retail provider" means any of the following:
(i) An electric utility as defined in RCW 19.405.020(14);
(ii) Multijurisdictional retail providers;
(iii) Multijurisdictional consumer-owned utilities.
(d) "Imported electricity" means electricity generated outside Washington state with a final point of delivery within the state.
(i) ((~~"Imported electricity" includes electricity from an organized market, such as the energy imbalance market.~~
~~(i)~~)) "Imported electricity" includes imports from linked juris-dictions, but such imports shall be construed as having no emissions.

[…]

(k) "Unspecified source of electricity" or "unspecified source" means a source of electricity that is not a specified source at the time of entry into the transaction to procure electricity.
(l) "Electricity exporter" means electric power entities that deliver exported electricity. The entity that exports electricity is identified on the e-tag as the purchasing-selling entity (PSE) on the last segment of the tag's physical path, with the point of receipt located inside Washington state and the point of delivery located outside Washington state.
(m) "Electricity generation provider" means a provider of the energy or generation component of electricity services, as distinguished from the provider of transmission and/or distribution service that provides the wires for the transport of electricity. Electricity generation providers may include cogeneration facilities and other entities in addition to electrical distribution utilities that may provide both generation and transmission/distribution service.
((~~(iii) "Energy imbalance market purchaser" or "EIM purchaser" means, for a given data year an electrical distribution utility or EPE that directly or indirectly purchases any electricity through the EIM to serve Washington state load in the data year.~~))
(n) "Electricity transaction" means the purchase, sale, import, export or exchange of electric power.
(o) "Electricity wheeled through Washington" or "wheeled electricity" means electricity that is generated outside Washington state and delivered into Washington state with the final point of delivery outside Washington state. Electricity wheeled through Washington state is documented on a single e-tag showing the first point of receipt located outside Washington state, an intermediate point of delivery located inside Washington state, and the final point of delivery located outside Washington state.
((~~(vi) "Energy imbalance market" or "EIM" means the western energy imbalance market operated by the California independent system operator.~~))
(p) "Exported electricity" means electricity generated inside Washington state and delivered to serve load located outside Washington state. This includes electricity delivered from a first point of receipt inside Washington state, to the first point of delivery out-side Washington state, with a final point of delivery outside Washington state. Exported electricity delivered across balancing authority areas is documented on e-tags with the first point of receipt located inside Washington state and the final point of delivery located outside Washington state. Exported electricity does not include electricity generated inside Washington state then transmitted outside of Washington state, but with a final point of delivery inside Washington state. Exported electricity does not include electricity generated inside Washington state that is allocated to serve Washington state retail customers of a multijurisdictional retail provider, consistent

with a cost allocation methodology approved by the Washington state utilities and transportation commission and the utility regulatory commission of at least one additional state in which the multijurisdictional retail provider provides retail electric service.

(q) "Final point of delivery" means the sink specified on the e-tag, where defined points have been established through the affiliated registry. When e-tags are not used to document electricity deliveries, as may be the case within a balancing authority, the final point of delivery is the location of the load. Exported electricity is disaggregated by the final point of delivery on the e-tag.

(r) "First point of delivery in Washington" means the first de-fined point on the transmission system located inside Washington state at which imported electricity and electricity wheeled through Washing-ton may be measured, consistent with defined points that have been established through the affiliated registry.

(s) "First point of receipt" means the generation source specified on the e-tag, where defined points have been established through the affiliated registry. When e-tags are not used to document elec-tricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating facility or unit, or group of generating facilities or units. Imported electricity and wheeled electricity are disaggregated by the first point of receipt on the e-tag.

(t) "Grid" or "electric power grid" means a system of synchron-ized power providers and consumers connected by transmission and distribution lines and operated by one or more control centers.

(u) "Importer of record" means the owner or purchaser of the goods that are imported into Washington state.

(v) "Last point of delivery in Washington" means the last de-fined point on the transmission system located inside Washington state at which exported electricity may be measured, consistent with defined points that have been established through the North American Energy Standards Board Electric Industry Registry.

(w) "Marketer" means a purchasing-selling entity that delivers electricity and is not a retail provider.

(x) "Particular end user" means a final purchaser of an energy product (e.g., electricity or thermal energy) for whom the energy product is delivered for final consumption and not for the purposes of retransmission or resale.

(y) "Point of receipt" or "POR" means the point on an electric-ity transmission or distribution system where an electricity receiver receives electricity from a first jurisdictional deliverer. This point can be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system.

(z) "Power" means electricity, except where the context makes clear that another meaning is intended.

(aa) "Power contract" or "written power contract," as used for the purposes of documenting specified versus unspecified sources of imported and exported electricity, means a written document, including associated verbal or electronic records if included as part of the written power contract, arranging for the procurement of electricity. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, electricity transactions, and tariff pro-visions, without regard to duration, or written agreements to import or export on behalf of another entity, as long as that other entity also reports to ecology the same imported or exported electricity. A power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-con-trolling supplier's system that is designated at the time the transaction is executed.
(bb) "Purchasing-selling entity" or "PSE" means the entity that is identified on an e-tag for each physical path segment.
(cc) "Retail end use customer" or "retail end user" means a resi-dential, commercial, agricultural, or industrial electric customer who buys electricity to be consumed as a final product and not for resale.
(dd) "Retail sales" means electricity sold to retail end users.
(ee) "Sink" or "sink to load" or "load sink" means the sink identified on the physical path of e-tags, where defined points have been established through the affiliated registry. Exported electricity is disaggregated by the sink on the e-tag, also referred to as the final point of delivery on the e-tag.
(ff) "Source of generation" or "generation source" means the generation source identified on the physical path of e-tags, where defined points have been established through the affiliated registry. Imported electricity and wheels are disaggregated by the source on the e-tag, also referred to as the first point of receipt.
(gg) "Substitute power" or "substitute electricity" means electricity that is provided to meet the terms of a power purchase contract with a specified facility or unit when that facility or unit is not generating electricity.
(hh) "Tolling agreement" means an agreement whereby a party rents a power plant from the owner. The rent is generally in the form of a fixed monthly payment plus a charge for every megawatt generated, generally referred to as a variable payment.

(3) **Data requirements and calculation methods.** The electric power entity who is required to report under WAC 173-441-030(3) of this chapter must comply with the following requirements.
(a) General requirements and content for GHG emissions data re-ports for electricity importers and exporters.
[…]

((~~(v) Imported electricity from the energy imbalance market. The reporting entity must separately report power obtained from the energy imbalance market.~~))
(v) Imported electricity supplied by asset-controlling suppliers.
[…]

(e) Additional requirements for multijurisdictional retail providers. Multijurisdictional retail providers that provide electricity into Washington state at the distribution level must include the following information in the GHG emissions data report for each report year, in addition to the information identified elsewhere in this section.

(i) A report of the electricity transactions and GHG emissions associated with the common power system or contiguous service territory that includes consumers in Washington state. This includes the requirements in this section as applicable for each generating facility or unit in the multijurisdictional retail provider's fleet;
(ii) The multijurisdictional retail provider must include in its emissions data report wholesale power purchased and taken (MWh) from specified and unspecified sources and wholesale power sold from specified sources according to the specifications in this section, and as required for ecology to calculate a supplier-specific emission factor;
(iii) Total retail sales (MWh) by the multijurisdictional retail provider in the contiguous service territory or power system that includes consumers in Washington state;
(iv) Retail sales (MWh) to Washington state customers served in Washington state's portion of the service territory;
((~~(v) Retail sales derived from the energy imbalance market;~~))