



Department of Energy

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Re: Comments on the Climate Commitment Act (CCA) Electricity Markets Rulemaking

The Bonneville Power Administration (BPA) appreciates the opportunity to provide comments on the Washington Department of Ecology's (Ecology) electricity markets rulemaking. BPA sells about 50% of the electricity that is used in Washington, including firm power sales to 63 consumer-owned utilities in Washington as well as sales to other public utilities and investor-owned utilities in the state. Bonneville is a participant in the California Independent System Operator's (CAISO) energy imbalance market (EIM). BPA has been actively engaged in both the CAISO's and Southwest Power Pool's (SPP) processes to create a day ahead market in the West and has begun its own public process to assess whether BPA will join one of these markets.

In these comments, BPA echoes many of the suggestions BPA made in its August 2023 comments. Given the complex nature of this topic and its potential impacts to not just CCA compliance costs, but costs and benefits of market participation for Washington utilities, BPA urges Ecology to adjust its rulemaking schedule to provide additional opportunities for input on draft rule language. The draft rules could benefit from at least one more version and round of reviews before Ecology issues the CR-102 rule language. Before issuing that second draft, BPA urges Ecology to host workshop(s) to provide for collaborative discussion and concept building on any challenging areas of the rules where comments indicate a lack of clear direction. BPA continues to emphasize that the priority should be to develop robust, durable rules that work with GHG accounting design in markets, even if it means a minor delay in the overall timeline.

In response to the concepts put forth in the current version of draft rules, BPA provides the following feedback.

1) General comment: BPA encourages Ecology to more carefully consider what elements of the program are within the state’s jurisdiction (and not the market operator’s) to decide.

BPA appreciates Ecology’s attempt to create a framework that will work across markets but is concerned that the rules inappropriately defer to a market operator to make regulatory determinations that should be made by the state. Specifically, the draft rules contain a novel concept that the market operator should choose who is the “designated market importer.” This concept means the market operator would be choosing who to impose a Washington state compliance obligation upon, which would appear to be a regulatory determination the state should make. FERC must approve any market operator’s tariff. Transferring the regulatory power/obligation to the market operator would likely cause FERC to disapprove the operator’s tariff because FERC has stated that “whether and how a state chooses to address GHG emissions is a matter exclusively within that state’s jurisdiction.” *See* FERC April 15, 2021 Policy Statement On Carbon Pricing In Organized Markets, 175 FERC 61,036, at ¶ 19. Ecology’s draft rule language would put the market operator in a position of deciding who to *impose* the carbon regulation upon, as opposed to merely *recognizing* the state’s carbon program and incorporating it into market operation.

For the same reasons, the fact that Ecology’s draft rule language remains silent on whether emissions leakage should be addressed creates ambiguity for a market operator and its tariff, thereby creating another risk that FERC will not approve the tariff. Ecology’s silence on leakage could result in unintended consequences on the ability of the market design to address and account for imports into the state. Instead, BPA recommends Ecology determine in its rules the importer and establish direction around leakage.

In addition to FERC concerns, deferring to the market operator to determine these types of critical state program elements could lead to very different rules and obligations among different markets. BPA anticipates there may be two day-ahead and real-time markets operating within Washington (the California Independent System Operator’s EIM and EDAM, and the Southwest Power Pools Markets+). Ecology’s rules should establish a common framework of compliance and reporting rules applicable to both markets, rather than deferring to market operators to make key regulatory decisions that may be different in each market.

2) Designated Market Importer

a) Specified source imports

BPA appreciates Ecology recognizing specified-source imports into the state from a market. In the event that a specified resource is attributed by the market design to the state, the logical importer and FJD is the resource owner/operator. This concept should be adaptable to present and future markets. It is consistent with how the existing EIM/EDAM approach

works for California (the “participating resource scheduling coordinator” is the term used for the CAISO/CARB) and with how the design is being developed for SPP’s Markets+.

BPA notes that the CCA envisions BPA may voluntarily opt to be the importer/FJD under the program. BPA is discussing whether it will voluntarily opt to be the importer/FJD when the federal system is attributed to the load in the state of Washington through an organized market. The utility-by-utility agreement for BPA assuming compliance as the FJD under the program provided for in WAC 173-446-040(e)(iii) does not apply in the context of an organized market. This is because the market designs developed by the CAISO and SPP provide for resource-specific attribution to load generally in Washington. In other words, if the market design attributes the federal system to Washington, it would be to load generally, not a specific utility load. Thus, BPA requests Ecology include in its rules the ability for BPA to unilaterally agree to take on the compliance obligation and be the FJD for a specific organized market (e.g., the EIM).

Regardless of whether BPA opts to be the FJD, BPA expects the federal system can be attributed by the market operator to Washington load as a specified source. Therefore, BPA suggests it may also be prudent for Ecology to identify who would be the importer/FJD if BPA does not opt to take on the compliance obligation.

b) Unspecified Source Imports

An unspecified pathway is being developed for Markets+ and potentially could be utilized by other markets in the future. BPA appreciates Ecology including a pathway for unspecified imports in the draft rule language. BPA suggests this topic would be appropriate for further discussion at an Ecology-hosted workshop. At this time, BPA reiterates its previous suggestion that the appropriate FJD for unspecified source imports is load in Washington. BPA believes this is consistent with the FJD concept as load may be the first importer over which Ecology has jurisdiction. At the workshop, Ecology should explore how emissions and compliance obligations for unspecified imports could be proportionally allocated to load commensurate with organized market purchases. Ecology should also consider whether it is appropriate to allocate some of this compliance obligation to generators located in the state proportionate to the power they consume.

3) Emissions Leakage

Both the CAISO’s EIM/EDAM and SPP’s Markets+ include design features to minimize emissions leakage. Without these features, the design for the markets would at times attribute non-emitting resources to the state when the resources being incrementally dispatched to meet load are actually fossil fuel resources. This is commonly referred to as emissions leakage, secondary dispatch, or redesignation.

BPA appreciates Ecology acknowledging that the Washington legislature directed the program design to address leakage, and that leakage will likely be a consideration of linkage to California’s cap-and-trade program. However, BPA believes Ecology needs to provide

more explicit direction on leakage in its rules or through a formal policy statement to provide the market operators the coverage to address leakage in their market design.

Regarding how the Ecology should address leakage in organized markets, BPA believes that concerns over leakage should be sufficiently minimized where an entity has a pre-arranged contractual commitment to sell power to load in the state or the power is surplus to the entity's load and contractual commitments. Ecology should recognize this in its rules and provide direction on what qualifies as a specified source contract or surplus power available to meet load in the state. This should provide the market operator with sufficient direction to support program design and provide market participants with information to determine whether they have resources that qualify for specified source attribution to the state. BPA recommends Ecology include this topic (how the program design should appropriately address leakage) for discussion at a workshop.

4) Unspecified Source Emission Factor

BPA supports Ecology's suggested update to the unspecified emission factor for non-organized market purchases to 0.428 MT CO₂e/MWh. The calculation for the unspecified emission factor for organized market purchases is also a logical starting point for this rulemaking. BPA believes potential updates to *both* of these emissions factors should be explored and encourages Ecology to host a process in the near future to explore potential updates. This should include discussion around whether the default emission factor for non-organized market purchases should be more reflective of the current and evolving resource mix in the region, and whether a more granular (e.g. hourly) emission factor should apply to organized market purchases.

Additionally, Ecology's proposed default in the event that a market operator does not provide the necessary data for such a calculation appears to be punitively high. BPA does not see a reason for assuming a default emission factor of 1 MT CO₂e/MWh, particularly given the emissions profile of the generation that currently exists in the WECC. BPA suggests Ecology use the standard default emission factor of 0.428 MT CO₂e/MWh in the event Ecology does not receive the necessary data to calculate the emission factor.

5) Data and Reporting

Significant data will need to be made available to Ecology and market participants to support reporting and compliance under the CCA. BPA encourages Ecology to work with the CAISO and SPP to make sure the data the market operator intends to provide will be sufficient to support reporting, tracking, and validation under the program.

BPA emphasizes that participating entities will need guidance on how to report. Individualized guidance will be needed for multi-state Balancing Authority Areas, such as BPA, to ensure emissions are properly tracked and reported for sales BPA makes across multiple states.

BPA looks forward to continued discussion in the electricity markets rulemaking. Please feel free to contact me at 503.230.4358 if you have any questions on BPA's comments.

Thank you,

A handwritten signature in black ink, appearing to read "Alisa Kaseweter", with a long horizontal flourish extending to the right.

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