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***Submitted via Web Portal***

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**RE: Second Informal Public Comment Period on Electricity Markets Rulemaking**

The following comments are submitted by the Public Generating Pool (PGP) and Puget Sound Energy ("Joint Parties") in response to the Washington Department of Ecology's (Ecology) draft rule language for its Electricity Markets Rulemaking under the Climate Commitment Act (CCA). PGP is a trade association representing nine consumer-owned utilities that own and operate their own generating resources in Oregon and Washington. Puget Sound Energy is an investor-owned utility in Washington providing electric service to more than one million customers and natural gas service to more than 900,000 customers in the state. The Joint Parties appreciate the opening of this second informal comment period and the extension of the comment deadline to October 30th, as well as the announcement of an additional draft rule input meeting and third informal comment opportunity in November 2023. The Joint Parties believe that providing as many opportunities for stakeholder engagement as possible before the commencement of the CR-102 phase of this rulemaking will only strengthen Ecology's proposed rules.

The Joint Parties would like to reiterate the Joint Utility informal comments submitted August 25, 2023, which emphasize that Ecology's rules should be durable across multiple potential market frameworks while also retaining the flexibility that will almost certainly be needed as incremental market changes are implemented and operational data can be more fully understood. The present rulemaking should be considered a "first step" toward establishing and enabling emissions reporting for imports from centralized electricity markets. The Joint Parties continue to anticipate that multiple rulemakings and iterations may be necessary to fully develop both day-ahead market designs and rules that appropriately implement state policy in ways that reflect those designs. To that end, the Joint Parties recommend that Ecology consider organizing an electricity markets workgroup or advisory group, similar to its Fuel Exemptions Workgroup and anticipated Emissions-Intensive Trade-Exposed (EITE) Advisory Group, in order to facilitate iterative discussion and policy development on these highly technical issues.

The Joint Parties submit the following substantive comments on the informal draft of proposed changes to the Greenhouse Gas Reporting Rule (Ch. 173-441 WAC) dated October 4, 2023, for Ecology's consideration.

Identifying the "Electricity Importer"

*Market operators need regulatory direction for assigning the designated market importer. Ecology should define the electricity importer for both specified and unspecified electricity.*

Ecology's conceptual framework for this informal draft rule centers upon the "designated market importer," which is defined to refer to the market participant that is "assigned" by the market operator to take on the responsibility of meeting reporting and compliance obligations for an import from a centralized electricity market. If the market operator does not assign a designated market importer for a given electricity import, then the responsibility of meeting reporting and compliance obligations for that import defaults to the market operator.

Ecology's proposed compliance hierarchy and permissive, rather than directive, delegation of the "assignment" of designated market importers to market operators is inconsistent with Ecology's responsibility under the CCA to define the electricity importer for electricity imported through a centralized electricity market by rule,[1] and is potentially inconsistent with Federal Energy Regulatory Commission (FERC) guidance on carbon pricing in wholesale electricity markets. The Joint Parties recognize that there is a gray area in determining the roles and responsibilities in this context between the agency implementing a carbon policy and the market operator creating a market design that reflects that policy. In its 2021 policy statement on *Carbon Pricing in Organized Wholesale Electricity Markets*, FERC states that while it encourages efforts of RTOs/ISOs and their stakeholders to explore incorporating state-determined carbon prices into RTO/ISO markets, "whether and how a state chooses to address GHG emissions is a matter exclusively within the state's jurisdiction."[2] While the mechanics and implementation of identifying the electricity importer for a given import is appropriately the responsibility of the market operator, with respect to the proposed conceptual framework and definition of "designated market importer," Ecology leaves too much discretion to the market operators to determine who should be responsible for imports from centralized electricity markets.

Ecology should therefore adopt explicit definitions of "electricity importer" for both specified and unspecified source imports through a centralized electricity market that can apply to multiple market frameworks. Such definitions should facilitate linkage of Washington's cap-and-invest program with California by aligning with the approach adopted by the California Air Resources Board. The Joint Parties reiterate the August 25th Joint Utility recommendation that Ecology's definition of "electricity importer" should identify the first jurisdictional deliverer (FJD) for specified source imports from a centralized electricity market into Washington as the "entity that offers or bids that resource into the market." For unspecified source imports, the definition of "electricity importer" should identify the FJD as the entity in Washington receiving the import through the centralized electricity market. This approach enables the use of different nomenclature in different markets to identify the appropriate importer while also providing sufficient guidance to the market operator to create a market design that is consistent with state policy. Ecology should also clarify the definition of "specified source of electricity" or "specified source" to recognize specified source imports from centralized electricity markets consistent with the associated definition of electricity importer.

[1] The definition of "electricity importer" for electricity imported through a centralized electricity market provided under RCW 70A.65.010(27)(c) states that the electricity importer "will be defined by rule consistent with the rules required under RCW 70A.65.080(1)(c)," i.e. the rules under the present rulemaking.
[2] https://www.ferc.gov/media/ad20-14-000-041521

Addressing Leakage

*Leakage is an important consideration for this rulemaking. Ecology should signal intent to address leakage and initiate a public process for further discussion.*

In enacting the CCA, the Washington Legislature established a finding that "climate policies must be appropriately designed, in order to avoid leakage that results in net increases in global greenhouse gas emissions and increased negative impacts to those communities most impacted by environmental harms from climate change."[3] "Leakage" is further defined in both the CCA statute and Ecology's CCA Program Rule as "a reduction in emissions of greenhouse gases within the state that is offset by a directly attributable increase in greenhouse gas emissions outside the state and outside the geography of another jurisdiction with a linkage agreement with Washington."[4]

The August 25th Joint Utility comments recommended that Ecology publish a policy statement on leakage minimization that can be used by market operators to design market optimizations to appropriately identify imports and associated emissions into Washington from centralized electricity markets. Ecology subsequently expressed that the Washington Legislature already provided such a statement, pointing to the general legislative finding on designing climate policies to avoid leakage.[5]

The Joint Parties continue to find leakage to be an important consideration for this rulemaking. Among the questions posed by FERC in its 2021 policy statement on carbon pricing is, "Would the filer's proposal result in economic or environmental leakage? If so, how might the proposal address any such leakage?" Ecology has itself acknowledged that "leakage is a likely linkage issue," and that its rules should be "linkage ready."

The Joint Parties continue to believe that a policy statement on leakage may be a useful tool at this point in the process, as it is premature to develop specific rules addressing leakage in advance of the availability of data and operational experience with respect to the application of the present rulemaking in a given market. A policy statement could serve the following purposes: (1) Codify Ecology's acknowledgement of the legislative intent language cited above; (2) clarify whether Ecology intends to address leakage in rules at some point, if not in the present rulemaking; and (3) establish a basis for linkage.

As noted above, while leakage is an important consideration, there is not currently sufficient data or operational experience to support specific rules addressing leakage. The Joint Parties expect that, as markets are implemented, determining the manner and method of addressing leakage will be iterative and based on data and experience. However, to begin a process for working on this issue now, Ecology should consider developing a public process for: (1) Assessing the data needs to appropriately evaluate leakage; (2) compiling and analyzing that data; and (3) using that data to inform whether, to what extent, and by what means leakage should be addressed. Such a public process could be conducted via an electricity markets workgroup or advisory group, as recommended above.

[3] RCW 70A.65.005(6)
[4] RCW 70A.65.010(43) and WAC 173-446-020
[5] https://ecology.wa.gov/getattachment/e6d24a18-2807-4006-b7a4-6915d9d75148/Presentation-for-Draft-Rule-Language-Input-Meetings.pdf

Accounting for Unspecified Imports

*Ecology should designate the FJD for unspecified electricity imported into Washington State via centralized electricity markets. Ecology should convene a stakeholder process to discuss the development and application of market-specific emissions factors for unspecified imports and defer the calculation of market-specific emissions factors and the imposition of a "penalty" emissions factor until after such a process has been completed.*

The Joint Parties appreciate the decoupling of the unspecified source or "default" emissions factor from the Clean Energy Transformation Rule (Ch. 173-444 WAC) and aligning it with the default emissions factor used in California and Oregon. This change will make it easier to evaluate and compare electric sector emissions calculations across jurisdictions.

The Joint Parties appreciate Ecology's inclusion of an unspecified import pathway in the draft rule and believe that this is ultimately likely to be an essential component of any day-ahead market design. However, we find the definition, calculations, and other provisions associated with "unspecified pathway market electricity" to be unclear and confusing. As recommended in the August 25th Joint Utility comments, Ecology's definition of "electricity importer" should clearly identify the entity in Washington to which an import of unspecified market electricity is allocated as the FJD for that import. Such a definition can then be applied by the market operator in the market optimization to collect revenue to cover the compliance obligations assigned to that entity proportionate with its purchases from the market. Without this definitional change, it is unclear who bears the responsibility of meeting reporting and compliance obligations for imports of unspecified market electricity. In addition, Ecology should clarify that the unspecified import pathway is not limited "only" to those situations in which "electricity is not eligible to be treated as specified electricity," since the unspecified import pathway within a centralized electricity market would be used when it is economic to dispatch from the market's unspecified pool of participating resources, and not just when specified source imports are not available.

The Joint Parties also strongly recommend that Ecology defer the calculation of market-specific unspecified pathway emissions factors and the imposition of a 1.0 $MTCO_2e/MWh$ "penalty" emissions factor to a future rulemaking. Instead, the Joint Parties reiterate the August 25th Joint Utility recommendation that Ecology provide an opportunity for stakeholder discussion of the development and application of market-specific emissions factors for unspecified imports. Such a discussion could be conducted via an electricity markets workgroup or advisory group, as recommended above, and should address issues such as market design vs. compliance obligation applications, temporal and/or locational attributes, and fixed vs. dynamic emissions factors.

Technical Issues

Finally, The Joint Parties have identified a couple of technical issues with the draft rule language, including:

- Inconsistent use of "emissions factor" vs. "emissions rate";
- References to "transactions" from a centralized electricity market, which are confusing and not applicable in the context used, since in a centralized market there are no bilateral "transactions" between one market participant and another because the market clears all at once, and load and resources are all settled at a single price; and

- Inaccurate characterization of a facility as a first jurisdictional deliverer (WAC 173-446-040 (3)(a)(i)(E) and (3)(e)(iv)). The FJD is defined as the owner or operator of an electric generating facility in Washington. The facility cannot be an FJD.

**Conclusion**

The Joint Parties appreciate the opportunity to review and provide input on Ecology's draft rule language for its Electricity Markets Rulemaking. We look forward to participating in the November 2023 input meeting and providing another round of feedback during the third informal comment period.

Sincerely,

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