



October 30, 2023

## **Informal Comments of the Northwest & Intermountain Power Producers Coalition on the Electricity Markets Draft Rules (Chapters 173-441 and 173-446 WAC)**

The Northwest & Intermountain Power Producers Coalition (“NIPPC”) appreciates the opportunity to comment on the Department of Ecology’s (“Ecology’s”) rulemaking on electricity markets, including the draft revisions to WAC 173-441 and WAC 173-446. NIPPC is a regional membership organization representing competitive power participants in the electricity sector in the Pacific Northwest and Intermountain region. NIPPC members include owners, operators, and developers of independent power generation and storage, power marketers, and affiliated companies. NIPPC offers the following as opening comments on a few high-level items. NIPPC looks forward to continuing to engage in this rulemaking and other efforts to align electricity markets and regulations in the region.

As an initial matter, NIPPC appreciates Ecology’s attention to this important issue. The Climate Commitment Act requires Ecology, in consultation with certain other Washington agencies and any linked jurisdiction(s), to adopt rules by October 1, 2026 that include “a methodology for addressing imported electricity associated with a centralized electricity market.”<sup>1</sup> NIPPC supports Ecology’s stated objective of “identify[ing] and establish[ing] compliance obligations for entities importing electricity to Washington through centralized electricity markets,” as well as the intentions of “eliminat[ing] gaps” and “allow[ing] necessary data infrastructure to be put in place by markets to track importing entities.”<sup>2</sup> While Ecology holds responsibility for “addressing imported electricity,” this effort requires cooperation across state and market boundaries. Similarly, NIPPC supports Ecology’s efforts to recognize different electricity market designs may exist and to accommodate distinctions across markets, including without limitation the Western Energy Imbalance Market, Extended Day Ahead Market (“EDAM”), and the Markets Plus initiative.

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<sup>1</sup> RCW 70A.65.080(1)(c).

<sup>2</sup> WAC 173-441 & 173-446 Electricity Markets: Draft Rule Language Input Meeting at slide 9 (Oct. 12, 2023).

## ***#1 Ecology Should Not Prematurely Finalize the Rules***

While NIPPC recognizes the importance of launching an open dialogue, NIPPC is somewhat concerned by Ecology's adopted timeline to finalize rules by July 2024, a full two years earlier than CCA envisioned. Ecology's timeline may unnecessarily require decisions to be made and rule language finalized before the final structure and business practices of applicable electricity markets are fully known. We are in a period of rapid change and expansion of electricity markets in the Pacific Northwest linked geographic areas. For example, it is not clear whether there will be one or two day ahead markets in the Pacific Northwest (EDAM and Markets Plus), and, if two, which utilities will join each market. Given that the markets of today may be significantly different in the next couple years, Ecology should endeavor to finalize rule language as close as practicable to early 2026.

NIPPC encourages Ecology to maintain a flexible mindset and be prepared to extend and increase the number of stakeholder engagement opportunities as this process unfolds. NIPPC appreciates in particular that Ecology extended this comment period to provide more time for stakeholders to digest and consider the draft rule language. Conversely, NIPPC acknowledges Ecology's efforts to provide initial guidance and certainty back to market operators is valuable. NIPPC believes mutually beneficial outcomes can be achieved so long as an open dialogue is maintained.

NIPPC also has a few specific concerns and requests for clarification:

## ***#2 Ecology Should Clarify the Definition of "Market Participant"***

Ecology's proposed new language for WAC Chapter 173-441-124(2) includes the definition: "Market Participant' means an electric power entity that has an agreement with a centralized electricity market operator and participates in that centralized electricity market in accordance with rules and procedures of the relevant market, as well as with an approved tariff that governs the operations of the centralized electricity market."<sup>3</sup> NIPPC is concerned this language may be unduly narrow and unintentionally exclude marketers or outside entities with pseudo-ties. NIPPC appreciates Ecology's statements at the October 12<sup>th</sup> and 14<sup>th</sup> workshops that the intent was this language to cover *any* potential participant in a centralized electricity market. NIPPC recommends that Ecology either revise the rule language, or at least explain its understanding in writing to ensure that the administrative rulemaking record reflects Ecology's intention.

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<sup>3</sup> Proposed WAC Chapter 173-441-124(2)(v).

### ***#3 Ecology Should Clarify What The “Originating Market” Is***

Ecology’s proposed new language for WAC Chapter 173-441-124(3)(a) includes the statement: “The reporting entity must separately report electricity transacted or delivered through or on behalf of centralized electricity markets, itemized by transaction and by originating market.”<sup>4</sup> NIPPC understands the term “originating market” in this context to mean a *centralized electricity market*, as defined, and, if the electricity moves through two such markets, then the originating centralized electricity market. However, the rule should state this more clearly to avoid confusion and potentially onerous reporting requirements. NIPPC recommends the following language: “The reporting entity must separately report electricity transacted or delivered through or on behalf of centralized electricity markets, itemized by transaction and by originating *centralized electricity* market.”

### ***#4 Ecology Should Clarify Its Reporting Expectations***

Ecology’s proposed new language for WAC Chapter 173-441-124(3)(g) includes the following provision:

Additional information for market participants of centralized electricity markets for claims of specified sources of electricity. To receive a positive verification statement upon verification of an electricity transaction derived from a centralized electricity market that attributes a specific resource to that transaction the electric power entity must be able to demonstrate proof to ecology’s satisfaction that the market operator designated, assigned, deemed, or otherwise assigned that resource to that electric power entity as a designated market importer. Proof of such attribution may be demonstrated through the provision of records and other information from the market operator listing all market participants that were assigned the role of designated market importer by the market operator. This provision of records and other information must be submitted to ecology in a manner designated by ecology by February 1 for electricity transactions involving centralized electricity markets in the previous calendar year. These requirements may be combined with the report in (3)(h) by a market operator.<sup>5</sup>

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<sup>4</sup> Proposed WAC Chapter 173-441-124(3)(a)(v).

<sup>5</sup> Proposed WAC Chapter 173-441-124(3)(g)(iii).

This provision is unclear but could be read to require market participants to double-verify, first via a reconciliation with the market operator and then again with Ecology. If that was not Ecology's intention, it would be helpful to clarify. At the October 12<sup>th</sup> and 14<sup>th</sup> workshops, NIPPC understood Ecology is assuming that the market operator will be reporting to market participants in addition to reporting to Ecology, and that the market operator may either give participants a "receipt" for a given transaction or submit a consolidated report to Ecology for multiple transactions. However, this expectation should be clearly stated. Since the market participant will be ultimately responsible for compliance, it is crucial that Ecology clearly explain their reporting requirements and that they have clarity on what information should be monitored and verified, as needed. NIPPC requests that Ecology either clarify this language or provide a statement in the administrative record explaining Ecology's intention.

NIPPC looks forward to reviewing other stakeholders' comments and may address additional specific rulemaking language in future comments.

Thank you for your consideration of these comments.

Sincerely,



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Spencer Gray  
*Executive Director*