



February 15, 2024

## **Second 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”) offers these additional comments on the Department of Ecology’s (“Ecology’s”) rulemaking on electricity markets, including the draft revisions to WAC 173-441 and WAC 173-446.

### **A. Ecology Should Provide Space for the Issue of Electricity Imports**

NIPPC understands Ecology previously viewed the issues raised in the Electricity Imports Whitepaper as out of scope for this rulemaking. Now that Ecology is planning on a later second phase of this rulemaking, NIPPC would urge Ecology to include those issues within the scope of that rulemaking. This is important to resolve regardless, but particularly so if the Washington legislature passes a markets linkage bill this session. In Ecology’s request legislation, Ecology proposed to modify the current statutory exemption of netted electricity to provide Ecology discretion to include such transactions as imported electricity by rule.<sup>1</sup> NIPPC hopes the legislature can reach an appropriate resolution of that language; however, any change will likely necessitate Ecology’s attention in a rulemaking. Ecology should therefore plan to do so. NIPPC would support Ecology taking up the issue of imports and providing clarity to the extent allowed by law, including providing space for addressing the issues previously raised in the Electricity Imports Whitepaper.

### **B. The Rulemaking Timeline Needs Further Refinement**

NIPPC and other stakeholders previously expressed concern with Ecology’s original goal to finalize rules by July 2024 given the ongoing parallel market developments and changes. Ecology has now revised its rulemaking timeline to adopt a phased approach. The first phase

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<sup>1</sup> *Ecology Cap-and-Invest Agency Request Legislation*, Bill Req. #: Z-0485.1/24 at Sec. 1 (42)(d), available at: [https://ecology.wa.gov/getattachment/a9b56d5f-745e-4495-8c38-355dc80986ea/Z-0485-1.pdf?utm\\_medium=email&utm\\_source=govdelivery](https://ecology.wa.gov/getattachment/a9b56d5f-745e-4495-8c38-355dc80986ea/Z-0485-1.pdf?utm_medium=email&utm_source=govdelivery).

will cover resource-specific pathways and market operator data infrastructure needs. The second phase will cover unspecified electricity and emissions leakage, if necessary. NIPPC appreciates Ecology’s responsiveness to stakeholder concerns.

Unfortunately, Ecology now indicates it is targeting October 1, 2026 as the target for rule adoption in phase two. NIPPC is concerned this is too late. NIPPC continues to recommend that Ecology endeavor to finalize rule language as close as practicable to *early* 2026. It would be ideal for Ecology to conclude its rulemaking well before the Markets+ go-live date in 2026.

### **C. NIPPC Appreciates the Clarifications Regarding a Market Participant**

NIPPC appreciates Ecology’s clarifications that a ‘market participant’ is broadly defined, including changing the cross-referenced definition of electric power entity to include those that “supply *or transact* electric power in Washington ...”<sup>2</sup> This appears consistent with Ecology’s statements at the October 12<sup>th</sup> and 14<sup>th</sup> workshops that the intent of the market participant definition was to cover *any* potential participant in a centralized electricity market. Inadvertent exclusions from this group was previously of concern to NIPPC.

### **D. NIPPC Appreciates the Clarifications Regarding an Originating Market**

NIPPC appreciates Ecology’s corrections to clarify an “originating market” is an “originating centralized electricity market.”<sup>3</sup> This was previously of concern to NIPPC.

### **E. The Reporting Requirements Still Need Clarification**

NIPPC previously expressed concern with Proposed WAC Chapter 173-441-124(3)(g)(iii), entitled “Additional information for market participants of centralized electricity markets for claims of specified sources of electricity.” The rule is drafted as guidance for market participants, nonetheless the current language—like the prior language—remains unclear as to the requirements that apply to a market participant versus a market operator. This continues to give the appearance that market participants are responsible for market operator’s compliance with the rules, and also that market participants’ compliance will depend in part on market operator actions taken after electricity has already transacted. This is not ideal.

NIPPC understands that market participants, including deemed market importers, will routinely receive information from market operators about their transactions via settlement reports. A market participant might have a concern with a report, which would be handled pursuant to the market operator’s tariff, outside any Ecology process. NIPPC also understands

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<sup>2</sup> Proposed WAC Chapter 173-441-020(g) (emphasis added for new draft language).

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

that Ecology anticipates receiving information from market operators, including aggregated reports on many different transactions.

NIPPC believes the intent of this reporting section is to require market participants, specifically deemed market importers, who claim a specified transaction to have data available to support that claim. To that end, NIPPC supports rule language that indicates deemed market importers may rely on reports from market operators to meet Ecology’s requirements. It is not necessary for deemed market importers to provide such data to Ecology, who will already have received the data from market operators, absent a specific request for Ecology owing to unusual circumstances. To that point, NIPPC notes it supports proposed WAC 173-441-124(3)(ix), which reasonably requires deemed market importers to retain information for future reference.

NIPPC recommends deleting this confusing sentence from the proposed rules, as it confuses rather than clarifies the reporting requirements: “This provision of records and other information must be submitted to ecology in a manner designated by ecology by May 1 for electricity transactions involving centralized electricity markets in the previous calendar year.”<sup>4</sup>

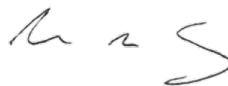
**F. NIPPC Supports Requests for More Explanation of the Expected Application of the Rules**

NIPPC agrees with the comments made by TransAlta Energy Marketing U.S. that it would be helpful for Ecology to provide further explanation on how the draft rules would apply for a typical transaction to understand how the rules would be applied and reported pragmatically, especially after the rules are expanded to include unspecified sources.

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*

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