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Submitted via Web Portal

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RE: Electricity Markets Phase 1 CR-102 Proposed Rulemaking

On June 27, 2024, the Washington Department of Ecology (Ecology) issued form CR-102 (WSR 24-14-057) soliciting formal comments on its proposed rules, Ch. 173-441 and 173-446 WAC – Electricity Markets Rulemaking. The following comments are submitted by the Public Generating Pool (PGP), a trade association representing eight consumer-owned utilities in Washington and one in Oregon that own and operate their own generating resources. PGP appreciates the opportunity to comment.

General Comments

In general, Ecology’s proposed revisions to the Greenhouse Gas (GHG) Reporting Rule (Ch. 173-441 WAC) and Climate Commitment Act (CCA) Program Rule (Ch. 173-446 WAC) included in the CR-102 for the first phase of its Electricity Markets Rulemaking provide sufficient detail to enable the Western Energy Imbalance Market (WEIM) resource-specific market design as well as the nascent day-ahead market designs. The proposed rules do so without precluding future changes to reflect operational experience, in particular with respect to changes implementing the unspecified import pathway that is part of the Southwest Power Pool (SPP) Markets+ design and those addressing emissions leakage.

With respect to the latter, there are still important remaining questions and discussions needed with respect to how Ecology’s rules will address leakage, particularly with respect to how each market design limits quantities of specified resources that may be attributed to Washington. PGP believes that the current proposed rule reference to identifying available surplus for attribution will enable the implementation of the current design for each centralized electricity market, but we expect that additional definitions and dialogue will be needed over time to clarify and articulate Ecology’s policy with respect to appropriate methodologies for identifying surplus. PGP recommends deferring this discussion to the subsequently scheduled rulemaking process.

PGP continues to encourage Ecology to work with stakeholders and market operators to ensure the rules for Phase 2 of the rulemaking are adopted in sufficient time to facilitate go-live of the updated WEIM market design and either day-ahead market. PGP also reiterates the recommendation included in the Joint Utilities' informal comments dated February 14, 2024,¹ that Ecology convene an Electricity Markets Workgroup in advance of Phase 2 of the rulemaking to facilitate bidirectional, collaborative dialogue among stakeholders, Ecology staff, and market operators on the highly technical issues relevant to this rulemaking.

PGP respectfully offers the following comments and proposed edits on specific elements of the CR-102 proposed rules.

“Deemed Market Importer” Framework for Specified Source Imports

PGP appreciates the work of Ecology staff and stakeholders over the course of this rulemaking to develop and further refine the “deemed market importer” framework for specified source imports through centralized electricity markets. Under this framework, the electricity importer or “deemed market importer” for specified source imports of electricity through a centralized electricity market is the market participant that successfully offers electricity from a resource into the market and that:

“...is assigned, designated, deemed, or attributed to be serving Washington electric load by the methodologies, processes, or decision algorithms that are put in place by the market operator of that centralized electricity market and approved by the department of ecology. For the Energy Imbalance Market, the deemed market importer is the participating resource scheduling coordinator.”²

The proposed rules also amend the definition of “specified source of electricity” to require that:

“For electricity from a resource dispatched by a centralized electricity market, the reporting entity must indicate in the offer of the electricity to the market that the electricity is available to serve load in Washington. Electricity reported as specified source must be contracted to a Washington retail provider or must be surplus electricity, as determined by methodologies approved by ecology.”³

¹ Avista, PacifiCorp, Public Generating Pool, Puget Sound Energy, & Washington Public Utility Districts Association (“Joint Utilities”). February 14, 2024. RE: Fourth Informal Public Comment Period on Electricity Markets Rulemaking. Retrieved from: https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did1008/pid_208009/assets/merged/er0fi3vio1r_document.pdf?v=11147.

² Proposed WAC 173-441-124(2)(b)

³ Proposed WAC 173-441-124(2)(hh)

The proposed rules further define “surplus electricity” to mean “*an amount of electricity generated by a resource in excess of the resource’s existing obligations to provide electricity to purchasing entities.*”⁴

While PGP is supportive of this framework overall, we offer the following comments for Ecology’s consideration.

Identifying “Surplus Electricity”

PGP understands that, while this present rulemaking proposes a definition of “surplus electricity,” this definition functionally serves as a placeholder for more dedicated consideration of issues related to emissions leakage in centralized electricity markets that will take place during Phase 2 of Ecology’s Electricity Markets Rulemaking.⁵ Given the sequencing of this rulemaking, PGP believes that it may be necessary to revisit the definition of “surplus electricity” and any related definitions and concepts during the Phase 2 process.

In the meantime, any definitions relating to “surplus electricity” adopted in the present rulemaking should be broad enough to reasonably accommodate the different GHG market designs of each respective centralized electricity market, while being specific and clear enough to provide market participants and market operators sufficient direction to operationalize those market designs while complying with Ecology’s rules. For example, while the SPP Markets+ GHG market design explicitly articulates a concept of “surplus,” the current designs for the California Independent System Operator’s (CAISO) WEIM and Extended-Day Ahead Market (EDAM) do not. Similarly, while in Markets+ the identification of “surplus” is the purview of each individual resource operator, in the CAISO markets resource attribution to a GHG regulation area is currently determined holistically by the market optimization in a given market run. PGP strongly recommends that Ecology address the intricacies of the identification of surplus electricity in the form of guidance documentation outside of rulemaking, and that Ecology convene the Electricity Markets Workgroup recommended earlier in these comments to advise on the development of such guidance.

To that end, PGP recommends the following edits to the definitions of “specified source” and “surplus electricity” in proposed WAC 173-441-124(2):

(hh) “Specified source of electricity” or “specified source” means a facility, unit, or asset controlling supplier that is permitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership of the facility or a written power contract to procure electricity generated by that facility or unit or from an asset

⁴ Proposed WAC 173-441-124(2)(kk)

⁵ Dept. of Ecology. January 24, 2024. WAC 173-441 & 173-446: Electricity Markets: Draft Rule Feedback Meeting. Retrieved from: <https://ecology.wa.gov/getattachment/178d396c-b778-4c0d-9571-d4a4b6526091/Electricity-Markets-Draft-Language-Feedback-Meeting-4-Presentation-1-24-24.pdf>.

controlling supplier at the time of entry into the transaction to procure electricity. For electricity from a resource dispatched by a centralized electricity market, the reporting entity must indicate in the offer of the electricity to the market that the electricity is available to serve load in Washington. Electricity reported as specified source must be contracted to a Washington retail provider or ~~must be surplus electricity, as determined by methodologies approved by ecology made available pursuant to a surplus electricity methodology.~~

(kk) “Surplus electricity” means an amount of electricity generated ~~by a resource~~ in excess of ~~the resource’s~~ existing obligations ~~to provide electricity to purchasing entities.~~ ~~Based on guidance documentation provided by the department of ecology, reporting entities must identify the methodology that will be applied for identifying surplus. Electricity deemed imported as specified source under the methodology will be reported as specified source.~~

Definition of “Deemed Market Importer”

Ecology proposes to define “deemed market importer” to mean:

*“...a market participant that successfully offers electricity from a resource into a centralized electricity market and is assigned, designated, deemed, or attributed to be serving Washington electric load by the methodologies, processes, or decision algorithms that are put in place by the market operator of that centralized electricity market **and approved by the department of ecology.**”* [emphasis added]

With respect to this proposed definition, PGP believes the appropriate role for Ecology is to provide guidance documentation to market operators on how their centralized electricity markets’ specified source attribution or deeming “methodologies, processes, or decision algorithms” should treat electricity imports into Washington State, rather than approving those methodologies directly. PGP therefore suggests the following edit:

(b) “Deemed market importer” means a market participant that successfully offers electricity from a resource into a centralized electricity market and is assigned, designated, deemed, or attributed to be serving Washington electric load by the methodologies, processes, or decision algorithms that are put in place by the market operator of that centralized electricity market and ~~approved based on guidance documentation provided by the department of ecology.~~

The definition of “deemed market importer” also specifies that, for the WEIM, the deemed market importer is the participating resource scheduling coordinator. For the sake of clarity, PGP recommends that the definition also specify that the participating resource scheduling coordinator is the deemed market importer for EDAM, i.e., “For the Energy Imbalance Market ~~and Extended Day-Ahead Market,~~ the deemed market importer is the participating resource scheduling coordinator.”

Interim Treatment of WEIM Imports

In our informal comments dated February 14, 2024, the Joint Utilities recommended that Ecology address the allotment of covered emissions under Ch. 173-446 WAC for first jurisdictional deliverers (FJDs) of imported electricity via the WEIM by specifying that, for electricity generated by an electric generating facility in Washington where the owner or operator of that facility successfully offers electricity into a centralized electricity market and is assigned, designated, deemed, or attributed to be serving Washington electric load by the methodologies, processes, or decision algorithms put in place by the market operator of that centralized electricity market, the compliance obligation for the GHG emissions associated with that electricity is determined once, based on the emissions reported for that electricity under WAC 173-441-120. PGP thanks Ecology for adopting this recommendation in its CR-102 proposal for WAC 173-446-040 (3)(e)(iv).

With respect to the GHG reporting requirements for electricity imports through the WEIM that are not generated by in-state electric generating facilities, proposed WAC 173-441-124(3)(a)(v)(A) provides that:

“For the Energy Imbalance Market only, and for emissions reporting years 2023 through 2026 only, the retail provider located or operating in Washington that receives a delivery of electricity facilitated through the Energy Imbalance Market as defined in (c)(iv) of this subsection is the electricity importer for that electricity for the purposes of this section. In the event that the market operator is able to identify deemed market importers that successfully offer energy that is attributed to Washington before 2026, those identified entities are the deemed market importers beginning in the following calendar year.”

PGP strongly supports the decision by Ecology to continue the report-only WEIM framework during this interim period between the launch of Washington’s cap-and-invest program and the operationalization of market changes necessary to implement a resource-specific attribution mechanism that complies with these rules. PGP understands that the CAISO will implement changes to the WEIM at the time of EDAM go-live in Spring 2026 that will allow for resource-specific attribution to Washington upon the end of the interim GHG reporting period or beginning January 1, 2027. Until that time, WEIM Entities in Washington will continue to receive WEIM imports as unspecified energy, which will be reported as such until emissions reporting year 2027 under Ecology’s interim GHG reporting treatment. Given that (1) CAISO has indicated that this current paradigm is the result of the absence of provisions in Ecology’s current rules identifying the electricity importer for resources outside of Washington serving Washington load,⁶ and that (2) the present rulemaking provides those provisions that CAISO needs to operationalize resource-specific

⁶ California Independent System Operator. November 21, 2022. RE: California Independent System Operator Corporation Docket No. ER23-____-000, Tariff Amendment to Implement Reference Level Changes for Washington Resources to Reflect Costs of Greenhouse Gas Compliance. Retrieved from: <https://www.caiso.com/Documents/Nov21-2022-TariffAmendment-WashingtonGreenhouseGasCompliance-ER23-474.pdf>.

attribution to Washington, PGP believes that Ecology’s continuation of the report-only interim approach with respect to the WEIM through the first cap-and-invest compliance period is appropriate.

Lastly, PGP would like to confirm our understanding that WAC 173-441-124(2)(g)(ii) - *Emissions treatment of imported electricity from linked jurisdictions* will apply to imports of electricity into Washington by deemed market importers located in California Balancing Authority Areas (BAAs) upon the execution of a linkage agreement with the California-Quebec carbon markets. This existing rule provision specifies that “imported electricity” includes imports from linked jurisdictions, but that such imports shall be construed as having no emissions. This emissions treatment under linkage should also apply to imports from California BAAs facilitated through centralized electricity markets.

Bonneville Power Administration “Backstop” Provisions

Under the CCA statute as amended by E2SSB 6058 (2024 c 352 s 11), the Bonneville Power Administration (BPA) has the discretion to voluntarily opt into the cap-and-invest program and assume the compliance obligations associated with either all electricity markets in the state or only the electricity marketed in the state through a centralized electricity market. Ecology’s proposed rules under both this present rulemaking and its Cap-and-Invest Linkage Rulemaking appropriately reflect this update to the law, which PGP supports. However, PGP is concerned that neither rulemaking currently establishes “backstop” GHG reporting or cap-and-invest compliance provisions in the event that BPA participates in a centralized electricity market but has not voluntarily elected to comply with Washington’s cap-and-invest program by registering as an opt-in entity.

To address this issue, PGP supports the language proposed by BPA in this present comment period to amend WAC 173-441-123(2)(f), the definition of “electricity importer,” as follows:

- (iii) For imported electricity ((imported)) assigned, designated, deemed, or attributed to Washington through a centralized electricity market, the electricity importer is the ((retail provider, marketer, or asset controlling supplier that conducts an electricity transaction through the EIM that results in EIM power being delivered to final point of delivery in Washington state)) deemed market importer;
- (iv) If the importer identified under (f)(iii) of this subsection is a federal power marketing administration over which Washington does not have jurisdiction, and the federal power marketing administration has not voluntarily elected to comply with this chapter:
 - (a) Where the imported electricity is contracted to a Washington retail provider, the electricity importer is that retail provider;
 - (b) Where the imported electricity is not contracted to a Washington retail provider, the electricity importer is the retail provider that receives a pro rata attribution of electricity; and

(c) The imported electricity under this subsection (f)(iv) is considered to be a specified source of electricity provided by the federal power marketing administration.

In addition, PGP supports BPA's recommended edits to the proposed definition of "surplus electricity" such that it reads:

(kk) "Surplus electricity" means an amount of electricity generated by a **specified source** resource in excess of the **specified source** resource's existing obligations to provide electricity to purchasing entities.

Additional Requirements for Retail Providers

Proposed WAC 173-441-124(3)(c)(iv) requires retail providers to report net purchases of electricity from centralized electricity markets, based on annual totals of electricity purchased in MWh from each separate centralized electricity market. PGP would like to better understand Ecology's intent behind this provision, given that the present rulemaking establishes the deemed market importer and not the in-state retail provider as the "electricity importer" for electricity assigned, designated, deemed, or attributed to Washington through a centralized electricity market. In addition, the current market design for the CAISO markets attributes energy at the participating balancing authority (BA) level, rather than to individual retail providers within a given BA. If a given retail provider is itself a participating BA with no embedded third-party retail providers in the centralized electricity market, then this information would be available from the market operator; otherwise, it is not, though PGP anticipates that this functionality may be implemented as the CAISO markets evolve.

Lastly, PGP would like to clarify that any Washington retail provider that is a market participant in a day-ahead centralized electricity market will only be participating in one market at a time, so the phrase "from each separate centralized electricity market" should be deleted or amended to "from an originating centralized electricity market."

Verification Requirements

Proposed WAC 173-441-124(3)(f)(iii) states that:

*"To receive a positive verification statement upon verification for claims of specified imports from a centralized electricity market[,], the electric power entity must be able to demonstrate to ecology's satisfaction that the market operator designated, assigned, deemed, or otherwise attributed energy from those resources to Washington. Proof of such attribution may be demonstrated upon request by settlement records or other information such as that provided by the market operator to the market participant showing that energy offered by the deemed market importer was attributed to Washington. **This provision of records and other information must be submitted to ecology in a manner designated by***

ecology by May 1st for electricity transactions involving centralized electricity markets in the previous calendar year. [emphasis added]

Because the provision of records and other information demonstrating attribution of energy to Washington will already occur between the reporting entity and their third-party verifier, the provision of these same records to Ecology is unnecessarily duplicative. For this reason, PGP recommends that the last sentence in proposed WAC 173-441-124(3)(f)(iii), indicated in bold-face type above, be deleted. PGP also suggests that the term “reporting entity” be used instead of “electric power entity” to maintain consistency with other provisions in the proposed rules.

Other Editorial Comments

PGP offers the following minor editorial comment on the proposed rules amending Ch. 173-441 WAC:

- **Definition of Markets+:** The proposed definition of “Markets plus or Markets+” refers to the “centralized day ahead electricity market designed by the Southwest Power Pool.” However, Markets+ will also include a real-time market alongside the day-ahead market, and other references to Markets+ (i.e. in the proposed definition of “centralized electricity market”) use “operated” rather than “designed” by SPP. For the sake of consistency and accuracy, PGP recommends the following revision:

(v) “Markets plus or Markets+” means the Markets+ centralized ~~day ahead~~ electricity market ~~designed~~ *operated* by the Southwest Power Pool.

Conclusion

PGP appreciates the time and effort that has been dedicated to this rulemaking. With a few marginal changes, PGP believes these rules will serve as the first step in supporting Washington electric utilities’ participation in both existing and anticipated centralized electricity markets. PGP appreciates the opportunity to offer formal comment on Phase 1 of Ecology’s Electricity Markets Rulemaking and looks forward to continued engagement and collaboration as the remainder of the rulemaking develops.

Sincerely,

/s/ Mary Wiencke

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