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Please find attached comments from the Bonneville Power Administration on Washington's cap-and-invest linkage rulemaking.



Department of Energy

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Re: Comments on the Cap-and-Invest Linkage Rulemaking

The Bonneville Power Administration (BPA) appreciates the opportunity to comment on the Washington Department of Ecology's (Ecology) draft rules for the Cap-and-Invest linkage rulemaking. BPA is supportive of Ecology taking necessary steps to enable potential linkage with the California Air Resource Board's (CARB) cap-and-trade program. BPA's comments include suggestions where Ecology has currently included placeholders for rule language that still needs to be developed, as well as a few necessary clarifications to currently proposed language.

1. Balancing Energy (WAC 173-441-124 (2)(f)(v))

WAC 173-441-124 (2)(f)(v) currently includes a placeholder for identifying the electricity importer for balancing energy. BPA believes this topic warrants discussion among Ecology, utilities and industry observers and advocacy groups and recommends that Ecology use its new electricity forum to facilitate dialogue on the issue. BPA also refers Ecology to BPA's December 22, 2023 comments that describe the fundamental complexities of balancing energy in BPA's Balancing Authority Area (BAA), and explains why it is inappropriate for a Balancing Authority to be considered the electricity importer for balancing energy.

BPA believes questions around the cap-and-invest program's coverage of balancing energy is specific to resources located both inside Washington and inside a multistate BAA. Balancing energy provided to resources located out-of-state or located in BAAs wholly within Washington are covered under other provisions of the program. Given this, there are three questions that BPA believes Ecology needs to consider:

- 1) What types of “balancing energy” does Ecology intend to cover under the program?
- 2) Who is the electricity importer(s)? (which is informed by the answer to question 1)
- 3) What is the appropriate emission factor? (which is informed by the answers to questions 1 and 2)

Regarding the first question, BPA suggests Ecology define what it means by balancing energy. Does Ecology intend balancing energy to encompass energy supplied to both loads and generators? Does it apply to both nonregulation (≥ 5 Min) and regulation energy (< 5 Min)? In BPA’s BAA, nonregulation energy is provided by the EIM and is the majority of what might be generically considered “balancing energy.” Regulation energy is provided by the BPA federal system within the BPA BAA. Does Ecology intend to include both the upward (providing energy for resources that generate below the scheduled amount) and downward (withholding energy for resources that generate above the scheduled amount) provision of regulation and non-regulation energy?

Regarding the second question, Ecology will need to identify the electricity importer. BPA does not believe it would be appropriate for the BAA to be defined as the electricity importer because the BAA did not cause the imbalance; rather the BAA is providing an essential reliability service governed by mandatory federal standards. Ecology should consider whether the generator, purchasing entity, or load is the appropriate electricity importer. However, for nonregulation energy where the BAA is part of an imbalance market, BPA believes that the market-based design for attributing resources to Washington will include imbalance for loads and generators located in Washington inside a multistate BAA. Thus, the electricity importer would be identified in accordance with Ecology’s proposed Electricity Markets rules which states that the deemed market importer is the market participant attributed by the market operator as serving Washington load.

Regarding the third question, Ecology will need to identify an appropriate emission factor, which may be specific to particular circumstances. For example, a specified source would be identifiable for nonregulation energy where a market operator has enabled specified source attribution through an energy imbalance market. For regulation energy, more discussion is needed and BPA recommends Ecology use its electricity markets forum to facilitate that discussion.

2. Definition of “Electricity Wheeled Through the State” (WAC 173-441-124 (2)(nn))

BPA reads the last sentence in the definition of “electricity wheeled through the state” as unrelated to what constitutes a wheel through. The sentence addresses electricity “wheeled

into and out of Washington at a common point or trading hub on the power system on separate e-tags within the same hour” and thus it appears to be aimed at enabling hourly netting of purchases and sales for a certain subset of utilities that have registered source/sink points within Washington. If that is Ecology’s intent then BPA suggests Ecology should remove this reference from the definition of wheel through energy, which the industry commonly refers to as a purchase or sale on the same e-tag, and instead include this ability in a more broadly applicable net purchase or net import reporting standard. However, BPA would like to highlight that it is not aware that the California Air Resource Board allows electricity reporters to net purchases, thus Ecology may consider narrowing the definition of electricity wheeled through the state to include only power transactions on the same e-tag. This also may be an appropriate topic for Ecology’s electricity forum.

3. Registration Requirements for a Power Marketing Administration (PMA) (WAC 173-446-054)

The proposed language at WAC 173-446-054 (1) states that “a federal power marketing administration [PMA] may elect to voluntarily participate in the program by registering as an opt-in entity pursuant to the requirements of this section.” WAC 173-446-054 also includes a placeholder for Ecology to “consult with a federal power marketing administration on development of registration requirements.” Accordingly, BPA provides the following information related to registration requirements for a federal PMA.

If a federal PMA elects to register as an opt-in entity pursuant to WAC 173-446-054 (1), then the following provisions (applicable to corporations) cannot apply: WAC 173-446-050 (5)(c), 5(d), and 5(e); and WAC 173-446-105. In addition, WAC 173-446-130 cannot apply, due to Federal Privacy Act provisions applicable to federal employees. In lieu of WAC 173-446-130, if a federal PMA registers it shall provide Ecology with a declaration in which its appropriate employees attest to their identity and acknowledge that they are subject to Federal laws that would subject them to penalties if they committed fraud or otherwise acted improperly.

Also, WAC 173-446-050 (5)(h) requires a registered entity to provide employee contact information for those with knowledge of current or expected holdings of compliance instruments or covered emissions. This section should also not apply to a federal PMA because it is too broad. Information on compliance instruments or covered emissions could be discussed in a federal PMA’s public processes such as Rate Case proceedings and therefore an unknown number of individuals would have public knowledge of this information.

4. Transferring allowances from a utility to a federal PMA (WAC 173-446-426)

BPA recommends that this section enable Washington utilities whose only power supply is BPA to make a revocable one-time election to have Ecology transfer allowances from the utility's holding account to BPA's holding account for the term of the utility's power purchase agreement with BPA. This is intended to simplify the process for all parties involved. Many of the 63 Washington consumer-owned utilities that are BPA's firm power (preference) customers purchase power only from BPA, thus any allowances directly allocated to such COUs would be for emissions related to BPA power. The process would be simplified if these utilities had the option to direct Ecology to transfer these allowances to BPA for the length of their current power sales contract with BPA rather than needing to make such an election on an annual basis.

BPA also requests that Ecology set a deadline of September 1 of each year by which Ecology will transfer these allowances to BPA's holding account. This ensures BPA will have the allowances in its holding account in time to meet any compliance obligation due the upcoming November.

Additionally, BPA notes that WAC 173-446-426 should be referenced in WAC 176-441-230 (6) as a permissible use of allowances allocated at no cost to utilities.

BPA appreciates Ecology staff's dedicated work on these rules and willingness to engage with BPA on these complex issues. Please contact me or Melissa Skelton at 360-649-3863 or MDSkelton@bpa.gov if there are any questions on these comments.

Thank you,



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