Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

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ATTN: Surabhi Subedi
Washington Department of Ecology
Climate Pollution Reduction Program
P.O. Box 47600
Olympia, WA 98504-7600

Re: Comments on Cap-and-Invest Program Updates and Linkage Rulemaking Formal Comment Period, WAC 173-441 and WAC 173-446

The Bonneville Power Administration (BPA) appreciates the opportunity to comment on the Washington Department of Ecology's (Ecology) Cap-and Invest Linkage Rulemaking. Generally, BPA finds several new areas of the proposed rules related to electric power entity reporting requirements to be vague and urges Ecology to provide greater clarity in its adopted rules. BPA also refers Ecology to BPA's May 20, 2026 comments on Centralized Electricity Markets as BPA voiced similar concerns in those comments as well.

1. **Registration Requirements**

BPA appreciates Ecology staff working with BPA on the registration nuances related to a federal Power Marketing Administration (PMA). Other than the one minor issue noted below, BPA believes the registration requirements in WAC 173-446-054(5) are appropriate should a PMA register as an opt-in entity.

Currently, WAC 173-446-050(5)(g) and WAC 173-446-054(5)(e) both appear to require a PMA to provide contact information for an employee possessing knowledge of the PMA's market position under different circumstances. BPA's understanding has been that the rule applicable to a PMA would be WAC 173-446-054(5)(e). To clarify this intent, WAC 173-446-054(5) should clarify that WAC 173-446-050(5)(g) does not apply.

WAC 173-446-050(5)(g) excludes employees of "local, state, and federal regulatory agencies" from providing employee contact information for individuals with knowledge of or access to market positions. However, PMAs are federal power marketing entities and not federal regulatory agencies; therefore, this exclusion does not apply to a PMA as currently written.

2. **No-Cost Allowance Allocation to Electric Utilities**

Regarding consignment of no cost allowances, BPA appreciates Ecology's decision to explicitly acknowledge utilities can directly transfer allowances to a PMA, which is statutorily provided for under RCW 70A.65.120(6).

3. **Balancing Authority Data Sharing Requirements**

Balancing Authorities are not electric power entities subject to the reporting requirements under WAC 173-441-124. Retail providers have the data Ecology may be seeking and are already subject to Ecology's reporting rules.

Additionally, BPA reiterates its May 20, 2026, comments regarding Ecology's proposed balancing authority data-sharing requirement under WAC 173-441-124(1). As currently drafted, this request is excessively broad. BPA requests that Ecology refine and narrow the scope of any data requests to only the specific information verified as necessary for electric power entity reporting under WAC 173-441-124. Furthermore, BPA urges Ecology to evaluate and utilize information that is already publicly available prior to requesting that reporting entities undertake the administrative burden of compiling new data sets. BPA provided information on publicly available data sources in its May 20 comments.

4. **Centralized Electricity Market Language**

BPA supports the changes in the proposed rules related to the revised definition of "deemed market importer" in WAC 173-441-124(2)(b), the identification of an electricity importer where BPA has not opted to be the importer in WAC 173-441-124(2)(f)(xii), and the language identifying the electricity importer for bulk unspecified transfers in an organized market under WAC 173-441-124(f)(xiii).

However, BPA must reiterate its concerns from May 20, 2026, regarding the "Market Purchaser" language in WAC 173-441-124(2)(ss) and (3)(g). These requirements remain highly ambiguous, present technical feasibility challenges, and do not serve a clear program purpose. BPA strongly encourages Ecology to re-evaluate the specific compliance outcomes it needs to determine, and identify the exact, reportable data points necessary to make those determinations before finalizing these reporting requirements.

5. **Common Point, Composite Source, and Aggregate Source Zero-Emissions Generation Source Reporting Requirements**

The reporting requirements related to common point, composite source, and aggregate source zero-emissions generation are challenging to understand and may create significant confusion regarding BPA's reporting duties under WAC 173-441-124. This ambiguity leaves BPA uncertain as to if or how these provisions are intended to apply to BPA's Asset Controlling Supplier (ACS) reporting.

First, under WAC 173-441-124(2)(nn)(ii), "common point" includes "[a] final POD and corresponding first POR that is both located fully within Washington state and a multi-state balancing authority area, but is not associated with the multi-state balancing authority area's common system power pool." It is not clear to BPA whether this definition is intended to apply to PORs and PODs in BPA's Balancing Authority Area and, if so, how requisite reporting should be done. For example, it is unclear whether electricity bought and sold at the "NWhub" scheduling point within BPA's balancing authority area would be considered a common point for purposes of identifying electricity wheeled through the state, and, if so, whether BPA should net transactions made at the "NWhub."

Regardless, this does not create equitable treatment of determining wheel throughs for reporting entities that are multi-state balancing authority areas versus wholly in-state balancing authority areas. BPA commonly utilizes scheduling points like "BPApower" that cannot be tied to a precise physical location. BPA continues to urge Ecology to establish matching treatment within ACS calculations—specifically regarding the netting of certain transactions—as is currently applied to "Electricity Wheeled through the State." BPA requests that Ecology clearly codify this matching ACS treatment with explicit direction in WAC 173-441-124(3)(b)(iii) or by the addition of language in WAC 173-441-124(2)(nn) that additionally defines a common point as: "(iii) Any POD or POR within a multistate balancing authority area that is also an Asset Controlling Supplier."

The composite source provisions under WAC 173-441-124(xiii) are another example of where Ecology proposes to provide opportunities for reporting entities to net electricity without providing comparable treatment for an ACS. Further, this section is difficult to comprehend and could create confusion for reporting entities. For example, it could be interpreted in ways that impact ACS reporting. If Ecology allows specified sources to be accounted for in a composite source POD, then BPA requests Ecology add language that provides that where the source is specified source ACS power then the ACS emission factor should be used for composite source reporting and such use does not impact the reporting provided by the ACS.

Third, regarding aggregate zero-emissions generation sources under WAC 173-441-124(3)(a)(xii), BPA is unclear whether this provision is intended to exclude sources already accounted for in an ACS report. For context, BPA currently participates in the Western Energy Imbalance Market (WEIM) using three aggregations of hydroelectric resources. These resources are offered in WEIM at BPA's applicable ACS emission factor and individually reported in the ACS workbook format. BPA does not believe that aggregate source hydro rules should apply to generation that is otherwise already accounted for in an ACS emission factor and requests Ecology clarify this.

Additionally, BPA does not believe that the physical limitations requisite for aggregated sources are necessary, such as the requirement in WAC 173-441-124(3)(a)(xii)(A) that "all aggregated sources share a need to be aggregated due to interdependent water flows or other physical limitations" and the requirement in WAC 173-441-124(3)(a)(xii)(C) that "the output of any source… cannot be individually supplied to serve load independent of the aggregated sources configuration." In a situation such as BPA's—were it not for BPA's ACS reporting—this could disallow aggregated hydro sources.

6. **Response to Comments on Use of BPA ACS Emission Factor**

BPA is aware that some parties, including the Western Power Trading Forum (WPTF) and Puget Sound Energy (PSE) (collectively referred to as the commentors), are commenting in this rulemaking to request that Ecology allow utility purchasers, or their intermediaries, that buy unspecified power at Mid-C that is sourced from the federal system to report these purchases using BPA's ACS emission factor. BPA strongly opposes use of BPA's ACS emission factor under these circumstances for the reasons discussed below.

First, use of BPA's ACS emission factor in these circumstances is inconsistent with the Climate Commitment Act and existing program rules. Purchases on the Intercontinental Exchange (ICE) and often through a financial intermediary are not specified source because there is not "a written power contract to procure electricity generated by that facility or unit or from an asset controlling supplier at the time of entry into the transaction to procure electricity" per RCW 70A.65.010 (64). WAC 173-441-124 (3)(vi)(B) further provides that ACS power that is not acquired as specified source must be reported as unspecified power. At the same time, the Climate Commitment Act also envisioned that BPA as a federal PMA may not voluntarily elect to be the electricity importer under the program.

Second, this request is being made by the commentors during the formal CR-102 phase of Ecology's rulemaking. Changes to existing rules at this stage in the process would not provide all stakeholders with notice and an opportunity to provide comment.

Third, WPTF's proposal as written provides an advantage to marketers that may be in the middle of the transaction chain. Under the proposal, a marketer could buy unspecified power from BPA at market index prices and turn around and market it at as specified source power to a Washington utility at a premium price. Indeed, of the specific scenarios that have been shared with BPA mentioned by PSE, they have all involved an intermediary marketer. A change in rules as proposed by commentors would fail to adequately compensate BPA—and its ratepayers who pay for the cost of the federal system—for the low-carbon attributes of the federal system while financially benefiting intermediary marketers who could derive value for federal attributes that they did not pay for and were not an intended part of the power transaction.

Fourth, the commentor's proposal risks convoluting double counting provisions in Washington's Clean Energy Transformation Act (CETA) related to BPA ACS sales. Without additional time to discuss this with Washington state agencies and BPA customers, it is unclear to BPA whether this would cause issues with identifying double counting of attributes under CETA and thus have inadvertent impacts to Washington utilities' ability to use Renewable Energy Credits from the federal system to demonstrate compliance with CETA.

Finally, BPA notes that Washington utilities have tools to mitigate against buying unspecified source power that ends up being sourced from BPA. Foremost, BPA strongly encourages Washington utilities to buy directly from BPA, which ensures the utility can report the purchase at BPA's ACS emission factor and can include other benefits such as potentially using the purchase for Western Resource Adequacy Program compliance. Utilities can also elect to turn off BPA as a potential counterparty when transacting over ICE. In fact, a few utilities have made this decision. Additionally, utilities could take steps to ensure the power they are buying from financial intermediaries is not sourced from BPA. BPA also believes this issue will be eliminated or minimized once utilities largely replace forward transactions with participation in a day-ahead market. BPA is willing to have discussions with utilities on additional solutions for mitigating this issue and encourages utilities to reach out to BPA directly.

BPA appreciates Ecology's efforts throughout the rulemaking to encourage dialogue with BPA and other stakeholders on these topics. Please contact me if you have questions about these comments.

Thank you,

Alisa Kaseweter
Climate Change Specialist
Intergovernmental Affairs
Bonneville Power Administration
alkaseweter@bpa.gov
503.230.4358