



22 May 2014

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235
Reference: ERC0166

Dear Mr Pierce

RE: RULE CHANGE CONSULTATION: BIDDING IN GOOD FAITH

ERM Power welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) Rule Change Request Consultation Paper *National Electricity Amendment (Bidding in good faith) Rule 2014*.

About ERM Power Limited

ERM Power is a dynamic Australian energy company with interests in electricity sales and generation, and gas production and exploration. Trading as ERM Business Energy and founded in 1980, we have grown to become the fourth largest electricity retailer in the National Electricity Market by load, with operations in every state. We have equity interests in 497 megawatts of low emission gas-fired peaking power stations in Western Australia and Queensland, sell conventional gas and condensate from onshore discoveries in Western Australia, and have gas exploration operations in Western Australia and New South Wales.

ERM Power's views on the Rule Change Request

ERM Power does not agree with the proposed changes to the good faith provisions that would reverse the onus of proof from the AER onto generators to demonstrate what material circumstances had changed as the basis for their rebid. In our view the proposed approach is inconsistent with the Code objective of light hand regulation and is of fundamental concern when reviewed in the context of Australian law.

However, we believe that a generator would not be 'acting in good faith' if it were to receive information and implemented a deliberate strategy to avoid a market response by not rebidding until the last possible moment. Were there any clear evidence that such an approach to rebidding was materially detracting from the accuracy of pre-dispatch, and this approach was not in itself already a breach of the Rules or the Competition and Consumer Act, then ERM would consider supporting an alternative Rule change that made this requirement clear.

If you would like to discuss this submission further, please feel free to call me on (07) 3020 5127.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Derek McKay'.

Derek McKay
Chief Executive Officer - Generation
ERM Power Limited