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## Wholesale Electricity Market Rule Change Proposal Submission Form

### RC\_2013\_08 Market Participant Fees – Clarification of GST Treatment

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#### Submitted by

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#### Submission

- 1. Please provide your views on the proposal, including any objections or suggested revisions.**

#### Background

The Independent Market Operator (IMO), System Management and the Economic Regulation Authority (ERA) all incur administrative costs related to their involvement with the Wholesale Electricity Market (WEM). These costs are recouped from all Market Participants through three fees:

1. The Market Fee (to cover the IMO related costs),
2. The System Operation Fee (to cover System Management's costs), and
3. The Regulator Fee (to cover the ERA's costs).

The three fees are often referred to collectively as the Market Participant Fees and are charged to Market Customers and Market Generators on a \$/MWh basis.

The IMO settles the WEM including invoicing Market Participants for the Market Participant Fees. The IMO's settlement systems have since market start added Goods and Services Tax (GST) to all items in the settlement, including the Market Participant Fees.

## **Issues**

The ERA obtained a ruling from the Australian Taxation Office (ATO) in 2011 in regard to the treatment of GST for the Regulator Fee. The ATO ruled that the Regulator Fee should not attract GST. The IMO also obtained a ruling from the ATO in relation to the Market Fee, with the ATO ruling in 2012 that the Market Fee was also exempt from GST. In making its ruling, the ATO also expressed some concern about the IMO operating as an agent of the ERA and System Management in collecting the Regulator Fee and the System Operation Fee without there being a formal agency agreement in place. The ATO has expressed a desire for the GST treatment to be rectified, but has not requested any reversals of past incorrect GST treatments in the WEM settlements.

The IMO's settlement systems continue to add a GST component to the Market Participant Fees.

## **Change Proposal**

The IMO has proposed to rectify the GST treatment of the Market Participant Fees by introducing specific reference to the "A New Tax System (Goods and Services Tax) Act 1999 (Cth)" Act (the GST Act) in the Market Rules. The IMO has also proposed additional words to be inserted in the Market Rules in numerous places to make references along the lines of "making any adjustments required for GST purposes".

Furthermore, the IMO has also proposed to amend the Market Rules to make it clear that the IMO is acting as an agent for the ERA and System Management when collecting the Regulator Fee and the System Operator Fee.

The IMO is also proposing to amend its settlement systems so that GST is not added to the Market Fee and the Regulator Fee from 1 January 2014 onwards. This may extend to the System Operator Fee if System Management either makes a self-determination or applies to the ATO to make a determination on the treatment of GST for the System Operator Fee.

## **Perth Energy's Views**

Perth Energy supports the proposed changes to the Market Rules and to the IMO's settlement systems. Perth Energy suggests that System Management urgently clarifies the position in relation to the treatment of GST for the System Operator Fee so that any changes that may be required in the IMO's settlement systems for the System Operator Fee can be implemented at the same time as the changes required for the other two fee components.

The proposed amendments to the Market Rules and to the IMO's settlement systems would ensure that the WEM settlements are performed in accordance with the GST Act and are in our view necessary for the IMO and all other Market Participants to comply with their obligations under the GST Act.

**2. Please provide an assessment whether the change will better facilitate the achievement of the Market Objectives.**

Perth Energy considers that the proposed amendments would improve the efficient operation of the market as it would enable all Market Participants to be compliant with the GST Act. Perth Energy therefore considers the proposed amendments may positively impact on the achievement of Market Objective<sup>1</sup> (a) relating to economic efficiency.

Perth Energy has not identified any impacts on the remaining Market Objective.

**3. Please indicate if the proposed change will have any implications for your organisation (for example changes to your IT or business systems) and any costs involved in implementing these changes.**

Perth Energy has not identified any impacts to our business.

**4. Please indicate the time required for your organisation to implement the change, should it be accepted as proposed.**

Perth Energy will not require any lead time to implement the proposed changes.

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<sup>1</sup> The objectives of the market are:

- (a) to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system;
- (b) to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors;
- (c) to avoid discrimination in that market against particular energy options and technologies, including sustainable energy options and technologies such as those that make use of renewable resources or that reduce overall greenhouse gas emissions;
- (d) to minimise the long-term cost of electricity supplied to customers from the South West interconnected system; and
- (e) to encourage the taking of measures to manage the amount of electricity used and when it is used.