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Ms Naomi Menon
Director, Competition Exemptions
Australian Competition and Consumer Commission
Level 27, 135 King Street
Sydney NSW 2000

Issi Lovric
Graduate, Competition Exemptions
Australian Competition and Consumer Commission
Level 27, 135 King St
Sydney NSW 2000

By email: Naomi.Menon@acc.gov.au; Issi.Lovric@acc.gov.au

Dear Ms Menon, Ms Lovric

Submission – ISOC Co Pty Limited authorisation application

Woodside Power Pty Ltd (**Woodside**) welcomes the opportunity to provide comments on the application for authorisation submitted by Pilbara ISOC Co Limited (the **ISOC Co**) in respect of conduct under the Pilbara regime (the **Application**).

Woodside supports the objectives of the Western Australian Government's reforms to electricity regulation in the Pilbara. The appointment of an independent system operator is an important step in achieving the objectives of these regulatory reforms particularly the promotion of efficient investment in the Pilbara electricity networks by facilitating third party access to the North-West Interconnected System (**NWIS**).

To further these aims, it is important that appropriate safeguards are in place so that:

- the appointed independent system operator operates independently and at arm's length from the network services providers (**NSPs**) who operate the NWIS but are also members of the ISOC Co. This relates to the ISOC Co's governance and decision-making measures; and
- commercially sensitive information of third party access-seekers is protected, given the proposed involvement of the NSPs in the ISOC Co's activities. This relates to the ISOC Co's information management and ring-fencing measures.

While Woodside supports the Application in principle, Woodside submits that the ACCC consider additional measures to protect the independence of the ISOC Co, and commercially sensitive information of third parties, as part of any authorisation.

Woodside provides further detailed comments in **Annexure A** to this letter. Annexure A adopts the same defined terms as those in the Application.

Woodside would be pleased to discuss any aspect of its submission or to assist with any further queries the ACCC may have.

Yours sincerely

A handwritten signature in black ink, appearing to read "Michael Gibson".

Michael Gibson
Head of Woodside Power

Annexure A – Woodside's submission in response to Application

1 Executive summary

Woodside's comments in this submission reflect its perspective as a Connection Applicant.¹ Woodside is currently in the process of seeking connection of a proposed solar farm to provide renewable energy to the Woodside Pluto LNG facility in the Pilbara, and potentially to other industrial customers in the region. Woodside has invested extensive time and resources into the access and connection process and will be the first third party seeking access to the NWIS and (once connected) will be an ongoing long-term user under the new Pilbara regime. Woodside's energy activities in the region are described in section 2 below.

Woodside supports the objective of the Pilbara electricity reforms that seek to enhance third party access to the NWIS in a fair and competitive manner.

The ISOCO, as the appointed independent system operator for the NWIS, plays a crucial role in furthering this objective. As set out in the Application, ISOCO's responsibilities include overseeing and coordinating the NSPs that operate the NWIS in relation to system security and outages and third party connection applications.

The NSPs are vertically integrated with electricity generation activities that may compete with third parties seeking access to the NWIS. At the same time, the NSPs are the ISOCO's members and control the majority of the ISOCO Board and will be involved in many of the ISOCO's activities. The interests of the NSPs may not always be aligned with those of third parties accessing the NWIS in relation to connections and system maintenance and outages.

An overview of the Pilbara regime including background to the electricity reforms and role of the ISOCO is set out in section 3 below.

Given the above, and in light of the NSPs' involvement in the ISOCO's activities under the Proposed Conduct, Woodside considers it important that the ISOCO:

- operates independently of the vertically integrated NSPs; and
- appropriately manages commercially sensitive information provided by network access seekers or users, so that it is not shared with NSPs involved in the ISOCO in a way that could be used by affiliated (ie, generation) businesses of an NSP.

Woodside notes that the Application sets out a number of measures designed to support these matters, however it considers that additional safeguards, potentially as part of additional proposed conditions for authorisation, should be considered to support the above. These are set out in detail in sections 4 and 5 below.

2 Background to Woodside in the Pilbara

Woodside is a leading energy company with its head office in Perth, Western Australia. It has been operating energy projects in the Pilbara region for nearly 40 years.

As part of Woodside's energy activities in the region Woodside has entered into a conditional agreement under which a third party solar farm developer will develop a proposed solar farm project located in the Maitland Strategic Industrial Estate approximately 15 kms south-west of Karratha (**Woodside Solar Project**) and supply 100% of the renewable energy from this facility to Woodside. The Woodside Solar Project will be one of the largest solar farms connected to the NWIS when completed, complemented by a battery energy storage system (**BESS**). It is initially intended to supply 50 MW of power to the Woodside-operated Pluto LNG facility, with scope to increase

¹ As defined in rule 8 of the Pilbara Network Rules.

generation up to a total of 500 MW, subject to demand from other industrial customers in the region and securing any necessary additional regulatory approvals and commercial arrangements. Woodside has received planning and State and Federal environmental approvals for the proposed Woodside Solar Project and continues to progress commercial agreements, including for power transmission, that are needed to support the proposed Woodside Solar Project securing a final investment decision.

The Woodside Solar Project will reduce part of the greenhouse gas emissions at the Pluto LNG facility by offsetting current fuel gas usage by the Pluto LNG facility. For every 100 MW of energy the Woodside Solar Project generates and supplies to Pluto and other potential customers, Woodside anticipates that this will reduce greenhouse gas emissions by 100 kilotons per annum.

The Woodside Solar Project is intended to be the first third party generation asset connected to the 'covered' part of the NWIS that is owned and operated by Horizon Power, one of the NSPs under the new Pilbara regime. Competitive access to the NWIS under the Pilbara regime is therefore critical to Woodside successfully progressing this important renewable energy project.

3 Overview of the Pilbara regime

3.1 Background to Pilbara electricity reforms

The NWIS is the key electricity system in the Pilbara region. It is owned and operated in the main by three Registered NSPs: (i) Rio Tinto in the west part of the NWIS; (ii) APA in the east; and (iii) Horizon Power, the Western Australian state-owned electricity provider in the Pilbara, in the central part of the NWIS. BHP, Fortescue Metals Group (FMG) and others also have small networks linking their operations to this interconnected system.²

As noted in the Application, the Pilbara regime, and the issue of third party access, has been a focus of Western Australian Government reform for some time. The Western Australian Government has sought to move away from the previous model whereby the NSPs were responsible for third party access to the NWIS through bilateral agreements with access seekers without oversight. It has sought to implement a new regulatory regime that seeks to better facilitate third party access, and improve the operation of the NWIS, through a 'light-handed' regulatory model and within that, the appointment of an independent system operator to administer the NWIS.³

Under the new Pilbara regime, an 'administrative ISO model' has been adopted. An 'administrative ISO model' provides a minimum set of core functions to enable the ISO to perform its key role of ensuring system security while NSPs manage their individual networks. It is considered a 'least cost' and 'least intervention' model.⁴

The objectives of the new Pilbara regime, reflected in the Pilbara Electricity Objective set out in section 119 of the *Electricity Industry Act 2004* (WA), seek to 'promote efficient investment in, and efficient operation and use of, services of Pilbara networks for the long-term interests of consumers.' The Western Australian Government has also stated the importance of the transition to renewable energy in the Pilbara and amended the Pilbara Electricity Objective in March 2024 to now expressly include reference to the 'environment, including reducing greenhouse gas emissions'.⁵

² Pilbara ISOCO System Map (see <https://pilbaraisoco.com.au/nwis/system-map/>)

³ Western Australian Government, 'Pilbara Electricity Reforms', see: [Pilbara electricity reforms \(www.wa.gov.au\)](http://www.wa.gov.au).

⁴ Australian Energy Market Operator, 'Review of Independent System Operator Role in North West Interconnected System: Final Report for the Public Utilities Office' (November 2018), pages 28 and 61.

⁵ Section 5, *Electricity Industry Amendment (Distributed Energy Resources) Act 2024* (WA). The amended Pilbara Electricity Objective is subject to proclamation.

3.2 Role of the ISOCO

The ISOCO has been incorporated to carry out the functions of the independent system operator under the reformed Pilbara regime.⁶ Its members are the vertically-integrated NSPs in the NWIS, who will appoint the majority of ISOCO's directors and fund the ISOCO.

Reflecting its central role in the Pilbara regime, the ISOCO's role will include:

- **Planning and implementing system security measures:** Planning and coordinating, and imposing operational requirements or constraint rules, with respect to system security measures that may impose constraints on electricity generation in the NWIS;
- **Coordinating outages:** Planning and coordinating transmission outages in the NWIS, eg, suspension of electricity transmission for maintenance, or the management of unforeseen outages due to weather or emergency events; and
- **Supervising connection applications:** Reviewing and approving each of the three stages of the access and connection procedure⁷, including the setting of technical connection standards to be complied with by a generator seeking connection to the NWIS, and providing independent modelling services in relation to connection applications.⁸

The above activities directly impact third party generators and loads seeking NWIS access, eg, by determining how and when they may connect projects, and the timing and length of outages or constraints that can impact generator supply or supply to consumer facilities once connected. The Proposed Conduct reflects that these functions will be carried out with significant input by, and collaboration (including exchange of information) with, the three vertically-integrated NSPs.

It was initially proposed that the Australian Energy Market Operator (**AEMO**) would be appointed as independent system operator, given AEMO's status as an independent government agency. This would have reflected advice of the Western Australian Public Utilities Office (**PUO**) in its 2018 report regarding the Pilbara regime reforms:

In the interests of impartiality and transparency, and because of the requirement for the ISO to manage commercially sensitive information daily, the Public Utilities Office considers that the ISO should either be truly stand-alone as a separate entity, or an extension of an existing system operator that is not conflicted in any way [such as AEMO].⁹

The initial proposal to appoint AEMO was intended to support fair and competitive access to the NWIS and mitigate risks (including in relation to the management of commercially sensitive information) arising from potential conflicts between the NSPs' roles operating the NWIS, and their competing electricity generation or retail interests.

If an NSP-controlled ISOCO is to perform this role instead, it is possible that members' interests may sometimes be misaligned with the Pilbara Electricity Objective. On this basis, care is needed with governance, decision-making and the flow of confidential information and therefore robust safeguards are required so that the ISOCO carries out its functions in a way that is comparable to how AEMO would (as per the PUO's advice).

⁶ Electricity Industry (Pilbara Networks) Regulations 2021 (WA) reg 14.

⁷ Western Australian Department of Treasury (Public Utilities Office), Regulatory framework for the Pilbara electricity networks – Design Report, 29 March 2018, page 68.

⁸ PNR r 271.

4 Views in relation to the Proposed Conduct

Competition issues can arise from the integration of electricity transmission and generation, as recognised by the need for ring-fencing rules under the Pilbara Network Access Code (**PNAC**).⁹ The PNAC however only applies to the two 'covered' parts of the NWIS (operated by APA and Horizon Power respectively) and not to the ISOCO's activities.

Recognising these issues, the Application sets out a number of measures designed to support the ISOCO's independence and to appropriately manage commercially sensitive information. Woodside acknowledges the ISOCO's proposed measures however it considers there are some gaps. These are discussed in further detail below.

4.1 ISOCO independence and governance arrangements

The majority of ISOCO directors are NSP nominees, with only two being independent: the Chair and a government-nominated director. Woodside anticipates that the ISOCO Board will however have a significant role in managing and overseeing the ISOCO's activities outlined in section 3.2 above. Given this, the following should be considered further:

- **ISOCO measures are discretionary:** The Application sets out a number of governance measures aimed at addressing risks relating to conflicts and the management of commercially sensitive information (eg, the Conflicts of Interest and Information Protocol). However, Woodside understands that they may be amended by the ISOCO Board at any time (including following ACCC authorisation of the Proposed Conduct). It would be preferable if these important governance measures were subject to ACCC approval to ensure they remain enduring.
- **Delegations of authority:** The ISOCO Delegation of Authority Policy annexed to the Application notes as one of its objectives the management of conflicts '*due to the Board comprising of nominee directors of the NSP Members*'.¹⁰ Day-to-day management of the ISOCO is to be delegated to the CEO of the ISOCO, however the proposed delegations are redacted. The circumstances in which the ISOCO Board will be able to intervene in day-to-day management are also unclear. In the interests of transparency, it should be made clear how, in practice, the Board will delegate the ISOCO's activities to its management, and in what circumstances NSP-appointed directors may intervene. As noted above, Woodside also suggests that the delegations of authority be subject to ACCC approval (including if amended).
- **Transparency of decisions:** The ISOCO governance measures do not include requirements to publish the reasons why, and how, important decisions by the ISOCO are reached. Doing so would provide greater transparency that the ISOCO, and in particular its Board, is observing the governance measures in the Application, and that it is acting at arm's length from the NSPs, eg, by showing that the ISOCO has independently arrived at decisions impacting third party generators and other users concerning connection applications, and system works and outages.
- **Role of Advisory Subcommittee:** The Application notes the establishment of an Advisory Subcommittee¹¹ to provide the CEO with advice in respect of delegated functions. This

⁹ As noted by the WA Economic Regulation Authority, vertical integration in this context can lead to a reduction in competition in generation and retail markets – the PNAC ring-fencing rules seek to ensure that (among other things): commercially sensitive information that is received by an covered NSP's network business is not used outside of the network business or for a purpose other than the purpose for which the information was acquired or developed, and the NSP does not discriminate against competitors or in favour of its own, or associate's, generation or retail businesses (see: [Pilbara Networks - Ringfencing - Economic Regulation Authority Western Australia \(erawa.com.au\)](https://www.era.gov.au/Pilbara-Networks-Ringfencing-Economic-Regulation-Authority-Western-Australia)).

¹⁰ See page 168 of the Application.

¹¹ See page 177 of the Application.

committee consists of the ISOCO Chair and the government-appointed director. The committee has the ability to seek views from the NSP nominee directors. However, given the potential scale and complexity of the delegated functions, the ISOCO may benefit from additional independent directors with relevant industry and regulatory experience to support this committee and its role. Additional independent directors would also further support the ISOCO's independence from the NSPs.

- **Separation of duties:** Woodside understands that the NSP nominee directors may also be involved in that NSP entity's electricity generation or retail supply activities. If so, this has the potential for risks in relation to conflicts of interest or the management of commercially sensitive information, as the NSP nominee directors will be involved in both the ISOCO's oversight activities and in businesses that potentially compete with third parties connecting to the NWIS. Woodside requests that the ACCC consider making any authorisation subject to a condition preventing an NSP nominated director from also being involved in an affiliated business of the NSP (eg, via an amendment to the ISOCO's Constitution), similar to the ring-fencing under the PNAC for covered networks.

Furthermore, Woodside raises for consideration the ISOCO's reliance on the input of the NSPs for technical expertise, resources and funding. These issues are acknowledged in the Application – it notes that the adoption of the 'administrative ISO model' means the ISOCO does not have significant internal resourcing and technical expertise when compared to other system operators.¹² The ISOCO's reliance on the NSPs in this regard may further impact its ability to act independently of the interests of the NSPs.

Woodside understands that the ISOCO's costs and funding levels are set in accordance with its budget as approved by its Board, pursuant to a framework set by the Pilbara regime in which the ISOCO's member NSPs bear the relevant costs.¹³ However, without scope for funding external to that provided by the NSPs, or additional resources, ISOCO may be constrained in acting independently when overseeing the NSPs (eg, in relation to third party connection applications).

4.2 Information sharing and ring-fencing measures

As noted by the PUO's 2018 Design Report, any independent system operator appointed will receive significant commercially sensitive information. This could include confidential and sensitive information relating to a connecting generator's costs, generating capacity, project locations (in relation to transmission infrastructure assets and connection points, for example), project timeframes, offtake arrangements, future performance and efficiencies, or related modelling.

Project proponents may also need to share with the ISOCO commercially sensitive information belonging to third parties, such as suppliers or offtake customers. As an example, Woodside will need to share commercially sensitive information relating to its Woodside Solar Project, but also the related BESS work undertaken by a third party developer. Woodside considers such project information to be particularly commercially sensitive given the constrained network access (ie, transmission capacity) in the NWIS.

When the ISOCO receives such information, access to it will need to be restricted so it is used only for the purposes of facilitating a connection application, and only to persons necessary to perform this function. It should not be shared with NSP staff who may be involved in the day-to-day operations or strategy of parts of the NSP involved in electricity generation or retail supply that could compete with the connection applicant.

¹² Paragraphs 331 – 332 of the Application.

¹³ Paragraph 333 of the Application.

As noted above, the PNAC prescribes ring-fencing within two of the NSPs,¹⁴ but the PNAC rules do not apply to the ISOCO's receipt and management of commercially sensitive information. The proposed ISOCO Conflicts of Interest and Information Protocol is aimed at mitigating risks in this regard. It contains some guidance in clause 12.4 regarding what may be considered commercially sensitive, however it does not include some of the key sensitive information items outlined above. The protocol also does not prescribe specific ring-fencing measures to be applied (eg, firewalls, other information barriers), to prevent the risk of such commercially sensitive information being shared with or used by that NSP, or shared other than for the purposes which that information was received. Including further detailed measures in this regard would provide greater confidence to third party access-seekers as to how their commercially sensitive management will be protected.

Further, as noted above in section 4.1, there are no measures to prevent an NSP-nominated director of the ISOCO from also being involved in an affiliated business of an NSP.

4.3 Independence from the Pilbara Advisory Committee

The Pilbara Advisory Committee (**PAC**) is a body comprised of representatives from local industry and customers, convened under the PNR. It plays an important role in the process for determining generation assets' compliance with connection point requirements when they are seeking access to the NWIS, as described in paragraph 3(c) of the Proposed Conduct (**Connection Point Compliance**). This role extends to advising the Coordinator of Energy WA and the ISOCO on the development of Rule Change Proposals and Procedure Change Proposals under the Pilbara regime. The PAC also has advisory functions to advise that the ISOCO commission additional studies in support of Connection Point Compliance for new connection applications.

In accordance with the requirements of PNR, the ISOCO has engaged with the PAC for advice with respect to decisions under the PNR, and the ISOCO appears to rely on the technical expertise and resources of the NSP appointed PAC representatives when fulfilling its functions. This is reflected in the Application which notes the ISOCO has limited in-house expertise when compared to larger system operators such as AEMO.¹⁵ This was also the approach taken by the ISOCO in connection with its assessment of Woodside's rule change proposal in respect of the connection of the Pluto LNG facility to the NWIS, where PAC considered and provided advice on the proposal to the ISOCO. This process also involved the ISOCO establishing and seeking advice from a technical working group made up primarily of members nominated by vertically integrated NSPs.¹⁶

Woodside understands that the constitution, functions and composition of the PAC are not within the responsibility or control of the ISOCO under the PNR. However, Woodside considers it important to emphasise the role of the PAC, and the potential for conflicts of interest arising from the PAC's role in relation to third party access to the NWIS, particularly given the same NSPs that appoint the directors of the ISOCO are also represented on the PAC (and may appoint the same persons to perform both roles).

5 Observations on the proposed conditions

Woodside supports the work of the ISOCO to provide fair and competitive access to the NWIS. However, further measures should be considered to support ISOCO's independence and to protect commercially sensitive information before ACCC authorisation is granted.

In relation to the Application's currently proposed conditions, Woodside notes that:

¹⁴ Section 134, Pilbara Network Access Code.

¹⁵ Paragraph 332 of the Application.

¹⁶ [PAC Working Group - Terms of Reference .pdf](https://www.wa.gov.au/system/files/2022-09/PAC%20Working%20Group%20-%20Terms%20of%20Reference%20.pdf) (see <https://www.wa.gov.au/system/files/2022-09/PAC%20Working%20Group%20-%20Terms%20of%20Reference%20.pdf>)

- **Requirement to comply with existing Pilbara regime requirements:** Proposed condition 2, that the NSPs comply with the PNAC ring-fencing rules outlined above, does not provide significant safeguards – since two of the covered NSPs involved in ISOCco are already required to comply with these rules. Further, as noted above, the proposed condition does not address the management of commercially sensitive information received by ISOCco in furtherance of its functions.
- **Requirement to notify ACCC of rule change proposals:** Proposed condition 3, that ISOCco notify the ACCC of regulatory proposals (eg, published proposals to amend the PNR, PNAC, or relevant legislation), does not mitigate potential risks from conflicts of interest or information-sharing.

As outlined in section 4 above, Woodside requests that the ACCC consider additional safeguards. The alternative to imposing conditions on the Proposed Conduct would involve seeking amendments to the regulations underpinning the Pilbara regime, which involves an onerous and lengthy process. This means that without strong safeguards at the outset, any detriments arising from the Proposed Conduct may not be addressed for some time. Woodside suggests the following for consideration:

- **Ring-fencing obligations:** Third party commercially sensitive information received by the ISOCco should be protected through additional ring-fencing measures that include: (i) enhancements to the Information Protocol to prescribe information barriers preventing access-seekers' commercially sensitive information from being shared other than for the purpose for which it was provided; and (ii) ring-fencing of NSP nominee directors from other parts of the NSP's business that may compete with third party access-seekers.
- **Stronger approval requirements regarding ISOCco policies:** The proposed Delegations of Authority and Conflicts of Interest and Information Protocol are important measures in relation to the ISOCco's independence and the management of commercially sensitive information. Subject to the enhancements outlined above and in section 4.1, these measures should be subject to ACCC approval, including in respect of any proposed amendments following authorisation.
- **Increased transparency:** To enable third parties to better understand how the ISOCco is acting independently and at arm's length from its member NSPs, there should be requirements for the ISOCco to publish how and why the ISOCco has determined whether or not to take action in relation to key matters such as:
 - in relation to key matters such as reporting on the respective number of NSP and non-NSP affiliated connection applications received and approved in each reporting period;
 - investigating an incident in the NWIS; or
 - seeking PAC advice, eg, in relation to Connection Point Compliance required for connection applications, and how such advice was adopted.

This could include publishing details of how NSP nominee directors have voted on such matters to provide confidence such decisions were arrived at independently of NSPs' interests.