Energy Policy WA
Level 1, 66 St Georges Terrace
Perth WA 6000

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Sent via email: pet.secretariat@demirs.wa.gov.au

Pilbara Energy Transition: Evolution of the Pilbara Electricity Access Regime and Networks Rules

Dear Sir/Madam,

The Chamber of Minerals and Energy of WA (CME) is the peak representative body for the resources sector in Western Australia. CME is funded by member companies responsible for 90 per cent of the State's mineral workforce employment.[1]

In 2023-24, the WA resources sector accounted for 45 per cent of WA's economic activity,[2] 93 per cent of goods exports[3] and 43 per cent of investment.[4] The sector contributed one third (31.5 per cent) of the WA Government's general revenue via royalties, payroll and other taxes and fees,[5] enabling the provision of essential public goods and services such as doctors and nurses, teachers and police. In 2023-24, the WA resources sector directly spent $3.6 billion in the Pilbara region, supporting two-thirds of local jobs.[6]

CME members account for the majority of industrial electricity demand in the Pilbara region, where the North-West Interconnected System (NWIS) serves as the main electricity grid, albeit comprised of various stand-alone networks with varying levels of effective interconnection. Our membership in the region primarily includes iron ore mining, LNG, ammonia production, electricity generation, and pipeline and transmission asset owners.

CME and its members support[7] the Paris Agreement and recognise the Australian Government's commitment to reduce emissions across the economy to net zero as soon as possible, and no later than 2050. CME's members are actively developing strategies and making investments to reduce their emissions. For the majority of CME's members in the region, access to reliable, low emission and globally cost-competitive energy will be a key enabler for the ongoing viability of existing operations while reaching net zero, as well as the ability to secure future investment, including in new low-carbon industries and mid-stream processing.

We acknowledge the work undertaken by the state government, particularly Energy Policy WA (EPWA), in developing the proposals for changes to the Networks Rules ('the Rules') and Access Regime, which come from extensive prior engagement with market participants. We also sincerely appreciate EPWA making time to brief CME members on the key proposals in mid-April.

Overarching comments on the proposals are outlined in this letter below, with a more detailed response provided in the annex.

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[1] Government of Western Australia, 2023-24 Economic Indicators Resource Data File, full-time equivalents onsite under State legislation, Department of Energy, Mines, Industry Regulation and Safety, 29 October 2024.
[2] As measured by gross value add (GVA). Australian Bureau of Statistics, 5220 Australian National Accounts: State Accounts, Table 6.
[3] Department of Energy, Mines, Industry Regulation and Safety (DEMIRS), 2023-24 Economic Indicators Resource Data File, released 29 October 2024.
[4] Includes Gross Fixed Capital Formation plus minerals and petroleum exploration. Australian Bureau of Statistics, 5220 Australian National Accounts: State Accounts, Table 25. Australian Bureau of Statistics, 8412 Mineral and Petroleum Exploration, Table 4.
[5] Includes royalties, Commonwealth grants from North West Shelf royalties and iron ore lease rentals plus surveyed expenditure on payroll and other taxes and fees. Government of Western Australia, 2023-24 Annual report on State finances, Department of Treasury, 27 September 2024, Table 2.1 Operating Revenue: General Government, pp 164-165; CME 2023-24 Economic Contribution Survey.
[6] www.cmewa.com.au/wp-content/uploads/2025/03/Economic-Factsheets-Pilbara.pdf
[7] https://www.cmewa.com.au/policy-advocacy/policy-areas/climate-change/`

There is a strong case for modifying access and network arrangements

Currently the renewables generation share in the NWIS is only 2%, with the vast majority of generation on the system being gas-fired. CME and its members support the growth of a reliable, cost competitive, low-emission electricity system in the Pilbara, through greater levels of generation on an expanded and more interconnected NWIS, and through private networks. This will be key to unlocking investment both in decarbonising existing operations, largely by electrifying mobile and fixed equipment, and in new operations, including mid-stream minerals processing and production of hydrogen for use in industry.

Common-use infrastructure, funded by a user-pays model and with government support to manage schedule and price risk, is critical to enabling this growth. To complement the role of private initiatives, the WA government's focus on attracting investment to swiftly build new, common-use transmission infrastructure, with a focus on four priority transmission corridors, is a welcome step. We note the recent Expression of Interest process led to the selection of proponents to be put forward for concessionary finance from the Clean Energy Finance Corporation. To ensure that Final Investment Decisions (FID) on these transmission assets can be made as soon as practicable, **we urge the state government to continue to work at pace, manage pricing and scheduling risk and lead work with Traditional Owners**.

Delivering the transition will require collaboration

CME fully agrees with the state government that, to complement the role that this *new* common-use infrastructure will play in unlocking investment in renewable generation projects across the region, the operation of the NWIS will need to be reformed to allow other privately-owned assets to play a role in an increasingly meshed network. This will help unlock investment in significant generation capacity as well as in new forms of demand. Coupled to this, revised market arrangements to drive down costs and improve transparency will be needed.

However, CME members have indicated apprehension on the overall timeline and plan for implementing the reforms to the Rules and Access Regime and the potential impact on near-term investment decisions. CME recognises that further collaboration between Energy Policy WA and industry is required to develop the detail behind the proposals and gain a clear, mutual understanding of how and when they will be implemented in the context of other work within the Pilbara Energy Transition plan. **We urge the state government and relevant parties to work together on further detailed design as swiftly as practicable, articulate the process for transitionary arrangements and the process required to get to the desired 'end state', and report regularly on progress.** This is essential to ensure deployment remains an attractive proposition for investors.

We acknowledge that there might be elements of the reforms that cannot be clarified until later in the process: transparency and clarity of the management of the transition, the timing of new provisions, and change control procedures will be crucial. To complement this, the state government should actively consider further actions to help reduce investment risk for all industry participants, including generation proponents, customers and transmission developers, and others.

CME and our members are ready and willing to support these efforts as we work towards the timely delivery of a low emission, reliable and globally cost-competitive electricity system. For further information regarding this submission, please contact [redacted]

Yours sincerely

Anita Logiudice
Assistant Director, Policy and Advocacy

Annex – detailed response

Pilbara Networks Rules

CME's members are broadly aligned with the principles behind the proposed Rules, recognising that management of system and capacity planning, balancing and resilience will need to be transformed to unlock the outcomes the Pilbara Energy Transition plan is aiming to achieve. However, on many areas further detail is required to understand the full implications and come to a clear position, particularly as they will be applied across existing networks, each with their own unique characteristics. Ambiguity in definitions and coverage can create the potential for unintended consequences.

System Security and Reliability (proposals 1-11) and Scheduling and Dispatch (proposals 12-14)

CME members agree with the proposals and rationale to grant the Independent System Operator (ISO) new core functions that will be essential to ensuring system reliability and transparent market operations. This includes an active role in long-term planning, which will be critical to supporting market-led build out of generation and storage assets and for investments in new loads. Consultation processes should be regular, open and robust, and include clear capacity forecasting, parameters such as reliability standard and back-up procurement. Clear obligations on Network Service Providers (NSPs) and users will also be crucial to ensure effective outcomes of the planning process. It will be critical for the ISO to have a role in determining system strength requirements given the small scale of the NWIS, with a common technical standard against which to quantify risks as the grid grows and becomes more interconnected.

CME also recognises that there will need to be a degree of flexibility in arrangements as the NWIS transitions to a more dynamic system with greater penetration of renewables, storage and gas firming. We support the proposed changes to Essential System Services (ESS) to ensure reliability, including direct procurement of ESS until such a time as a more dynamic model is appropriate and cost-effective. Cost recovery arrangements must be fair and equitable amongst all users.

CME notes the default network planning and operation standard for the NWIS will be n-1. While recognising the importance of a consistent default standard for interconnectivity there may be cases where users do not require this level of reliability, meaning it could lead to additional unnecessary costs for users. As such, there should be mechanisms to adjust the standard on a case-by-case basis.

Industry appreciates the importance of developing a manual load shedding plan and notes that consultation with industry is critical to ensure that the load shedding priority list recognises differing levels of operational and financial consequences of electricity supply disruptions. Appropriate arrangements for disconnection and reconnection following load shedding should also be developed.

We note that the proposed day-ahead and balancing arrangements are intended to ultimately provide a more efficient centralised approach than the current mechanism whereby users can minimise their exposure to imbalance charges through their own real-time demand/generation control. The proposed mechanism results in a move away from real-time balancing control which has implications for a user's ability to manage their exposure to imbalance going forward. Practical implementation details of the proposed mechanism will be critical for users to understand how and when the new obligations will impact them, and to support them developing their own implementation plans.

Governance of the Independent System Operator (ISO) (proposals 15-21)

CME is broadly supportive of the proposals to evolve the ISO's composition and governance arrangements to ensure full independence as it takes on new technical roles, such as management

of the control desk. This includes new arrangements for Board appointments and lines of accountability, which will be important to ensure that the ISO's new wide remit avoids conflicts of interest. It will also give confidence to the market to move away from a model where the ISO requires exemptions from the Australian Competition and Consumer Commission (ACCC) and to one where it is automatically in compliance.

CME notes the intention to have the new ISO arrangements in place by January 2027, although we are unclear what specifically drives that ambition. To maintain confidence of new and potential market participants, CME **recommends that EPWA works openly to articulate the process for transitionary arrangements and report regularly on progress in the lead to go-live**. CME members are also keen for the state government to provide clarity over the management of the ISO's costs, the timeframe for increases, and arrangements for ensuring value for money. We note that the ISO will have a wide range of powers and areas of discretion, and there will need to be careful management to ensure that the entity is resourced in proportion to the size of the NWIS and that it represents value for money for customers. Unnecessary costs will have an impact on the wider competitiveness of the resources sector in the Pilbara and potentially affect the pace of decarbonisation.

CME notes the proposals for all relevant information collated by the ISO to be made public, save for where there is a reason to protect it as confidential information. Refining Rule 295 to allow a discloser to request confidentiality, as outlined in the consultation document, will be a necessary first step. However, CME also believes **there should be a tighter definition of "relevant information" collated by the ISO**, such as stipulating that only information required for the purpose of operational planning and managing the network will be made public (except where it is confidential). It will also be crucial to ensure that market participants have confidence in the ISO's ability to use, store, analyse and disseminate commercially sensitive information appropriately. This will be particularly important during the transition period, noting the conditions imposed by the ACCC in its determination[8] in December 2024 for the Pilbara ISO's work in support of the NWIS system security and safety.

We also note the proposed role for the ISO in compliance monitoring and enforcement. We agree that to ensure that the enforcement mechanism is effective, there will need to be a range of graduated sanctions that are known to the market for where there are proven breaches of the Rules. However, CME is of the view that **the ISO itself should focus on *technical* matters and that it should be a third-party body, potentially the Economic Regulation Authority (ERA) that should be responsible for administering any economic sanctions and in determining ultimate decisions on market suspension.** We acknowledge that this will require further work to determine an appropriate relationship between the ISO and such a body to ensure decisions are taken in a timely manner and manage the risk of unnecessary regulatory oversight.

Finally, CME members have some concern that the ISO's functions – and indeed the wider regulatory framework – are being developed in isolation from other matters critical to the Pilbara Energy Transition. For instance, the ISO and ERA will need to have line of sight to the Pilbara Energy Transition Plan's core objectives in relation to Traditional Owner and environmental matters, which may have impacts on developer costs and timeframes for implementation. It is crucial that these other matters are reflected in the various institutions' objectives.

<u>New connections (proposals 22-26)</u>

CME agrees broadly with the proposals for new arrangements for managing new connections, noting the relative historical complexity of the NWIS. Any proposal that simplifies and accelerates connections to the network, while ensuring fairness for those 'foundation customers' who have taken on investment risk, is welcome. Similarly, CME agrees that the ISO should have oversight of storage participation, with a reasonable de minimis level of 5MW. However, the state government should clarify that this would not be applied for sole-use storage. CME members also broadly

[8] Final Determination - 18.12.24 - PR - AA1000666 Pilbara ISOCo Ltd.pdf

agree with the need to have demand side participation as an option to balance the system at portfolio level.

Development of the Harmonised Technical Rules (proposals 27-28)

CME supports the Harmonised Technical Rules (HTR) setting a default standard for 'automatic qualification'. However, consideration should be given to ensuring the HTR does not represent a barrier to existing self-contained networks connecting to the NWIS where it is not practical to meet all requirements of the current HTR, but can be demonstrated that Electricity System Security and Reliability can otherwise be maintained.

Pilbara Electricity Access Regime

CME's members are broadly aligned with the principles behind the proposed revisions to the Access regime, recognising that the success of leveraging investment in new renewable generation, storage and demand will rely on network access seekers being able to achieve access on reasonable prices and terms, within a reasonable timeframe, though a regulated approach.

Coverage (proposal 1)

CME broadly agrees with the direction of the proposal and that in principle all new common-use transmission assets will be automatically covered by the Pilbara Network Access Code (PNAC), with exceptions provided for the use of the Electricity Network Access Code (ENAC) where the Minister deems appropriate. As part of this, we welcome the proposal that existing 'uncovered' legacy networks will remain uncovered unless the network owner elects to be covered or they materially change in nature.

However, CME is of the view that **this grandfathering should be extended to new assets that are already in the pipeline (and their associated end users)**, to avoid the risk of imposing unexpected costs on new projects in the near term. Private investments are currently being made in the Pilbara to build new transmission networks to support low-carbon investments, with some already in operation and some assets yet to reach Final Investment Decision, but which are likely to be deployed in the next five-year time horizon. Not all of these will be compatible technically or commercially with third party access. Therefore, as noted above, CME is of the view that there should be some protection from *automatic* coverage for new assets that are already in the pipeline, to avoid the risk of imposing unexpected costs on planned projects in the near term. There may be merit in expanding further the role of Ministerial discretion to exempt assets, potentially on a time limited basis, for instance where decarbonisation investments are being made in the remaining years to 2030.

Members also seek confirmation that work to augment uncovered networks, for instance for the purpose of supporting a third-party user's requirements, would not be considered 'material' and lead to the network being deemed to be covered.

Further, CME would like to seek clarity on the extent to which new connection infrastructure (to link demand to transmission networks) would be covered by regulation and would be required themselves to be open to third-party access. The consultation proposes that 'small, single user connection assets' would not be covered, but highlights that '*small*' is yet to be defined. This definition is important, as investments in some connection assets could be hindered if there is the possibility of subsequent third-party request for access, and this risk could be more acute than for private transmission assets. The applicability of the 2023 NEM Reforms in the context of the Pilbara should be worked through with industry.

Managing the risks of vertical integration (proposal 2)

CME members acknowledge the risks, or perceived risks, that vertical integration in a covered network can pose to an efficient and effective system. These risks have been observed in other jurisdictions and various measures have been put in place to mitigate them, while balancing the impact on vertically integrated entities participating in the regulated grid. CME agrees that the

status quo is not a viable option if the objectives of the Pilbara Energy Transition are to be effectively realised.

However, the proposed transition into a new regime in the Pilbara on networks that have been owned and run for decades does present some unique challenges in comparison to other networks within Australia or internationally. Given the substantial investment that has been made into the Pilbara, and continues to be made, it would be unreasonable to impose measures that require full ownership, legal, or operational separation. Further, members seek assurance that measures will not be applied to 'uncovered' vertical entities that connect through a third party into the 'covered' grid.

CME members on balance agree with the proposed 'Option B' to allow vertical integration to remain but to manage the risks by transferring functions that are deemed sensitive to the ISO, or by giving the ISO an appropriate level oversight. This should include the ISO bringing the control desk function in-house, expanding the ISO's role in system planning and coordination, expanding its role in managing the connection and interconnection process, and managing the queue for applications. Further work would need to be carried out to assess whether it is appropriate for the ISO to *determine* or *approve* access contract terms, although this should remain in consideration. CME agrees that this option also has the benefits of being flexible, with functions phased-in over time. To ensure a smooth transition, there will need to be absolute clarity and transparency over how it will be staged in implementation.

As noted above, however, this transfer of responsibility to the ISO will need to be underpinned with confidence in the ISO's ability to manage commercially sensitive data and information.

Expanded powers to seek pre-approval of tariff and non-tariff elements (proposal 6)

CME notes the proposal to amend the PNAC to allow a Network System Provider to seek pre-approval from the ERA for critical network pricing elements and reference terms and conditions, with the aim of providing greater certainty for new greenfield investors and their end users.

CME has no issues with the current proposal in principle but calls for consideration of whether the PNAC and/or the ERA's tariff-setting methodologies need adjustment to account for the expected provision of concessionary finance from the Clean Energy Finance Corporation to preferred transmission proponents in the Pilbara. Given the aim of this concessional finance is to reduce the total delivered cost of energy to end users, **it is important that transmission network tariff calculations provide some benefit to end users from the provision of concessionary finance to transmission proponents**.

Tariffs- making provision for possible revenue control (proposal 7)

CME agrees that NSPs should have the opportunity to earn a fair, but not excessive, level of revenue, and that it is in the long-term interests of electricity consumers for the NSP's business to be sufficiently profitable (and efficient) to be sustainable, but not for the NSP to be able to leverage its monopoly power to earn super profits. We also acknowledge that appropriate revenue control models may incentivise efficient growth in network utilisation and could share the benefits of utilisation growth appropriately between the NSP, existing users and new users.

However, having a NSP subject to both price and revenue control appears to depart from usual regulatory practice and could inhibit investment. As such, CME is pleased to see that revenue control will not automatically apply to all new networks and believes further consultation and design work should be undertaken.

Managing tariffs for future-ready capacity (proposal 8)

CME notes that no changes are currently proposed to the PNAC regarding tariff arrangements for networks required to build in additional "future-ready uncontracted capacity" – a key criterion for Expressions of Interest (EOI) for priority transmission corridors under the Pilbara Energy Transition plan. The EOI also required transmission project proponents to take the risk of that capacity not being sold.

The WA Government must ensure that foundation and other early customers are not financially responsible for the cost of future-ready uncontracted capacity. Where the risk of this uncontracted capacity not being sold may hinder proponents' investment in new priority transmission assets the WA Government should look to enter into appropriate risk-sharing arrangements.

Transitional 'fixed principles' mechanism (proposal 12)

CME notes the proposals for a possible time-limited 'fixed principles' mechanism within the Pilbara regime. As noted above, CME members have some concern over the overall timeline for the various changes to network rules and codes, and the potential impact that it might have on near-term investment decisions. Successful deployment will require key stakeholders' requirements being met simultaneously at each stage-gate. Under the 'fixed principles' mechanism, any stakeholder who is not sufficiently satisfied might threaten the development of a transmission line: this could be a proponent, customer, financier, developer, interconnecting transmission line, or indeed the state government. CME suggests that the state government consider in the first instance a means to ensure key commercial entities, such as the CEFC, proponents with *Priority Project* status, and applicants for connections to work with the state government to reach agreement on these transitionary fixed principles. If this model proves successful it could be used to resolve other matters as they arise.