Jacana ENERGY

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Lyndon Rowe
Utilities Commissioner
Utilities Commission
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By email: utilities.commission@nt.gov.au

Dear Commissioner

Electricity Retail Supply Code Review – Issues Paper

Thank you for the opportunity to make a submission in response to the "Electricity Retail Supply Code – Issues Paper" (**Issues Paper**) released by the Utilities Commission (**Commission**) in June 2021.

In general, Jacana Energy supports the Commission's proposal to vary the Electricity Retail Supply Code (**ERS Code**) to address known issues and gaps and any additional issues raised by stakeholders during the consultation process.

To summarise Jacana Energy's submission, Jacana Energy is of the view that:

- the ERS Code:
  - is still relevant for the Territory electricity supply industry;
  - requires some amendments to various clauses to close gaps and create greater certainty and remove ambiguity;
  - should include regulatory requirements relating to the use of prepayment meters; and
  - does not currently address any issues or requirements that should be removed from the ERS Code; and
- in addition to the issues and matters identified in the Issues Paper, in undertaking the review of the ERS Code, the Commission should also consider:
  - introducing detailed metering and data recording requirements; and
  - implementing mechanisms to reduce the likelihood of distributor / retailer account errors occurring,

  as the current uncertainties with respect to these issues has the potential to inhibit the entry of new retailers into the Northern Territory electricity market.

Jacana Energy notes that the Commission's review of the ERS Code should take into account and (as far as possible) accommodate other current or imminent reforms in relation to the regulatory arrangements applying to the Territory's electricity supply industry. While it is important for the ERS Code to fill various gaps pending the outcome from electricity industry reforms, we suggest that any review of the ERS Code should seek to narrow, rather than widen, potential gaps.

One of the objectives of this review should be to move towards requirements that are consistent with the approaches that apply in other Australian jurisdictions so as to ease the transition to regulatory arrangements which more closely reflect those that apply in other Australian jurisdictions (as amended for the Territory's particular circumstances).

Detailed responses to each of the 18 questions raised in the Issues Paper are set out in the attached table.

If you have any questions or wish to discuss any matter raised in this submission, please do not hesitate to contact me.

Yours sincerely

Selina Pollard
General Counsel and Company Secretary
Jacana Energy

Attachment
Electricity Retail Supply Code Review: Issues Paper
Jacana Energy Submission

	Question as set out in Issues Paper	Jacana Energy's comments and considerations
1.	In general, is the ERS Code still relevant for the Northern Territory's electricity supply industry? Why?	Yes, the ERS Code is still relevant for the Northern Territory electricity supply industry. • This type of code increases in importance and relevance, as the number of retailers operating in the Territory's electricity supply industry increases and the potential for competition with respect to small electricity customers increases. • All jurisdictions established equivalent codes to the ERS Code during the early stages of the development of their competitive electricity supply industries. As those competitive markets have developed, these codes have been modified to address emerging issues associated with increased competition and increased retailer participants. • Many of the small customer protections are addressed in the Jacana Energy standard small customer retail contract. However, as competition increases, it is important that a consistent set of customer protection obligations apply to all retailers operating in the Territory's electricity supply industry and the ERS Code is currently the most appropriate place for protections to be set out. • There also needs to be a regulatory instrument that regulates various aspects of the relationships between retailers and generators, and retailers and network providers, in the absence of a comprehensive system of regulatory arrangements, similar to that applying in the National Electricity Market (**NEM**). This will ensure that requirements are clear.
2.	Are there any matters that should be removed or added to the ERS Code to make it more relevant and/or effective given the current state of the Northern Territory electricity industry?	Yes, the ERS Code should be amended to further regulate the use of prepayment meter systems. • The National Energy Retail Rules (**NERR**) clearly set out the requirements relating to prepayment meter systems in the NEM and the Territory would benefit from having something similar in the ERS Code and an accompanying guideline. • Jacana Energy acknowledges that the prepayment meter requirements are different in the Norther Territory compared with the NEM jurisdictions. However, the structure of Part 8 of the NERR would be a good starting point to determine the regulatory requirements that should be implemented in the Northern Territory in relation to prepayment meter systems. In fact, Jacana Energy has broadly aligned its current practices and contractual requirements relating to prepayment meter systems with Part 8 of the NERR. • Given that: o there are very limited regulatory requirements currently regulating the use of prepayment systems in the Northern Territory; and

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		◦ the uniqueness of the number of prepayment meter systems currently used in the Territory and the demographics of customers that use prepayment systems, Jacana Energy is of the view that appropriate regulatory requirements may take some time to develop and would need to be a 'living', easily amendable document. • Consequently, Jacana Energy is of the view that it would be preferable for the ERS Code to allow for the Commission to make guidelines regulating the use of prepayment meter systems and that the ERS Code should specify what details should be set out in the guidelines.
3.	Should the ERS Code include a clause to allow generators to request a retailer to provide credit support if they have poor payment history, even if they have an acceptable credit rating as defined in the ERS Code? Why?	Yes, but only in extreme and clearly identified circumstances. • Jacana Energy's preferred approach is for the Commission be guided by the credit support requirements that apply in the NEM between distributors and retailers. In particular those set out in Chapter 6B of the National Electricity Rules (**NER**) which provide that a distributor may only require a retailer to provide credit support if, within the previous 12 months, the retailer has failed to pay in full: ◦ the charges contained in 3 statements of charges by the due date for payment; or ◦ the charges contained in 2 consecutive statements of charges by the due date for payment; or ◦ the charges contained in 1 statement of charges within 15 business days of the due date for payment.. • There is an advantage in having credit support arrangements that apply between retailers and generators that are consistent with the requirements that apply between retailers and the Network Operator. • The ERS Code should also be amended to set out when the generator is required to return the credit support to the retailer. The ERS Code is currently silent on this issue.
4.	If the answer to question 3 is yes, should the definition of 'poor payment history' be similar to that defined in the national energy framework's retailer-distributor credit support requirements? If no, how should it be defined?	Jacana Energy is not of the view that poor payment history alone should allow generators to request credit support. However, if a 'poor payment history' requirement is to be included in the ERS Code, it should at least reflect the requirements in clause 6B.B2.1(a) of the NER.
5.	If the answer to question 3 is yes, is a credit support amount equal to the amount of the last statement of charges that triggered the request for credit support appropriate? If not, how should the credit amount be determined?	It is Jacana Energy's view that the requirements in clauses 6B.B2.1(b) and (c) of the NER should be applied. The generator should only be able to require the retailer to provide credit support up to an amount equal to the charges contained in the most recent Statement of Charges that gave rise to the requirement for the retailer to provide the credit support.
6.	Are the matters (or terms) specified in clause 4.1.1 of the ERS Code, which are to be included, and approved by the Commission, in a	In Jacana Energy's view the matters (or terms) specified in clause 4.1.1 of the ERS Code are general and broad, and could be made clearer.

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	Coordination Agreement, clear? Are they appropriate? Why?	• The reference to 'the coordination of various matters specified by the Commission in accordance with the network provider's licence including without limitation, customer billing, fault reporting and notification of interruptions' is not clear as it is not an exhaustive list and does not specify any details of how these things should be coordinated. • In addition, the relevant clause of PWC's network licence does not provide any additional clarity as it references the 'coordination of the provision of services to ... customers, including arrangements whereby the retailer has responsibility for taking up any customer complaints about the quality of services being supplied'. • It would be preferable for the obligations and requirements relating to the content and approval of a Coordination Agreement to be contained in one instrument. • As the current wording in clause 4.1.1 of the ERS Code does not set out an exhaustive list of what matters will be approved by the Commission, the extent of what particular matters are to be approved is unclear. • Ideally, the ERS Code would be amended to expressly include the obligations and requirements relating to coordination between PWC and a retailer and consequently a Coordination Agreement would not be required. Jacana Energy notes that there exists a clearly defined alternative model in Part 5 of the NERR and Chapter 6B of the NER which could easily be adopted and implemented (with necessary amendments) in the Northern Territory. • However, if this is not possible, the ERS Code should be amended to include clear minimum requirements that a Coordination Agreement must contain in order for it to be approved by the Commission. There should be prescribed baseline requirements, so there is a clear expectation for all retailers of what the Coordination Agreement will contain. • Currently, the entering into of a Coordination Agreement with PWC is a negotiation process between the retailer and PWC. In Jacana Energy's view, this is an impediment to retail competition in the Norther Territory because there exists the potential that some retailers will end up with more preferable arrangements than other retailers. • During the recent review of the Coordination Agreement, the Commission reviewed and approved the clauses relating to the provision of network access services, coordination of the provision of services, customer billing, fault reporting and notification of interruptions and customer complaints about the quality of services. The Commission did not review the clauses dealing with defaults, termination (with the exception of one clause setting out a limitation on termination rights), force majeure events, indemnities and liability.
7.	Are there any additional matters (or terms) that should be specified in clause 4.1.1 of the ERS Code to be included, and approved by the	Jacana Energy is of the view that the matters and terms that are addressed in Part 5 of the NERR and Chapter 6B of the NER should be set out in clause 4.1.1 of the ERS Code.

	Question as set out in Issues Paper	Jacana Energy's comments and considerations

	Commission, in a Coordination Agreement? If yes, what are they and why should they be specified?	• In particular, Jacana Energy notes that the following matters that are not currently referenced in clause 4.1.1 should be included:
		  o assistance and cooperation between a retailer and the distributor;
		  o provision of information between a retailer and the distributor;
		  o shared customer enquiries and complaints; and
		  o disconnection and reconnection processes and charges.
		• Further, clause 4.1.1 should also be amended to include more specific and detailed requirements relating to customer billing, fault reporting and notification of interruptions. The clause should detail the baseline expectation of the content of these clauses so there is a clear understanding of what the requirements should be at a contractual level for these topics and issues.
		• In addition, Jacana Energy notes that consideration should be given to the impact that any amendments to clause 4.1.1 will have on the new two year Coordination Agreement that retailers in the Northern Territory will be entering into with PWC in September of this year. The ERS Code should include transitional requirements and make it clear the requirements in the ERS Code will override any requirements in a Coordination Agreement or at least trigger appropriate amendments, should there be any inconsistencies.

8.	Should a customer with an accumulation meter be able to transfer to a new retailer without having to replace their accumulation meter with an interval meter (in other words, should clause 5.1.1 and 5.1.2 of the ERS Code be removed)? Why?	Jacana Energy is not opposed to this concept. However, it is of the view that there would need to be significant other regulatory and practical changes made if clauses 5.1.1 and 5.1.2 are deleted from the ERS Code.
		• In particular:
		  o as mentioned in the Issues Paper, there would need to be a settlement process implemented; and
		  o it should be expressly acknowledged that, because of the capabilities of interval meters, retail customers with interval meters receive benefits that retail customers without interval meters cannot receive.
		• However, Jacana Energy notes that:
		  o considering the approach in other jurisdictions and the rapidly evolving technology, interval meters are likely to become the only type of meters used in the future; and
		  o given the apparent take up level under PWC's new and replacement smart meter policy and the long term benefits to electricity consumers which will flow from shifting to interval meters, there is a valid argument that the current requirement should be retained based on a cost benefit analysis.

9.	Should the requirement for an interval meter to switch retailers be amended to require a Type 1-4 meter as defined in the NER (NT)? Why?	Yes, for the reasons set out above and to reflect the fact that the transition to the 'new low carbon electricity system' will be facilitated by the replacement of accumulation meters with interval meters.

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		• Any potential impact on competition will be off-set by the costs that are being avoided by retaining the current settlement processes and the benefits that will arise from incentivising the roll-out of interval meters.
10.	Should the ERS Code be amended to remove the Retailer of Last Resort provisions (RoLR) so that a RoLR scheme suitable for the Northern Territory's circumstances can be provided for in legislation? Why?	No. • Jacana Energy is of the view that the RoLR provisions should remain in the ERS Code. This will allow more flexibility to amend the provisions as competition in the retail market in the Northern Territory grows. • It is important that customers have security of supply as more retailers enter the Northern Territory market and there is an increased likelihood that retailers in the Northern Territory may fail or leave the Northern Territory market. • As there has not yet been a RoLR event in the Northern Territory, once there is one a better position can be established to consider whether amendments should be made to the current RoLR scheme. As the RoLR scheme was based on the RoLR scheme in the National Energy Customer Framework (**NECF**), there may specific amendments required to suit the nature of the Northern Territory's market and this may not become apparent until, if and when, there is a RoLR event in the Northern Territory and the scheme is tested. • There is greater flexibility for the scheme to be amended and adjusted as required if it remains in the ERS Code as opposed to being provided for in legislation.

11.	Should the ERS Code allow for exceptions to clause 10.6 whereby a customer could provide their written explicit informed consent to retain a prepayment meter despite requiring life support equipment at their premises? Why?	Jacana Energy is not opposed to this concept. It is Jacana Energy's preference that the Commission be responsible for determining when an exception should be allowed / granted.
		• Jacana Energy acknowledges that there are some circumstances where it may be appropriate to allow a customer to provide their written explicit informed consent to retain a prepayment meter despite requiring life support equipment at their premises. However, given the nature of the implications of, and the risks associated with, allowing a customer to provide consent for such an arrangement, Jacana Energy is of the view that such an exception should:
		  ○ have a limited, clear and specific application; and
		  ○ only be allowed to be approved by the Commission (as an independent body).
		• Further, such an exception should not be granted until the particular customer's financial situation and the life support arrangements required at the customer's premises are thoroughly considered and assessed and Jacana Energy is of the view that the Commission is best placed to make this decision (noting that it may require input from Jacana Energy in order to make its decision).

12.	Should the ERS Code be amended to explicitly state that retailers and network providers must comply with their approved life support	Yes. • Jacana Energy supports this amendment as it would avoid ambiguity and provide certainty as to a retailer's obligation.

	Question as set out in Issues Paper	Jacana Energy's comments and considerations
	equipment procedures for outside major centres? Why?	
13.	Should the ERS Code include an obligation on retailers and network providers to regularly review their life support equipment procedures for outside major centres? Why?	Yes. • Jacana Energy is comfortable for the ERS Code to include an obligation to regularly review life support equipment procedures for outside major centres because this is what Jacana Energy currently does in practice. • Jacana Energy treats its life support equipment procedures for outside major centres the same as its life support equipment procedures for inside major centres, as they are both equally important and should both be reviewed periodically to ensure they stay up-to-date and relevant to the customers to whom they relate.
14.	If so, how often should their procedures be reviewed? Why?	Jacana Energy would suggest that life support equipment procedures for outside major centres should be reviewed at least once every 3 years.
15.	Should the ERS Code be amended to include internal dispute resolution obligations on retailers and/or network providers that are similar to that in the NERL, amended for the Northern Territory's circumstances? Why?	Yes. • The requirements in the National Energy Retail Law (**NERL**) (i.e. compliance with ISO 10002-2006 (*Customer satisfaction – Guidelines for complaints handling in organisations*) are standard requirements across many different industries. That is why Jacana Energy decided to align its dispute resolution processes with ISO 10002-2006. • In addition, Jacana Energy notes that it would be beneficial for customers in the Northern Territory if the same dispute resolution requirements applied to all retailers and consequently all customers. • Also, adopting the NERL requirements would be consistent with Jacana Energy's internal decision to transition towards the NERL and NERR requirements in its standard small customer retail contract.
16.	Should the ERS Code be amended to include an obligation on retailers to have an approved hardship policy for small customers? Why?	Yes. • The inclusion in the ERS Code of an obligation for all retailers to have an approved hardship policy for small customers would create consistency across retailers as competition in the Northern Territory grows. • However, if the ERS Code does include an obligation on retailers to have an approved hardship policy for small customers, then the ERS Code should also be amended to specify the minimum requirements that should be included in a retailer's hardship policy. There needs to be a basis upon which the Commission will assess its approval of a proposed hardship policy. • As a key purpose of having an obligation for retailers to have hardship policies is to assist customers to better manage their electricity bills on an on-going basis, there should be clear minimum requirements of what should be included in such a policy to ensure that this purpose is achieved in a consistent manner across the Northern Territory.

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		• Jacana Energy's view is that these minimum requirements should be based on the AER's customer hardship guideline – this is discussed further in the answer to question 17 below.
17.	If the answer to question 16 is yes, should the Commission consider and approve a retailer's proposed hardship policy based on alignment with the AER's customer hardship guideline, but with some flexibility to provide for the Northern Territory's circumstances? Why?	Yes. • Jacana Energy considered the AER's customer hardship guideline and national best practice in developing its current hardship policy and is of the view that the Commission's minimum requirements for a customer hardship policy in the Northern Territory should be aligned with the AER's customer hardship guideline (to the extent that the requirements in the AER's customer hardship guideline are relevant in the Northern Territory). • Jacana Energy is also of the view that the implementation of minimum requirements for a hardship policy should be consistent with the approach taken in the NECF. • In addition, Jacana Energy is of the view that the adoption of the AER's hardship policy requirements will be consistent with the Northern Territory's general movement towards the NECF arrangements.
18.	Are there any issues or other matters not already identified in this Issues Paper the Commission should consider as part of the ERS Code review, and if so, what should it consider and why?	Yes, Jacana Energy is of the view that there are two additional issues that the Commission should consider as part of the ERS Code review. They are: • Metering Requirements o Except for the Northern Territory, every jurisdiction in Australia has a regulatory instrument that sets out detailed metering requirements (whether it be through a metering code or the metrology procedures). o Detailed metering requirements and accurate data records are critical to the promotion of retail competition and the protection of the interests of consumers. o Jacana Energy considers that the introduction of clear metering requirements in the Northern Territory will be beneficial for facilitating retail competition and providing consistency and predictability for consumers. o Jacana Energy acknowledges that Chapter 7A of the Northern Territory National Electricity Rules currently regulates some aspects of metering. However, it is unclear as to when the underlying metrology requirements from the National Electricity Market (suitably modified to reflect the circumstances of the Northern Territory electricity industry) will commence to apply to the Northern Territory electricity industry. • Correction of account errors o Jacana Energy is of the view that consideration should be given to prescribing: ▪ requirements relating to more accurate metering and data records; ▪ more detailed obligations relating to billing requirements and accuracy; and ▪ a time limit for the correction of account errors.

	Question as set out in Issues Paper	Jacana Energy's comments and considerations
		o As retailers operate on a very low margin, it is paramount that they have a clear understanding of their expenses. The correction of network charges after a significant time has passed can have a detrimental impact on a retailer's cash flow. Cash flow and cost certainty is critical to small start-up retailers and introducing mechanisms to limit the impact of these errors will help to increase retail competition in the Northern Territory,