

31 July 2015

Ms Vanessa Sutcliffe  
Director Utilities Commission  
GPO Box 915  
DARWIN 0801

Dear Vanessa

### **FEEDBACK ON THE DRAFT COMPLIANCE FRAMEWORK AND REPORTING GUIDELINES**

Jacana Energy welcomes the opportunity to comment on the Utilities Commission's draft *Compliance Framework and Reporting Guidelines* that was developed to be in line with practices nationally and in other Australian jurisdictions. Our Board of Directors, myself and the Executive Leadership Team support the proposed guiding principles, namely:

- voluntary compliance and the development of an internal culture of compliance,
- flexibility and continuous improvement, and
- education and communication.

Jacana Energy also supports the Utilities Commission's stance that it is the responsibility of the Board of Directors and top level management to implement an appropriate and effective compliance framework and that they will be held accountable for compliance.

#### **Scope of Guideline – Applicable Obligations**

After clarifying with the Utilities Commission's Principal Policy Analyst it is our understanding that the Commission requires licencees to demonstrate compliance with all legislation and regulatory instruments which the Commission has a responsibility for monitoring and enforcing compliance. We confirm that these are all the Acts, codes, regulation and guidelines listed under clause 2.1 in the draft document, with the catchall in the final dot point 'any other relevant Act, or Code'. It was clarified that this final dot point:

- is intended to capture anything the Commission may have inadvertently missed or any future instrument that may be made, and
- is not intended to capture legislation or other regulatory requirements that apply generally to businesses operating in the Northern Territory, such as Governance, Finance, Work Health and Safety, and Human Resources related legislation.



Although the Commission does not currently have a role in monitoring and enforcing compliance with these regulatory requirements, Jacana Energy will nevertheless strive to comply with these regulatory requirements and include them within the scope of its overall compliance framework as we share the Commission's need to protect the long-term interests of consumers.

In that regard, we note that point 2 of the pro forma for the Annual Compliance Report set out in Appendix A of the draft guideline requires the provision of a list of 'Applicable Obligations'. Jacana Energy will consult with the Commission concerning the compilation of its initial list of Applicable Obligations and that list will be incorporated into our compliance framework and regularly reviewed and updated.

### **Status of Statement of Approach on Compliance**

We further understand that the Commission requires us to read the *Compliance Framework and Reporting Guidelines* in conjunction with the Commission's *Statement of Approach on Compliance*. As the Commission still needs to update the present *Statement of Approach on Compliance* (following the completion of the Review of the Retail Licence) we are not in a position to comment in detail on the compatibility of the two documents.

However, we note that the *Statement of Approach* currently contains a risk rating for various regulatory obligations. We assume that this risk rating will be reviewed as part of the proposed process to ensure that materiality criteria listed in clause 2.13 of the guideline are reflected in the revised risk ratings.

### **2014-15 Annual Compliance Report**

We will take the Commission's draft *Compliance Framework and Reporting Guidelines* into account - using the template provided in Appendix A - when preparing our 2014/15 Annual Compliance Report which is due by 31 August. As discussed with the Commission, Jacana Energy is a new retail corporation established in 2014 and will use the 2015-2016 financial year to develop and implement a robust and effective compliance system. Therefore, the Board and myself will not be able to sign verbatim the provided statement in Appendix A. However, we confirm that we have the Commission's approval to:

- amend the statement to reflect our current situation,
- provide the Commission with a report on what has already been done and achieved with regards to compliance, and what we intend to have in place by June 2016, and
- provide the Commission with an extract of Jacana Energy's *Risk and Assurance Map*.

In that regard, we question whether Chapter 1 of the draft guideline should be amended to give the Commission the ability to modify the application of the guideline to particular regulated entities in nominated circumstances. As noted above, Jacana Energy is a newly established retail corporation operating in a regulatory environment that is likely to significantly change over the next few years. An express exemption power will help to provide the flexibility needed to accommodate this likely level of change.



Jacana Energy looks forward to further engaging with the Commission on compliance related matters. Should you wish to discuss any aspect of this submission, please contact Karin Franck, Manager Internal Audit, Risk & Compliance (0409 789 583) or myself.

Yours sincerely,

A handwritten signature in purple ink, consisting of several loops and a long horizontal stroke extending to the right.

Stuart Pearce  
**Chief Executive Officer**  
**Jacana Energy**

