

16 July 2024

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Mr Lyndon Rowe  
Utilities Commissioner  
Utilities Commission  
GPO Box 915  
DARWIN NT 0801

By email: [utilities.commission@nt.gov.au](mailto:utilities.commission@nt.gov.au)

Dear Commissioner

**Re: Consultation paper – Review of proposed 2024-27 system control and market operator charges**

Thank you for the opportunity to provide feedback on the Northern Territory Electricity System and Market Operator's (NTESMO) Regulatory Proposal for 2024-27 system control and market operator charges (the Consultation Paper).

In general, Jacana Energy agrees with many aspects of the Commission's proposed approach and has provided more detailed responses in Attachment A below.

One aspect that is not considered in the proposed review is the treatment of operating and capital expenditure incurred by NTESMO relating to the proposed Northern Territory Electricity Market (NTEM) reforms.

While it is not clear whether reform implementation costs have been factored into NTESMO's submissions to date, should this be the case, then Jacana Energy encourages the Commission to consider segregating NTESMO's expenditure associated with these reforms from expenditure related to its current role as system controller and market operator. This will assist in ensuring the costs of the reforms are quantifiable and that they can be fully assessed against the proposed benefits to customers.

Yours sincerely

A handwritten signature in blue ink that reads "L. Kinnear".

Louisa Kinnear  
Chief Executive Officer

## Appendix A: Jacana Energy Detailed Response

2   Regulatory framework   Design and approach	
Question 1	Do stakeholders agree the building block model is an appropriate method to calculate NTESMO's allowed revenues for the upcoming and future regulatory periods? Why or why not?
<p>Jacana Energy agrees that the building block model is an appropriate method to calculate NTESMO's allowed revenues for the upcoming and future periods. Jacana Energy notes that this approach is consistent with other regulatory bodies in Australia including the Australian Energy Regulator, Essential Services Commission (Victoria) and Economic Regulation Authority (Western Australia). It is also a well-established model to calculate allowed revenues and propagates transparency, predictability and cost recovery.</p>	
2   Regulatory framework   Time period	
Question 2	Do stakeholders agree NTESMO's proposed 3-year regulatory period (for the upcoming period only) is reasonable? Why or why not?
<p>Jacana Energy notes it is preferable for a longer duration regulatory period for greater price certainty and disagrees that a shorter period should be considered due to uncertainty within the Northern Territory electricity industry (as uncertainty mechanisms are available to NTESMO to account for unforeseen events). Notwithstanding this, Jacana Energy is accepting of shorter regulatory period of 3-years as it would be impractical for NTESMO to change its submission to 5-years at this point in time.</p> <p>Jacana Energy supports this reverting to the 'standard' 5-year regulatory period at the conclusion of the one-off 3-year period.</p>	
2   Regulatory framework   Corporate overheads	
Question 3	Do stakeholders agree NTESMO's proposed approach to corporate overheads reasonable? Why or why not?
<p>Jacana Energy has concerns relating to NTESMO's proposed approach to corporate overheads and questions whether the drivers of allocations under the approach are appropriate. NTESMO's proposal states the most significant initiative driving the increased corporate cost is the New Operating Model program, which includes a program of work to implement integrated ICT solutions to manage work across Power and Water Corporation's (PWC) core capabilities. NTESMO further details that within the current regulatory period this includes the delivery of a meter to cash system and a health, environment, risk, compliance and safety system.</p> <p>There should be clarity over NTESMO's access to these corporate investments post-separation from PWC. For example, if PWC invests in a health, environment, risk, compliance and safety system that NTESMO will not have access to post-separation, any cost allocation to NTESMO for the system and its implementation would not be prudent. Further, as a stand-alone entity Jacana Energy expects that NTESMO's requirements for such a system to be vastly different than that of PWC, and is concerned that NTESMO is incurring costs</p>	

for a system that exceeds its business requirements. Where there is material corporate investment, whether related to ICT or otherwise, that has no / minimal direct benefit to NTESMO, the appropriateness of these allocations should be reviewed.

Jacana Energy notes that during consultation NTESMO did not provide sufficient evidence to support that corporate overhead allocations were efficient, economic and effective. In particular, Jacana Energy questioned whether NTESMO's increased investment in technology had translated into efficiencies across other corporate costs that should drive a cost reduction.

## 2 | Regulatory framework | Operating expenditure

Question 4	Do stakeholders consider NTESMO's proposed base-step-trend approach to forecasting operating expenditure, with the base year to be set as the most recent year of audited actual operating expenditure is reasonable? Why or why not?
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Jacana Energy agrees with NTESMO's proposed base-step-trend approach to forecasting operating expenditure, with the base year to be set as the most recent year of audited action operating expenditure is reasonable.

While base-step-trend is a consistent approach, it is important to note that:

- The most recent audited year may have been atypical and include one-off costs that are not representative of ongoing operating expenditure. There should be sufficient provisions to exclude one-off investments to ensure a more efficient outcome.
- Assumption on efficiency gains – the trend approach needs to account for any expected gains or losses. Overestimating gains in the previous years could lead to underfunding while underestimating will lead to overfunding.
- Changes to operational requirements, both during and subsequent to the base year, need to be factored in (such as policy change and unexpected events). The Commission will need to determine an appropriate approach to adjust a single years' worth of data to account for changes in circumstances.
- Auditing limitations or data quality issues can have a direct impact on the forecast and the Commission will need to determine an approach to address these issues to avoid under or over funding. For example, inaccuracies in forecasting customer demand may materially impact revenue.

Jacana Energy notes that no prudence and efficiency measures have been applied to the base year and therefore recommends that the Commission considers approaches to assess the reasonableness of base year expenditure, and to adjust where expenditure if not considered prudent and efficient, to ensure it is not overstated.

Question 5	Do stakeholders agree NTESMO's application of CPI to escalate professional fees, residual costs, and graduate and undergraduate contracts over the upcoming regulatory period is not appropriate? Why or why not?
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Jacana Energy agrees that NTESMO's application of CPI to escalate professional fees, residual costs, and graduate and undergraduate contracts over the upcoming regulatory period is not appropriate, due to the implied double application of CPI as detailed by the Commission.

**Question 6** | Do stakeholders support inclusion of a productivity factor within the regulatory framework, to be applied in future regulatory periods? Why or why not?

Jacana Energy supports the inclusion of a productivity factor within the regulatory framework, to be applied in future regulatory periods. A productivity factor is a great way to drive efficiency improvements and account for technological advancements. It should align with Industry practices and focus on keeping the overall cost balanced. Jacana Energy notes that accurately determining a productivity factor can be complex and that the Commission will need to consider:

- Whether there will be benchmarking of the factor
- How will this be used to avoid under and over funding if the estimations are too high or low
- Short term focus on efficiency gains to align with the productivity factor can lead to cost cutting measures and that could compromise long term investment goals in infrastructure.
- Will this be open for a regular review and adjustment if needed to balance the productivity factor?

**2 | Regulatory framework | Capital expenditure | Capitalisation**

**Question 7** | Do stakeholders support NTESMO's proposed approach to capitalisation? Why or why not?

Jacana Energy is supportive of the intent of the approach. It is understood that NTESMO is adopting this approach so costs are not classified as operating expenses and recovered 'in year'.

The Commission noted NTESMO have re-categorised historical expenses as capital. It is not clear if this is only referring to costs not previously recovered or if this captures expenses that were recovered in the past and are proposed to be re-charged as a return on the assets through the building block approach. Jacana Energy questions whether there is a risk of double counting costs if they were previously forecasted as operational costs.

**2 | Regulatory framework | Capital expenditure | Assessment approach**

**Question 8** | Do stakeholders agree that the third capital expenditure assessment approach is the best option given the electricity market reform uncertainties as they relate to NTESMO? Why or why not?

Jacana Energy notes that to support the uncertainties and shorter regulatory periods, Option 3: Ex-Post Review appears to be the better option, however there will be a risk of investment uncertainty. Since expenditures are initially based on best estimated/forecasts without final regulatory approvals, there is a risk that not all incurred cost will be deemed prudent and efficient during the review process. This uncertainty can act as a deterrent to undertake necessary investments, fearing some expenditures may not be recoverable.

There is also a risk that NTESMO may focus more on meeting the regulatory criteria during the project execution rather than optimising for efficiency and innovation. Jacana Energy notes it will be interesting to observe how long-term benefits will be achieved within a shorter period and ex-post review.

Question 9	Are there any other approaches the Commission should consider in terms of assessing NTESMO's proposed capital expenditure?
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Alternatively, a hybrid approach could be adopted, therefore combining the benefits of ex-ante allowance to manage uncertainties and also having a mid-period review. This can provide upfront clarity on the capex and mid period reviews can provide adjustments based on the trends. This can also be linked with performance targets and can be performance targets or may be regulated productivity factor.

**2 | Regulatory framework | Return of capital**

Question 10	Do stakeholders have any concerns regarding NTESMO's proposed capital (depreciation) approach? If so, what are the concerns?
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Jacana Energy does not have any concerns regarding NTESMO's proposed capital (depreciation) approach.

**2 | Regulatory framework | Return of capital**

Question 11	Do stakeholders agree the WACC value calculated by the AER for PWC's regulated electricity networks should be used rather than that proposed by NTESMO? Why or why not?
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Whilst the difference between PWC's and NTESMO's uninterrogated WACC is minimal, Jacana Energy does not agree that the WACC value calculated by the AER for PWC's regulated electricity networks should be used. As the operations of NTESMO and PWC's regulated electricity network are to be ringfenced, Jacana Energy does not believe it is appropriate to simply apply the same WACC and instead believes NTESMO's calculated WACC, as provided by NTESMO, should be assessed by the Commission. Utilising NTESMO's own WACC also future proofs the process should NTESMO separate from PWC as part of market reform.

**2 | Regulatory framework | Tax allowance**

Question 12	Do stakeholders have any concerns regarding NTESMO's proposal regarding the tax allowance?
Jacana Energy does not have any concerns regarding NTESMO's tax allowance.	
<b>2   Regulatory framework   Uncertainty mechanism</b>	
Question 13	What are stakeholder's views on the application of the list of <u>information</u> , requested under the NT NER, for the Commission to determine whether an uncertainty mechanism event has occurred? Is there anything additional that should be included?
Jacana Energy supports the application of the list of information, requested under the NT NER, for the Commission to determine whether an uncertainty mechanism event has occurred. Jacana Energy does not propose any additional information.	
Question 14	What are stakeholder's views on the application of the list of <u>events</u> , used by the AER, to NTESMO? Are there any additional events that should be considered?
<p>Jacana Energy notes NTESMO has proposed that the Commission's determination provide for four pass through events, being on regulatory or market reforms, major system response events and terrorism or cyber attacks. Jacana Energy believes the events listed by NTESMO are reasonable and does not propose any additional events for consideration.</p> <p>Jacana Energy supports the Commission's view that the NT NER ex-ante approach, requiring NTESMO to submit a forecast of costs for Commission approval, be applied.</p>	
Question 15	What are stakeholder's views on the application of a materiality threshold? If supported, what would a reasonable materiality threshold be given NTESMO is an 'asset light' entity?
<p>Jacana Energy is supportive of a materiality threshold that restricts NTESMO from making an application in response to any increase. A materiality threshold will assist in managing cost and will enable the Commission to focus on significant financial impacts by filtering out minor cost variations.</p> <p>A percentage deviation from allowed revenue could be a reasonable basis for determining the materiality threshold. As NTESMO is considered asset light with low capital investments, the materiality threshold should reflect the cost and risk profile of its cost base. A lower threshold may be reasonable to capture significant cost variations without burdening NTESMO with minor regulatory interventions.</p>	
<b>2   Regulatory framework   Incentives   Performance incentives</b>	

Question 16	Do stakeholders agree with the Commission views to not consider NTESMO performance incentives for the upcoming regulatory period? Why or why not?
<p>Jacana Energy agrees with the Commission's views to not consider performance incentives for the upcoming regulatory period for the reasons stated by the Commission and agrees that this be reconsidered as an addition to the framework in future regulatory periods.</p>	
<p><b>2   Regulatory framework   Incentives   Cost incentives</b></p>	
Question 17	Do stakeholders support the proposed cost incentive approach? Why or why not?
<p>Jacana Energy is supportive of the cost incentive approach proposed by NTESMO, noting the shorter regulatory period may not facilitate more complex cost incentive mechanisms.</p>	
<p><b>3   Regulatory charges</b></p>	
Question 18	Do stakeholders agree with NTESMO's proposed approach for calculating regulated charges? Why or why not?
<p>Jacana Energy agrees with NTESMO's proposed approach for calculating regulated charges and supports the Commission's interrogation of the half-WACC adjustment.</p>	
<p><b>4   Recovery of previous overspends   Recovery of historical overspend   Establishment of Opening RAB</b></p>	
Question 19	Do stakeholders agree with the Commission's initial view not to accept NTESMO's proposal regarding its opening RAB value for the current 5-year regulatory period (2019-2024), and instead set the value as zero? Why or why not?
<p>Jacana Energy agrees with the Commission's view not to accept NTESMO's proposal and to instead set the opening RAB value as zero for the 2019-2024 regulatory period, as it appears appropriate that the Commission does not look back before 1 July 2019.</p> <p>Jacana Energy does not support the recovery of costs from the 2019-2024 regulatory period in proceeding period(s) and, for the same reason the Commission believes the opening RAB for 2019-2024 should be zero, believes the opening RAB for 1 July 2024 should be zero.</p>	
<p><b>4   Recovery of previous overspends   Recovery of historical overspend   Cost recovery amount</b></p>	
Question 20	Do stakeholders agree with the Commission's initial view to apply the proposed cost incentive approach to NTESMO's full overspend, consistent with the proposed approach to future any future overspends? Why or why not?

Jacana Energy considers Option 1, where NTESMO is not able to recover any historic operating or capital expenditure over spend and the opening RBA for the upcoming 3-year period would be set as zero, to be most appropriate. As highlighted by the Commission, the previous revenue determination did include mechanisms to allow NTESMO to seek approval for changes to prices to address additional unforeseen costs, however NTESMO did not utilise these mechanisms.

Jacana Energy previously noted in its submission to NTESMO on its draft proposal that the retrospective cost recovery should not be borne by customers given the drivers of these costs were foreseeable and should have been factored into previous proposals and that the benefits to market participants and customers achieved through the unrecovered expenditure have not been adequately defined.

Jacana Energy notes that NTESMO's submission to the Commission still fails to quantify the benefits and is inconsistent with what Jacana Energy experiences in day-to-day dealings with NTESMO. For example, NTESMO notes that not investing would have resulted in financial risk to system participants of delayed settlement activity that underpins their power purchase agreements. Jacana Energy notes that it frequently receives delayed settlement data and questions whether the investment made has realised the desired outcomes.

Jacana Energy considers the Commission's preferred approach, being Option 3: Application of ongoing cost incentive, to be the next most appropriate option.

#### **4 | Recovery of previous overspends | True-up of 2024-25 revenue**

Question 21	Do stakeholders agree that the difference between actual revenues in 2024-25 and allowed revenues (as determined by the Commission) be added to NTESMO's RAB and depreciated across a set 'asset life' or seven years? Why or why not?
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Jacana Energy supports that the difference between actual revenues in 2024-25 and allowed revenues (as determined by the Commission) be added to NTESMO's RAB and depreciated across a set 'asset life'. Jacana Energy notes that the step increase in allowed proposed by NTESMO is significant when compared to the prior period and trusts that the Commission will determine whether this increase is appropriate.