

**NATIONAL ENERGY RETAIL LAW**

**SECTION 308**

**INFRINGEMENT NOTICE ISSUED TO**

**M2 ENERGY PTY LTD (ACN: 123 155 840)**

**TO: M2 Energy Pty Ltd (ACN: 123 155 840)**  
**Level 10 452 Flinders St**  
**MELBOURNE VIC 3000**

**Infringement Notice No.: INF-20250004, INF-20250005, INF-20250006**

1. The Australian Energy Regulator (AER):
  - a. believes on reasonable grounds that M2 Energy Pty Ltd (ACN: 123 155 840) (trading as **Dodo**), which is a *retailer* within the meaning of the *National Energy Retail Law* (**Retail Law**), has breached rule 72(1)(a) of the *National Energy Retail Rules* (**Retail Rules**), on three occasions, as described in in Schedules 2, 3 and 4 (**the alleged breaches**); and
  - b. has decided to serve these three (3) Infringement Notices on Dodo under section 277 of the *National Gas Law* being the Schedule to the *National Gas (South Australia) Act 2008* (**National Gas Law**) as applied by section 308 of the Retail Law.
2. Rule 72(1)(a) of the Retail Rules, as described in Schedule 1, is a civil penalty provision within the meaning of the Retail Law.
3. The infringement penalty is \$67,800 for each of the alleged breaches.

**Note:** if Dodo chooses to pay each of the three (3) infringement penalties, the combined infringement penalty amount is \$203,400.

**WHAT CAN DODO DO IN RESPONSE TO THE  
INFRINGEMENT NOTICES?**

4. In respect of each of these three (3) Infringement Notices:
  - a. Dodo can choose whether or not to comply with the Infringement Notice. If Dodo chooses not to comply with the Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Dodo is entitled to disregard the Infringement Notice and to defend any proceedings in respect of the alleged breach.
  - b. If Dodo chooses to comply with the Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **9 April 2025**, being not less than 28 days from the date of service of the Infringement Notice, beginning on the day after the day on which the Infringement Notice is served (**the compliance period**).

- c. To ensure payment is made in accordance with the Infringement Notice, payment must be received on or before the compliance period.
- d. If Dodo pays the infringement penalty within the compliance period, the AER will not institute proceedings in respect of the alleged breaches unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.

### **HOW DOES DODO PAY AN INFRINGEMENT PENALTY?**

5. Dodo may pay each of the three (3) infringement penalties totalling \$203,400 in three ways:

- a. by cheque made out to the “ACCC Official Administered Account”,\* enclosing a copy of this Infringement Notice to:

Australian Energy Regulator  
GPO Box 520  
MELBOURNE VIC 3001

you should allow at least five business days for payment to be received

or

- b. by electronic funds transfer to the following account:\*

Account name: ACCC Official Administered Account  
BSB: 032-730  
Account: 146550

Please ensure that you include the Infringement Notice No. INF-20250004, INF-20250005 and INF-20250006 for each infringement penalty being paid in the description field of your electronic funds transfer to identify payment.

you should allow at least two business days for payment to be received

or

- c. by credit card via the ACCC online payment system at [www.accc.gov.au/payments](http://www.accc.gov.au/payments).\*

Please ensure that you include the Infringement Notice No. INF-20250004, INF-20250005 and INF-20250006 for each infringement penalty being paid in the description field of your electronic funds transfer to identify payment.

You should allow at least two business days for payment to be received.

- \* The Australian Competition and Consumer Commission handles the receipt of infringement penalty payments for the AER on behalf of the Commonwealth of Australia. All payments received are paid into the Consolidated Revenue Fund.

6. Please allow sufficient time for your payment to be received within the compliance period.

7. Dodo will be issued with a Tax Invoice following payment of each infringement penalty.

DATE OF ISSUE: 5 March 2025

A handwritten signature in dark ink, appearing to be 'CS', enclosed within a thin black rectangular border.

.....  
Clare Savage  
Chair  
Australian Energy Regulator

## SCHEDULE 1

### RELEVANT RULES

1. During the relevant period of the alleged breaches, version 35 of the Retail Rules applied.

2. Rule 72(1)(a) of the Retail Rules provides as follows:

*(1) A payment plan for a hardship customer must:*

*(a) be established having regard to*

- i. the customer's capacity to pay; and*
- ii. any arrears owing by the customer; and*
- iii. the customer's expected energy consumption needs over the following 12 month period.*

3. Rules 33(1)(b) and 33(4) of the Retail Rules provide as follows:

*(1) This rule applies in relation to the obligation under section 50 of the Law on a retailer to offer and apply payment plans for:*

*(b) other residential customers experiencing payment difficulties if the customer informs the retailer in writing or by telephone that the customer that the customer is experiencing payment difficulties.*

*(4) Rule 72 applies to a residential customer referred in subrule (1)(b) in the same way it applies to a hardship customer.*

4. Section 2 of the Retail Law provides the following:

***customer hardship policy*** means a customer hardship policy approved under Division 6 of Part 2.

***hardship customer*** means a residential customer of a retailer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with the retailer's customer hardship policy.

***payment plan*** means a plan for —

*(a) a hardship customer; or*

*(b) a residential customer who is not a hardship customer but who is experiencing payment difficulties,*

*to pay a retailer, by periodic instalments in accordance with the Rules, any amounts payable by the customer for the sale and supply of energy.*

***residential customer*** means a customer who purchases energy principally for personal, household or domestic use at premises.

***retailer*** means a person who is the holder of a retailer authorisation.

5. Rule 72(1)(a) of the Retail Rules, which is the subject of these Infringement Notices, is prescribed under the *National Energy Retail Regulations* (regulation 6(2), Schedule 1 Part 1) as being a tier 1 civil penalty provision within the meaning of the Retail Law.

## SCHEDULE 2

### MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 72(1)(a) OF THE NATIONAL ENERGY RETAIL RULES

1. Dodo is, and was at all relevant times a retailer within the meaning of the Retail Law.
2. Dodo's customer hardship policy was effective from 11 July 2019 up to and including the date of this Infringement Notice and applied to its residential energy customers residing in New South Wales, Queensland and South Australia (**Dodo's Customer Hardship Policy**).
3. Dodo's Customer Hardship Policy provides the following:

*You might experience hardship because of factors like:*

- *death in the family*
- *household illness*
- *family violence*
- *unemployment*
- *reduced income*

#### Relevant Conduct

4. From 19 July 2022, and at all relevant times, [REDACTED] (**Customer 1**) was a residential energy customer of Dodo in New South Wales.
5. On 14 November 2022, Customer 1 contacted Dodo via telephone to set up a payment plan and stated they were experiencing financial hardship and were impacted by domestic violence, thereby identifying themselves as a customer experiencing financial payment difficulties due to hardship in accordance with Dodo's Customer Hardship Policy.
6. The Dodo call operator asked Customer 1 if they preferred weekly or fortnightly payment plan instalments, and Customer 1 indicated fortnightly instalments.
7. The Dodo call operator subsequently offered Customer 1 a payment plan with the following terms:
  - a. 6 months with fortnightly instalments of \$131.28; or
  - b. 12 months with fortnightly instalments of \$114.89.
8. Customer 1 agreed to a 12-month payment plan and Dodo established the payment plan with fortnightly instalments of \$114.89.
9. When establishing the payment plan, the Dodo call operator did not ask what Customer 1 could afford and otherwise failed to have regard to Customer 1's capacity to pay.

10. By establishing the payment plan on 14 November 2022 for Customer 1 without having regard to Customer 1's capacity to pay, it is alleged that Dodo breached rule 72(1)(a) of the Retail Rules.

### **SCHEDULE 3**

#### **MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 72(1)(a) OF THE NATIONAL ENERGY RETAIL RULES**

1. Dodo is and was at all relevant times a retailer within the meaning of the Retail Law.

#### **Relevant Conduct**

2. Between 21 January 2022 and 17 August 2023, [REDACTED] (**Customer 2**) was a residential energy customer of Dodo in New South Wales.
3. On 14 November 2022, Customer 2 contacted Dodo via telephone and stated they received a high electricity bill that they were unable to pay by its due date and wanted to set up a payment plan with the lowest payment plan instalment amount, thereby informing Dodo that they were experiencing payment difficulties in accordance with rule 33(1)(b) of the Retail Rules.
4. The Dodo call operator asked Customer 2 if they preferred weekly or fortnightly payment plan instalments, and Customer 2 indicated fortnightly instalments.
5. The Dodo call operator subsequently offered Customer 2 a payment plan with the following terms:
  - a. 6 months with fortnightly instalments of \$164.60; or
  - b. 12 months with fortnightly instalments of \$123.05.
6. Customer 2 agreed to a 6-month payment plan and Dodo established the payment plan with fortnightly instalments of \$164.60.
7. When establishing the payment plan, the Dodo call operator did not ask what Customer 2 could afford and otherwise failed to have regard to Customer 2's capacity to pay.
8. By establishing the payment plan on 14 November 2022 for Customer 2 without having regard to Customer 2's capacity to pay, it is alleged that Dodo breached rule 72(1)(a) of the Retail Rules.



## **SCHEDULE 4**

### **MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 72(1)(a) OF THE NATIONAL ENERGY RETAIL RULES**

1. Dodo is and was at all relevant times a retailer within the meaning of the Retail Law.

#### **Relevant Conduct**

2. From 16 April 2021, and at all relevant times, [REDACTED] (**Customer 3**) was a residential energy customer of Dodo in New South Wales.
3. On 15 November 2022, Dodo contacted Customer 3 via telephone regarding an overdue balance on their electricity account. After the call was transferred to another Dodo call operator, Customer 3 stated they could not afford to pay a recent electricity bill and wanted to set up a payment plan with the longest length of time possible, thereby informing Dodo that they were experiencing payment difficulties in accordance with rule 33(1)(b) of the Retail Rules.
4. The Dodo call operator asked Customer 3 if they preferred weekly or fortnightly payment plan instalments, and Customer 3 indicated fortnightly instalments.
5. The Dodo call operator subsequently offered Customer 3 a 6-month payment plan with fortnightly instalments of \$141.97.
6. Customer 3 agreed to the 6-month payment plan and Dodo established the payment plan with fortnightly instalments of \$141.97.
7. When establishing the payment plan, the Dodo call operator did not ask what Customer 3 could afford and otherwise failed to have regard to Customer 3's capacity to pay.
8. By establishing the payment plan on 15 November 2022 for Customer 3 without having regard to Customer 3's capacity to pay, it is alleged that Dodo breached rule 72(1)(a) of the Retail Rules.