

**NATIONAL ENERGY RETAIL LAW**  
**SECTION 308**  
**INFRINGEMENT NOTICE ISSUED TO**  
**ALINTA ENERGY RETAIL SALES PTY LTD**  
**ABN 22 149 658 300**

**TO: Alinta Energy Retail Sales Pty Ltd (ABN 22 149 658 300)**  
**Level 13, 225 George Street**  
**SYDNEY, NSW, 2000**

**Infringement Notice Number: AER35-2020**

1. The Australian Energy Regulator (**AER**):
  - a. has reason to believe that Alinta Energy Retail Sales Pty Ltd (ABN 22 149 658 300) (**Alinta Energy**), being a *retailer* within the meaning of the *National Energy Retail Law* (**NERL**), has breached subrule 124(1)(b) of the National Energy Retail Rules (**NERR**) as described in Schedule 2 (**the alleged breach**); and
  - b. has decided to serve this Infringement Notices on Alinta Energy under section 277 of the *National Gas Law*, being the Schedule to the *National Gas (South Australia) Act 2008* (**NGL**) as applied by section 308 of the **NERL**.
2. Subrule 124(1)(b) of the **NERR** is a civil penalty provision within the meaning of the **NERL**.
3. The infringement penalty is \$20,000.

## WHAT CAN ALINTA ENERGY DO IN RESPONSE TO THE INFRINGEMENT NOTICE?

4. Alinta Energy can choose whether or not to comply with the Infringement Notice. If Alinta Energy chooses not to comply with the Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Alinta Energy is entitled to disregard the Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If Alinta Energy chooses to comply with the Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **1 December 2020**, being not less than 28 days from the date of service of this Infringement Notice, beginning on the day after the day on which the Infringement Notice is served (**the compliance period**).
6. To ensure payment is made in accordance with the Infringement Notice, payment must be received on or before **1 December 2020**.
7. If Alinta Energy pays the infringement penalty within the compliance period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the NGL as applied by section 308 of the NERL.

### HOW TO PAY AN INFRINGEMENT PENALTY

8. Alinta Energy may pay the infringement penalty in three ways:
  - a. by cheque made out to the “ACCC Official Administered Account”,\* enclosing a copy of the Infringement Notices and delivered 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. AER35-2020 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).\*
    - d. Please ensure that you include the Infringement Notice No. AER35-2020 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.
- 9. Please allow sufficient time for your payment to be received within the compliance period.
- 10. Alinta Energy will be issued with a Tax Invoice following payment of each infringement penalty.

DATE OF ISSUE: 30 October 2020

A handwritten signature in black ink, appearing to read 'Clare Savage', with a stylized flourish extending to the right.

Clare Savage  
Chair  
Australian Energy Regulator

## SCHEDULE 1

### RELEVANT RULE

1. Subrules 124(1)(b) and 124(2) of the NERR provides as follows:

#### **124 Registration of life support equipment**

##### *(1) Retailer obligations when advised by customer*

*When advised by a customer that a person residing or intending to reside at the customer's premises requires life support equipment, a retailer must:*

*[...]*

*(b) subject to subrule (2), no later than 5 business days after receipt of advice from the customer, provide in writing to the customer:*

- (i) a medical confirmation form;*
- (ii) information explaining that, if the customer fails to provide medical confirmation, the customer's premises may be deregistered and, if so, the customer will cease to receive the protections under this Part;*
- (iii) advice that there may be retailer planned interruptions under rule 59C to the supply at the address and that the retailer is required to notify them of these interruptions in accordance with rule 124B;*
- (iv) advice that there may be distributor planned interruptions or unplanned interruptions to the supply at the address and that the distributor is required to notify them of a distributor planned interruption in accordance with rule 124B;*
- (v) information to assist the customer to prepare a plan of action in the case of an unplanned interruption;*
- (vi) an emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call); and*
- (vii) advice that if the customer decides to change retailer at the premises and a person residing at the customer's premises continues to require life support equipment, the customer should advise their new retailer of the requirement for life support equipment;*

*(2) Subrules (1)(b) (other than subrules (1)(b)(iii) and (1)(b)(vi)) and (1)(c) do not apply to a retailer if:*

- (a) a customer of that retailer has previously advised the distributor for the premises that a person residing or intending to reside at the customer's premises requires life support equipment;*
- (b) the customer advises that retailer that they have already provided medical confirmation to the distributor for the premises; and*
- (c) the retailer confirms with the distributor for the premises that the customer has already provided medical confirmation to the distributor.*

2. Subrule 124(1)(b) of the NERR, which is the subject of this Infringement Notice, is a civil penalty provision under Clause 6, Schedule 1 of the *National Energy Retail Regulations*.

## SCHEDULE 2

### INFRINGEMENT NOTICE No.: AER35-2020

#### MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 124(1)(b) OF THE NATIONAL ENERGY RETAIL RULES

1. Alinta Energy Retail Sales Pty Ltd (**Alinta Energy**) is a *retailer* within the meaning of the *National Energy Retail Law*.
2. At the date of the alleged breach, version 17 of the National Energy Retail Rules (**NERR**) applied.
3. The Relevant Rules are described in Schedule 1.

#### Relevant Conduct

4. On 1 February 2019, [REDACTED] (the customer) advised Alinta Energy that they required life support equipment at their premises ([REDACTED]).
5. Alinta Energy did not previously confirm with the distributor for the premises if the customer had already provided medical confirmation to the distributor and accordingly, subrule 124(2) of the NERR does not apply.
6. Alinta Energy provided the advice, information and documentation set out in subrules 124(1)(b)(i)-(vii) to the customer on 17 June 2019, outside of the maximum 5 business day limit established by subrule 124(1)(b) of the NERR.