

NATIONAL ENERGY RETAIL LAW
SECTION 308
INFRINGEMENT NOTICES 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 Numbers: AER36-2020, AER37-2020, AER38-2020

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 rule 124(1)(c) of the National Energy Retail Rules (**NERR**) on three occasions as described in Schedules 2 to 4 (**the alleged breaches**); and
 - b. has decided to serve these three Infringement Notices on Alinta 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. Rule 124(1)(c) of the *NERR* is a civil penalty provision within the meaning of the *NERL*.
3. The infringement penalty is \$20,000 for each of the alleged breaches.

Note – If Alinta Energy chooses to pay each of the three (3) \$20,000 infringement penalties, the combined infringement penalty amount is \$60,000.

WHAT CAN ALINTA ENERGY DO IN RESPONSE TO THE INFRINGEMENT NOTICES?

4. In respect of each one of these three (3) Infringement Notices:
 - a. 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.
 - b. If Alinta Energy chooses to comply with the Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, **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**).
 - c. To ensure payment is made in accordance with the Infringement Notice, payment must be received on or before **1 December 2020**.
 - d. 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the NGL as applied by section 308 of the NERL.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

5. Alinta Energy may pay each of the three (3) \$20,000 infringement penalties 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. AER36-2020, AER37-2020 and/or AER38-2020 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.*

Please ensure that you include the Infringement Notice No. AER36-2020, AER37-2020 and/or AER38-2020 for each infringement penalty being paid in the Payment Description field of your online payment 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)(c) 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:

[...]

(c) subject to subrule (2), notify the distributor that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required.

(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)(c) of the NERR, which is the subject of these Infringement Notices, is a civil penalty provision under Clause 6, Schedule 1 of the *National Energy Retail Regulations*.

SCHEDULE 2

INFRINGEMENT NOTICE No.: AER36-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 124(1)(c) 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 18 July 2019, [REDACTED] (the customer) advised Alinta Energy that they required life support equipment at their premises ([REDACTED]).
5. Alinta Energy did not confirm with the distributor for the premises that the customer had already provided medical confirmation to the distributor and accordingly, subrule 124(2) of the NERR could not apply.
6. Despite the requirements of subrule 124(1)(c) of the NERR, Alinta Energy did not notify the distributor that a person residing or intending to reside at the customer's premises requires life support until 4 February 2020.

SCHEDULE 3

INFRINGEMENT NOTICE No.: AER37-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 124(1)(c) 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 26 June 2019, [REDACTED] (the customer) advised Alinta Energy that they required life support equipment at their premises ([REDACTED]).
5. Alinta Energy did not confirm with the distributor for the premises that the customer had already provided medical confirmation to the distributor and accordingly, subrule 124(2) of the NERR could not apply.
6. Despite the requirements of subrule 124(1)(c) of the NERR, Alinta Energy did not notify the distributor that a person residing or intending to reside at the customer's premises requires life support until 4 February 2020.

SCHEDULE 4

INFRINGEMENT NOTICE No.: AER38-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 124(1)(c) 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 Regulations*.
2. At the date of the alleged breach, version 19 of the National Energy Retail Rules (**NERR**) applied.
3. The Relevant Rules are described in Schedule 1.

Relevant Conduct

4. On 30 December 2019, [REDACTED] (the customer) advised Alinta Energy that they required life support equipment at their premises ([REDACTED]).
5. Alinta Energy did not confirm with the distributor for the premises that the customer had already provided medical confirmation to the distributor and accordingly, subrule 124(2) of the NERR could not apply.
6. Despite the requirements of subrule 124(1)(c) of the NERR, Alinta Energy did not notify the distributor that a person residing or intending to reside at the customer's premises requires life support until 4 February 2020.