

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: AER39-2020

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(3)(b)(ii) 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 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(3)(b)(ii) 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the NGL as applied by section 308 of the NERL.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. AER39-2020 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.*
 - d. Please ensure that you include the Infringement Notice No. AER39-2020 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 be 'CS', with a long horizontal flourish extending to the right.

Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1

RELEVANT RULE

1. Subrules 124(1)(b)(iii) and (vi), 124(3)(b)(ii) and 124B(2)(b) 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:

[...]

(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;

[...]

(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

[...]

(3) Retailer obligations when advised by distributor

When notified by a distributor:

[...]

(b) under subrule 124B(2)(b), a retailer must:

[...]

(ii) no later than 5 business days after receipt of advice from the distributor, provide the customer with the information required by subrules (1)(b)(iii) and (1)(b)(vi), if not already provided by the retailer to the customer in respect of the customer's premises.

124B Ongoing retailer and distributor obligations

[...]

(2) Distributor obligations

[...]

(b) In addition to the obligations specified in subrule (2)(a), where a distributor is required to register a customer's premises under subrule 124(4)(a), if the distributor becomes aware (including by way of notification in accordance with the Market Settlement and Transfer Solution Procedures) that the customer has subsequently transferred to another retailer (a new retailer) at that premises, the distributor must notify the new retailer that a person residing at the customer's premises requires life support equipment.

2. Subrule 124(3)(b)(ii) 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.: AER39-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 124(3)(b)(ii) 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 17 June 2019, Alinta Energy was advised by Endeavour Energy (being a distributor within the meaning of that term for the purposes of the NERR) that [REDACTED] (the customer) required life support equipment at their premises ([REDACTED]).
5. Alinta Energy had not already provided the written advice and information mentioned in subrules 124(1)(b)(iii) and (vi).
6. Alinta Energy provided the advice, information and documentation set out in subrules 124(1)(b)(iii) and (vi) to the customer on 27 February 2020, outside of the maximum 5 business day limit established by subrule 124(3)(b)(ii).