

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: AER40-2020, AER41-2020

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 125(4)(c) of the National Energy Retail Rules (**NERR**) on two occasions as described in Schedules 2 to 3 (**the alleged breaches**); and
 - b. has decided to serve these two 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 125(4)(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 two (2) \$20,000 infringement penalties, the combined infringement penalty amount is \$40,000.

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

4. In respect of each one of these two (2) 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, 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**).
 - 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the NGL as applied by section 308 of the NERL.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 two (2) \$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. AER40-2020 and/or AER41-2020 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.[AER40-2020 and/or AER41-2020 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 at the end.

Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1

RELEVANT RULE

1. Rule 125 of the NERR provides as follows:

125 Deregistration of premises

- (1) *A retailer or distributor may only deregister a customer's premises in the circumstances permitted under this rule 125.*
- (2) *If a customer's premises is deregistered:*
 - (a) *by a retailer, the retailer must, within 5 business days of the date of deregistration, notify the distributor of the date of deregistration and reason for deregistration;*
 - (b) *by a distributor, the distributor must, within 5 business days of the date of deregistration, notify the retailer of the date of deregistration and reason for deregistration; and*
 - (c) *the retailer and the distributor must update their registrations under subrules 124(1)(a), 124(3), 124(4)(a) and 124(5) as required by rule 126.*

[...]

Deregistration where medical confirmation not provided

- (4) *Where a customer, whose premises have been registered by a retailer under subrule 124(1)(a) (and subrule 124(2) does not apply), fails to provide medical confirmation, the retailer may deregister the customer's premises only when:*
 - (a) *the retailer has complied with the requirements under rule 124A;*
 - (b) *the retailer has taken reasonable steps to contact the customer in connection with the customer's failure to provide medical confirmation in one of the following ways:*
 - (i) *in person;*
 - (ii) *by telephone; or*
 - (iii) *by electronic means;*
 - (c) *the retailer has provided the customer with a deregistration notice no less than 15 business days from the date of issue of the second confirmation reminder notice issued under subrule 124A(1)(d); and*
 - (d) *the customer has not provided medical confirmation before the date for deregistration specified in the deregistration notice.*

2. Rule 125 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.: AER40-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 125(4)(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 21 March 2019, [REDACTED] (the customer) advised Alinta Energy that they required life support equipment at their premises ([REDACTED]) and Alinta Energy subsequently registered that customer as a customer that required life support equipment.
5. Alinta Energy had written to the customer on 15 April 2019 to provide the first confirmation reminder notice and again on 10 May 2019 to provide the second confirmation reminder notice as required by subrule 124A(1) of the NERR.
6. Alinta Energy deregistered the customer's premises on 10 July 2019, without first having provided a deregistration notice to the customer in accordance with the requirement of subrule 125(4)(c) of the NERR.

SCHEDULE 3

INFRINGEMENT NOTICE No.: AER41-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 125(4)(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 22 March 2019, [REDACTED] (the customer) advised Alinta Energy that they required life support equipment at their premises ([REDACTED]) and Alinta Energy subsequently registered that customer as a customer that required life support equipment.
5. Alinta Energy had written to the customer on 25 March 2019 to provide the first confirmation reminder notice and again on 16 April 2019 to provide the second confirmation reminder notice as required by subrule 124A(1) of the NERR.
6. Alinta Energy deregistered the customer's premises on 10 July 2019, without first having provided a deregistration notice to the customer in accordance with the requirement of subrule 125(4)(c) of the NERR.