

NATIONAL ELECTRICITY LAW
SECTION 74
INFRINGEMENT NOTICE ISSUED TO
POWERDIRECT PTY LTD

TO: Powerdirect Pty Ltd (ACN: 067 609 803)
Level 24
200 George Street
SYDNEY NSW 2000

Infringement Notice No.: AER49-2020

1. The Australian Energy Regulator (**AER**):
 - a. has reason to believe that Powerdirect Pty Ltd (ACN: 067 609 803) (**Powerdirect**):
 - i. was the 'Market Participant' within the meaning of clause 2.4.1(a) of the *National Electricity Rules* (**NER**) that was financially responsible for the connection point attached to the National Meter Identifier (**NMI**) described in Schedule 2; and
 - ii. has breached clause 11.86.7(h) of the NER, as described in Schedule 2 (**the alleged breach**); and
 - b. has decided to serve this Infringement Notice on Powerdirect under section 74 of the *National Electricity (South Australia) Law* (**NEL**).
2. Clause 11.86.7(h) of the NER, as described in Schedule 1, is a civil penalty provision within the meaning of the NEL.
3. The infringement penalty amount is \$20,000.

**WHAT CAN POWERDIRECT DO IN RESPONSE TO THE
INFRINGEMENT NOTICE?**

4. In respect of the Infringement Notice, Powerdirect can choose whether or not to comply with the Infringement Notice. If Powerdirect chooses not to comply with the Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Powerdirect is entitled to disregard the Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If Powerdirect chooses to comply with the Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **11 January 2021**, 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**).

6. To ensure payment is made in accordance with the Infringement Notice, payment must be received on or before **11 January 2021**.
7. If Powerdirect 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 79 of the NEL.

HOW TO PAY AN INFRINGEMENT PENALTY

8. Powerdirect 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 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. AER49-2020 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. AER49-2020 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. Powerdirect will be issued with a Tax Invoice following payment of each infringement penalty.

DATE OF ISSUE: 7 December 2020

A handwritten signature in black ink, appearing to be 'Clare Savage', with a large, stylized 'S' and a long, sweeping tail.

.....
Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1
RELEVANT RULES

1. Clause 11.86.7(h) of the NER provides as follows:

A financially responsible Market Participant which receives a notice under subparagraph (g)(3) must promptly appoint a Metering Coordinator.

2. Clause 11.86.7(g)(3) of the NER provides as follows:

Any Metering Coordinator appointed under paragraph (a) or deemed to be appointed under paragraph (c) must promptly notify the financially responsible Market Participant of a metering installation malfunction which occurs to a metering installation other than the installations referred to in clause 7.8.10(a)(1) of new Chapter 7.

3. Clause 11.86.7(h) of the NER, which is the subject of this Infringement Notice, is prescribed under the *National Electricity (South Australia) Regulations* (Clause 6(1), Schedule 1) as being a civil penalty provision within the meaning of NEL.

SCHEDULE 2

INFRINGEMENT NOTICE No.: AER49-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: CLAUSE 11.86.7(H) OF THE NATIONAL ELECTRICITY RULES

1. As at 6 March 2018, Powerdirect was the financially responsible market participant for the NMI [REDACTED].
2. On 6 March 2018, Powerdirect received notice of a metering installation malfunction under clause 11.86.7(g)(3) of the NER for the NMI [REDACTED].
3. On 13 February 2019, a Metering Coordinator was appointed on behalf of Powerdirect for the NMI [REDACTED].
4. This delay was not reasonable in the circumstances and does not satisfy the obligation on Powerdirect to act promptly when it received notice of the metering installation malfunction.
5. Accordingly, Powerdirect breached clause 11.86.7(h) of the NER for the NMI [REDACTED].