

NATIONAL ENERGY RETAIL LAW
SECTION 308
INFRINGEMENT NOTICE ISSUED TO
AGL SALES PTY LIMITED (ACN 090 538 337)

TO: AGL Sales Pty Limited (ACN 090 538 337)
Level 24, 200 George St
SYDNEY NSW 2000

Infringement Notice No.: AER16-2020

1. The Australian Energy Regulator (**AER**):
 - a. has reasons to believe that AGL Sales Pty Limited ACN 090 538 337 (**AGL Sales**), a *retailer* within the meaning of the *National Energy Retail Law* (**Retail Law**), has breached rule 107(2) of the *National Energy Retail Rules* (**Retail Rules**), in the manner set out in Schedule 1 to this Infringement Notice (**the alleged breach**); and
 - b. has decided to serve this Infringement Notice on AGL Sales under section 277 of the National Gas Law Schedule to the *National Gas (South Australia) Act 2008* (**National Gas Law**) as applied by section 308 of the Retail Law.
2. At the time of the alleged breach rule 107(2) of the Retail Rules was a civil penalty provision within the meaning of the Retail Law.
3. The infringement penalty is \$20,000.

**WHAT CAN ENERGY AUSTRALIA DO IN RESPONSE TO
THIS INFRINGEMENT NOTICE?**

4. AGL Sales can choose whether or not to comply with this Infringement Notice. If AGL Sales chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. AGL Sales is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If AGL Sales chooses to comply with this Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **27 July 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 this Infringement Notice is served (**the compliance period**).
6. To ensure payment is made in accordance with this Infringement Notice, payment must be received on or before **27 July 2020**.
7. If AGL Sales 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.

HOW TO PAY AN INFRINGEMENT NOTICE

8. AGL Sales may pay the \$20,000 infringement penalty in three ways:
- a. by cheque made out to the “ACCC Official Administered Account”,* enclosing a copy of this 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
Description: AER16-2020

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 “AER16-2020” 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. AGL Sales will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: 26 June 2020



Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 107(2) OF THE NATIONAL ENERGY RETAIL RULES

1. AGL Sales Pty Limited (**AGL Sales**) is a ‘retailer’ within the meaning of section 2 of the National Energy Retail Law (**Retail Law**).
2. During the period between 2 November 2017 and 17 May 2018, [REDACTED] resided at [REDACTED] (**the premises**) and was a ‘residential customer’ within the meaning of section 5 of the Retail Law (**the customer**).
3. Under Part 6 of the National Energy Retail Rules (**Retail Rules**), a retailer must not arrange for the de-energisation of a customer’s premises in certain circumstances.
4. By reason of rule 107(2) of the Retail Rules, AGL Sales was required to comply with rule 111(2) of the Retail Rules before arranging de-energisation of a customer’s premises.
5. Rule 111(2) of the Retail Rules provides that a retailer must not arrange for the de-energisation of a hardship customer or residential customer’s premises, where the residential customer has informed the retailer that the customer is experiencing payment difficulties, unless the retailer has offered the customer two payment plans in the previous 12 months and:
 - (a) the customer has agreed to neither of them; or
 - (b) the customer has agreed to one but not the other of them but the plan to which the customer agreed has been cancelled due to non-payment by the customer; or
 - (c) the customer has agreed to both of them but the plans have been cancelled due to non-payment by the customer.
6. AGL Sales arranged for the de-energisation of the premises by sending a disconnection service order to a distributor on 10 May 2018. The premises was de-energised on 17 May 2018.
7. AGL Sales did not comply with rule 111(2) of the Retail Rules by arranging for the de-energisation of the premises in circumstances where:
 - (a) the customer at the premises informed AGL Sales by telephone that she was experiencing payment difficulties on 16 May 2018; and
 - (b) AGL Sales did not offer the customer two payment plans in the previous 12 months before arranging for the de-energisation of the premises.
8. On 17 May 2018, as a disconnection service order was in place, the distributor proceeded with the de-energisation, leading to the premises being de-energised at 9:53 am on the same day.