

**NATIONAL ENERGY RETAIL LAW**

**SECTION 308**

**INFRINGEMENT NOTICE ISSUED TO**

**AGL SOUTH AUSTRALIA PTY LIMITED (ACN 091 105 092)**

**TO:** AGL South Australia Pty Limited (ACN: 091 105 092)  
Level 24, 200 George Street  
SYDNEY, NSW 2000

**Infringement Notice No.: AER17-2020**

1. The Australian Energy Regulator (**AER**):
  - a. has reason to believe that AGL South Australia Pty Limited (ACN: 091 105 092), (**AGL SA**), which is considered to be 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 SA under section 277 of the *National Gas Law* being the 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 AGL SA DO IN RESPONSE TO THIS  
INFRINGEMENT NOTICE?**

4. AGL SA can choose whether to comply with this Infringement Notice. If AGL SA chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. AGL SA is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If AGL SA 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 SA 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withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.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 SA 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: AER17-2020

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](http://www.accc.gov.au/payments).\*

Please ensure that you include “AER17-2020” 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 SA will be issued with a Tax Invoice following payment of the 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 South Australia Pty Limited (**AGL SA**) is a ‘retailer’ within the meaning of section 2 of the National Energy Retail Law (**Retail Law**).
2. During the period between 19 February 2018 and 9 July 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 SA 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 SA arranged for the de-energisation of the premises by sending a disconnection service order to a distributor on 28 June 2018. The premises was de-energised on 9 July 2018.
7. AGL SA 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 informed AGL SA by phone on 6 July 2018 that the customer was experiencing payment difficulties; and
  - (b) the customer was not offered 2 payment plans in the 12 months prior to AGL SA arranging the de-energisation of the premises.
8. On 9 July 2018, as a disconnection service order in relation to the premises was in place, the distributor proceeded with the de-energisation, leading to the premises being de-energised at 9:24 am on the same day.