

**NATIONAL ENERGY RETAIL LAW**

**SECTION 308**

**INFRINGEMENT NOTICE ISSUED TO**

**AGL South Australia Pty Limited (ABN 49 091 105 092)**

**TO:** AGL South Australia Pty Limited  
Level 22, 101 Miller Street  
NORTH SYDNEY, NSW, 2060

**Infringement Notice No.: AER20-2017**

1. The Australian Energy Regulator (**AER**):
  - (a) has reason to believe that AGL South Australia Pty Limited (ABN 49 091 105 092) (**AGL South Australia**), which is a *retailer* within the meaning of the *National Energy Retail Law (South Australia)* (**Retail Law**), has breached subrule 48(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 South Australia Pty Limited under section 277 of the *National Gas (South Australia) Law* (**National Gas Law**) as applied by section 308 of the Retail Law.
2. Subrule 48(2) of the Retail Rules is a civil penalty provision within the meaning of the Retail Law.
3. The infringement penalty is \$20,000.

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

4. AGL South Australia can choose whether or not to comply with this Infringement Notice. If AGL South Australia chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. AGL South Australia is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If AGL South Australia chooses to comply with this Infringement Notice, it must pay the infringement penalty by **29 January 2018**, 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 **29 January 2018**.

7. If AGL South Australia 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.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 South Australia may pay the \$20,000 infringement penalty in two 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 5 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: AER20-2017


you should allow at least 2 business days for payment to be received.

- \* Please note that the AER is a constituent part of the Australian Competition and Consumer Commission (ACCC). The ACCC handles the receipt of infringement penalty payments for the AER.

Please allow sufficient time for your payment to be received within the compliance period.

9. AGL South Australia will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: 14 December 2017



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Paula Conboy  
Chair  
Australian Energy Regulator

## SCHEDULE 1

### MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: SUBRULE 48(2) OF THE NATIONAL ENERGY RETAIL RULES

1. AGL South Australia Pty Limited (**AGL South Australia**) is a 'retailer' within the meaning of section 2 of the *National Energy Retail Law (South Australia)* (**Retail Law**).
2. From about July 2012 to December 2016, 356 electricity customers and 94 gas customers entered into fixed term retail contracts with AGL South Australia.
3. By reason of subrule 48(2) of the National Energy Retail Rules (**Retail Rules**), AGL South Australia was required to comply with subrule 48(3) and subrule 48(4) of the Retail Rules in relation to each of the 356 electricity customers and 94 gas customers.
4. Pursuant to subrule 48(3) of the Retail Rules, AGL South Australia must give notice to the customers no earlier than 40 business days and no later than 20 business days before the end date of the contract, and in accordance with subrule 48(4) of the Retail Rules, this notice must state:
  - (i) the date on which the contract will end; and
  - (ii) details of the prices, terms and conditions applicable to the sale of energy to the premises concerned under a deemed customer retail arrangement; and
  - (iii) the customer's options for establishing a customer retail contract (including the availability of a standing offer); and
  - (iv) the consequences for the customer if the customer does not enter into a customer retail contract (whether with that or another retailer), including the entitlement of the retailer to arrange for the de-energisation of the premises and details of the process of de-energisation.
5. From July 2012 to December 2016, AGL South Australia failed to give the customers any notice of the date, details, customer options or consequences of the end of their fixed term retail contracts as required by subrule 48(3) and subrule 48(4) of the Retail Rules.