

NATIONAL ENERGY RETAIL LAW

SECTION 308

INFRINGEMENT NOTICE ISSUED TO

ENERGYAUSTRALIA PTY LTD

TO: EnergyAustralia Pty Ltd
ACN 086 014 968
Level 33,
385 Bourke St
Melbourne, VIC, 3000

Infringement Notice No.: AER16-2018

1. The Australian Energy Regulator (**AER**):
 - (a) has reason to believe that EnergyAustralia Pty Ltd (ACN 086 014 968), which is a *retailer* within the meaning of the *National Energy Retail Law* (**Retail Law**), has breached section 282(1) of the Retail Law, 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 EnergyAustralia Pty Ltd under section 277 of the *National Gas (NSW) 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. Section 282(1) of the Retail Law is a civil penalty provision within the meaning of the Retail Law.
3. The infringement penalty is \$20,000.

**WHAT CAN ENERGYAUSTRALIA PTY LTD DO IN RESPONSE TO THIS
INFRINGEMENT NOTICE?**

4. EnergyAustralia Pty Ltd can choose whether or not to comply with this Infringement Notice. If EnergyAustralia Pty Ltd chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. EnergyAustralia Pty Ltd is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If EnergyAustralia Pty Ltd chooses to comply with this Infringement Notice, it must pay the infringement penalty by **9 August 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 **9 August 2018**.

7. If EnergyAustralia Pty Ltd 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.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 DOES ENERGYAUSTRALIA PTY LTD PAY THE INFRINGEMENT PENALTY?

8. EnergyAustralia Pty Ltd 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:*

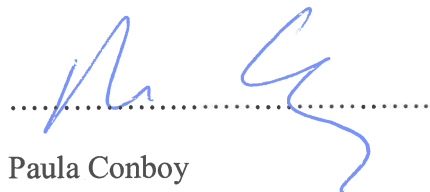
Account name: ACCC Official Administered Account
BSB: 032-730
Account: 146550
Description: AER16-2018

you should allow at least 2 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. EnergyAustralia Pty Ltd will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: 10 July 2018



Paula Conboy
Chair
Australian Energy Regulator

SCHEDULE 1

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: SECTION 282(1) OF THE NATIONAL ENERGY RETAIL LAW

1. EnergyAustralia Pty Ltd (**EnergyAustralia**) is a 'retailer' within the meaning of section 2 of the National Energy Retail Law (**Retail Law**).
2. By reason of section 282(1) of the Retail Law, EnergyAustralia must submit to the Australian Energy Regulator (**AER**), the following information and data, in the manner and form (including by the date or dates) required by the AER Performance Reporting Procedures and Guidelines (**the Guidelines**):
 - (a) the total number of small business customers on market retail contracts for the supply of gas in NSW; and
 - (b) the total number of large customers on market retail contracts for the supply of gas in NSW.
3. EnergyAustralia did not submit to the AER the information and data required. Rather, EnergyAustralia submitted to the AER materially inaccurate information and data for:
 - (a) the total number of small business customers on market retail contracts for the supply of gas in NSW; and
 - (b) the total number of large customers on market retail contracts for the supply of gas in NSWon the following dates (**the Relevant Dates**):
 - (a) 12 December 2016 for Quarter 1 of the 2016-2017 financial year
 - (b) 31 January 2017 for Quarter 2 of the 2016-2017 financial year
 - (c) 28 April 2017 for Quarter 3 of the 2016-2017 financial year and
 - (d) 31 August 2017 for Quarter 4 of the 2016-2017 financial year.
4. On 27 October 2017, EnergyAustralia subsequently submitted to the AER the required information and data for Quarters 1, 2, 3 and 4 of the 2016-2017 financial year but that information and data was:
 - (a) Over 10 months after the due date prescribed by the Guidelines for Quarter 1 of the 2016-2017 financial year
 - (b) Over 8 months after the due date prescribed by the Guidelines for Quarter 2 of the 2016-2017 financial year
 - (c) Over 5 months after the due date prescribed by the Guidelines for Quarter 3 of the 2016-2017 financial year and
 - (d) Over 1 month after the due date prescribed by the Guidelines for Quarter 4 of the 2016-2017 financial year.