

NATIONAL ENERGY RETAIL LAW
SECTION 308
INFRINGEMENT NOTICE ISSUED TO
MOMENTUM ENERGY PTY LTD (ACN 100 569 159)

TO: Momentum Energy Pty Ltd (ACN 100 569 159)
Level 8, 530 Collins Street
Melbourne VIC 3000

Infringement Notice No.: AER09-2020

1. The Australian Energy Regulator (AER):
 - a. has reason to believe that Momentum Energy Pty Ltd (ACN 100 569 159) (**Momentum Energy**), a *retailer* within the meaning of the *National Energy Retail Law* (**Retail Law**), has breached rule 124A(1) 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 Momentum Energy 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 124A(1) 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 MOMENTUM DO IN RESPONSE TO THIS INFRINGEMENT NOTICE?

4. Momentum Energy can choose whether or not to comply with this Infringement Notice. If Momentum Energy chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Momentum Energy is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If Momentum Energy chooses to comply with this Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **15 June 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 **15 June 2020**.
7. If Momentum Energy 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.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. Momentum Energy 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: AER09-2020

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 “AER09-2020” 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. Momentum Energy will be issued with a Tax Invoice following payment of the infringement penalty.

DATE OF ISSUE: 15 May 2020



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Clare Savage
AER Chair
Australian Energy Regulator

SCHEDULE 1

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 124A(1) OF THE NATIONAL ENERGY RETAIL RULES

1. Momentum Energy Pty Ltd (**Momentum Energy**) is a 'retailer' within the meaning of section 2 of the National Energy Retail Law (**Retail Law**).
2. At the date of the alleged breach, version 13 of the National Energy Retail Rules (**Retail Rules**) applied.
3. On 13 March 2018, [REDACTED] (**the customer**) advised Momentum Energy, that a person residing at [REDACTED] (**the premises**), required life support equipment.
4. By reason of subrule 2(1) of Part 9 of Schedule 3 of the Retail Rules, a transitional retailer life support customer is taken to have provided the retailer with medical confirmation that a person residing at the premises requires life support equipment, for the purposes of rule 124(1A)(b) of the Retail Rules.
5. By reason of rule 124(1A)(b) of the Retail Rules, Momentum Energy registered the customer's premises as having life support equipment, in accordance with rule 124(1) of the Retail Rules.
6. Pursuant to rule 124A(1) of the Retail Rules, Momentum Energy must ensure that registration details under rule 124 are kept up to date.
7. On 4 July 2018, during the process of changing the customer to a different energy contract, Momentum Energy removed the registration details on the customer's account which indicated that the customer's premises was registered as having life support equipment. These registration details were not included on the customer's account again until some eight months later, on 15 March 2019.
8. By removing the registration details on the customer's account that indicated that the customer's premises was registered as having life support equipment on 4 July 2018, and failing to include those registration details on the customer's account until 15 March 2019, Momentum Energy failed to ensure the customer's registration details were kept up to date.