

NATIONAL ELECTRICITY LAW
SECTION 74
INFRINGEMENT NOTICE ISSUED TO
ERM POWER RETAIL PTY LTD

To: ERM Power Retail Pty Ltd (ACN 126 175 460)
Level 52
111 Eagle Street
BRISBANE QLD 4000

Infringement Notice No.: AER04-2016

1. The Australian Energy Regulator (**AER**):
 - a. has reason to believe that:
 - i. ERM Power Retail Pty Ltd (ACN 126 175 460) (**ERM Power**), is, and was at all relevant times, a Registered Participant by virtue of being registered by the Australian Energy Market Operator (**AEMO**) as a generator under clause 2.2 of the National Electricity Rules (**NER**) in respect of the Oakey generating system, comprised of two scheduled generating units (OAKEY1 and OAKEY2) located in Queensland, and
 - ii. ERM Power has breached clause 4.9.8(a) of the NER, as described in Schedule 1 to this Infringement Notice (**the alleged breach**); and
 - b. has decided to serve this Infringement Notice on ERM Power under section 74 of the *National Electricity (Queensland) Law* (**NEL**).
2. Clause 4.9.8(a) of the NER is a civil penalty provision within the meaning of the NEL.
3. The infringement penalty is \$20,000.

WHAT CAN ERM POWER DO IN RESPONSE TO THIS INFRINGEMENT NOTICE?

4. ERM Power can choose whether or not to comply with this Infringement Notice. If ERM Power chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. ERM Power is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If ERM Power chooses to comply with this Infringement Notice, it must pay the infringement penalty by 27 May 2016, 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 May 2016**.
7. If ERM Power 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 79 of the NEL.

HOW DOES ERM POWER PAY THE INFRINGEMENT PENALTY?

8. ERM Power may pay the \$20,000 infringement penalty in either of two ways:
- by cheque made out to the "ACCC Official Administered Account",* enclosing a copy of this Infringement Notice, addressed to:

Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

You should allow at least 5 business days for payment to be received

or

- by electronic funds transfer to the following account:*

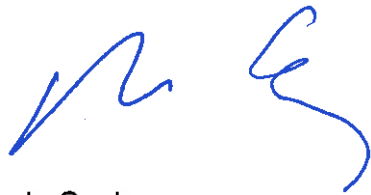
Account name: ACCC Official Administered Account
BSB: 032-730
Account: 146550
Description: AER04-2016

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

- * The Australian Competition and Consumer Commission (**ACCC**) handles the receipt of infringement penalty payments for the AER. All payments received are paid into the Consolidated Revenue Fund.

- Please allow sufficient time for your payment to be received within the compliance period.
- ERM Power will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: 26 April 2016



Paula Conboy
Chair
Australian Energy Regulator

SCHEDULE 1

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: CLAUSE 4.9.8(a) OF THE NATIONAL ELECTRICITY RULES

1. ERM Power is, and was at all relevant times, a Registered Participant being registered with AEMO as a **generator** under clause 2.2 of the NER within the meaning of the term in the NER in respect of one scheduled generating unit (**OKEY2**).
2. Clause 4.9.8(a) of the NER provides that a Registered Participant must comply with a dispatch instruction given to it by AEMO unless to do so would, in the Registered Participant's reasonable opinion, be a hazard to public safety or materially risk damaging equipment.
3. On 23 March 2015, for the 17:55 dispatch interval, AEMO gave ERM Power a dispatch instruction for OKEY2. The OKEY2 scheduled generating unit generated in excess of the energy level specified in the dispatch instruction for the relevant dispatch interval as set out below:

Scheduled generating unit	Dispatch interval	Dispatch Instruction	Measured Output	Difference
OKEY2	17:55	0 MW	48.51 MW	48.51 MW

4. Accordingly, ERM Power breached clause 4.9.8(a) of the NER in respect of OKEY2.