

NATIONAL ELECTRICITY LAW
SECTION 74
INFRINGEMENT NOTICES ISSUED TO
AGL SALES PTY LIMITED

TO: AGL Sales Pty Limited (ACN: 090 538 337)
Level 24
200 George Street
SYDNEY NSW 2000

Infringement Notice Nos.: AER42-2020, AER43-2020, AER44-2020, AER45-2020 and AER46-2020

1. The Australian Energy Regulator (**AER**):
 - a. has reason to believe that AGL Sales Pty Limited (ACN: 090 538 337) (**AGL Sales**):
 - i. was the ‘Market Participant’ within the meaning of clause 2.4.1(a) of the *National Electricity Rules* (**NER**) that was financially responsible for the connection points attached to the National Meter Identifiers (**NMI**) described in Schedules 2-6; and
 - ii. has breached clause 11.86.7(h) of the NER on five (5) occasions, as described in Schedules 2-6 (**the alleged breaches**); and
 - b. has decided to serve these five (5) Infringement Notices on AGL Sales under section 74 of the *National Electricity (South Australia) Law* (**NEL**).
2. Clause 11.86.7(h) of the NER, as described in Schedule 1, is a civil penalty provision within the meaning of the NEL.
3. The infringement penalty is \$20,000 for each of the alleged breaches.
Note: If AGL Sales chooses to pay each of the five (5) \$20,000 infringement penalties, the combined infringement penalty amount is \$100,000.

**WHAT CAN AGL SALES DO IN RESPONSE TO THE
INFRINGEMENT NOTICES?**

4. In respect of each one of these five (5) Infringement Notices:
 - a. AGL Sales can choose whether or not to comply with the Infringement Notice. If AGL Sales chooses not to comply with the Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. AGL Sales is

entitled to disregard the Infringement Notice and to defend any proceedings in respect of the alleged breach.

- b. If AGL Sales chooses to comply with the Infringement Notice it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **11 January 2021**, being not less than 28 days from the date of service of the Infringement Notice, beginning on the day after the day on which the Infringement Notice is served (**the compliance period**).
- c. To ensure payment is made in accordance with the Infringement Notice, payment must be received on or before **11 January 2021**.
- d. If AGL Sales 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 79 of the NEL.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 TO PAY AN INFRINGEMENT PENALTY

- 5. AGL Sales may pay each of the five (5) \$20,000 infringement penalties in three ways:
 - a. by cheque made out to the “ACCC Official Administered Account”,* enclosing a copy of the 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

Please ensure that you include the Infringement Notice No. AER42-2020, AER43-2020, AER44-2020, AER45-2020 and/or AER46-2020 for each infringement penalty being paid in the description field of your electronic funds transfer to identify payment.

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 the Infringement Notice No. AER42-2020, AER43-2020, AER44-2020, AER45-2020 and/or AER46-2020 for each infringement

penalty being paid in the description field of your electronic funds transfer 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.
- 6. Please allow sufficient time for your payment to be received within the compliance period.
- 7. AGL Sales will be issued with a Tax Invoice following payment of each infringement penalty.

DATE OF ISSUE: 7 December 2020



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Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1

RELEVANT RULES

1. Clause 11.86.7(h) of the NER provides as follows:

A financially responsible Market Participant which receives a notice under subparagraph (g)(3) must promptly appoint a Metering Coordinator.

2. Clause 11.86.7(g)(3) of the NER provides as follows:

Any Metering Coordinator appointed under paragraph (a) or deemed to be appointed under paragraph (c) must promptly notify the financially responsible Market Participant of a metering installation malfunction which occurs to a metering installation other than the installations referred to in clause 7.8.10(a)(1) of new Chapter 7.

3. Clause 11.86.7(h) of the NER, which is the subject of these Infringement Notices, is prescribed under the *National Electricity (South Australia) Regulations* (Clause 6(1), Schedule 1) as being a civil penalty provision within the meaning of NEL

SCHEDULE 2

INFRINGEMENT NOTICE No.: AER42-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: CLAUSE 11.86.7(H) OF THE NATIONAL ELECTRICITY RULES

1. As at 20 February 2018, AGL Sales was the financially responsible market participant for the NMI [REDACTED].
2. On 20 February 2018, AGL Sales received notice of a metering installation malfunction under clause 11.86.7(g)(3) of the NER for the NMI [REDACTED].
3. On 7 July 2018, a Metering Coordinator was appointed on behalf of AGL Sales for the NMI [REDACTED].
4. This delay was not reasonable in the circumstances and does not satisfy the obligation on AGL Sales to act promptly when it received notice of the metering installation malfunction.
5. Accordingly, AGL Sales breached clause 11.86.7(h) of the NER for the NMI [REDACTED].

SCHEDULE 3

INFRINGEMENT NOTICE No.: AER43-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: CLAUSE 11.86.7(H) OF THE NATIONAL ELECTRICITY RULES

1. As at 21 July 2018, AGL Sales was the financially responsible market participant for the NMI [REDACTED].
2. On 21 July 2018, AGL Sales received notice of a metering installation malfunction under clause 11.86.7(g)(3) of the NER for the NMI [REDACTED].
3. On 5 February 2019, a Metering Coordinator was appointed on behalf of AGL Sales for the NMI [REDACTED].
4. This delay was not reasonable in the circumstances and does not satisfy the obligation on AGL Sales to act promptly when it received notice of the metering installation malfunction.
5. Accordingly, AGL Sales breached clause 11.86.7(h) of the NER for the NMI [REDACTED].

SCHEDULE 4

INFRINGEMENT NOTICE No.: AER44-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: CLAUSE 11.86.7(H) OF THE NATIONAL ELECTRICITY RULES

1. As at 28 December 2017, AGL Sales was the financially responsible market participant for the NMI [REDACTED].
2. On 28 December 2017, AGL Sales received notice of a metering installation malfunction under clause 11.86.7(g)(3) of the NER for the NMI [REDACTED].
3. On 13 February 2019, a Metering Coordinator was appointed on behalf of AGL Sales for the NMI [REDACTED].
4. This delay was not reasonable in the circumstances and does not satisfy the obligation on AGL Sales to act promptly when it received notice of the metering installation malfunction.
5. Accordingly, AGL Sales breached clause 11.86.7(h) of the NER for the NMI [REDACTED].

SCHEDULE 5

INFRINGEMENT NOTICE No.: AER45-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: CLAUSE 11.86.7(H) OF THE NATIONAL ELECTRICITY RULES

1. As at 13 February 2018, AGL Sales was the financially responsible market participant for the NMI [REDACTED].
2. On 13 February 2018, AGL Sales received notice of a metering installation malfunction under clause 11.86.7(g)(3) of the NER for the NMI [REDACTED].
3. On 21 December 2018, a Metering Coordinator was appointed on behalf of AGL Sales for the NMI [REDACTED].
4. This delay was not reasonable in the circumstances and does not satisfy the obligation on AGL Sales to act promptly when it received notice of the metering installation malfunction.
5. Accordingly, AGL Sales breached clause 11.86.7(h) of the NER for the NMI [REDACTED].

SCHEDULE 6

INFRINGEMENT NOTICE No.: AER46-2020

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: CLAUSE 11.86.7(H) OF THE NATIONAL ELECTRICITY RULES

1. As at 29 December 2017, AGL Sales was the financially responsible market participant for the NMI [REDACTED].
2. On 29 December 2017, AGL Sales received notice of a metering installation malfunction under clause 11.86.7(g)(3) of the NER for the NMI [REDACTED].
3. On 12 July 2019, a Metering Coordinator was appointed on behalf of AGL Sales for the NMI [REDACTED].
4. This delay was not reasonable in the circumstances and does not satisfy the obligation on AGL Sales to act promptly when it received notice of the metering installation malfunction.
5. Accordingly, AGL Sales breached clause 11.86.7(h) of the NER for the NMI [REDACTED].