

NATIONAL ENERGY RETAIL LAW

SECTION 308

INFRINGEMENT NOTICE ISSUED TO

ENDEAVOUR ENERGY

(ABN: 11 247 365 823)

**TO: Edwards O Pty Limited (ACN 618 643 486) as trustee for Edwards O Trust;
ERIC Epsilon Operator Corporation 1 Pty Ltd (ACN 617 221 735) as trustee for
ERIC Epsilon Operator Trust 1;
ERIC Epsilon Operator Corporation 2 Pty Ltd (ACN 617 221 744) as trustee for
ERIC Epsilon Operator Trust 2;
ERIC Epsilon Operator Corporation 3 Pty Ltd (ACN 617 221 753) as trustee for
ERIC Epsilon Operator Trust 3; and
ERIC Epsilon Operator Corporation 4 Pty Ltd (ACN 617 221 771) as trustee for
ERIC Epsilon Operator Trust 4,**

**together, Endeavour Energy Network Operator Partnership, carrying on a
business known as “Endeavour Energy”
51 Huntingwood Drive,
HUNTINGWOOD NSW 2148**

Infringement Notice No.: AER25-2022

1. The Australian Energy Regulator (AER):
 - a. has reason to believe that Endeavour Energy Network Operator Partnership (ABN: **11 247 365 823**) (**Endeavour Energy**), which is a *distributor* within the meaning of the *National Energy Retail Law* (**Retail Law**), has breached rule 124B(2)(a)(iv) of the *National Energy Retail Rules* (**Retail Rules**), in the manner set out in Schedule 2 to this Infringement Notice (**the alleged breach**); and
 - b. has decided to serve this Infringement Notice on Endeavour 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. Rule 124B(2)(a)(iv) of the Retail Rules is a tier one civil penalty provision within the meaning of the National Energy Retail Regulations.
3. The infringement penalty is \$67,800.

WHAT CAN ENDEAVOUR ENERGY DO IN RESPONSE TO THIS INFRINGEMENT NOTICE?

4. Endeavour Energy can choose whether or not to comply with this Infringement Notice. If Endeavour Energy chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Endeavour Energy is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If Endeavour Energy chooses to comply with this Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **27 June 2022**, 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 June 2022**.
7. If Endeavour 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. Endeavour Energy may pay the \$67,800 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: AER25-2022

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 “AER25-2022” 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. Endeavour Energy will be issued with a Tax Invoice following payment of the infringement penalty.

DATE OF ISSUE: 27 May 2022



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Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1
RELEVANT RULE

1. Subrule 124B(2)(a)(iv) of the Retail Rules provides as follows:

124B Ongoing retailer and distributor obligations

(2) Distributor obligations

(a) Where a distributor is required to register a customer's premises under subrule 124(4)(a) or 124(5), the distributor has the following ongoing obligations:

- iv. in the case of an interruption that is a distributor planned interruption other than in the circumstances described in subparagraph (v), from the date the life support equipment will be required at the premises, give the customer at least 4 business days written notice of the interruption to supply at the premises (the 4 business days to be counted from, but not including the date of receipt of the notice).*

2. Subrule 124B(2)(a)(iv) of the Retail Rules, which is the subject of this Infringement Notices, is a tier one civil penalty provision under Regulation 6 and Schedule 1 of the National Energy Retail Regulations.

SCHEDULE 2

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 124B(2)(a)(iv) OF THE NATIONAL ENERGY RETAIL RULES

1. Endeavour Energy is a distributor within the meaning of the Retail Law.
2. At the date of the alleged breach, version 30 of the Retail Rules applied.
3. The relevant subrule is described in Schedule 1.

Relevant Conduct

4. Endeavour Energy registered the customer's premises [REDACTED] as requiring life support equipment on receipt of notification by the retailer or being advised by the customer, in accordance with subrule 124(4)(a) or 124(5).
5. On 1 December 2021, Endeavour Energy sent notifications of a planned interruption to customers requiring life support equipment in respect of a planned outage on 15 December 2021. On 9 December 2021, a change was made to the scheduled date for the outage to occur, with the new scheduled outage to occur on 6 January 2022.
6. Despite the requirement set out by subrule 124B(2)(a)(iv) of the Retail Rules to give customers requiring life support equipment at least 4 business days written notice of planned interruption to supply at the premises, Endeavour Energy failed to send new notifications to life support customers regarding the new scheduled outage date of 6 January 2022.
7. On 6 January 2022, Endeavour Energy conducted a planned interruption which interrupted the supply of electricity at the premises stated at paragraph 4 above between approximately 10.10am to 2.55pm.
8. Endeavour Energy did not give the customer at the premises stated at paragraph 4 at least 4 business days' notice of a planned interruption to supply at the premises.