

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.: AER28-2022

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 124(4)(b) 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 124(4)(b) 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: AER28-2022

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 “AER28-2022” 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 124(4)(b) of the Retail Rules provides as follows:

124 Registration of life support equipment

(4) Distributor obligations when advised by customer

When advised by a customer that a person residing or intending to reside at the customer's premises requires life support equipment, a distributor must:

(b) no later than 5 business days after receipt of advice from the customer, provide in writing to the customer:

- (i) a medical confirmation form;*
- (ii) information explaining that, if the customer fails to provide medical confirmation, the customer's premises may be deregistered and, if so, the customer will cease to receive the protections under this Part;*
- (iii) advice that there may be retailer planned interruptions under rule 59C to the supply at the address and that the retailer is required to notify them of these interruptions in accordance with rule 124B;*
- (iv) advice that there may be distributor planned interruptions or unplanned interruptions to the supply at the address and that the distributor is required to notify them of a distributor planned interruption in accordance with rule 124B;*
- (v) information to assist the customer to prepare a plan of action in the case of an unplanned interruption;*
- (vi) an emergency telephone contact number for the distributor and the retailer (the charge for which is no more than the cost of a local call); and*
- (vii) advice that if the customer decides to change retailer at the premises and a person residing at the customer's premises continues to require life support equipment, the customer should advise their new retailer of the requirement for life support equipment.*

2. Subrule 124(4)(b) of the Retail Rules, which is the subject of this Infringement Notice, 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 124(4)(b) 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 26 of the Retail Rules applied.
3. The relevant subrule is described in Schedule 1.

Relevant Conduct

4. On 4 May 2021, the customer advised Endeavour Energy that they required life support equipment at their premises [REDACTED].
5. Despite the requirement set out by subrule 124(4)(b) of the Retail Rules to provide in writing to the customer an information pack with the required documentation as per subrule (i)-(vii), no later than five business days after the customer advised that a person residing or intending to reside at the customer's premises requires life support equipment, Endeavour Energy did not send the customer the information pack with the required documentation until 9 August 2021.