

NATIONAL GAS LAW
SECTION 277
INFRINGEMENT NOTICES ISSUED TO
PELICAN POINT POWER LIMITED

TO: Pelican Point Power Limited (ARBN: 086 411 814)
Level 33, Rialto South Tower
525 Collins Street
Melbourne Victoria 3000

Infringement Notice Nos.: AER13-2021 to AER21-2021

1. The Australian Energy Regulator (**AER**):
 - a. has reason to believe that Pelican Point Power Limited (**PPPL**):
 - i. was a transportation facility user within the meaning of section 2 of the *National Gas Law* (**NGL**) on the occasions described in Schedules 2 to 10; and
 - ii. has breached rule 666(1) of the *National Gas Rules* (**NGR**) on nine (9) occasions, as described in Schedules 2 to 10 (**the alleged breaches**); and
 - b. has decided to serve these nine (9) Infringement Notices on PPPL under section 277 of the NGL.
2. Rule 666(1) of the NGR, as described in Schedule 1, is a civil penalty provision within the meaning of the NGL.
3. The infringement penalty is \$20,000 for each of the alleged breaches.
Note: If PPPL chooses to pay each of the nine (9) \$20,000 infringement penalties, the combined infringement penalty amount is \$180,000.

WHAT CAN PPPL DO IN RESPONSE TO THE
INFRINGEMENT NOTICES?

4. In respect of each one of these nine (9) Infringement Notices:
 - a. PPPL can choose whether or not to comply with the Infringement Notice. If PPPL chooses not to comply with the Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. PPPL is entitled to

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

- b. If PPPL chooses to comply with the Infringement Notice it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **28 July 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 **28 July 2021**.
- d. If PPPL 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the NGL.

HOW TO PAY AN INFRINGEMENT PENALTY

5. PPPL may pay each of the nine (9) \$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 and delivered 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. (AER13-2021 to AER21-2021) for each infringement penalty being paid in the description field 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. (AER13-2021 to AER21-2021) for each infringement penalty being paid in the description field 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. PPPL will be issued with a Tax Invoice following payment of each infringement penalty.

DATE OF ISSUE: 29 JUNE 2021



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Clare Savage

Chair

Australian Energy Regulator

SCHEDULE 1
RELEVANT RULES

1. Rule 666(1) of the NGR provides as follows:

(1) A transportation facility user for an auction facility who makes a material renomination as defined in subrule (2) for use on a gas day of a transportation service must make a contemporaneous record in relation to the renomination, which must include a record of:

(a) the material conditions and circumstances giving rise to the renomination;

(b) the transportation facility user's reasons for making the renomination, which must be verifiable and specific;

(c) the time at which the event or other occurrence giving rise to the renomination occurred; and

(d) the time at which the transportation facility user first became aware of the relevant event or other occurrence.

2. Rule 666(2) of the NGR provides for when a renomination is a material renomination for the purposes of rule 666(1) as follows:

(2) For the purpose of subrule (1), a renomination of a transportation facility user is a material renomination in relation to a gas day and transportation service if:

(a) the renomination is for:

(i) a transportation service taken into account in the calculation of an auction quantity limit; or

(ii) an auction service; and

(b) the renomination, either alone or when taken together with other renominations of the transportation facility user for that transportation service for the gas day (whether before or after the renomination) results in a variation of more than 10% to:

(i) except in the case of an auction service, the last day-ahead nomination of the transportation facility user for that transportation service before the nomination cut-off time applicable to the transportation service; or

(ii) in the case of an auction service, the initial nomination for use of the auction service.

3. Rule 666(1) of the NGR, which is the subject of this Infringement Notice, is a civil penalty provision under Schedule 3 of the *National Gas Regulations*.

SCHEDULE 2

INFRINGEMENT NOTICE No.: AER13-2021

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 666(1) OF THE NATIONAL GAS RULES

1. PPPL is a transportation facility user within the meaning of section 2 of the NGL in respect of the Moomba to Adelaide Pipeline System (**MAPS**).
2. The MAPS is an ‘auction facility’ within the meaning of rule 648 of the NGR.
3. For the gas day of 2 March 2020, PPPL made a renomination:
 - (a) which was for a transitional firm – authorised overrun service on the MAPS, being a transportation service taken into account in the calculation of an auction quantity limit;
 - (b) which resulted in a variation of more than 10% to the last day-ahead nomination which PPPL had made before the nomination cut-off time for the gas day of 2 March 2020; and
 - (c) for which no renomination record was made.
4. PPPL failed to make a contemporaneous record which included the matters referred to in rule 666(1) of the NGR in respect of the renomination referred to in paragraph 3.

Particulars

Gas day	Transportation service	Nominated amount (TJ)	Renominated amount (TJ)	Record
2 March 2020	Transitional firm – authorised overrun	0	4000	Did not make a renomination record

5. By making a material renomination for the purposes of rule 666(2) as described in paragraph 3 without making a contemporaneous record in relation to the material renomination as described in paragraph 4, PPPL has contravened rule 666(1) of the NGR which is a civil penalty provision.

SCHEDULE 3

INFRINGEMENT NOTICE No.: AER14-2021

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 666(1) OF THE NATIONAL GAS RULES

1. PPPL is a transportation facility user within the meaning of section 2 of the NGL in respect of the Moomba to Adelaide Pipeline System (**MAPS**).
2. The MAPS is an ‘auction facility’ within the meaning of rule 648 of the NGR.
3. For the gas day of 24 March 2020, PPPL made a renomination:
 - (a) which was for a transitional firm – authorised overrun service on the MAPS, being a transportation service taken into account in the calculation of an auction quantity limit;
 - (b) which resulted in a variation of more than 10% to the last day-ahead nomination which PPPL had made before the nomination cut-off time for the gas day of 24 March 2020; and
 - (c) for which no renomination record was made.
4. PPPL failed to make a contemporaneous record which included the matters referred to in rule 666(1) of the NGR in respect of the renomination referred to in paragraph 3.

Particulars

Gas day	Transportation service	Nominated amount (TJ)	Renominated amount (TJ)	Record
24 March 2020	Transitional firm – authorised overrun	0	3000	Did not make a renomination record

5. By making a material renomination for the purposes of rule 666(2) as described in paragraph 3 without making a contemporaneous record in relation to the material renomination as described in paragraph 4, PPPL has contravened rule 666(1) of the NGR which is a civil penalty provision.

SCHEDULE 4

INFRINGEMENT NOTICE No.: AER15-2021

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 666(1) OF THE NATIONAL GAS RULES

1. PPPL is a transportation facility user within the meaning of section 2 of the NGL in respect of the Moomba to Adelaide Pipeline System (**MAPS**).
2. The MAPS is an ‘auction facility’ within the meaning of rule 648 of the NGR.
3. For the gas day of 26 March 2020, PPPL made a renomination:
 - (a) which was for a transitional firm – authorised overrun service on the MAPS, being a transportation service taken into account in the calculation of an auction quantity limit;
 - (b) which resulted in a variation of more than 10% to the last day-ahead nomination which PPPL had made before the nomination cut-off time for the gas day of 26 March 2020; and
 - (c) for which no renomination record was made.
4. PPPL failed to make a contemporaneous record which included the matters referred to in rule 666(1) of the NGR in respect of the renomination referred to in paragraph 3.

Particulars

Gas day	Transportation service	Nominated amount (TJ)	Renominated amount (TJ)	Record
26 March 2020	Transitional firm – authorised overrun	0	3000	Did not make a renomination record

5. By making a material renomination for the purposes of rule 666(2) as described in paragraph 3 without making a contemporaneous record in relation to the material renomination as described in paragraph 4, PPPL has contravened rule 666(1) of the NGR which is a civil penalty provision.

SCHEDULE 5

INFRINGEMENT NOTICE No.: AER16-2021

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 666(1) OF THE NATIONAL GAS RULES

1. PPPL is a transportation facility user within the meaning of section 2 of the NGL in respect of the Port Campbell to Adelaide Pipeline (PCA).
2. The PCA is an 'auction facility' within the meaning of rule 648 of the NGR.
3. For the gas day of 17 March 2020, PPPL made a renomination:
 - (a) which was for a firm forward haul service on the PCA, being a transportation service taken into account in the calculation of an auction quantity limit;
 - (b) which resulted in a variation of more than 10% to the last day-ahead nomination which PPPL had made before the nomination cut-off time for the gas day of 17 March 2020; and
 - (c) for which no renomination record was made.
4. PPPL failed to make a contemporaneous record which included the matters referred to in rule 666(1) of the NGR in respect of the renomination referred to in paragraph 3.

Particulars

Gas day	Transportation service	Nominated amount (TJ)	Renominated amount (TJ)	Record
17 March 2020	Firm forward haul	8500	7000	Did not make a renomination record

5. By making a material renomination for the purposes of rule 666(2) as described in paragraph 3 without making a contemporaneous record in relation to the material renomination as described in paragraph 4, PPPL has contravened rule 666(1) of the NGR which is a civil penalty provision.

SCHEDULE 6

INFRINGEMENT NOTICE No.: AER17-2021

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 666(1) OF THE NATIONAL GAS RULES

1. PPPL is a transportation facility user within the meaning of section 2 of the NGL in respect of the Port Campbell to Adelaide Pipeline (PCA).
2. The PCA is an 'auction facility' within the meaning of rule 648 of the NGR.
3. For the gas day of 18 March 2020, PPPL made a renomination:
 - (a) which was for a firm forward haul service on the PCA, being a transportation service taken into account in the calculation of an auction quantity limit;
 - (b) which resulted in a variation of more than 10% to the last day-ahead nomination which PPPL had made before the nomination cut-off time for the gas day of 18 March 2020; and
 - (c) for which no renomination record was made.
4. PPPL failed to make a contemporaneous record which included the matters referred to in rule 666(1) of the NGR in respect of the renomination referred to in paragraph 3.

Particulars

Gas day	Transportation service	Nominated amount (TJ)	Renominated amount (TJ)	Record
18 March 2020	Firm forward haul	8434	7555	Did not make a renomination record

5. By making a material renomination for the purposes of rule 666(2) as described in paragraph 3 without making a contemporaneous record in relation to the material renomination as described in paragraph 4, PPPL has contravened rule 666(1) of the NGR which is a civil penalty provision.

SCHEDULE 7

INFRINGEMENT NOTICE No.: AER18-2021

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 666(1) OF THE NATIONAL GAS RULES

1. PPPL is a transportation facility user within the meaning of section 2 of the NGL in respect of the Port Campbell to Adelaide Pipeline (PCA).
2. The PCA is an 'auction facility' within the meaning of rule 648 of the NGR.
3. For the gas day of 21 March 2020, PPPL made a renomination:
 - (a) which was for a firm forward haul service on the PCA, being a transportation service taken into account in the calculation of an auction quantity limit;
 - (b) which resulted in a variation of more than 10% to the last day-ahead nomination which PPPL had made before the nomination cut-off time for the gas day of 21 March 2020; and
 - (c) for which no renomination record was made.
4. PPPL failed to make a contemporaneous record which included the matters referred to in rule 666(1) of the NGR in respect of the renomination referred to in paragraph 3.

Particulars

Gas day	Transportation service	Nominated amount (TJ)	Renominated amount (TJ)	Record
21 March 2020	Firm forward haul	8500	6000	Did not make a renomination record

5. By making a material renomination for the purposes of rule 666(2) as described in paragraph 3 without making a contemporaneous record in relation to the material renomination as described in paragraph 4, PPPL has contravened rule 666(1) of the NGR which is a civil penalty provision.

SCHEDULE 8

INFRINGEMENT NOTICE No.: AER19-2021

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 666(1) OF THE NATIONAL GAS RULES

1. PPPL is a transportation facility user within the meaning of section 2 of the NGL in respect of the Port Campbell to Iona Pipeline (**PCI**).
2. The PCI is an ‘auction facility’ within the meaning of rule 648 of the NGR.
3. For the gas day of 4 July 2019, PPPL made a renomination:
 - (a) which was for a firm forward haul service on the PCI, being a transportation service taken into account in the calculation of an auction quantity limit;
 - (b) which resulted in a variation of more than 10% to the last day-ahead nomination which PPPL had made before the nomination cut-off time for the gas day of 4 July 2019; and
 - (c) for which no renomination record was made.
4. PPPL failed to make a contemporaneous record which included the matters referred to in rule 666(1) of the NGR in respect of the renomination referred to in paragraph 3.

Particulars

Gas day	Transportation service	Nominated amount (TJ)	Renominated amount (TJ)	Record
4 July 2019	Firm forward haul	5333	4333	Did not make a renomination record

5. By making a material renomination for the purposes of rule 666(2) as described in paragraph 3 without making a contemporaneous record in relation to the material renomination as described in paragraph 4, PPPL has contravened rule 666(1) of the NGR which is a civil penalty provision.

SCHEDULE 9

INFRINGEMENT NOTICE No.: AER20-2021

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 666(1) OF THE NATIONAL GAS RULES

1. PPPL is a transportation facility user within the meaning of section 2 of the NGL in respect of the Port Campbell to Iona Pipeline (**PCI**).
2. The PCI is an ‘auction facility’ within the meaning of rule 648 of the NGR.
3. For the gas day of 8 July 2019, PPPL made a renomination:
 - (a) which was for a firm forward haul service on the PCI, being a transportation service taken into account in the calculation of an auction quantity limit;
 - (b) which resulted in a variation of more than 10% to the last day-ahead nomination which PPPL had made before the nomination cut-off time for the gas day of 8 July 2019; and
 - (c) for which no renomination record was made.
4. PPPL failed to make a contemporaneous record which included the matters referred to in rule 666(1) of the NGR in respect of the renomination referred to in paragraph 3.

Particulars

Gas day	Transportation service	Nominated amount (TJ)	Renominated amount (TJ)	Record
8 July 2019	Firm forward haul	8333	6333	Did not make a renomination record

5. By making a material renomination for the purposes of rule 666(2) as described in paragraph 3 without making a contemporaneous record in relation to the material renomination as described in paragraph 4, PPPL has contravened rule 666(1) of the NGR which is a civil penalty provision.

SCHEDULE 10

INFRINGEMENT NOTICE No.: AER21-2021

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 666(1) OF THE NATIONAL GAS RULES

1. PPPL is a transportation facility user within the meaning of section 2 of the NGL in respect of the Port Campbell to Iona Pipeline (**PCI**).
2. The PCI is an ‘auction facility’ within the meaning of rule 648 of the NGR.
3. For the gas day of 21 July 2019, PPPL made a renomination:
 - (a) which was for a firm forward haul service on the PCI, being a transportation service taken into account in the calculation of an auction quantity limit;
 - (b) which resulted in a variation of more than 10% to the last day-ahead nomination which PPPL had made before the nomination cut-off time for the gas day of 21 July 2019; and
 - (c) for which no renomination record was made.
4. PPPL failed to make a contemporaneous record which included the matters referred to in rule 666(1) of the NGR in respect of the renomination referred to in paragraph 3.

Particulars

Gas day	Transportation service	Nominated amount (TJ)	Renominated amount (TJ)	Record
21 July 2019	Firm forward haul	12000	10104	Did not make a renomination record

5. By making a material renomination for the purposes of rule 666(2) as described in paragraph 3 without making a contemporaneous record in relation to the material renomination as described in paragraph 4, PPPL has contravened rule 666(1) of the NGR which is a civil penalty provision.