

NATIONAL ENERGY RETAIL LAW

SECTION 308

INFRINGEMENT NOTICE ISSUED TO

ICON DISTRIBUTION INVESTMENTS LIMITED AND JEMENA NETWORKS (ACT) PTY LTD, CARRYING ON A BUSINESS AS ACTEWAGL DISTRIBUTION

**TO: Icon Distribution Investments Pty Ltd and Jemena Networks (ACT) Pty Ltd
Carrying on a business as "ActewAGL Distribution"
40 Bunda Street
Canberra ACT 2600**

Infringement Notice No.: AER 26-2015

1. The Australian Energy Regulator (AER):

(a) has reason to believe that Icon Distribution Investments Limited (ABN 83 073 025 224) and Jemena Networks (ACT) Pty Ltd (ABN 24 008 552 663), carrying on a business as ActewAGL Distribution (ABN 76 670 568 688) (ActewAGL Distribution) which is a distributor within the meaning of the National Energy Retail Law (ACT) (Retail Law), has breached rule 125(2)(c) of the National Energy Retail Rules (Retail Rules), in the manner set out in Schedule 1 to this Infringement Notice (the alleged breach); and

(b) has decided to serve this Infringement Notice on ActewAGL Distribution under section 277 of the National Gas (ACT) 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 125(2) of the Retail Rules is a civil penalty provision within the meaning of the Retail Law.**
- 3. The infringement penalty is \$20,000. Only one penalty is payable in relation to this notice.**

WHAT CAN ACTEWAGL DISTRIBUTION DO IN RESPONSE TO THIS INFRINGEMENT NOTICE?

- 4. ActewAGL Distribution can choose whether or not to comply with this Infringement Notice. If ActewAGL Distribution chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. ActewAGL Distribution is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.**
- 5. If ActewAGL Distribution chooses to comply with this Infringement Notice, it must pay the infringement penalty by 8 January 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 8 January 2016.**
- 7. If ActewAGL Distribution pays the infringement penalty within the compliance period, the AER will not institute proceedings in respect of the first 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 DOES ACTEWAGL DISTRIBUTION PAY THE INFRINGEMENT PENALTY?

8. ActewAGL Distribution may pay the \$20,000 infringement penalty in two 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 5 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: AER06-2015

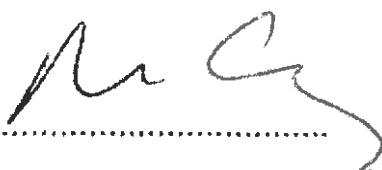
you should allow at least 2 business days for payment to be received.

- * The Australian Competition and Consumer Commission (ACCC) handles the receipt of infringement penalty payments for the AER 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. ActewAGL Distribution will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: 25 November 2015



Paula Conboy
Chair
Australian Energy Regulator

SCHEDULE 1

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 125(2)(c) OF THE NATIONAL ENERGY RETAIL RULES

1. ActewAGL Distribution is a 'distributor' within the meaning of section 2 of the National Energy Retail Law.
2. From about 1 October 2014 to 1 July 2015, 473 customers residing in the Australian Capital Territory, registered their premises as having life support equipment.
3. By reason of rule 125(1) of the Retail Rules, ActewAGL Distribution was required to comply with rule 125(2) of the Retail Rules in relation to each of the 473 customers.
4. Pursuant to rule 125(2)(c) of the Retail Rules, ActewAGL Distribution was required to give the customers, at the time of registering the premises as having life support:
 - (i) general advice that there may be a planned or *unplanned interruption* to the supply at the address; and
 - (ii) information to assist the customer to prepare a plan of action in case of an *unplanned interruption*; and
 - (iii) an emergency telephone contact number for the distributor (the charge for which is no more than the cost of a local call).
5. From about 1 October 2014 to 2 July 2015, ActewAGL Distribution failed to give the customers any advice, information or contact numbers as required by rule 125(2)(c) of the Retail Rules.