

NATIONAL ENERGY RETAIL LAW
SECTION 308
INFRINGEMENT NOTICE ISSUED TO
ENERGEX LIMITED (ABN: 40 078 849 055)

TO: Energex Limited (ABN: 40 078 849 055)
26 Reddacliff Street
NEWSTEAD QLD 4006

Infringement Notice No.: AER19-2018

1. The Australian Energy Regulator (AER):
 - a. has reason to believe that Energex Limited (ABN 40 078 849 055) (**Energex**), a *distributor* within the meaning of the *National Energy Retail Law (Queensland) (Retail Law)*, has breached rule 125(2)(f) 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 Energex under section 277 of the *National Gas (Queensland) 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.

**WHAT CAN ENERGEX DO IN RESPONSE TO THIS
INFRINGEMENT NOTICE?**

4. Energex can choose whether or not to comply with this Infringement Notice. If Energex chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Energex is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If Energex chooses to comply with this Infringement Notice, it must pay the infringement penalty by **8 January 2019**, 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 2019**.

7. If Energex 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.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. Energex 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: AER19-2018

you should allow at least 2 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. Energex will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: 29 November 2018



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Jim Cox
Board Member
Australian Energy Regulator

SCHEDULE 1

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

1. Energex is a 'distributor' within the meaning of section 2 of the Retail Law.
2. On 22 October 2017, the customer's retailer advised Energex that a person residing at the premises at [REDACTED] (the premises), required life support equipment.
3. Further, by reason of subrule 3(b) of Section 2 of Part 9 of Schedule 3 of the Retail Rules, a registered life support customer's retailer is taken to have advised the distributor for the purposes of rule 125(1)(a) that a person residing at the customer's premises requires life support equipment.
4. By reason of rule 125(1) of the Retail Rules, Energex was required to comply with rule 125(2) of the Retail Rules in relation to the premises.
5. Pursuant to rule 125(2)(f) of the Retail Rules, Energex was required to give the customer at the premises at least 4 business days' written notice of any distributor planned interruptions to the supply at the premises.
6. At or about 10.05am on 24 May 2018, Energex conducted a distributor planned interruption which interrupted the supply of electricity to the premises.
7. Energex did not give the customer at the premises at least 4 business days' written notice of a distributor planned interruption to supply at the premises.