

NATIONAL ENERGY RETAIL LAW

SECTION 308

INFRINGEMENT NOTICE ISSUED TO

RED ENERGY PTY LIMITED

TO: Red Energy Pty Limited (ACN 107 479 372)  
c/o Snowy Hydro Trading Pty Limited  
AMP Centre  
Level 37, 50 Bridge Street  
SYDNEY NSW 2000

Infringement Notice No.: AER03-2016

1. The Australian Energy Regulator (AER):
  - (a) has reason to believe that Red Energy Pty Limited (ACN 107 479 372), a *retailer* within the meaning of the *National Energy Retail Law (Retail Law)*, has breached rule 48(2) of the National Energy 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 Red Energy Pty Limited 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 48(2) of the National Energy Retail Rules is a civil penalty provision within the meaning of the Retail Law.
3. The infringement penalty is \$20,000.

WHAT CAN RED ENERGY PTY LIMITED DO IN RESPONSE TO THIS  
INFRINGEMENT NOTICE?

4. Red Energy Pty Limited can choose whether or not to comply with this Infringement Notice. Red Energy Pty Limited chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Red Energy Pty Limited is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If Red Energy Pty Limited chooses to comply with this Infringement Notice, it must pay the infringement penalty by **7 March 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 **7 March 2016**.
7. If Red Energy Pty Limited 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withdrawn before the end of the compliance period in accordance with section 282 of the National Gas Law as applied by section 308 of the Retail Law.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 DOES RED ENERGY PTY LIMITED PAY THE INFRINGEMENT PENALTY?**

8. Red Energy Pty Limited 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: AER03-2016

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. Red Energy Pty Limited will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: 2 February 2016



Paula Conboy  
Chair  
Australian Energy Regulator

## SCHEDULE 1

### MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 48(2) OF THE NATIONAL ENERGY RETAIL RULES

1. Red Energy Pty Limited (ACN 107 479 372) (**Red Energy**) is a 'retailer' within the meaning of section 2 of the National Energy Retail Law (**Retail Law**).
2. By reason of sub rule 48(2) of the Retail Rules, Red Energy must, in accordance with rule 48, send small customers in South Australia with a fixed term retail contract written notice that their fixed term retail contract is due to end.
3. Sub rule 48(4) of the Retail Rules, requires that the notice sent by Red Energy must state:
  - i. details of the prices, terms and conditions applicable to the sale of energy under a deemed customer retail arrangement; and
  - ii. the customers' options for establishing a customer retail contract (including the availability of a standing offer); and
  - iii. the consequences for the customer if the customer does not enter into a customer retail contract (whether with that or another retailer), including the entitlement of the retailer to arrange for the de-energisation of the premises and details of the process for de-energisation.
4. From about 1 February 2014 until around October 2014, the notice Red Energy sent to its customers with fixed term retail contracts due to end failed to include any of the information required by sub rule 48(4) as described at paragraph 3.
5. From around October 2014 until August 2015, the notice Red Energy sent to its customers with fixed term retail contracts due to end failed to include the information about the consequences for the customer if the customer does not enter into a customer retail contract (whether with that or another retailer), including the entitlement of the retailer to arrange for the de-energisation of the premises and details of the process for de-energisation, as required by sub rule 48(4).
6. By reason of the conduct described at paragraphs 4 and 5, Red Energy contravened rule 48(2).