

**NATIONAL GAS LAW**

**SECTION 277**

**INFRINGEMENT NOTICE ISSUED TO**

**EPIC ENERGY SOUTH AUSTRALIA PTY LTD**

**TO: Epic Energy South Australia Pty Ltd (ACN 068 599 815)**  
**26 High Street**  
**DRY CREEK SA 5094**

**Infringement Notice No.: AER01-2013**

1. The Australian Energy Regulator (**AER**):
  - (a) has reason to believe that Epic Energy South Australia Pty Ltd (**Epic Energy**), being an allocation agent and an STTM facility operator within the meaning of the *National Gas Rules* (**NGR**), has breached rule 369 of the NGR, as described in Schedule 1 to this Infringement Notice (**the alleged breach**); and
  - (b) has decided to serve this Infringement Notice on Epic Energy under section 277 of the *National Gas Law* (**NGL**).
2. Rule 369 of the NGR is a civil penalty provision within the meaning of the NGL.
3. The infringement penalty is \$20,000.

**WHAT CAN EPIC ENERGY DO IN RESPONSE TO THIS  
INFRINGEMENT NOTICE?**

4. Epic Energy can choose whether or not to comply with this Infringement Notice. If Epic Energy chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Epic Energy is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If Epic Energy chooses to comply with this Infringement Notice, it must pay the infringement penalty. Payment of the infringement penalty must be received by the AER between the date this infringement notice is served and on or before 31 January 2014 (**the compliance period**).
6. If Epic 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period.

## HOW DOES EPIC ENERGY PAY THE INFRINGEMENT PENALTY?

7. Epic Energy 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: AER01-2013

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

\* Please note that the AER is a constituent part of the Australian Competition and Consumer Commission (ACCC). The ACCC handles the receipt of infringement penalty payments for the AER.

8. Please allow sufficient time for your payment to be received within the compliance period.
9. Epic Energy will be issued with a Tax Invoice following payment of the \$20,000 infringement penalty.

DATE OF ISSUE: December 20 2013

  
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Andrew Reeves  
Chair  
Australian Energy Regulator

## **SCHEDULE 1**

### **MATTERS CONSTITUTING AN ALLEGED BREACH OF A RELEVANT CIVIL PENALTY PROVISION**

1. Epic Energy is a Short Term Trading Market (**STTM**) pipeline operator and an allocation agent for the purposes of the NGR in respect of the Moomba to Adelaide Pipeline System (**MAP**). The MAP is an STTM pipeline and an STTM facility for the purposes of the NGR.

#### **Relevant rules**

2. As an allocation agent for the MAP, rule 419(1) of the NGR requires Epic Energy to give the Australian Energy Market Operator (**AEMO**) an allocation notice for the immediately preceding gas day, no later than 4.5 hours after the start of each gas day. Under rule 419(2) of the NGR, that allocation notice must contain for the relevant gas day, among other things:
  - (i) the STTM facility allocation for the MAP for the relevant gas day, and
  - (ii) the quantities of market operator service (**MOS**) allocated to the MAP for the relevant gas day.
3. Further, for such an allocation notice, rule 369 of the NGR requires Epic Energy to:
  - (i) prepare or submit that allocation notice to AEMO; and
  - (ii) if applicable, maintain any equipment from which the information or data contained in that allocation notice is derived,in accordance with good gas industry practice.
4. Rule 364 of the NGR provides that ‘good gas industry practice’ means ‘the practices, methods and acts that would reasonably be expected from experienced and competent persons engaged in the business of providing natural gas services in Australia, acting with all due skill, diligence, prudence and foresight and in compliance with all applicable legislation (including [the NGR]), authorisations and industry codes of practice’.

#### **Relevant conduct**

5. For the gas days of 29 June 2013 and 1, 2, 5, 6, 8, 9, 10, 11, 12, 13, 14 and 15 July 2013 (**the relevant gas days**), Epic Energy:
  - (i) did not prepare and submit an allocation notice to AEMO; and
  - (ii) further, did not maintain some of the equipment from which the information or data contained in those allocation notices was derived,in accordance with good gas industry practice, namely, Epic Energy failed to put in place appropriate governance processes and failed to properly implement, review and test the IT

systems required for operating in the STTM and to protect against known risks of the information or data from which the allocation was derived being incorrect.

### PARTICULARS

- a. On or about the dates and times specified in Table 1, the allocations of gas (including MOS) specified in the allocation notices for each of the relevant gas days were incorrect.
- b. On 17 July 2013, Epic Energy submitted revised allocation notices to AEMO at or about the times specified in Table 1.

**Table 1**

<b>Gas day</b>	<b>Submission time of allocation notice</b>	<b>Allocations of gas (including MOS)</b>	<b>Submission time of revised allocation notice</b>	<b>Corrected allocations of gas (including MOS)</b>
29 June 2013	30 June 2013, 09:10	26880 GJ	17 July 2013, 23:28	24937 GJ
1 July 2013	2 July 2013, 09:10	32836 GJ	17 July 2013, 23:29	25254 GJ
2 July 2013	3 July 2013, 09:10	33211 GJ	17 July 2013, 23:29	33131 GJ
5 July 2013	6 July 2013, 09:10	32944 GJ	17 July 2013, 23:29	29136 GJ
6 July 2013	7 July 2013, 09:10	34184 GJ	17 July 2013, 23:29	32865 GJ
8 July 2013	9 July 2013, 09:10	37767 GJ	17 July 2013, 23:29	33383 GJ
9 July 2013	10 July 2013, 09:10	56522 GJ	17 July 2013, 23:29	51539 GJ
10 July 2013	11 July 2013, 09:10	53450 GJ	17 July 2013, 23:29	49241 GJ
11 July 2013	12 July 2013, 09:10	34750 GJ	17 July 2013, 23:29	30808 GJ
12 July 2013	13 July 2013, 09:10	33615 GJ	17 July 2013, 23:29	29527 GJ
13 July 2013	14 July 2013, 09:10	32515 GJ	17 July 2013, 23:29	24143 GJ
14 July 2013	15 July 2013, 09:10	39054 GJ	17 July 2013, 23:29	26775 GJ
15 July 2013	16 July 2013, 09:11	41503 GJ	17 July 2013, 23:29	28811 GJ

- c. At the time Epic Energy had submitted these allocation notices to AEMO for the relevant gas days, it was known to Epic Energy that a loose connection on a resistor in the relevant flow computer was a system fault that could give rise to incorrect allocations of gas (including MOS) being specified in an allocation notice. Epic Energy knew this because on 4 April 2012 Epic Energy had informed the AER that allocations of gas (including MOS) specified in allocation notices given to AEMO on 28 and 29 January 2012 and 4, 5, 6, 7 and 8 February 2012 were incorrect and Epic Energy identified that the reason for the error was a loose connection on a resistor in the relevant flow computer.

- d. At the time Epic Energy had submitted these allocation notices to AEMO for the relevant gas days, it was also known to Epic Energy that any error caused by such a system fault would be identified if conditional alarms were installed with the result that any information or data derived from its system for the purposes of an allocation notice would be correct. Epic Energy knew this because:
  - (i) On 4 April 2012, Epic Energy informed the AER that these conditional alarms would be finalised through a change control process by 30 April 2012.
  - (ii) Epic Energy informed the AER in November 2012 that these conditional alarms had been installed, as part of its response to an audit questionnaire to STTM pipeline operators conducted by the AER.
  - (iii) On 6 August 2013, Epic Energy informed the AER that in fact no conditional alarms were installed at these times.
- e. Epic Energy's conduct in failing to prepare and submit correct allocations of gas (including MOS) in the allocation notices on the relevant gas was not in accordance with good gas industry practice, namely that the conduct was not of the kind that would be reasonably expected from experienced and competent persons engaged in the business of providing natural gas services in Australia, acting with all due skill, diligence, prudence and foresight, in accordance with good gas industry practice.