
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)
Level 8
60 Collins Street
MELBOURNE VIC 3000

Infringement Notice No.: AER01-2012

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 set out 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 within 28 days beginning on the day after the day on which this Infringement Notice is issued (**the compliance period**).
6. To ensure payment is made in accordance with this Infringement Notice, payment must be received on or before 29 June 2012.
7. 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the NGL.

HOW DOES EPIC ENERGY PAY THE INFRINGEMENT PENALTY?

8. 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: AER01-2012


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.

9. Please allow sufficient time for your payment to be received within the compliance period.

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

DATE OF ISSUE: 1 June 2012

.....

Andrew Reeves
Chair
Australian Energy Regulator

SCHEDULE 1

MATTERS CONSTITUTING AN ALLEGED BREACH OF A RELEVANT CIVIL PENALTY PROVISION

1. Epic Energy is an STTM pipeline operator and an allocation agent for the purposes of NGR in respect of the Moomba to Adelaide Pipeline System (MAP), being an STTM pipeline and an STTM facility for the purposes of the NGR.
2. As an allocation agent for the MAP, Epic Energy is required by rule 419(1) of the NGR to give AEMO an allocation notice for each gas day. Rule 419(2)(a) of the NGR requires that the allocation notice must contain for each registered facility service that is provided by means of the MAP:
 - (i) the STTM facility allocation for the MAP for the relevant gas day, and
 - (ii) the quantities of MOS allocated to the MAP for the relevant gas day.
3. On 25 October 2011 at or about 9:10am, Epic Energy submitted an allocation notice to AEMO for the MAP which contained inaccurate data for the 24 October 2011 gas day. According to the allocation notice:
 - 3.1. Total allocations of gas to the Adelaide STTM hub (including any MOS) was 23.47 terajoules (TJ).
 - 3.2. Total allocated MOS concerning the Adelaide STTM hub was 6.394TJ of decrease MOS.
4. Epic Energy informed AEMO and the AER on 28 October 2011 that it had discovered a formula error which resulted in its submission of allocation notices for the MAP containing incorrect overall allocation volumes, including incorrect MOS quantities, between November 2010 and October 2011. Epic Energy stated that its formula failed to take into account quantities of gas that were backhauled out of the Adelaide STTM hub when calculating the quantities of gas delivered to the Adelaide STTM hub through the MAP. Epic informed the AER that this error resulted in the submission of allocation notices containing inaccurate data for 90 gas days between November 2010 and 28 October 2011, including the allocation notice for the 24 October 2011 gas day.
5. On 16 November 2011, Epic Energy submitted to AEMO a revised allocation notice for the 24 October 2011 gas day. The revised allocation notice stated that the correct STTM allocations and MOS quantities were:
 - 5.1. Total allocations of gas to the Adelaide STTM hub (including any MOS) was 33.47TJ.
 - 5.2. Total allocated MOS concerning the Adelaide STTM hub was 3.606TJ of increase MOS.

6. Under rule 369 of the NGR, Epic Energy, as a person required under rule 419(1) of the NGR to give AEMO an allocation notice for each gas day, must prepare and submit the information or data in accordance with good gas industry practice.
7. Under rule 364 of the NGR, “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 these rules), authorisations and industry codes of practice.
8. In preparing and submitting the allocation notice for the 24 October 2011 gas day containing inaccurate data, Epic Energy’s conduct was not in accordance with that which 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 that Epic Energy failed to have in place an appropriate governance process for the implementation of IT systems required for operating in the Short Term Trading Market and failed properly to review and test the IT systems.
9. Accordingly, the AER has reason to believe that Epic Energy has breached rule 369 of the NGR in respect of its submission of an allocation notice for the MAP for the 24 October 2011 gas day.