

NATIONAL GAS LAW

SECTION 277

INFRINGEMENT NOTICE ISSUED TO JEMENA NORTHERN GAS PIPELINE PTY LTD (ACN: 607 928 790)

TO: Jemena Northern Gas Pipeline Pty Ltd
Level 16, 567 Collins Street
Melbourne VIC 3000

Infringement Notice No.: AER2023/21

1. The Australian Energy Regulator (AER):
 - a. believes on reasonable grounds that Jemena Northern Gas Pipeline Pty Ltd (ACN: 607 928 790) (JNGP) has breached section 223 of the National Gas Law (NGL) in the manner set out in Schedule 2 to this Infringement Notice (**the alleged breach**); and
 - b. has decided to serve this Infringement Notice on JNGP under section 277 of the NGL.
2. Section 223 of the NGL is a tier two civil penalty provision within the meaning of the NGL and National Gas (South Australia) Regulations.
3. The infringement penalty is \$67,800.

WHAT CAN JNGP DO IN RESPONSE TO THIS INFRINGEMENT NOTICE?

4. JNGP can choose whether or not to comply with this Infringement Notice. If JNGP chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. JNGP is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If JNGP chooses to comply with this Infringement Notice, it must pay the Infringement Notice penalty to the AER, on behalf of the Commonwealth, by **19 December 2023**, being not less than 28 days after 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 **19 December 2023**.
7. If JNGP pays the infringement penalty within the compliance period, the AER will not institute proceedings in respect of the alleged breaches unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the NGL.

HOW TO PAY AN INFRINGEMENT PENALTY

8. JNGP may pay the \$67,800 infringement penalty in three 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 five 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: AER2023/21

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

or

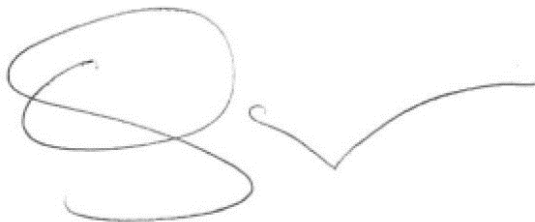
- c. **by credit card via the ACCC online payment system at**
www.accc.gov.au/payments.*

Please ensure that you include AER2023/21 in the Payment Description field of your online payment to identify payment.

You should allow at least two business days for payment to be received.

- * The Australian Competition and Consumer Commission handles 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. JNGP will be issued with a tax invoice following payment of each infringement penalty.

DATE OF ISSUE: 20 November 2023



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Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1
RELEVANT LAW, RULES AND PROCEDURES

NGL

1. Section 223 of the NGL in force during the relevant times provided:
 - (1) *A person of the following kind who has possession or control of information in relation to natural gas services must give AEMO the information if the person is required to do so under the Rules:*
 - (a) *a service provider;*
 - (b) *a person who determines the allocation of deliveries or receipts of natural gas;*
 - (c) *a user;*
 - (d) *a non scheme pipeline user;*
 - (e) *a producer;*
 - (f) *a storage provider;*
 - (g) *another person who is prescribed by the Regulations for the purposes of this paragraph.*
 - (2) *The information must be given to AEMO in accordance with the Rules.*
2. Section 223 of the NGL, which is the subject of this Infringement Notice, is a tier two civil penalty provision under Regulation 6 and Schedule 3 of the *National Gas (South Australia) Regulations*.
3. Section 8 of the NGL in force during the relevant times provided:
 - (1) *A service provider is a person who—*
 - (a) *owns, controls or operates; or*
 - (b) *intends to own, control or operate, a pipeline or scheme pipeline, or any part of a pipeline or scheme pipeline.*

National Gas Rules (NGR)

1. Rule 141 of the NGR in force during the relevant times provided:

short term capacity outlook means: (a) for a BB facility, on any gas day, the facility operator's good faith estimate of the daily capacity of the BB facility for each of gas days D+1 to D+7.
2. Rule 178(1) of the NGR in force during the relevant times provided:

A BB reporting entity must provide to AEMO a short term capacity outlook for each of its BB facilities.
3. Rule 166(2) of the NGR in force during the relevant times provided:

Where this Part requires a BB reporting entity to provide information to AEMO, the information must be provided by the BB reporting entity in the manner and form specified in, and otherwise in accordance with, the BB Procedures.

BB Procedures

4. Procedure 7.4.1. of the Bulletin Board Procedures that applied during the relevant times provided:

Rule 178(1) requires each BB reporting entity to provide to AEMO a short term capacity outlook for each of its BB facilities.

- (d) *Each short term capacity outlook should take account of short term changes to the availability and performance of plant that is materially impacting or will materially impact daily capacity during the 7-day outlook period.*
- (e) *Each BB reporting entity must ensure that the short term capacity outlook for the next 7- day period published on the Bulletin Board reasonably reflects the BB reporting entity's knowledge of the plant capability and availability over that time. Production facility operators must also take account of any short term trends in gas field performance if this is constraining or will constrain overall daily capacity within the relevant period.*

SCHEDULE 2

Infringement Notice No.: AER2023/21

MATTERS CONSTITUTING AN ALLEGED BREACH OF A TIER 2 CIVIL PENALTY PROVISION: RULE 223 OF THE NATIONAL GAS LAW

1. JNGP is a:
 - a. 'service provider' pursuant to section 8 of the NGL as it owns, controls and operates the Northern Gas Pipeline;
 - b. 'facility operator' registered under Part 18 of the NGR for the Northern Gas Pipeline; and
 - c. 'BB reporting entity' under Part 18 of the NGR for the Northern Gas Pipeline.
2. The Northern Gas Pipeline is a registered 'BB facility' under Part 18 of the NGR.
3. The Relevant Law, Rules and Procedures are described in Schedule 1.

Relevant Conduct

4. Between 8 to 15 February 2022, a maintenance event occurred on the Northern Gas Pipeline (NGP) for inspection activities at the Philip Creek Compressor Station (**maintenance event**). The impact of the maintenance event on the daily capacity of the NGP was 26TJ/d. The nameplate capacity of the NGP was 106TJ/d.
5. On 2 February 2022, JNGP provided a short term capacity outlook to AEMO for the NGP that stated the daily capacity of the NGP on 9 February 2022 was 106 TJ/d. This was inaccurate as the daily capacity on 9 February 2022 would be 80TJ/d due to the commencement of the maintenance event.
6. At the time the short term capacity outlook was submitted to AEMO, JNGP was aware the daily capacity of the NGP would be impacted as a result of the maintenance event.
7. Rule 178 required JNGP to provide to AEMO a short term capacity outlook for the NGP on 2 February 2022. JNGP did not provide this information in accordance with clauses 7.4.1(d) and (e) of the BB Procedures as the short term capacity outlook provided on 2 February 2022 did not take account of changes to the availability and performance that would materially impact daily capacity of the NGP and did not reflect JNGP's knowledge of the NGP capability and availability, in contravention of rule 166(2) of the NGR. By contravening rule 166(2), JNGP did not give to AEMO information in its possession or control in relation to natural gas services in accordance with the NGR, in contravention of section 223 of the NGL.