

**NATIONAL ENERGY RETAIL LAW**

**SECTION 308**

**INFRINGEMENT NOTICE ISSUED TO**

**ERGON ENERGY QUEENSLAND PTY LTD**

**(ACN: 121 177 802)**

**TO: Ergon Energy Queensland Pty Ltd  
420 Flinders Street  
TOWNSVILLE QLD 4810**

**Infringement Notice No.: AER02-2024**

1. The Australian Energy Regulator (**AER**):
  - a. believes on reasonable grounds that Ergon Energy Queensland Pty Ltd (ACN: 121 177 802) (**Ergon**), which is a *retailer* within the meaning of the *National Energy Retail Law (Queensland)* (**Retail Law**),<sup>1</sup> has breached rule 125 of the *National Energy Retail Rules* (**Retail Rules**), 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 Ergon 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.<sup>2</sup>
2. Rule 125 of the Retail Rules is a tier one civil penalty provision within the meaning of the National Energy Retail Regulations.
3. The infringement penalty is \$67,800.

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

4. Ergon can choose whether or not to comply with this Infringement Notice. If Ergon chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Ergon is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If Ergon chooses to comply with this Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **2 May 2024**, being not less than

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<sup>1</sup> The National Energy Retail Law, contained in a Schedule in the *National Energy Retail Law (South Australia) Act 2011*, is applied (with modifications) as a law of Queensland by the *National Energy Retail Law (Queensland) Act 2014*.

<sup>2</sup> Pursuant to section 308 of the Retail Law, the provisions of Part 7 of Chapter 8 of the National Gas Law apply in relation to civil penalty provisions under the Retail Law in the same way as they apply in relation to civil penalty provisions in the National Gas Law.

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 **2 May 2024**.
7. If Ergon 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. Ergon 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: AER02-2024

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](http://www.accc.gov.au/payments).\*

Please ensure that you include “AER02-2024” 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 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. Ergon will be issued with a Tax Invoice following payment of the infringement penalty.

DATE OF ISSUE: 28 March 2024

A handwritten signature in black ink, appearing to be 'CS', with a long horizontal flourish extending to the right.

.....  
Clare Savage  
Chair  
Australian Energy Regulator

## SCHEDULE 1

### RELEVANT RULE

1. Rule 125 of the Retail Rules provides as follows:

#### **125 Deregistration of premises**

- (1) A retailer or distributor may only deregister a customer's premises in the circumstances permitted under this rule 125.
- (2) If a customer's premises is deregistered:
  - (a) by a retailer, the retailer must, within 5 business days of the date of deregistration, notify the distributor of the date of deregistration and reason for deregistration;
  - (b) by a distributor, the distributor must, within 5 business days of the date of deregistration, notify the retailer of the date of deregistration and reason for deregistration; and
  - (c) the retailer and the distributor must update their registrations under subrules 124(1)(a), 124(3), 124(4)(a) and 124(5) as required by rule 126.

[...]

#### **Deregistration where medical confirmation not provided**

- (4) Where a customer, whose premises have been registered by a retailer under subrule 124(1)(a) (and subrule 124(2) does not apply), fails to provide medical confirmation, the retailer may deregister the customer's premises only when:
  - (a) the retailer has complied with the requirements under rule 124A;
  - (b) the retailer has taken reasonable steps to contact the customer in connection with the customer's failure to provide medical confirmation in one of the following ways:
    - (i) in person;
    - (ii) by telephone; or
    - (iii) by electronic means;
  - (c) the retailer has provided the customer with a deregistration notice no less than 15 business days from the date of issue of the second confirmation reminder notice issued under subrule 124A(1)(d); and
  - (d) the customer has not provided medical confirmation before the date for deregistration specified in the deregistration notice.

2. Rule 125 of the Retail Rules, which is the subject of this Infringement Notice, is a tier 1 civil penalty provision under Regulation 6 and Schedule 1 of the National Energy Retail Regulations.

## SCHEDULE 2

### MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 125(4)(c) OF THE NATIONAL ENERGY RETAIL RULES

1. Ergon is a retailer within the meaning of the Retail Law.
2. During the relevant period of the alleged breach, versions 28-33 of the Retail Rules applied.
3. The relevant Rule is described in Schedule 1, which is substantially the same in these versions.

#### Relevant Conduct

4. On 11 January 2021, [REDACTED] (**the customer**) advised Ergon that it required life support equipment at its premises ([REDACTED]). Ergon registered that a person residing at the customer's premises required life support equipment in accordance with subrule 124(4)(a) of the Retail Rules.
5. During the period of 13 January 2021 and 24 August 2021, Ergon failed to provide the customer with required information under subrule 124(1)(b) within 5 business days, and Ergon subsequently arranged to deregister the customer under subrule 125(4)(c) without providing the customer with the required deregistration notices.
6. Despite the requirement set out by subrule 125(1) of the Retail Rules to only deregister a customer's premises in the circumstances permitted under rule 125, Ergon failed to do so in accordance with any of the permitted circumstances.
7. On 24 August 2021, Ergon deregistered the customer's premises in breach of the requirements in rule 125 of the Retail Rules.