

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.: AER03-2024

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**),¹ has breached subrule 124(1)(a) 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.²
2. Subrule 124(1)(a) 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

¹ 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*.

² 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: AER03-2024

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.*

Please ensure that you include “AER03-2024” 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 grey 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. Subrule 124(1)(a) of the Retail Rules provides as follows:

124 Registration of life support equipment

(1) Retailer obligations when advised by customer

When advised by a customer that a person residing or intending to reside at the customer's premises requires *life support equipment*, a retailer must:

- (a) register that a person residing or intending to reside at the customer's premises requires *life support equipment* and the date from which the *life support equipment* is required.

2. Subrule 124(1)(a) of the NERR, which is the subject of this Infringement Notice, is a tier 1 civil penalty provision under Clause 6 and Schedule 1 of the National Energy Retail Regulations.

SCHEDULE 2

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 124(1)(a) OF THE NATIONAL ENERGY RETAIL RULES

1. Ergon is a retailer within the meaning of the Retail Law.
2. Between 28 November 2022 and 3 January 2023, versions 35 and 36 of the Retail Rules applied.
3. The relevant subrule is described in schedule 1.

Relevant Conduct

4. On 28 November 2022, [REDACTED] (**the customer**) advised Ergon that a person residing or intending to reside at the customer's premises ([REDACTED]) requires life support equipment.
5. Despite the requirement set out in subrule 124(1)(a) of the Retail Rules that a retailer must register that a person residing or intending to reside at the customer's premises requires life support equipment, Ergon did not register that a person residing or intending to reside at the customer's premises requires life support equipment until 3 January 2023.