

NATIONAL ELECTRICITY LAW
SECTION 74
INFRINGEMENT NOTICES ISSUED TO
LOCALITY PLANNING ENERGY PTY LTD (ACN: 148 958 061)

TO: Locality Planning Energy Pty Ltd (ACN: 148 958 061)
Level 8, 8 Market Lane
Maroochydore QLD 4558

Infringement Notice Nos.: INF-20240006 and INF-20240007

1. The Australian Energy Regulator (**AER**):
 - a. believes on reasonable grounds that Locality Planning Energy Pty Ltd (ACN: 148 958 061) (**LPE**), has breached section 11(2) of the *National Electricity (South Australia) Law (NEL)*:¹
 - i. in respect of the distribution system at the site known as ‘Coolamon Churches of Christ Stage 2 Bribie Island’, located at 38 Cotterill Avenue, Bongaree QLD 4507 in the manner set out in Schedule 2; and
 - ii. in respect of the distribution system at the site known as ‘Tribeca CTS 31103’, located at 292 Boundary Street, Spring Hill QLD 4000 in the manner set out in Schedule 3;
(the alleged breaches); and
 - b. has decided to serve these two Infringement Notices on LPE under section 74 of the NEL.
2. Section 11(2) of the NEL, as described in Schedule 1, is a civil penalty provision within the meaning of the NEL.
3. The infringement penalty is \$67,800 for each of the alleged breaches.

Note: If LPE chooses to pay each of the two (2) \$67,800 infringement penalties, the combined infringement penalty amount is \$135,600.

**WHAT CAN LPE DO IN RESPONSE TO THE
INFRINGEMENT NOTICES?**

4. In respect of each one of these two (2) Infringement Notices:
 - a. LPE can choose whether or not to comply with the Infringement Notice.

¹ The NEL is set out in the Schedule to the *National Electricity (South Australia) Act 1996* and applies relevantly as a law of Queensland pursuant to section 6 of the *Electricity – National Scheme (Queensland) Act 1997*.

- b. If LPE chooses not to comply with the Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. LPE is entitled to disregard the Infringement Notice and to defend any proceedings in respect of the alleged breach.
- c. If LPE chooses to comply with the Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **27 September 2024 (the compliance period)**.
- d. To ensure payment is made in accordance with the Infringement Notice, payment must be received on or before the compliance period.
- e. If LPE 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 79 of the NEL.

HOW DOES LPE PAY AN INFRINGEMENT PENALTY?

5. LPE may pay each of the two (2) infringement penalties totalling \$135,600 in three ways:

- a. by cheque made out to the “ACCC Official Administered Account”,* enclosing a copy of the 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

Please ensure that you include the Infringement Notice No. INF-20240006 and/or INF-20240007 for each infringement penalty being paid in the description field of your electronic funds transfer to identify payment.

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 the Infringement Notice No. INF-20240006 and/or INF-20240007 for each infringement penalty being paid in the description field of your electronic funds transfer 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.
6. Please allow sufficient time for your payment to be received within the compliance period.
 7. LPE will be issued with a Tax Invoice following payment of each infringement penalty.

DATE OF ISSUE: 26 August 2024



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Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1

RELEVANT RULES

1. Section 11(2) of the NEL provides as follows:

11—Electricity market activities in this jurisdiction

- (2) *A person must not engage in the activity of owning, controlling or operating, in this jurisdiction, a transmission system or distribution system that forms part of the interconnected national electricity system or that forms part of, or is directly or indirectly connected to, a regulated stand-alone power system unless—*
 - (a) *the person is a Registered participant in relation to that activity; or*
 - (b) *the person is the subject of a derogation that exempts the person, or is otherwise exempted by the AER, from the requirement to be a Registered participant in relation to that activity under this Law and the Rules.*

2. Section 2 of the NEL defines:

Registered participant to mean *a person who is registered as such by AEMO under this Law and the Rules or is registered as such by AEMO otherwise in accordance with the Rules.*

distribution system to mean *the apparatus, electric lines, equipment, plant and buildings used to convey or control the conveyance of electricity that the Rules specify as, or as forming part of, a distribution system and includes a regulated stand-alone power system to the extent provided by the Rules.*

interconnected national electricity system to mean *the interconnected transmission and distribution system in this jurisdiction and in the other participating jurisdictions used to convey and control the conveyance of electricity to which are connected—*

- (a) *generating systems and other facilities; and*
- (b) *loads settled through the wholesale exchange operated and administered by AEMO under this Law and the Rules.*

3. Section 11(2) of the NEL, which is the subject of these Infringement Notices, is prescribed under the *National Electricity (South Australia) Regulations* (regulation 6(1), Schedule 1) as being a tier one civil penalty provision within the meaning of the *National Electricity (South Australia) Regulations*.

SCHEDULE 2

INFRINGEMENT NOTICE No.: INF-20240006

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: SECTION 11(2) OF THE NATIONAL ELECTRICITY LAW

1. LPE is, and was at all relevant times, a ‘person’ to whom section 11(2) of the NEL applied.
2. Between at least 2 August 2021 and 11 July 2022 (the **Relevant Period**), LPE engaged in the activity of owning assets comprising the embedded network at the site known as ‘Coolamon Churches of Christ Stage 2 Bribie Island’, located at 38 Cotterill Avenue, Bongaree QLD 4507 (the **Coolamon Site**). Those assets included at least:
 - a. one parent market meter;
 - b. 83 residential three-phase electric meters; and
 - c. one common area three phase meter,(together, the **Coolamon Assets**).
3. Throughout the Relevant Period, the Coolamon Assets were used by LPE to convey, or control the conveyance of, electricity at the Coolamon Site, and together constituted a ‘distribution system’ within the meaning of section 2 of the NEL. That distribution system also formed part of the ‘interconnected national electricity system’ within the meaning of section 2 of the NEL.
4. At all relevant times, LPE was not:
 - a. a ‘Registered participant’ (within the meaning of section 2 of the NEL) in relation to the activity of owning the distribution system comprising the Coolamon Assets; or
 - b. the subject of a derogation that exempted LPE, or otherwise exempted by the AER, from the requirement to be a ‘Registered participant’ in relation to the activity of owning the distribution system comprising the Coolamon Assets.
5. In the premises of paragraphs 1 to 4 above, it is alleged that LPE breached section 11(2) of the NEL during the period from 2 August 2021 until 11 July 2022 by engaging in the activity of owning a distribution system that forms part of the interconnected national electricity system at the Coolamon Site (being the Coolamon Assets) without being:
 - a. a ‘Registered participant’ in relation to that activity; or
 - b. the subject of a derogation which exempted LPE, or otherwise exempted by the AER, from the requirement to be a ‘Registered participant’ in relation to that activity.

SCHEDULE 3

INFRINGEMENT NOTICE No.: INF-20240007

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: SECTION 11(2) OF THE NATIONAL ELECTRICITY LAW

1. LPE is, and was at all relevant times, a ‘person’ to whom section 11(2) of the NEL applied.
2. Between at least 29 January 2021 and 11 July 2022 (the **Relevant Period**), LPE engaged in the activity of owning assets comprising the embedded network at the site known as ‘Tribeca CTS 31103’, located at 292 Boundary Street, Spring Hill QLD 4000 (the **Tribeca Site**). Those assets included, at least:
 - a. one parent market meter; and
 - b. 63 child meters,(together, the **Tribeca Assets**).
3. Throughout the Relevant Period, the Tribeca Assets were used by LPE to convey, or control the conveyance of, electricity at the Tribeca Site, and together constituted a ‘distribution system’ within the meaning of section 2 of the NEL. That distribution system also formed part of the ‘interconnected national electricity system’ within the meaning of section 2 of the NEL.
4. At all relevant times, LPE was not:
 - a. a ‘Registered participant’ (within the meaning of section 2 of the NEL) in relation to the activity of owning the distribution system comprising the Tribeca Assets; or
 - b. the subject of a derogation that exempted LPE, or otherwise exempted by the AER, from the requirement to be a ‘Registered participant’ in relation to the activity of owning the distribution system comprising the Tribeca Assets.
5. In the premises of paragraphs 1 to 4 above, it is alleged that LPE breached section 11(2) of the NEL during the period from 29 January 2021 until 11 July 2022 by engaging in the activity of owning a distribution system that forms part of the interconnected national electricity system at the Tribeca Site (being the Tribeca Assets) without being:
 - a. a ‘Registered participant’ in relation to that activity; or
 - b. the subject of a derogation which exempted LPE, or otherwise exempted by the AER, from the requirement to be a ‘Registered participant’ in relation to that activity.