

NATIONAL ENERGY RETAIL LAW
SECTION 308
INFRINGEMENT NOTICES ISSUED TO
ORIGIN ENERGY ELECTRICITY LIMITED

TO: Origin Energy Electricity Limited (ACN: 071 052 287)
Tower 1, Level 32
100 Barangaroo Avenue
BARANGAROO NSW 2000

Infringement Notice Nos.: INF-20240004, INF-20240005

1. The Australian Energy Regulator (**AER**):
 - a. believes on reasonable grounds that Origin Energy Electricity Limited (**ACN: 071 052 287**) (**Origin**), which is a *retailer* within the meaning of the *National Energy Retail Law (Retail Law)*¹, has breached rule 31(1) of the *National Energy Retail Rules (Retail Rules)*, on two occasions, as described in Schedules 2 and 3 (**the alleged breaches**); and
 - b. has decided to serve these two Infringement Notices on Origin under section 277 of the *National Gas 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. Rule 31(1) of the Retail Rules, as described in Schedule 1, is a tier 2 civil penalty provision within the meaning of the Retail Law.
3. The infringement penalty is \$67,800 for each of the alleged breaches.
Note: If Origin chooses to pay each of the two (2) \$67,800 infringement penalties, the combined infringement penalty amount is \$135,600.

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

4. In respect of each one of these two (2) Infringement Notices:
 - a. Origin can choose whether or not to comply with the Infringement Notice. If Origin chooses not to comply with the Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. Origin is

¹ The "Retail Law" is contained at Schedule 1 to the *National Energy Retail Law (South Australia) Act 2011 (SA)*. The *National Energy Retail Law (Adoption) Act 2012 (NSW)* applies the Retail Law (subject to modifications) in the state of New South Wales; the *National Energy Retail Law (Queensland) Act 2014* (subject to modifications) applies the Retail Law in the state of Queensland.

entitled to disregard the Infringement Notice and to defend any proceedings in respect of the alleged breach.

- b. If Origin 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**, being not less than 28 days from the date of service of the Infringement Notice, beginning on the day after the day on which the Infringement Notice is served (**the compliance period**).
- c. To ensure payment is made in accordance with the Infringement Notice, payment must be received on or before **27 September 2024**.
- d. If Origin 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 PENALTY

- 5. Origin may pay each of the two (2) \$67,800 infringement penalties 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-20240004 and/or INF-20240005 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-20240004 and/or INF-20240005 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. Origin will be issued with a Tax Invoice following payment of each infringement penalty.

DATE OF ISSUE: 23 August 2024



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Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1
RELEVANT RULES

1. Rule 31(1) of the Retail Rules provides as follows:

Where a small customer has been overcharged by an amount equal to or above the overcharge threshold, the retailer must inform the customer accordingly within 10 business days after the retailer becomes aware of the overcharging.

2. Rule 31(1) of the Retail Rules, which is the subject of these Infringement Notices, is prescribed under the National Energy Retail Regulations (reg 6, Schedule 1) as being a tier 2 civil penalty provision within the meaning of the Retail Law.

3. Rule 31(6) of the Retail Rules provides as follows:

The overcharge threshold is \$50 or such other amount as the AER determines under subrule (7).

4. Rule 31(7) of the Retail Rules provides as follows:

The AER may from time to time determine a new overcharge threshold in accordance with the retail consultation procedure.

5. A different amount for the overcharge threshold has not been determined by the Australian Energy Regulator pursuant to rule 31(7).

SCHEDULE 2

INFRINGEMENT NOTICE No.: INF-20240004

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 31(1) OF THE NATIONAL ENERGY RETAIL RULES

1. Origin Energy Electricity Limited (**Origin**) is, and was at all relevant times, a retailer within the meaning of the Retail Law.
2. During the relevant period of the alleged breach, versions 26 to 36 of the Retail Rules applied.
3. The relevant Rule is described in Schedule 1, which is the same in versions 26 to 36 of the Retail Rules.

Relevant conduct

4. Between at least the period 20 May 2021 to 16 March 2023, [REDACTED] (**the customer**) was a small customer of Origin within the meaning of the Retail Law.
5. On 20 May 2021, Origin issued the customer a bill for supply of electricity at premises located at [REDACTED], for which Origin overcharged the customer by \$4317.16. The amount the customer was overcharged was above the overcharge threshold.
6. Origin became aware of the overcharge on 19 November 2021, which is the date Origin amended the bill to reflect the correct amount to charge the customer.
7. Origin informed the customer of the overcharge on 16 March 2023, which is the date Origin issued an amended bill to the customer.
8. The time between the date Origin became aware of the overcharge (19 November 2021) and the date Origin informed the customer of the overcharge (16 March 2023) exceeded 10 business days.
9. By failing to inform the small customer of the overcharge above the overcharge threshold within 10 business days after Origin became aware of the overcharging, namely by 3 December 2021, Origin has contravened the requirements in rule 31(1) of the Retail Rules.

SCHEDULE 3

INFRINGEMENT NOTICE No.: INF-20240005

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: RULE 31(1) OF THE NATIONAL ENERGY RETAIL RULES

1. Origin Energy Electricity Limited (**Origin**) is, and was at all relevant times, a retailer within the meaning of the Retail Law.
2. During the relevant period of the alleged breach, versions 28 to 36 of the Retail Rules applied.
3. The relevant Rule is described in Schedule 1, which is the same in versions 28 to 36 of the Retail Rules.

Relevant conduct

4. Between at least the period 17 August 2021 to 11 May 2023, [REDACTED] (**the customer**) was a small customer of Origin within the meaning of the Retail Law.
5. On 17 August 2021, Origin issued the customer a bill for supply of electricity at premises located at [REDACTED] for which Origin overcharged the customer by \$2885.28. The amount the customer was overcharged was above the overcharge threshold.
6. Origin became aware of the overcharge on 20 September 2021, which is the date Origin amended the bill to reflect the correct amount to charge the customer.
7. Origin informed the customer of the overcharge on 11 May 2023, which is the date Origin issued an amended bill to the customer.
8. The time between the date Origin became aware of the overcharge (20 September 2021) and the date Origin informed the customer of the overcharge (11 May 2023) exceeded 10 business days.
9. By failing to inform the small customer of the overcharge above the overcharge threshold within 10 business days after Origin became aware of the overcharging, namely by 5 October 2021, Origin has contravened the requirements in rule 31(1) of the Retail Rules.