

NATIONAL ELECTRICITY LAW

SECTION 74

INFRINGEMENT NOTICE ISSUED TO

ENERGYAUSTRALIA PTY LTD (ACN: 086 014 968)

TO: EnergyAustralia Pty Ltd (ACN: 086 014 968)
Level 33
385 Bourke Street
Melbourne VIC 3000

Infringement Notice No.: AER11-2019

1. The Australian Energy Regulator (**AER**):
 - a. has reason to believe that EnergyAustralia Pty Ltd (ACN: 086 014 968) (**EnergyAustralia**):
 - i. was at 19 January 2018 the 'Market Participant' within the meaning of clause 2.4.1(a) of the *National Electricity Rules* (**NER**) that was financially responsible for the connection point attached to the National Meter Identifier (**NMI**) to which this notice relates (the **financially responsible market participant**); and
 - ii. has breached clause 11.86.7(h) of the NER in the manner set out in Schedule 1 to this Infringement Notice (**the alleged breach**); and
 - b. has decided to serve this Infringement Notice on EnergyAustralia under section 74 of the *National Electricity (South Australia) Law* (**NEL**).
2. Clause 11.86.7(h) of the NER is a civil penalty provision within the meaning of the NEL.
3. The infringement penalty is \$20,000.

WHAT CAN ENERGYAUSTRALIA DO IN RESPONSE TO THIS INFRINGEMENT NOTICE?

4. EnergyAustralia can choose whether or not to comply with this Infringement Notice. If EnergyAustralia chooses not to comply with this Infringement Notice, the AER may commence proceedings against it in relation to the alleged breach. EnergyAustralia is entitled to disregard this Infringement Notice and to defend any proceedings in respect of the alleged breach.
5. If EnergyAustralia chooses to comply with this Infringement Notice, it must pay the infringement penalty to the AER, on behalf of the Commonwealth, by **24 January 2020**, being not less than 39 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 **24 January 2020**.
7. If EnergyAustralia 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period, the AER will not institute proceedings in respect of the alleged breach unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 79 of the NEL.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 TO PAY AN INFRINGEMENT NOTICE

8. EnergyAustralia may pay the \$20,000 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

- a. by electronic funds transfer to the following account:*

Account name: ACCC Official Administered Account
BSB: 032-730
Account: 146550
Description: AER11-2019

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

or


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

Please ensure that you include “AER11-2019” 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. EnergyAustralia will be issued with a Tax Invoice following payment of the infringement penalty.

DATE OF ISSUE: 16 December 2019



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Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION: CLAUSE 11.86.7(h) OF THE NATIONAL ELECTRICITY RULES

1. As at 19 January 2018 EnergyAustralia was the financially responsible market participant for the NMI [REDACTED]
2. Under clause 11.86.7(h) of the NER, a financially responsible market participant which receives notice of a metering installation malfunction under clause 11.86.7(g)(3) of the NER must promptly appoint a Metering Coordinator (MC).
3. On 19 January 2018 EnergyAustralia received notice of a metering installation malfunction under clause 11.86.7(g)(3) of the NER for the NMI [REDACTED]
4. On 1 February 2018 EnergyAustralia appointed a MC for the NMI [REDACTED]
5. This delay was not reasonable in the circumstances and does not satisfy the obligation on EnergyAustralia to act promptly when it receives notice of the metering installation malfunction.
6. Accordingly, EnergyAustralia breached clause 11.86.7(h) of the NER for the NMI [REDACTED].