

NATIONAL GAS LAW

SECTION 277

INFRINGEMENT NOTICE ISSUED TO

ENERGYAUSTRALIA PTY LTD (ACN: 086 014 968)

TO: EnergyAustralia Pty Ltd (ACN: 086 014 968)
Level 19, Two Melbourne Quarter
697 Collins Street
DOCKLANDS VIC 3008

Infringement Notice No.: AER08-2023

1. The Australian Energy Regulator (AER):
 - a. believes on reasonable grounds that EnergyAustralia Pty Ltd (**ACN: 086 014 968**) (**EnergyAustralia**), a Trading Participant within the meaning of the *National Gas Rules (NGR)* being the Schedule to the *National Gas (South Australia) Act 2008 (NGL)*, has breached rule 410(1) of the NGR 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 277 of the National Gas Law (**NGL**).
2. Rule 410(1) of the NGR is a tier one civil penalty provision within the meaning of the NGL.
3. The infringement penalty is \$67,800.

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 Notice penalty to the AER, on behalf of the Commonwealth, by 26 June 2023, being not less than 28 days after 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 26 June 2023.
7. If EnergyAustralia pays the infringement penalty within the compliance period, the AER will not institute proceedings in respect of the alleged breaches unless the Infringement Notice is withdrawn before the end of the compliance period in accordance with section 282 of the NGL.

HOW TO PAY AN INFRINGEMENT PENALTY

8. EnergyAustralia 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: AER08-2023

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 “AER08-2023” in the 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 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: 29 May 2023



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Clare Savage
Chair
Australian Energy Regulator

SCHEDULE 1

MATTERS CONSTITUTING AN ALLEGED BREACH OF A CIVIL PENALTY PROVISION

1. At all relevant times EnergyAustralia Pty Ltd (**EnergyAustralia**) was a 'Trading Participant' within the meaning of rule 364 of the NGR.

Relevant Rules

2. Rule 410(1) of the NGR provides:

If a Trading Participant expects to supply quantities of natural gas to, or withdraw quantities of natural gas from, a hub on a gas day, the Trading Participant must submit to AEMO in good faith:

(a) ex ante offers, ex ante bids or price taker bids for that gas day that reflect; or

(b) revisions to an earlier ex ante offer, ex ante bid or price taker bid for that gas day so as to reflect,

the Trading Participant's best estimate of the quantities of natural gas it expects to supply or withdraw on that gas day, as at each of the times specified in subrule (2).

3. Rule 410(2) of the NGR provides:

Any submissions required in accordance with subrule (1) must be made no later than:

(a) 7.5 hours after the start of the gas day that is 3 gas days before the relevant gas day; and

(b) if revised or not previously submitted, 7.5 hours after the start of the gas day that is 2 gas days before that gas day; and

(c) if revised or not previously submitted, 5.5 hours after the start of the gas day before that gas day.

4. Rule 410(1) of the NGR is a tier 1 civil penalty provision within the meaning of the NGL.

Relevant Conduct

5. In respect of the gas day of 12 April 2021 (the **Relevant Gas Day**):
 - a. EnergyAustralia expected to withdraw a quantity of gas from the Sydney hub;
 - b. EnergyAustralia held that expectation at the time of 7.5 hours after the start of the gas day before the Relevant Gas Day (**GD-2**); and
 - c. EnergyAustralia did not submit a price taker bid for the Relevant Gas Day by no later than 7.5 hours after the start of GD-2.
6. It is alleged that, by failing to submit a price taker bid in relation to the Relevant Gas Day, EnergyAustralia contravened rule 410(1) of the NGR, a civil penalty provision.