

Energy industry penalty notice

Essential Services Commission Act 2001 (Vic) section 54G

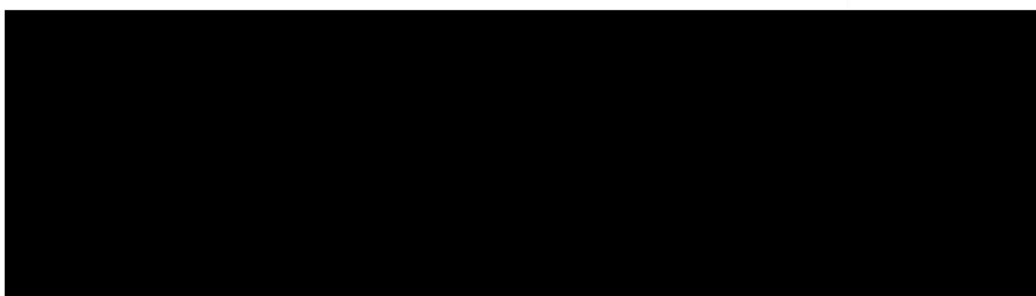
To: Momentum Energy Pty Limited
Level 12
628 Bourke Street
Melbourne VIC 3000

Energy industry penalty notice number: EIPN(E) 37-2019

1. This notice is dated 7 October 2019.
2. The Essential Services Commission (the Commission) alleges that Momentum Energy Pty Limited (ABN 42 100 569 159) (Momentum Energy) has engaged in conduct that constitutes an energy industry contravention within the meaning of section 54F of the Essential Services Commission Act 2001 (Vic) (ESC Act). The nature, and a brief description, of the alleged energy industry contravention are detailed in Schedule 1 to this energy industry penalty notice.
3. The Commission formed the belief that Momentum Energy had engaged in the conduct that constitutes the alleged energy industry contravention on Wednesday 2 October 2019.
4. The amount of the energy industry penalty is \$15,000 as provided by section 54I of the ESC Act and Regulation 5 of the Essential Services Commission (Energy Industry Penalty Regime) Regulations 2016 (Vic).

How to pay the energy industry penalty

5. The \$15,000 energy industry penalty is payable by **Monday 11 November 2019**.
6. Momentum Energy may pay the energy industry penalty by electronic funds transfer to the following account:



7. Please allow at least two business days for payment to be received and notify the Commission once payment has been made.

What can Momentum Energy do in response to this energy industry penalty notice?

8. Momentum Energy can choose whether or not to pay this energy industry penalty notice.
9. If Momentum Energy pays the amount of the energy industry penalty before the end of the time specified in this energy industry penalty notice, the Commission will not take relevant enforcement action in relation to the alleged energy industry contravention unless the energy industry penalty notice is withdrawn before the end of that time in accordance with section 54N of the ESC Act.
10. Momentum Energy is entitled to disregard this energy industry penalty notice and to defend any proceedings relating to the alleged energy industry contravention.
11. If Momentum Energy chooses not to pay this energy industry penalty, the Commission may apply to the Supreme Court of Victoria for an order under section 54S of the ESC Act.



Kate Symons
Chairperson
Essential Services Commission

Schedule 1 – Details of the conduct and alleged energy industry contravention

1. Momentum Energy holds an electricity retail licence issued by the Commission.
2. Clause 14.1 of the electricity retail licence held by Momentum Energy obliged Momentum Energy to comply with the requirements of the Energy Retail Code (the code).
3. Clause 31(1) of the code provides that 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.
4. The Commission has reason to believe that on 30 May 2018 Momentum Energy became aware that it had overcharged the following customer an amount above the overcharging threshold:
 - NMI: [REDACTED]
 - Momentum Energy account number: [REDACTED]
 - Amount overcharged: \$767.26
5. Momentum Energy did not inform this customer of the overcharging until 2 July 2018, more than 10 business days after 30 May 2018.
6. A failure to comply with the requirements of clause 31(1) of the code is a contravention of a prescribed condition of an energy licence in a prescribed circumstance under section 54F of the ESC Act, by reason of Regulation 5 of the Essential Services Commission (Energy Industry Penalty Regime) Regulations 2016 (Vic) (made under section 65 of the ESC Act), as applied by Schedule 1, Table 6, Item 1.
7. The applicable penalty amount is \$15,000.