



**ESSENTIAL SERVICES COMMISSION ACT 2001 (VICTORIA)**

**SECTION 54G**

**ENERGY INDUSTRY PENALTY NOTICE SERVED ON**

**ALINTA ENERGY RETAIL SALES PTY LTD (ABN: 22 149 658 300)**

**TO: ALINTA ENERGY RETAIL SALES PTY LTD  
(ABN: 22 149 658 300)  
'Grosvenor Place' Level 13,  
225 George Street, SYDNEY NSW 2000**

Energy Industry Penalty Notice Number: **ESC EIPN(G) 11-2018**

**ISSUE and SERVICE of ENERGY INDUSTRY PENALTY NOTICE**

1. The Essential Services Commission (**Commission**) has reason to believe that Alinta Energy Retail Sales Pty Ltd trading as Alinta Energy (**Alinta 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**) as detailed in schedule 1 to this Energy Industry Penalty Notice.
2. The Commission formed the belief on 20 June 2018 that Alinta Energy had engaged in the conduct that constitutes the alleged energy industry contravention.
3. The Commission has decided to issue and serve this Energy Industry Penalty Notice on Alinta Energy under sections 54G and 54K of the ESC Act.
4. The energy industry penalty is \$20,000 (as provided by section 54I of the ESC Act).

**WHAT CAN ALINTA ENERGY DO IN RESPONSE TO THIS ENERGY INDUSTRY PENALTY NOTICE?**

5. Alinta Energy can choose whether or not to comply with this Energy Industry Penalty Notice. If Alinta Energy chooses not to comply with this Energy Industry Penalty Notice, the Commission may commence proceedings against it in relation to the alleged breach. Alinta Energy is entitled to disregard this Energy Industry Penalty Notice and to defend any proceedings in respect of the alleged breach in the Supreme Court of Victoria.
6. If Alinta Energy chooses to comply with this Energy Industry Penalty Notice, it must pay the energy industry penalty by 26 July 2018, being not less than 28 days from the date of service of this Energy Industry Penalty Notice, beginning on the day after the day on which this Energy Industry Penalty Notice is served.
7. To ensure payment is made in accordance with this Energy Industry Penalty Notice, payment must be received on or before 26 July 2018.

8. If Alinta 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.

#### HOW TO PAY THE ENERGY INDUSTRY PENALTY

9. Alinta Energy may pay the \$20,000 energy industry penalty by **26 July 2018**, being not less than 28 days after the date on which this Energy Industry Penalty Notice is served.
10. Alinta Energy must pay the \$20,000 energy industry penalty by electronic funds transfer to the following account:



Please state the Energy Industry Penalty Notice Number in the transaction details to assist us in matching the payment received.

11. Alinta Energy should allow sufficient time for payment of the \$20,000 energy industry penalty to be received **on or before 26 July 2018**.

DATE OF NOTICE: 26 June 2018

A handwritten signature in black ink, appearing to be 'Ron Ben-David', written over a dotted line.

Dr Ron Ben-David  
Chairperson  
Essential Services Commission

## SCHEDULE 1

### DETAILS OF THE CONDUCT AND ALLEGED ENERGY INDUSTRY CONTRAVENTION

#### Gas Customer Transfer without Explicit Informed Consent

1. Alinta Energy is a 'retailer' within the meaning of clause 57(1) of the Energy Retail Code (Version 11) (**the Code**).
2. The requirements imposed by clause 8.1 of its Gas Retail Licence, obliged Alinta Energy to comply with the requirements of the Code.
3. Clause 57 (1) of the Code required that Alinta Energy must not submit a request for the transfer of a residential customer under the relevant Retail Market Procedures unless
  - (a) Alinta Energy had obtained the explicit informed consent from the customer to enter into the relevant customer retail contract; and
  - (b) Alinta Energy had a customer retail contract in place to enable the sale of electricity to the customer at their premises.
4. On 7 September 2016, Alinta Energy submitted a request for the transfer of a residential customer:
  - (a) MIRN: [REDACTED]
  - (b) Name (fictional or real) and address: [REDACTED], Ormond, Victoria
  - (c) Account number: [REDACTED]
 without having obtained the explicit informed consent from the customer to enter into Alinta Energy's relevant customer retail contract known by the plan name "Fair Deal 35".
5. Alinta Energy transferred the customer's MIRN, [REDACTED], without the explicit informed consent, or any knowledge, of the customer.
6. A failure to comply with the requirements of clause 57(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 Regulations 2016 (Vic)* (made under section 65 of the ESC Act), as applied by Schedule 1, Table 4, Column 1, item 1.



**ESSENTIAL SERVICES COMMISSION ACT 2001 (VICTORIA)**

**SECTION 54G**

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**ALINTA ENERGY RETAIL SALES PTY LTD (ABN: 22 149 658 300)**

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(ABN: 22 149 658 300)  
'Grosvenor Place' Level 13,  
225 George Street, SYDNEY NSW 2000**

Energy Industry Penalty Notice Number: **ESC EIPN(G) 12-2018**

**ISSUE and SERVICE of ENERGY INDUSTRY PENALTY NOTICE**

1. The Essential Services Commission (**Commission**) has reason to believe that Alinta Energy Retail Sales Pty Ltd trading as Alinta Energy (**Alinta 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**) as detailed in schedule 1 to this Energy Industry Penalty Notice.
2. The Commission formed the belief on 20 June 2018 that Alinta Energy had engaged in the conduct that constitutes the alleged energy industry contravention.
3. The Commission has decided to issue and serve this Energy Industry Penalty Notice on Alinta Energy under sections 54G and 54K of the ESC Act.
4. The energy industry penalty is \$20,000 (as provided by section 54I of the ESC Act).

**WHAT CAN ALINTA ENERGY DO IN RESPONSE TO THIS ENERGY INDUSTRY PENALTY NOTICE?**

5. Alinta Energy can choose whether or not to comply with this Energy Industry Penalty Notice. If Alinta Energy chooses not to comply with this Energy Industry Penalty Notice, the Commission may commence proceedings against it in relation to the alleged breach. Alinta Energy is entitled to disregard this Energy Industry Penalty Notice and to defend any proceedings in respect of the alleged breach in the Supreme Court of Victoria.
6. If Alinta Energy chooses to comply with this Energy Industry Penalty Notice, it must pay the energy industry penalty by 26 July 2018, being not less than 28 days from the date of service of this Energy Industry Penalty Notice, beginning on the day after the day on which this Energy Industry Penalty Notice is served.
7. To ensure payment is made in accordance with this Energy Industry Penalty Notice, payment must be received on or before 26 July 2018.

8. If Alinta 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.

#### HOW TO PAY THE ENERGY INDUSTRY PENALTY

9. Alinta Energy may pay the \$20,000 energy industry penalty by **26 July 2018**, being not less than 28 days after the date on which this Energy Industry Penalty Notice is served.
10. Alinta Energy must pay the \$20,000 energy industry penalty by electronic funds transfer to the following account:



Please state the Energy Industry Penalty Notice Number in the transaction details to assist us in matching the payment received.

11. Alinta Energy should allow sufficient time for payment of the \$20,000 energy industry penalty to be received **on or before 26 July 2018**.

DATE OF NOTICE: 26 June 2018

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Dr Ron Ben-David  
Chairperson  
Essential Services Commission

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2. The requirements imposed by clause 8.1 of its Gas Retail Licence, obliged Alinta Energy to comply with the requirements of the Code.
3. Clause 57 (1) of the Code required that Alinta Energy must not submit a request for the transfer of a residential customer under the relevant Retail Market Procedures unless
  - (a) Alinta Energy had obtained the explicit informed consent from the customer to enter into the relevant customer retail contract; and
  - (b) Alinta Energy had a customer retail contract in place to enable the sale of electricity to the customer at their premises.
4. On 5 October 2016, Alinta Energy submitted a request for the transfer of a residential customer:
  - (a) MIRN: [REDACTED]
  - (b) Name (fictional or real) and address: [REDACTED], Warrnambool, Victoria
  - (c) Account number: [REDACTED]
 without having obtained the explicit informed consent from the customer to enter into Alinta Energy's relevant customer retail contract known by the plan name "Fair Deal 35".
5. Alinta Energy transferred the customer's MIRN, [REDACTED], without the explicit informed consent, or any knowledge, of the customer.
6. A failure to comply with the requirements of clause 57(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 Regulations 2016 (Vic)* (made under section 65 of the ESC Act), as applied by Schedule 1, Table 4, Column 1, item 1.



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(ABN: 22 149 658 300)  
'Grosvenor Place' Level 13,  
225 George Street, SYDNEY NSW 2000**

Energy Industry Penalty Notice Number: **ESC EIPN(G) 13-2018**

**ISSUE and SERVICE of ENERGY INDUSTRY PENALTY NOTICE**

1. The Essential Services Commission (**Commission**) has reason to believe that Alinta Energy Retail Sales Pty Ltd trading as Alinta Energy (**Alinta 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**) as detailed in schedule 1 to this Energy Industry Penalty Notice.
2. The Commission formed the belief on 20 June 2018 that Alinta Energy had engaged in the conduct that constitutes the alleged energy industry contravention.
3. The Commission has decided to issue and serve this Energy Industry Penalty Notice on Alinta Energy under sections 54G and 54K of the ESC Act.
4. The energy industry penalty is \$20,000 (as provided by section 54I of the ESC Act).

**WHAT CAN ALINTA ENERGY DO IN RESPONSE TO THIS ENERGY INDUSTRY PENALTY NOTICE?**

5. Alinta Energy can choose whether or not to comply with this Energy Industry Penalty Notice. If Alinta Energy chooses not to comply with this Energy Industry Penalty Notice, the Commission may commence proceedings against it in relation to the alleged breach. Alinta Energy is entitled to disregard this Energy Industry Penalty Notice and to defend any proceedings in respect of the alleged breach in the Supreme Court of Victoria.
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7. To ensure payment is made in accordance with this Energy Industry Penalty Notice, payment must be received on or before 26 July 2018.

8. If Alinta 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.

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Dr Ron Ben-David  
Chairperson  
Essential Services Commission



**SCHEDULE 1****DETAILS OF THE CONDUCT AND ALLEGED ENERGY INDUSTRY CONTRAVENTION****Gas Customer Transfer without Explicit Informed Consent**

1. Alinta Energy is a 'retailer' within the meaning of clause 57(1) of the Energy Retail Code (Version 11) (**the Code**).
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  - (a) Alinta Energy had obtained the explicit informed consent from the customer to enter into the relevant customer retail contract; and
  - (b) Alinta Energy had a customer retail contract in place to enable the sale of electricity to the customer at their premises.
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  - (a) MIRN: [REDACTED]
  - (b) Name (fictional or real) and address: [REDACTED], Warragul, Victoria
  - (c) Account number: [REDACTED]without having obtained the explicit informed consent from the customer to enter into Alinta Energy's relevant customer retail contract known by the plan name "Fair Deal 35".
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225 George Street, SYDNEY NSW 2000**

Energy Industry Penalty Notice Number: **ESC EIPN(G) 14-2018**

**ISSUE and SERVICE of ENERGY INDUSTRY PENALTY NOTICE**

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4. On 7 October 2016, Alinta Energy submitted a request for the transfer of a residential customer:
  - (a) MIRN: [REDACTED]
  - (b) Name (fictional or real) and address: [REDACTED], Morwell, Victoria
  - (c) Account number: [REDACTED]
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  - (a) Alinta Energy had obtained the explicit informed consent from the customer to enter into the relevant customer retail contract; and
  - (b) Alinta Energy had a customer retail contract in place to enable the sale of electricity to the customer at their premises.
4. On 17 October 2016, Alinta Energy submitted a request for the transfer of a residential customer:
  - (a) MIRN: [REDACTED]
  - (b) Name (fictional or real) and address: [REDACTED], Morwell, Victoria
  - (c) Account number: [REDACTED]without having obtained the explicit informed consent from the customer to enter into Alinta Energy's relevant customer retail contract known by the plan name "Fair Deal 35".
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