

Summary of the Commission's new and updated enforcement powers

The new and updated enforcement powers available to the Commission are:

1	<i>Energy Industry Penalty Notices</i>	<ul style="list-style-type: none"> • The Commission will be able to issue a penalty of up to \$20,000 for certain 'energy industry contraventions' that will be prescribed by regulation. • These penalties will be issued by way of an 'Energy Industry Penalty Notice' (EIPN). • Regulations to be made under section 65 of the <i>Essential Services Commission Act 2001</i> will set out the types of contraventions that may be subject to an EIPN. • The Department of Economic Development, Jobs, Transport and Resources has commenced the process for developing the Regulations including to identify the types of 'energy industry contraventions' for prescription in the Regulations and their corresponding quantum of penalty (if below \$20,000). • Until the Regulations are made, the Commission will be <i>unable</i> to issue an EIPN.
2	<i>Wrongful Disconnection Penalty Notices</i>	<ul style="list-style-type: none"> • The Commission will be able to issue a penalty of \$5,000 for any contravention of an <i>Energy Retail Code</i> obligation that contributes to a wrongful disconnection. • These penalties will be issued by way of a 'Wrongful Disconnection Penalty Notice' (WDPN). • Relevant breaches of the <i>Energy Retail Code</i> that may contribute to a wrongful disconnection are summarised in Appendix A of the October 2014 version of the Commission's Operating Procedure on Compensation for Wrongful Disconnection. • Regulations will not be made for these types of notices. • It should be noted that a WDPN is separate to a payment that a retail licensee is obliged to make to a customer, as compensation for non-supply caused by wrongful disconnection.
3	<i>Civil Penalty Notice</i>	<ul style="list-style-type: none"> • The Commission's existing power to issue a monetary penalty by way of a Civil Penalty Notice (CPN) has been updated. • The maximum penalty amount the Commission can impose under a CPN will increase to \$103,000, from \$18,200 (expressed in penalty units). • This means, if a licensee fails to address non-compliance with a licence condition that goes beyond a trivial breach, the Commission will be able to issue a higher civil penalty.
4	<i>Undertakings</i>	<ul style="list-style-type: none"> • The Commission will be able to accept a court enforceable undertaking from an energy licensee.
5	<i>Licensing action</i>	<ul style="list-style-type: none"> • The Commission will be able to unilaterally vary a licence or condition of licence if the licensee has contravened or is contravening a condition of licence.
6	<i>Newspaper advertisement</i>	<ul style="list-style-type: none"> • The Commission will be able to direct a licensee to publish in a Victorian newspaper, an advertisement of the enforcement action taken against the licensee.