

## Penalty Notice

### ***Essential Services Commission Act 2001 (Vic), section 54S***

To: AGL Sales Pty Ltd (ACN 090 538 337)  
Level 24, 200 George Street  
Sydney, NSW 1215

#### **Penalty Notice number: PN(E) 51-2023**

1. This notice is dated 24 August 2023.
2. The Essential Services Commission (**the commission**) alleges that the regulated entity, AGL Sales Pty Ltd (ACN 090 538 337) (**AGL**), has contravened a civil penalty requirement within the meaning of that term under section 3 of the Essential Services Commission Act 2001 (Vic) (**the Act**).
3. On 23 August 2023, the commission formed a reason to believe in accordance with section 54S(1) of the Act that AGL is a regulated entity that had engaged in a contravention of a civil penalty requirement.
4. The nature, and a brief description of the alleged contravention, are detailed in Schedule 1 to this penalty notice.
5. The amount of the penalty is \$36,984 as provided by section 54T(2) of the Act.

#### **How to pay the penalty**


6. The \$36,984 penalty is payable by **5 October 2023**.
7. AGL may pay the penalty by electronic funds transfer to the following account:

Bank: [REDACTED]  
BSB: [REDACTED]  
Account number: [REDACTED]  
Account name: [REDACTED]  
ABN: [REDACTED]  
Reference: [REDACTED]

8. Please notify the commission via email to: [enforcement@esc.vic.gov.au](mailto:enforcement@esc.vic.gov.au) once payment has been made.

**What can AGL do in response to this penalty notice?**

9. AGL can choose whether or not to pay this penalty notice.
10. If AGL pays the amount of the penalty before the end of the time specified in this penalty notice, the commission will not commence, as appropriate, either a proceeding against AGL for a contravention order in relation to the alleged contravention or a criminal proceeding for an offence constituted by conduct that is substantially the same as the conduct that constitutes the alleged contravention. If AGL does not pay the penalty within this time, the commission may take such action.
11. AGL is entitled to disregard this penalty notice and to defend any proceedings relating to the alleged contravention.



Kate Symons  
Chairperson  
Essential Services Commission

# Schedule 1

## Details of the conduct and alleged contravention

1. Section 40SE(1) of the *Electricity Industry Act 2000* (Vic) (EI Act) was at all relevant times a civil penalty requirement.
2. Section 40SE(1) provides that:

...a retailer or an exempt electricity seller must not arrange for the supply of electricity at a relevant customer's premises to be disconnected except in accordance with the permitted grounds for disconnection under Subdivision 3 of Division 5C of Part 2 of the EI Act.
3. In accordance with section 54S(1) of the *Essential Services Commission Act 2001* (Vic) (**ESC Act**), the commission has reason to believe that:
  - (a) AGL holds (and held at all material times) an electricity retail licence issued by the commission pursuant to the EI Act and is a regulated entity operating in a regulated industry.
  - (b) AGL arranged for the supply of electricity at a customer's premises to be disconnected on 15 August 2022, in circumstances that were not in accordance with Subdivision 3, Division 5C of Part 2 of the EI Act. Specifically, section 40SM(1)(b)(i) provides that disconnection can only be arranged if the total amount owing to the retailer on the electricity bill is not less than \$300.
  - (c) That customer, identified below, was a 'relevant customer' within the meaning of section 40SB of the EI Act:
    - [REDACTED]
    - [REDACTED]
4. As a result, the commission alleges that AGL contravened section 40SE(1) of the EI Act by arranging for the disconnection of [REDACTED] premises to occur on 15 August 2022 when the total amount owing on [REDACTED] electricity bill was less than \$300. AGL's conduct therefore constitutes a contravention of a civil penalty requirement within the meaning of that term under section 3 of the Act.
5. The amount of the penalty for this civil penalty requirement during this period was \$36,984 (200 penalty units),<sup>1</sup> as provided by section 54T(2) of the Act.

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<sup>1</sup> As at the date of the alleged contravention the value of a penalty unit was \$184.92 (Victorian Government Gazette, G16 dated 21 April 2022).

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Level 24, 200 George Street  
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#### **Penalty Notice number: PN(E) 50-2023**

1. This notice is dated 24 August 2023.
2. The Essential Services Commission (**the commission**) alleges that the regulated entity, AGL Sales Pty Ltd (ACN 090 538 337) (**AGL**), has contravened a civil penalty requirement within the meaning of that term under section 3 of the Essential Services Commission Act 2001 (Vic) (**the Act**).
3. On 23 August 2023, the commission formed a reason to believe in accordance with section 54S(1) of the Act that AGL is a regulated entity that had engaged in a contravention of a civil penalty requirement.
4. The nature, and a brief description of the alleged contravention, are detailed in Schedule 1 to this penalty notice.
5. The amount of the penalty is \$36,984 as provided by section 54T(2) of the Act.

#### **How to pay the penalty**

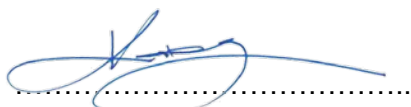
6. The \$36,984 penalty is payable by **5 October 2023**.
7. AGL may pay the penalty by electronic funds transfer to the following account:

Bank: [REDACTED]  
BSB: [REDACTED]  
Account number: [REDACTED]  
Account name: [REDACTED]  
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8. Please notify the commission via email to: [enforcement@esc.vic.gov.au](mailto:enforcement@esc.vic.gov.au) once payment has been made.

### **What can AGL do in response to this penalty notice?**

9. AGL can choose whether or not to pay this penalty notice.
10. If AGL pays the amount of the penalty before the end of the time specified in this penalty notice, the commission will not commence, as appropriate, either a proceeding against AGL for a contravention order in relation to the alleged contravention or a criminal proceeding for an offence constituted by conduct that is substantially the same as the conduct that constitutes the alleged contravention. If AGL does not pay the penalty within this time, the commission may take such action.
11. AGL is entitled to disregard this penalty notice and to defend any proceedings relating to the alleged contravention.



Kate Symons  
Chairperson  
Essential Services Commission

# Schedule 1

## Details of the conduct and alleged contravention

1. Section 23A of the *Electricity Industry Act 2000* (Vic) (the **EI Act**) provides that it is a statutory condition of an electricity retail licence to comply with any guidelines prepared by the commission for the purpose of that section. The relevant guideline in this matter being the Compliance and Reporting Guideline (**CPRG**) (version 7).
2. Section 23A of the EI Act was at all relevant times a civil penalty requirement within the meaning of s3 of the *Essential Services Commission Act 2001* (Vic) (the **ESC Act**).
3. In accordance with section 54S(1) of the ESC Act, the commission has reason to believe that:
  - (a) AGL holds (and held at all material times) an electricity retail licence issued by the commission pursuant to the EI Act and is a regulated entity operating in a regulated industry.
  - (b) In the period 15 August 2022 to 12 January 2023, AGL detected a potential wrongful disconnection, following an internal investigation of an anomaly, that reflected a net zero balance at the time of disconnection, on [REDACTED] account.
  - (c) The CPRG (version 7) requires the reporting of an actual or potential wrongful disconnection within 30 calendar days of detection by the licensee.
  - (d) AGL reported the wrongful disconnection to the commission on 23 February 2023, being at least 10 calendar days outside of the wrongful disconnection reporting period requirement.
4. As a result, the commission alleges that AGL contravened section 23A of the EI Act by failing to comply with the requirements under the CPRG (version 7).
5. The amount of the penalty for this civil penalty requirement during this period was \$36,984 (200 penalty units),<sup>1</sup> as provided by section 54T(2) of the ESC Act.

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<sup>1</sup> As at the date of the alleged contravention the value of a penalty unit was \$184.92 (Victorian Government Gazette, G16 dated 21 April 2022).