



## Attachment 4A – Material Regulatory Breaches

Date: 1 March 2022

This Attachment 4A sets out, to the best of our knowledge and belief, having undertaken appropriate due diligence enquiries, the material breaches of obligations regulated by the ESCV and other regulators, that the Applicant, its directors, its related bodies corporate, and other persons with significant managerial responsibility or influence on the Applicant (**relevant persons**) have been involved in over the past seven years (2014-2021).

This Attachment 4A:

1. is confined to a consideration of the conduct of the relevant persons of the ENGIE Group operating in Australia. This is relevant as the HBESS will be operated by the ENGIE Group in Australia;
2. covers:
  - a. regulatory breaches of obligations that are material having regard to their impact or potential impact on regulated energy markets, customers or the health and safety of people or the environment;
  - b. alleged material regulatory breaches of obligations on the basis that proceedings have been instituted by regulators but have not yet finalised; and
  - c. infringement/penalty notices have been issued and paid by the Applicant or its related bodies corporate (without any admission of liability or a contravention of a law or licence);
3. does not cover matters self-reported to regulators or independently raised by regulators to the Applicant or its related bodies corporate which have led to no further action by those regulators; and
4. includes links to relevant publicly available information.

We would be happy to elaborate with any further details the ESCV may require.

Entity / Regulator	Material Regulatory Breach or Alleged Breach
Pelican Point Power Limited Regulator: AER	<ol style="list-style-type: none"><li>1. Pelican Point Power Limited: infringement notices issued for failure to keep contemporaneous records in relation to material renominations for use of a transportation service as required under the National Gas Rules. Self-reported by Pelican Point Power Limited.  <a href="https://www.aer.gov.au/wholesale-markets/enforcement/pelican-point-power-and-simply-energy-infringement-notices-issued-for-failure-to-keep-records-under-the-national-gas-rules">https://www.aer.gov.au/wholesale-markets/enforcement/pelican-point-power-and-simply-energy-infringement-notices-issued-for-failure-to-keep-records-under-the-national-gas-rules</a></li><li>2. Pelican Point Power Limited: court proceedings initiated, and contested, for alleged failure to submit accurate generator availability information to the market operator as purported to be required under the National Electricity Rules (not finalised).</li></ol>

	<p><a href="https://www.aer.gov.au/wholesale-markets/enforcement/pelican-point-power-limited-requirement-to-submit-accurate-generator-availability-information-to-the-market-operator">https://www.aer.gov.au/wholesale-markets/enforcement/pelican-point-power-limited-requirement-to-submit-accurate-generator-availability-information-to-the-market-operator</a></p>
<p>Simply Energy Regulator: AER</p>	<ol style="list-style-type: none"> <li>Simply Energy: infringement notice issued for failure to keep contemporaneous records in relation to material renominations for use of a transportation service as required under the National Gas Rules. Self-reported by Pelican Point Power Limited.  <a href="https://www.aer.gov.au/wholesale-markets/enforcement/pelican-point-power-and-simply-energy-infringement-notices-issued-for-failure-to-keep-records-under-the-national-gas-rules">https://www.aer.gov.au/wholesale-markets/enforcement/pelican-point-power-and-simply-energy-infringement-notices-issued-for-failure-to-keep-records-under-the-national-gas-rules</a></li> <li>Simply Energy: infringement notices issued for failure to obtain explicit informed consent. Self-reported by Simply Energy.  <a href="https://www.aer.gov.au/retail-markets/compliance-reporting/enforcement-matters/infringement-notices-issued-to-simply-energy-for-failure-to-obtain-explicit-informed-consent-2017">https://www.aer.gov.au/retail-markets/compliance-reporting/enforcement-matters/infringement-notices-issued-to-simply-energy-for-failure-to-obtain-explicit-informed-consent-2017</a></li> <li>Simply Energy: infringement notices issued for failure to obtain explicit informed consent. Self-reported by Simply Energy.  <a href="https://www.aer.gov.au/retail-markets/compliance-reporting/enforcement-matters/infringement-notices-issued-to-simply-energy-for-failure-to-obtain-explicit-informed-consent-2015">https://www.aer.gov.au/retail-markets/compliance-reporting/enforcement-matters/infringement-notices-issued-to-simply-energy-for-failure-to-obtain-explicit-informed-consent-2015</a></li> </ol>
<p>Simply Energy Regulator: ESCV</p>	<ol style="list-style-type: none"> <li>Simply Energy: penalty notice issued for wrongful disconnection under the Energy Retail Code. Self-reported by Simply Energy.  <a href="https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/company-penalty-notices/simply-energy-penalty-notice-2021-wrongful-disconnection">https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/company-penalty-notices/simply-energy-penalty-notice-2021-wrongful-disconnection</a></li> <li>Simply Energy: penalty notices issued for failure to obtain explicit informed consent as required under the Energy Retail Code. Self-reported by Simply Energy.  <a href="https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/company-penalty-notices/simply-energy-penalty-notices-2021-explicit-informed-consent">https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/company-penalty-notices/simply-energy-penalty-notices-2021-explicit-informed-consent</a></li> <li>Simply Energy: penalty notices issued for failure to obtain explicit informed consent as required under the Energy Retail Code. Self-reported by Simply Energy.  <a href="https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/company-penalty-notices/simply-energy-penalty-notices-2019-explicit-informed-consent">https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/company-penalty-notices/simply-energy-penalty-notices-2019-explicit-informed-consent</a></li> </ol>

	<p>4. Simply Energy: penalty notice issued for failure to obtain explicit informed consent as required under the Energy Retail Code. Self-reported by Simply Energy.</p> <p><a href="https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/company-penalty-notice/simply-energy-explicit-informed-consent-penalty-notice-2018">https://www.esc.vic.gov.au/electricity-and-gas/market-performance-and-reporting/company-penalty-notice/simply-energy-explicit-informed-consent-penalty-notice-2018</a></p>
<p>Simply Energy Solutions Pty Ltd Regulator: ASIC</p>	<p>1. Simply Energy Solutions Pty Ltd: enforceable undertaking for failure to hold an Australian Credit Licence in relation to credit activity as required under the National Consumer Credit Protection Act and the National Credit Code. Self-reported by Simply Energy Solutions Pty Ltd.</p> <p><a href="https://download.asic.gov.au/media/3458031/028424477.pdf">https://download.asic.gov.au/media/3458031/028424477.pdf</a> <a href="https://download.asic.gov.au/media/4496775/eu-interim-compliance-simply-energy-solutions-27-september-2017.pdf">https://download.asic.gov.au/media/4496775/eu-interim-compliance-simply-energy-solutions-27-september-2017.pdf</a></p>
<p>Synergen Power Pty Ltd/International Power (Australia) Pty Limited Regulator: AER</p>	<p>1. Synergen Power Pty Ltd/International Power (Australia) Holdings Pty Limited: infringement notices issued to Synergen Power Pty Ltd and enforceable undertaking entered into by International Power (Australia) Holdings Pty Limited for Synergen Power Pty Ltd's failure to follow dispatch instructions and related obligations as required under the National Electricity Rules</p> <p><a href="https://www.aer.gov.au/wholesale-markets/compliance-reporting/infringement-notices-issued-to-engie-and-enforceable-undertaking-failure-to-follow-dispatch-instructions-and-related-obligations">https://www.aer.gov.au/wholesale-markets/compliance-reporting/infringement-notices-issued-to-engie-and-enforceable-undertaking-failure-to-follow-dispatch-instructions-and-related-obligations</a></p>
<p>Hazelwood Rehabilitation Project</p>	<p>1. DPP v Hazelwood Power Corporation Pty Ltd: guilty of breaching sections 21 and 23 of the <i>Occupational Health and Safety Act 2004</i> (Vic) ("<b>OHS Matter</b>") See <a href="#">Director of Public Prosecutions v Hazelwood Power Corporation Pty Ltd (Sentence) [2020] VSC 278 (19 May 2020)</a></p> <p>2. Hazelwood Pacific Pty Ltd &amp; Others [2020] VSC 279: guilty of breaching section 41 of the <i>Environment Protection Act 1970</i> (Vic) ("<b>EPA Matter</b>") See <a href="#">Director of Public Prosecutions v Hazelwood Pacific Pty Ltd &amp; Ors (Sentence) [2020] VSC 279 (19 May 2020)</a></p> <p>3. CFA v Hazelwood: On 11 February 2020, the County Fire Authority (<b>CFA</b>) commenced legal proceedings against Hazelwood seeking AUD18M in respect of firefighting activities carried out by the CFA during the Hazelwood mine fire in 2014. The claim has been</p>



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	rejected by ENGIE Hazelwood and the proceedings are ongoing. ENGIE Hazelwood denies that any amount is due.
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