

Notice 02/2025 – Compliance Notice – Accreditations cancelled and certificates refused

18 June 2025

ACP accreditations cancelled for providing 'false or misleading information'

The NSW Independent Pricing and Regulatory Tribunal (**IPART**) has taken action against Phenix Trading Pty Ltd (**Phenix**) over its exaggeration of the energy efficiency of freezers installed to create Energy Savings Certificates (**ESCs**) and its provision of 'false or misleading information' to IPART.

IPART has cancelled both Phenix's Energy Savings Scheme and Peak Demand Reduction Scheme accreditations and rejected its application to register 618,555 ESCs that were improperly created.

Following intelligence sharing with the Greenhouse and Energy Minimum Standards Regulator (**GEMS**) in 2024, IPART investigated Phenix. The investigation revealed that Phenix had improperly created ESCs related to its sales of freezers with 4 glass display sides.

IPART's investigation uncovered the following:

- Phenix relied on a falsified test report with exaggerated energy efficiency claims when creating Energy Savings Certificates
- Phenix admitted to IPART that it provided false information to GEMS in response to a requirement to produce a freezer for testing when Phenix falsely claimed it had none of the freezers left in stock to produce for testing
- Phenix sold around 2,000 of the freezers after it claimed it had none left in stock
- Phenix used another company to apply for and obtain a new GEMS registration for a freezer and then re-labelled around 2,000 freezers, which were not registered, to create the impression that the re-labelled freezers complied with the new registration
- Phenix informed IPART that a freezer had been tested by an SGS and Intertek accredited laboratory when in fact the freezer was not tested.

Phenix may apply to NSW's Civil and Administrative Tribunal for a review of IPART's decision.

Any action by the GEMS Regulator as it relates to the provisions of the Greenhouse and Energy Minimum Standards Act 2012 would be taken following further investigation.

ACPs must not provide false or misleading information

Under the *Electricity Supply Act 1995*, it is an offence for a person to knowingly provide, whether orally or in writing, information that is false or misleading in a material particular to the Scheme Administrator. This offence carries a maximum penalty of \$11,000 or 6 months imprisonment, or both.

ACPs must be fit and proper persons

Under the *Electricity Supply (General) Regulation 2014*, the Scheme Administrator may cancel a person's accreditation as an accredited certificate provider (**ACP**) if it is satisfied the person is not a fit and proper person.

In considering whether a person remains fit and proper to hold an accreditation, the Scheme Administrator would have regard to a person's suitability based on their character, honesty and ability. Reasons why the Scheme Administrator could find that a person is not fit and proper include that:

- There is evidence which demonstrates that a person is dishonest or incompetent
- A person has been found guilty of an offence involving fraud or dishonesty
- A person has been found guilty of offences under the Safeguard legislation

Ensuring that only fit and proper persons participate in the [Energy Security Safeguard](#) schemes helps protect the schemes' reputation and builds community confidence and trust.

IPART's Compliance Priorities

The [2024-25 Compliance Priorities](#) set out where IPART's Energy Sustainability Schemes Team will focus its compliance resources for the year.

Our Compliance Priorities include targeting compliance efforts to identify deceptive, fraudulent or seriously misleading conduct. Our objective is to deter misconduct, address financial gain from non-compliance and to protect the integrity of the Safeguard schemes.

Take action now

ACPs should take this opportunity to review their procedures and controls to ensure that they prevent the provision of false or misleading information to regulators.

We may take regulatory action where an ACP fails to meet their conditions of accreditation or improperly creates certificates by relying on incomplete, inaccurate or false records. Such action may include imposing conditions, ordering the surrender of improperly created certificates, issuing penalty notices or commencing a prosecution.

The contravention of a condition of accreditation and the improper creation of a certificate are also grounds for us to cancel or suspend an accreditation under the [Energy Security Safeguard](#) schemes.

For more information on our approach to compliance, please refer to:

- The [Compliance and Enforcement Policy](#) available on the IPART website at www.ipart.nsw.gov.au, and
- The [Accredited Certificate Provider Compliance Guide](#) available on the Energy Sustainability Schemes website at www.energysustainabilityschemes.nsw.gov.au.