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Water



Energy

# Guideline No.5



## Regulatory Reporting Requirements for Small-scale Networks

*Small-scale Networks Guideline No. 5*

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# 1 Introduction

## 1.1 Role of the Guideline

- 1.1.1 The Essential Services Commission of South Australia (**Commission**) is established under the *Essential Services Commission Act 2002 (SA)* (**ESC Act**) as a regulator of certain essential services in South Australia, with a primary objective of protecting the long-term interests of South Australian consumers with respect to the price, quality and reliability of those essential services.
- 1.1.2 Under the **ESC Act**, the **Commission** is given specific functions, including:
- (a) to monitor and enforce compliance with and promote improvement in standards and conditions of service and supply under relevant industry regulation Acts (section 5(b)), and
  - (b) in appropriate cases, to prosecute offences against the **ESC Act** or a relevant industry regulation Act (section 5(i)).
- 1.1.3 In furtherance of those functions, pursuant to section 8 of the **ESC Act** the **Commission** has made this Guideline to specify requirements for **licensees** in relation to:
- (a) operational and compliance audits in respect of the operations carried out by **licensees** under the authority of their **licences**, and
  - (b) the reporting of information to the **Commission** to assist in the performance of its specific compliance and enforcement statutory functions under the **ESC Act**, the *Electricity Act 1996 (SA)* (**Electricity Act**), *Water Industry Act 2021 (SA)* (**WI Act**) and the *Gas Act 1997 (SA)* (**Gas Act**).
- 1.1.4 The information provided by a **licensee** pursuant to this Guideline will be used by the **Commission** to perform its various statutory functions and duties, including, but not limited to:
- (a) monitoring and enforcing the compliance of **licensees** in respect of obligations
  - (b) providing information and reports to consumers, regulated entities and other public sector agencies regarding the performance of **licensees**, and
  - (c) using data to assist the **Commission** to make informed decisions regarding the development of regulatory frameworks, policies and procedures in respect of the water, electricity and gas industries.

## 1.2 Application

- 1.2.1 This Guideline applies:
- (a) in whole to the following **licensees** issued with a **licence** pursuant to Part 3 of the **Electricity Act** and **Gas Act** or Part 4 of the **WI Act**, unless the **Commission** has agreed, in writing, to alternative reporting arrangements for a specific **licensee** (subject to any conditions or requirements imposed by the **Commission**):
    - i. water **licensees** who are **minor** or **intermediate retailers**

- ii. electricity transmission **licensees** that hold a current exemption under the National Energy Retail Law and the **National Electricity Rules**, from the requirements to be a registered Network Service Provider and the operation of chapter 5 of the **National Electricity Rules**, or are a **related body corporate** of such an entity
    - iii. electricity distribution **licensees** with fewer than 50,000 connections
    - iv. electricity retail **licensees** with fewer than 50,000 connections
    - v. gas retail **licensees** with fewer than 50,000 connections, and
    - vi. gas distribution **licensees** with fewer than 50,000 connections
  - (b) in whole, or in part, to other **licensees** as notified in writing by the **Commission**, and
  - (c) to entities holding an exemption from the requirement to hold a **licence** where the **Commission** has advised the entity in writing that it is required to comply with this Guideline (in whole or in part).
- 1.2.2 This Guideline is a minimum requirement and the obligation of a **licensee** to comply with this Guideline is additional to other requirements to report information to the **Commission** including:
- (a) any obligation imposed under any other law (including any **industry codes**) applying to a **licensee's** business and does not derogate from such an obligation
  - (b) a **licensee's** obligation to report any breach of an obligation under its **licence** within the stipulated time and in the manner required, and
  - (c) the requirement to comply with a notice issued under section 29 of the **ESC Act**.

### 1.3 Processes for Revision

- 1.3.1 The **Commission** may, at its absolute discretion, revoke, amend or vary this Guideline from time to time when it considers such action appropriate in order to meet the needs of a **licensee**, South Australian energy or water **customers** or the **Commission**.
- 1.3.2 The **Commission** will undertake appropriate consultation with relevant **licensees** and other stakeholders in accordance with the Commission's Charter of Consultation and Regulatory Practice (as amended from time to time) before making any significant revisions to this Guideline.<sup>1</sup> If the amendments are of a routine nature, or required by law, the **Commission** may elect to modify the Guideline without consultation.
- 1.3.3 For all revisions to this Guideline, a commencement date will be nominated on the Amendment Record on the inside front page.

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<sup>1</sup> The Charter can be viewed at [www.escosa.sa.gov.au](http://www.escosa.sa.gov.au)

## 2 Reporting requirements

### 2.1 Use of proformas to report information

- 2.1.1 The Annual Return Proformas in Annexure A set out the categories of information that have been identified by the **Commission** as necessary for the purpose of performing its statutory functions.
- 2.1.2 Those Annual Return Proformas specify how information is to be reported to the **Commission**, including general guidance notes, where relevant.
- 2.1.3 Clause 2.3.2 details the **Commission's** timing requirements for the provision of reports by a **licensee** to the **Commission**.

### 2.2 Information provided shall be verifiable

- 2.2.1 A **licensee** must maintain accounting and other records and reporting arrangements that enable:
  - (a) separate regulatory accounting statements to be maintained for the activities undertaken as part of its **licensed** operations
  - (b) **annual return** metrics to be measured, and
  - (c) information used in the preparation of its **annual return** to be verified.

### 2.3 Annual reporting

- 2.3.1 The **Commission** has determined that **licensees** to whom this guideline applies must provide an **annual return** to the **Commission** in respect of each 12 month period from 1 July to 30 June.
- 2.3.2 In respect of the **annual return**, a **licensee** must, unless agreed in writing with the **Commission**, by no later than 31 August immediately following the end of each year, submit to the **Commission**:
  - (a) an electronic copy of the **annual return** using the **Commission's** reporting proformas and conforming to the general guidance notes, and
  - (b) any other report or information identified by the **Commission** as being required from that **licensee**, in the manner and form prescribed by the **Commission**.
- 2.3.3 A **licensee's annual return** must be approved and signed by:
  - (a) the Board or Council of the **licensee**
  - (b) the Chief Executive Officer of the **licensee**
  - (c) a person holding an equivalent position to Chief Executive Officer of the **licensee**
  - (d) a person to whom the Board or Council of the **licensee** has formally delegated the exercise of the powers and functions of the **licensee** at a level equivalent to that held by a Chief Executive Officer, or

- (e) the person acting as Chief Executive Officer or equivalent position during an absence of the substantive **office holder**.

## 2.4 Categorisation of licensees for annual return reporting

- 2.4.1 The **Commission** has implemented a 'verified trust and accountability' (**VTA**) regulatory approach for small-scale network **licensees**. In accordance with the **VTA** approach, each small-scale network **licensee** has been transparently and publicly assessed and determined by the **Commission** to be either a **Category A licensee** or **Category B licensee** (as the case may be) in accordance with the **Licensee Categorisation Methodology**.
- 2.4.2 A **licensee's** current categorisation as a **Category A** or **Category B licensee** under the **Licensee Categorisation Methodology**, will determine if it is subject to either **Category A** or **Category B** obligations throughout this Guideline.

## 2.5 Annual return - Category A licensees

- 2.5.1 **Category A licensees** are required to provide an **annual return**, using the proformas set out in Annexure A, which must contain the following information:
  - (a) a list of **office holders**
  - (b) **connection** and **customer** numbers
  - (c) number of **customers** on **flexible payment arrangements**
  - (d) number of **customers** receiving a **concession** toward their energy or water bill
  - (e) number of **customers** registered as **life support customers**
  - (f) identification of any **material changes** to operations
  - (g) information on all **licensee compliance breaches** in the preceding 12 months
  - (h) information on all **licensee material service issues** in the preceding 12 months, and
  - (i) a signed **statement of assurance** confirming that it is complying with its obligations.

## 2.6 Annual return - Category B licensees

- 2.6.1 **Category B licensees** are required to provide an **annual return**, comprising:
  - (a) all of the above annual reporting obligations identified at 2.5.1, and
  - (b) any additional specific reporting obligations required by the **Commission** from time to time and notified to the **licensee** in writing.

## 2.7 Material service issues

- 2.7.1 **Licensees** must provide information to the **Commission**, as soon as reasonably practicably, in relation to any **material service issue** that arises, using the proforma AR5.

- 2.7.2 A **material service issue** report must be approved and signed by:
- (a) the Board or Council of the **licensee**
  - (b) the Chief Executive Officer of the **licensee**
  - (c) a person holding an equivalent position to Chief Executive Officer of the **licensee**
  - (d) a person to whom the Board or Council of the **licensee** has formally delegated the exercise of the powers and functions of the **licensee** at a level equivalent to that held by a Chief Executive Officer, or
  - (e) the person acting as Chief Executive Officer or equivalent position during an absence of the substantive **office holder**.

## 2.8 Material compliance breaches

- 2.8.1 In accordance with **licence** requirements, a **licensee** must notify the **Commission** if it commits a material breach of an applicable law or **industry code**, a **material compliance breach**, within 3 **business days** of becoming aware of that breach, using the proforma AR6.
- 2.8.2 A **material compliance breach** report must be approved and signed by:
- (a) the Board of Council or the **licensee**
  - (b) the Chief Executive Officer of the **licensee**
  - (c) a person holding an equivalent position to Chief Executive Officer of the **licensee**
  - (d) a person to whom the Board or Council of the **licensee** has formally delegated the exercise of the powers and functions of the **licensee** at a level equivalent to that held by a Chief Executive Officer, or
  - (e) the person acting as Chief Executive Officer or equivalent position during an absence of the substantive **office holder**.
- 2.8.3 The **Commission** may require a **licensee** to provide any further information that it considers appropriate following its consideration of a **material compliance breach** report.

## 2.9 Change of officer holders and major shareholders

- 2.9.1 A **licensee** must notify the **Commission** in writing of any changes to its **officer holders** and **major shareholders** (if applicable) within 30 **business days** of that change occurring.

## 2.10 Insurance

- 2.10.1 If, in accordance with its **licence** conditions, a **licensee** is required to maintain specified type of insurance, it must provide to the **Commission** as part of its **annual return** a current certificate of insurance certifying that the required insurance is adequate and appropriate given the nature of the operations carried on under the **licensee's licence** and the risks entailed in those operations.

## 2.11 Additional information requirements

- 2.11.1 The **Commission** may, from time to time, require additional information from a **licensee** beyond the information specified in the proformas set out in Annexure A, or notified to **Category B licensees**.
- 2.11.2 The **licensee** must, if required by the **Commission**, in a manner and form determined by the **Commission**, provide to the **Commission**:
- (a) details of the **licensee's** financial, technical and other capacity to continue the operations authorised by its **licence**, and
  - (b) such other information as the **Commission** may require.

# Annexure A – Annual Reporting Proformas

## PROFORMA AR1 – Office holders

Full name	Office held	Did the officer join in the last 12 months?	Has the office held changed in the last 12 months?

**General Guidance:**

- 1. The terms 'officer' and 'office holder' are defined in Schedule 1.

**PROFORMA AR2 – Connection and customer numbers**

Connection and customer numbers	As at 30 June
Drinking water:	
• Residential customers	
• Non-residential customers	
• Total connections	
Non-drinking water:	
• Residential customers	
• Non-residential customers	
• Total connections	
Sewerage (excluding CWMS):	
• Residential customers	
• Non-residential customers	
• Total connections	
CWMS:	
• Residential customers	
• Non-residential customers	
• Total connections	
Electricity	
• Residential customers	
• Non-residential customers	
• Total connections	
Gas	
• Residential customers	
• Non-residential customers	
• Total connections	

**General Guidance:**

1. **Non-Drinking Water** includes recycled water and stormwater. If more than one type of **Non-Drinking Water** service is provided by a **retailer**, i.e. recycled water and stormwater, **customer** numbers for each service should be separately disclosed.
2. For the purposes of this metric, the number of **customers** is determined by the number of account holders.
3. **Connections** must be reported as **connections** to a separate parcel of land, for example where a community title exists and there are 6 dwellings on one parcel of land and each **customer** is an account holder that should be reported as one **connection** but six **customers**.

## PROFORMA AR3 – Hardship

Hardship	Annual
Water retail licensees - Total number of residential customers participating in a financial hardship program as at 30 June	
Water retail licensees - Number of residential customers who entered the financial hardship program during the year	
Water retail licensees - Number of residential customers who successfully exited the financial hardship program during the year	
Water retail licensees - Total number of residential customers receiving a water concession as at 30 June	
Water retail licensees - Total number of residential customers receiving a sewerage concession as at 30 June	
Energy retail licensees - Total number of residential customers receiving an energy concession as at 30 June	
All retail licensees - Total number of residential customers on flexible payment arrangements as at 30 June	
Electricity and water licensees – total number of residential customers on registered as life support customers as at 30 June	

### General Guidance:

1. **Water retail licensees** include water and sewerage (including CWMS) retail licensees.
2. **Financial hardship** means a situation where a customer desires to pay an account, but is unable to pay all or some of the account by the due date, due to financial difficulty
3. **Energy retail licensees** includes electricity and gas retail licensees.
4. **All retail licensees** includes water and sewerage (including CWMS) retail licensees, as well as electricity and gas retail licensees.
5. A **flexible payment arrangement** means an arrangement under which residential customers are given more time to pay a bill, to pay by instalments and/or to pay arrears (including any restriction, disconnection, restoration or reconnection charges).

## PROFORMA AR4 – Material changes to operations

The **Commission** has not mandated the specific form in which information regarding **material changes to operations** is to be provided. **Licensees** should be able to meet this reporting requirement using the existing business systems and processes that are required to properly manage a **licensee's** business.

### General Guidance:

1. The purpose of **material changes to operations** reporting is to enable **licensees** to report on an exception basis, rather than need to spend time and resources merely replicating annual information that has not materially changed.
2. If uncertain whether a change constitutes a **material change to operations**, a **licensee** should discuss the matter with staff of the **Commission** as early as possible, and should err on the side of caution – if uncertain then it should classify the change as material.
3. If a **licensee reports a material change(s) to operations**, the **Commission** will liaise with the **licensee** and may require further information to understand the implications that this may have for the baseline information held by the **Commission** about the **licensee**.

**PROFORMA AR5 – Material service issues**

	Licensee comments on the material service issue
Description of the <b>Material service issue</b>	
How did the <b>material service issue</b> occur?	
How was the <b>material service issue</b> addressed	
How was the <b>material service issue</b> (or how will it be) rectified? What were (or are) the timeframes around the rectification process?	
How did the <b>material service issue</b> impact customers and/or any other entities?	
What measures have been taken to prevent the <b>material service issue</b> re-occurring or mitigating any effects of a future occurrence?	

**General Guidance:**

1. This proforma is provided for the purpose of meeting **licensee** annual return requirements as well as ad-hoc **material service issue** reporting requirements.
2. All **material service issues** must be separately listed for the 12 months preceding the annual return.
3. If uncertain whether a service issue is a **material service issue**, a **licensee** should err on the side of caution and should classify the issue as material.
4. Where a **material compliance breach** causes a **material service issue**, or vice versa, a **licensee** should provide information on both the **material service issue** and the **material compliance breach**.

**PROFORMA AR6 – Compliance breaches (including potential breaches)**

	Licensee comments on the compliance issue
Description of the <b>compliance breach</b>	
How did the <b>compliance breach</b> occur?	
How was the <b>compliance issue</b> addressed	
How was the <b>compliance breach</b> (or how will it be) rectified? What were (or are) the timeframes around the rectification process?	
How did the <b>compliance breach</b> impact customers and/or any other entities?	
What measures have been taken to prevent the <b>compliance breach</b> re-occurring or mitigating the effects of any future occurrence?	

**General Guidance:**

1. This proforma is provided for the purpose of meeting **licensee** annual return requirements as well as ad hoc **material compliance breach** reporting requirements.
2. All non-compliances must be separately listed for the 12 months preceding the annual return (including **material compliance breaches**, which must also be reported to the **Commission** as soon as reasonably practical to the occurrence).
3. If uncertain whether a breach constitutes a **material compliance breach**, a **licensee** should err on the side of caution and classify the breach as material.
4. Further information in relation to indicative obligations is available on the Commission’s website at: <https://www.escosa.sa.gov.au/>



SIGNED, in accordance with clause 2.3.3 of the Guideline, by:

.....  
**Signature**

.....  
**Signature**

.....  
**Name (Please Print)**

.....  
**Name (Please Print)**

.....  
**Designation (Please Print)**

.....  
**Designation (Please Print)**

(Sign-off must be pursuant to clause 2.3.3 of the Guideline. Please indicate who has signed the report.)

# Schedule 1 – Definitions

In this Guideline:

**annual return** means a report in the form set out in Annexure A of this Guideline

**applicable obligations** means a licensee's obligations under any relevant **industry code**, Regulations or Acts

**business day** means a day other than a Saturday, Sunday or public holiday in South Australia

**Category A Licence** means a licensee that is currently assessed as being **Category A** under the Commission's Licensee Categorisation Methodology

**Category B Licence** means a licensee that is currently assessed as being **Category B** under the Commission's Licensee Categorisation Methodology

**Commission** means the Essential Services Commission established under the **ESC Act**

**compliance breach** means a breach of a licensee's regulatory obligations

**concession** means a South Australian Government energy, water or sewerage **concession**

**customer** has the same meaning as defined in the **Water Retail Code**, the **Electricity Act**, or the **Gas Act** as amended from time to time

**connection** means a connection point to a transmission or distribution network

**CWMS** means Community Wastewater Management System

**drinking water** means water provided by a reticulated system that is intended for human consumption or for purposes connected with human consumption (such as the washing, preparation or cooking of food or the making of ice intended for human consumption, or for the preservation of unpackaged food), regardless of whether or not the water is actually used for other/different purposes

**Electricity Act** means the *Electricity Act 1996 (SA)*, as amended from time to time; and, where the context allows, includes all regulations made under that Act

**ESC Act** means the *Essential Services Commission Act 2002 (SA)*, as amended from time to time; and, where the context allows, includes all regulations made under that Act

**financial hardship program** means a program that supports a **customer** to make payments towards an account, where the **customer** may be unable to pay all or some of the account by the due date due to financial difficulty

**flexible payment arrangements** means an arrangement under which **residential customers** are given more time to pay a bill, to pay by instalments and/or to pay arrears (including any **restriction**, disconnection or restoration charges)

**Gas Act** means the *Gas Act 1997 (SA)*, as amended from time to time; and, where the context allows, includes all regulations made under that Act

**industry code** means any industry code, made by the **Commission** pursuant to the provisions of Part 4 of the **ESC Act**

**intermediate retailer** means a **retailer** which provides a **retail service** in accordance with the **WI Act** to more than 500 but fewer than 50,000 **connections**

**licence** means:

- (a) a **licence** issued to a person pursuant to Part 3 of the **Electricity Act**
- (b) a **licence** issued to a person pursuant to Part 3 of the **Gas Act**
- (c) a **licence** issued to a person pursuant to Part 4 of the **WI Act**, or
- (d) an Exemption from the requirement to hold such a **licence** that contains a condition that requires that person to report against certain obligations specified by the **Commission**

**licensee** means a person who holds a **licence** which is in force

**Licensee Categorisation Methodology** means the procedure used by the **Commission** to determine each **licensee's** categorisation (as amended from time to time), which is outlined in the **Commission's** [Categorisation Factsheet](#)

**life support customer** means a **customer** who is a registered user of **life support equipment** with the **licensee**

**life support equipment** means:

- (a) An oxygen concentrator
- (b) An intermittent peritoneal dialysis machine
- (c) A haemodialysis machine
- (d) A ventilator for life support (polio only), or
- (e) Other equipment as notified by the **Commission** in writing from time to time.

**major shareholder** means a person (including a corporation) who owns shares that provide more than ten percent (10%) of the total combined voting power of all classes of shares of the **licensee**

**material change** means any change to a **licensee's** operations that has or may have a substantial impact on customers, including, but not limited to, pricing, quality or viability of the **service** being provided

**material service issue** means an occurrence that has a substantial impact on a **licensee's** ability to deliver its **service** to its **customers** (e.g. a major unplanned interruption, or a matter that causes frequent planned or unplanned interruptions to its **service**)

**material compliance breach** means a breach of a **licensee's** regulatory obligations that is material in the **licensee's** particular circumstances. In determining whether the breach is material, the **licensee** should consider (in addition to any further relevant consequences/outcomes of the compliance breach):

- (a) the impact of the breach on **customers**, or the potential future impact
- (b) whether the breach has a financial impact on **customers**
- (c) the number of **customers** affected, and
- (d) the potential (and actual) impact on safety and risk to the public

**minor retailer** means a **retailer** which provides a **retail service** in accordance with the **WI Act** to up to and including 500 **connections**

**National Electricity Rules** means the **National Electricity Rules** as defined in the *National Electricity (South Australia) Law*

**non-drinking water** means any water other than **drinking water** and includes, but is not limited to, recycled water and stormwater

**non-residential** means circumstances where a **retail service** is acquired for purposes other than **residential**

**office holder** means a director and/or secretary, or a person who makes or participates in making decisions that affect a substantial part of the business of the **licensee**, who has the capacity to significantly affect the corporation's financial standing and/or a person whose instructions the **licensee's** directors must act in accordance with (excluding advice given in a professional capacity or as part of a business relationship with the directors or the **licensee**)

**residential** means circumstances where a **retail service** is acquired primarily for domestic use

**statement of assurance** means a statement in the form specified in Annexure A of this Guideline signed, dated and evidencing responsibility for information provided to the **Commission**

**related body corporate** has the same meaning given to that term in the *Corporations Act 2001* (Cth), as amended from time to time

**restriction** includes all cases where **restriction** devices are fitted to reduce water flow and excluding disconnection

**service** means any **service** delivered by a **licensee** as authorised by its **licence**

**retail service** has the same meaning given to that term in the **WI Act** and includes a water service and a sewerage service, and includes the retailing of gas or electricity as defined in the **Electricity Act** and the **Gas Act** as amended from time to time

**retailer** means the holder of a **retail licence** issued by the **Commission** under Part 3 of the **Electricity Act**, Part 3 of the **Gas Act** or Part 4 of the **WI Act** as amended from time to time

**WI Act** means the *Water Industry Act 2012* (SA), as amended from time to time, and where the context allows, includes all regulations made under that Act

**Water Retail Code** means the **Water Retail Code - Minor and Intermediate Retailers** made by the **Commission** pursuant to the provisions of Part 4 of the **ESC Act** as amended from time to time, unless otherwise specified.

## Schedule 2 – Interpretation

In this Guideline, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of this Guideline
- (b) words importing the singular include the plural and vice versa
- (c) words importing a gender include any gender
- (d) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate (including a Council) and any governmental agency
- (e) a reference to a person includes that person's executors, administrators, guardians, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns
- (f) a reference to any statute, regulation, proclamation, order in council, ordinance or by-law includes all statutes, regulations, proclamations, orders in council, ordinances or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, orders in council, ordinances, by-laws and determinations issued under that statute
- (g) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document
- (h) an event which is required under this code to occur on or by a stipulated day which is not a **business day** may occur on or by the next **business day**.



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