



26 July 2023

The Chairperson
Essential Services Commission
Level 1
151 Pirie Street
ADELAIDE SA 5000

BY EMAIL escosa@escosa.sa.gov.au

Dear Sir / Madam,

**ROBUSTO INVESTMENTS / COMPASS SPRINGS DRINKING WATER PRESERVATION
REGULATORY DETERMINATION - REQUEST FOR A REVIEW
SECTION 31 - ESSENTIAL SERVICES COMMISSION ACT 2002**

Robusto Investments Pty Ltd hereby applies for a review of the price determination issued by the Essential Services Commission of South Australia (**ESCOSA**) for Robusto Investments Pty Ltd (trading as Compass Springs) (**Robusto**) as published and gazetted on 29 June 2023.

We ask that during the review ESCOSA have regard to the matters raised below.

1. Robusto seeks a review of the ESCOSA price determination described as a "Preservation Regulatory Determination" (**the Determination**) which was published and gazetted on 29 June 2023.
2. The Determination was accompanied by a Statement of Reasons dated June 2023 (**Reasons**).
3. Robusto contends that the Determination and the Reasons disclose fundamental failures on the part of ESCOSA to properly:-
 - 3.1. assess the factual bases of upon which the Determination should have been made; and
 - 3.2. apply the National Water Initiative Pricing Principles (**NWIPP**).
4. Robusto seeks the following alternative outcomes based upon the period of the Determination.
5. Robusto says that the Determination should be for no more than 12 months. On this basis it seeks a variation of the Determination to increase the Maximum Revenue control figure for the financial year 2023/24 from \$204,034 (2.1.2 in the Determination) to \$739,012.
6. In the alternative if the Determination is for 24 months, it seeks a variation of the Determination to increase the Maximum Revenue control figure for the two financial years 2023/24 and 2024/25 from \$414,189 (2.1.1 in the Determination) to \$1,500,194 which comprises:-



6.1. 2023/24 - \$739,012.

6.2. 2024/25 - \$761,182.¹

Further materials

7. Robusto asks ESCOSA to have regard to the following documents received by SACAT in the hearing in matter number 2021/SA002866:-
 - 7.1. The Applicant's Closing Address;
 - 7.2. The Applicant's Closing Address in Reply;
 - 7.3. Exhibits 6, 24, 25, 26 and 27;
 - 7.4. Those parts of Exhibits 7 and 8 which record the views of Mr Harris; and
 - 7.5. Its actual supply records for 2022/23.
8. Items 7.1 to 7.4 are already in ESCOSA's possession. Item 7.5 is supplied as an enclosure with this letter.
9. If there is any aspect of this review application that is not clear, Robusto is happy to provide any further information or clarification required by ESCOSA.

General Comments

10. The Determination is manifestly inadequate and inaccurate and does not address Robusto's real operating costs, cost of capital, return of capital, return on capital and capital expenditure requirements.
11. Robusto has been incurring significant financial losses since taking over the water business in 2016. By failing to make a considered assessment of the information available to it and by linking the Determination to its flawed pricing determinations published in August 2021 and June 2022, ESCOSA is ensuring that Robusto will:-
 - 11.1. continue to incur significant losses,
 - 11.2. receive no return on capital; and
 - 11.3. receive no return of capital.
12. These outcomes are contrary to the National Water Initiative Pricing Principles.
13. It is clear from the financial reports, supporting materials and the independent expert opinions of Mr Harris that Robusto has been operating on an efficient cost basis throughout the period from June 2016 to date.

¹ This figure is calculated using the same 3% increase used by ESCOSA referred to at [3.4.2.3] of the Reasons and Fn 57. This is a conservative increase when compared to the cost of living inflation rate estimated by the RBA to be 7% per annum in 2023/24.



14. As at 1 July 2023 Robusto had 201 customers. The further 8 customers anticipated in paragraph 18 of Robusto's letter dated 12 May 2023 will become supply only customers in September 2023.
15. Robusto confirms that it still expects to have a total of [REDACTED] customers by 30 June 2024 with the additional [REDACTED] customers to be supply only.²
16. Robusto says that the reporting requirement in the Determination at [2.4.1] is misconceived. Robusto takes its customer readings quarterly. The reading at the end of December 2023 will be for the three months ending 31 December 2023 (or as close thereto as possible).
17. Robusto says that the pricing approach proposed under [2.4.3] is beyond the authority invested in ESCOSA under the *Water Industry Act* and *the Essential Services Commission Act*. It is unnecessary and punitive in nature. In addition, it is, in any event, a vague and ambiguous requirement. Thus, for example, it presents the prospect of a manifestly inadequate price determination being imposed in circumstances where, for example, a single invoice out of the 200 plus invoices was inadvertently missed.
18. If ESCOSA is insistent upon a requirement such as this, then the wording should be:-

Should the information provided by Robusto Investments in respect of the matters specified in clauses 2.4.1 and 2.4.2 be determined by the Commission to be intentionally and materially incomplete for the purposes of clauses 2.2.3 and 2.2.4, then unless any further information is requested and not provided within 21 days, the maximum nominal prices that Robusto Investments can charge its residential customers from 1 July 2024 to 30 June 2025 will be set as follows ...

In this regard information will only be considered to be "materially incomplete" if it comprises more than 5% of customer invoices.
19. In relation to customer consumption, as the records for 2022/23 confirm, the average annual consumption per customer (ignoring supply only customers) has been 134KL. This is the figure which should be used to determine the consumption Tier rates. The Supply Charge should be calculated to make up the balance of the Maximum Revenue control figure after the recovery for consumption under the Tier pricing has been determined.
20. There is no basis upon which ESCOSA should not have considered the detailed information provided to it by Robusto progressively since late 2022 and summarised in its letter of 12 May 2023. In this regard ESCOSA also has the benefit of the detailed consideration of the August 2021 price determination in the SACAT proceedings.
21. Finally ESCOSA should commit to issuing a new price determination within six months of the decision by SACAT. This is particularly the case given that the Robusto proposals above make no allowance for the recovery of legacy losses.

² paragraph 18 of Robusto's letter dated 12 May 2023



Yours faithfully,

A handwritten signature in black ink, appearing to read 'S. Connor', followed by a long horizontal line extending to the right.

**Managing Director
COMPASS SPRINGS**