
From: Anthony Rush [anthony@ajrush.plus.com]
Sent: 21 April 2010 20:32
To: 'Richard Jeffrey'; Fitchie, Andrew
Cc: david_mackay@[REDACTED] Brandon.Nolan@mcgrigors.com
Subject: RE: Project Carlisle

Thanks Richard,

As I explained I judged it the right thing to do in response to Michael's very positive opening position. I felt it showed more than just a casual idea on my part. But I did stress that it wasn't an agreed position with my client and I will take the opportunity of confirming that this evening (I need to think of how to do that without putting Siemens off). It would not embarrass me if you present a different offer next Friday but if we were contemplating something material I would like to consider warning Michael before hand.

I am not certain I would apply the term "foreplay" to anything at my age. But I did make it clear that unless BSC changed their approach termination is on the cards. If you will excuse me giving a blow-by-blow account here of two and half hours conversation I will give a more comprehensive verbal report on Monday.

I will also attempt to put some flesh on the skeleton before Friday evening so we can discuss it Monday morning.

Tony

From: Richard Jeffrey [mailto:Richard.Jeffrey@tie.ltd.uk]
Sent: 21 April 2010 17:36
To: Anthony Rush; Fitchie, Andrew
Cc: david_mackay@[REDACTED] Brandon.Nolan@mcgrigors.com
Subject: RE: Project Carlisle

Tony, I left you a phone message.

Looks good, well done.

I don't think I was aware that you were planning to table your 'skeletal agreement', but if you have agreed it with the 'Advisor Team' as you say, then I'm happy. It seems that you have taken my request to speed things up to heart and gone straight in there! Still, sometimes one just has to seize the moment. I think we should discuss your proposal as I am not sure I fully understand it, but I am sure I will after you explain it to me.

Was there any foreplay in terms of talking about what happens if we continue on our current trajectory.

Happy to speak whenever, tomorrow is fine if you can't make tonight.

You can call me at home if you wish tonight, 01 [REDACTED]

From: Anthony Rush [mailto:anthony@ajrush.[REDACTED]]
Sent: 21 April 2010 14:51

To: Fitchie, Andrew
Cc: david_mackay@[REDACTED] Richard Jeffrey; Brandon.Nolan@mcgrigors.com
Subject: Project Carlisle

As one would expect from Michael Flynn the meeting was affable and we quickly established that he was speaking for both Siemens UK and Germany (“Germany will do what I say”).

I made it clear that I had agreed the skeletal agreement with the Advisor Team and that I had had some outline discussions with the Chairman and Richard. The Advisors thought there was no other way of meeting all parties aspirations – and the Chairman had described the outline as “encouraging”.

Please remember that the draft proposal was “new” to him so we have to exercise caution at this stage as to his reaction. He was enthusiastic about the proposal outlined in the “Skeletal Change Proposal” (I gave a copy of that section only). He commented:

I had to explain the Scope in items 2 and 3 – he wanted to be clear. I made it clear that the revised arrangement had to be seen to include civils to Haymarket but that there was no intention of permitting BB onto the City streets. The reason I had drafted it this way was to ensure that we didn’t fall foul of EU Rules.

We agreed that item 5 may be a difficulty for BB to understand but that it was a “words” issue.

We agreed that item 8 (the Clause 80.13 clarification) may be a difficult principle for BB.

We agreed that items 10 and 11 would be “pricing” issues.

Michael raised additional points:

Siemens’ materials not used – how would they be dealt with.

The Maintenance provisions – I said there would be no change other than for the excluded works

Supply of trams – I said no change.

We discussed design of track. He confirmed that the interface was bottom of Rheda City – BB have to deliver a foundation capable of carrying loads defined by Siemens (he will send them to me before we meet SDS on Monday). I made the point that this was an important issue in agreeing a GMP.

I made it clear that the Advisor team would not permit tie to be shafted.

I confirmed that we had checked the programme twice and concluded that June 2012 was achievable subject to rephrasing on street works – there may be a need to extend that by no more than 6 months depending on the amount of work required to consolidate the ground.

I said we were considering issuing EOT3 and that hostilities not only would but should continue as a twin track until an alternative agreement was reached. I set end of May as being the drop dead date for detailed heads of terms.

We agreed that the negotiations should be conducted by “clean” teams.

Next steps

Michael is keen to talk to BB (on his way to Edinburgh this afternoon) I agreed that he could but confirmed that I had to get my client’s agreement to the approach. I suggested that Richard and David Darcy plus Michael should have an adult conversation on the 30th and get things moving. Michael agreed that he would not simply table my skeletal – I stressed it was for Richard to make any proposal on tie’s behalf.

If I have missed anything important I will email later. I really wanted not to come to Edinburgh until Monday (I am tied up until 2 tomorrow in Glasgow) but could get over to Citypoint at about 3.30 tomorrow.

My thoughts:

Siemens want a way of changing what is happening and I think this pushes all the right buttons. I suspect that they have already got some sort of understanding with BB.

Michael is, I detect, very nervous that I am not using him to shaft them – but I think he feels that he has no alternative (will have to be persuaded to lay back and enjoy it).

There will be a lot to do and there will be some about who will want to see us fail.

Within the “price” parameters discussed on Monday I think this is doable and I am certainly up for it.

Tony

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