
From: Richard Jeffrey
Sent: 28 May 2009 08:43
To: Alastair Richards - TEL
Subject: FW: BSC meeting

Sorry Alastair, meant to send this to you too.

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From: Richard Jeffrey
Sent: 28 May 2009 08:35
To: David Mackay; Graeme Bissett; Steven Bell; Stewart McGarrity; 'MHL Corporate'
Subject: BSC meeting

On Tuesday Steven and I met with Martin Foerder and Miguel Berrozpe.

The meeting was warm, good natured and business like, and we covered a lot of ground. I also believe there were some very significant issues raised.

If you want the full detail/flavour this is best done in conversation, but the highlights for me were.

- BB/TIE do not trust each other, we openly discussed this and gave examples to each other where we felt trust had been breached. My personal take is that unless we can rebuild a degree of trust things will get worse and worse.
- The fundamental disagreements that led to the Princes Street dispute have not been resolved; “we will not be starting any more on street works without a similar supplementary agreement or resolution on the key issues” The mechanics of the contract change mechanism are still a core consortium concern and this is driving the ‘will not start’ position
- Siemens have lots of issues too but they have not yet surfaced explicitly
- BB are determined to drag everything out as long as possible, “ if we don’t like the mediation we will go to adjudication, and if we don’t like that we will appeal outside the contract” They quoted 6 months for resolving each disagreement formally.
- We are clearly at a stand-off, (Siemens suggested we were in an arms race!) and I see no prospect of BSC changing out of first gear, the PMP will not deliver this in its current form.
- There were some key messages for us and our style so far. Steven and I have discussed this.
- The fundamental issue seems to me to be the issue of the unfinished design, and who owns this risk. We think we passed it to BSC in the contract, they think they passed it back during the negotiations.
- There is little point in agreeing a new programme or cost if we have not addressed the underlying issue of the design. Without the key issues resolved I have no confidence that any new programme or cost would be adhered to.

It seems to me we have a choice.

- We can tough this out, grinding out every point along the way, or
- We can take the whole relationship (rather than each issue) to mediation (marriage guidance!) In doing this I think we will very quickly get to the issue of the unfinished design risk.
- We can address the issue of the unfinished design at an intellectual/contractual level (As above), or we can go through a couple of dozen examples and see if we can resolve them pragmatically

Each approach has risks, and costs, but I am clear that if we carry on as we are nothing will change and the costs will increase and timescales will slip.

After the meeting Steven eloquently summarised the situation, “if we are not careful we will turn a £30m problem into a £100m problem”

I suggest we discuss before I see the consortium board on Wednesday.

Richard

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