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**From:** Willie Gallagher  
**Sent:** 05 July 2007 14:05  
**To:** Fitchie, Andrew; Matthew Crosse  
**Cc:** Susan Clark  
**Subject:** RE: Utilities Agreements

Thanks. Can the letter to Andrew stress:

- (a) This is clear advice from DLA
- (b) Telewest, there is nothing unusual in the conditions and we have already signed with their parent NTL
- (c) ScottishPower – nothing unusual and all risks covered via insurance by AMIS

Thanks,

Willie

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**From:** Fitchie, Andrew [mailto:Andrew.Fitchie@dlapiper.com]  
**Sent:** 04 July 2007 17:43  
**To:** Matthew Crosse  
**Cc:** Susan Clark; Willie Gallagher  
**Subject:** RE: Utilities Agreements

Noted, Matthew.

What Alan reports in his e-mail is what I (and I am sure Susan too) had thought CEC officials had already been discussing since the briefing meeting on May 30th at tie's offices. **tie** ( I believe latterly through Trudi Craggs) had been attempting to obtain a definitive response from CEC since early October last year on whether CEC would be prepared to underwrite these last two agreements. The only but not definitive response reported to me by Trudi was, from memory, in early April - along the lines of what Alan's e-mail still states. What I cannot answer on is exactly how **tie** was keeping CEC informed on the status of the various utilities agreement negotiations, of which these two are the last out of ten. The process of closing them all was drawn out and laborious and unfortunately could only get started relatively late because of **tie** funding constraints throughout 2004 and uncertainty over programme.

**Importantly, CEC has already signed (through its legal department) similar agreements in relation to Scottish Water, Scottish Gas Networks and NtL. (as mentioned these are the 'objecting utilities and CEC is a party because of the objection).**

A full explanation was given by **tie**, supported by us, at the May meeting as to why SP and Telewest require CEC as a party to the agreements. It is a little unclear to me what contractual and other arrangements Alan sees might be available to SP. **tie** is contracting to move SP's apparatus using MUDFA (with SP's permission). SP has no obligation to insure this activity, since it is occurring for the benefit of the tram project.

SP are simply looking at a situation in which damage is caused by the diversionary works to their apparatus by **tie's** works. **tie** (therefore CEC) has a contractual indemnity from MUDFA -subject to a contractual cap - for third party claims against **tie**. **tie** also carries project insurance.

On Monday this week I was asked by Susan to send further copies of the SP and Telewest contracts to Alan - which we did. Attached are the minutes of the May 30 meeting and the paper we produced immediately after that for CEC - which on any view must go some way to addressing Alan's concern about lack of information. I am not aware of Susan having received any reply to this note.

kind regards

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**From:** Matthew Crosse [mailto:Matthew.Crosse@tie.ltd.uk]  
**Sent:** 04 July 2007 17:05  
**To:** Fitchie, Andrew  
**Subject:** FW: Utilities Agreements  
**Importance:** High

discussed

Matthew Crosse  
Project Director - Tram

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**From:** Willie Gallagher  
**Sent:** 04 July 2007 16:16  
**To:** david\_mackay@[REDACTED]; Andrew Holmes; Steven Bell; Matthew Crosse  
**Cc:** Graeme Barclay; Susan Clark; Alasdair Sim  
**Subject:** FW: Utilities Agreements  
**Importance:** High

I find it unbelievable that this is not resolved – we are due to start work next Tuesday! Can someone please brief me of how we get this fixed. The lady will not be for turning!

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**From:** Alasdair Sim  
**Sent:** 04 July 2007 15:53  
**To:** Graeme Barclay  
**Cc:** Willie Gallagher  
**Subject:** FW: Utilities Agreements  
**Importance:** High

Graeme,

You have a clear understanding of what these agreements contain, I unfortunately do not. Would you please contact Alan Squair – CEC Legal 529 3670 to discuss?

Thanks  
Alasdair

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**From:** Alan Squair [mailto:Alan.Squair@edinburgh.gov.uk]  
**Sent:** 04 July 2007 15:30  
**To:** Alasdair Sim; Colin MacKenzie  
**Cc:** Andy Conway; Gill Lindsay  
**Subject:** RE: Utilities Agreements

Alasdair

As I mentioned in my recent e mail, I met with the Council Solicitor this morning to discuss this. In summary, our view is that rather more information and advice on the Council's exposure to risk in terms of Scottish Power and Telewest is required and that as and when these risks can be identified and quantified and the issue as to whether cover for these risks can be obtained has been explored, the matter should then be the subject of a Report to Members.

We would require to have a better understanding of why SP and Telewest wish CEC to be party to their Agreements and particularly what specific liabilities they consider not to be addressed by other contractual and/or insurance arrangements. Not having been involved in the apparently lengthy and detailed negotiations which have taken place to bring the Agreements to their present form, we are not aware of the areas of concern.

Accordingly, we could not at this stage recommend that the Council sign these Agreements.

I would however stress that the above would be our recommendation and advice but that we are urgently seeking instructions from the Director of City Development.

Regards

Alan

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**From:** Alasdair Sim [mailto:Alasdair.Sim@tie.ltd.uk]  
**Sent:** 04 July 2007 10:13  
**To:** Alan Squair; Colin MacKenzie  
**Subject:** Utilities Agreements

Good morning Gents,

Could I ask how we are progressing with the sign off for these utilities agreements with Scottish Power and Virgin Media please?

Thanks  
Alasdair

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