
From: Alan Squair
Sent: 21 June 2007 17:49
To: Gill Lindsay
Cc: Nick Smith; Colin MacKenzie
Subject: FW: EDINBURGH TRAM PROJECT: SCOTTISH POWER AGREEMENT
Attachments: 40-92-TMP-002910 RoR Tram HSQP v0.DOC

Importance: High

Gill

We're being pressed by Susan Clark in **tie** for our comments on these issues. The information provided by DLA was in fact contained in one document, which is attached.

It would be helpful to have a meeting with you to discuss matters. If you could give me an indication of your possible availability, I'll co-ordinate with Colin and Nick.

I've not mentioned to Susan that we're considering external review.

Thanks

Alan

From: Alan Squair
Sent: 05 June 2007 15:30
To: Gill Lindsay
Cc: Nick Smith; Colin MacKenzie
Subject: FW: EDINBURGH TRAM PROJECT: SCOTTISH POWER AGREEMENT
Importance: High

Gill

Nick and I duly met **tie**/DLA last Wednesday.

A number of Agreements were referred to in discussion -

1. Agreements to which CEC are parties and which were required to allow for withdrawal of objections to the Bills -

- a. Scottish Water
- b. Scotia Gas Networks
- c. NTL

Although I have a CD-Rom which should contain all the Side Agreements, these are not on it so I am presently unaware of their content.

2. Utility Agreements controlled under the MUDFA contract -

- a. Easynet
- b. BT
- c. Forth Ports
- d. Thus
- e. Cable & Wireless

CEC are not parties to these and we have not seen them.

3. Agreements still under negotiation and to which CEC are parties -

- a. Scottish Power

b. Telewest

I have a copy of the SP Agreement in latest draft form. It has apparently been under negotiation for at least 6 months but we have only recently been copied into the draft. I gather that it was drafted by DLA for tie but I am unaware of the extent of the negotiation/revisal which has taken place or of the relative strengths of the respective bargaining positions.

As regards the risk table which you requested, DLA are to provide us with a list of risks in the SP and Telewest Agreements by 8 June and an analysis of existing contracts by 14 June. I am not presently aware of the terms of the Telewest Agreement or the stage which it has reached but anticipate that we'll be provided with a copy when we receive the list of risks.

Duncan Fraser is anxious that we obtain an independent review of the risks to which CEC might be exposed under the terms of these various contracts. He has asked that I seek your agreement in principle to such an exercise. The intention would be to instruct external solicitors, who could in turn obtain technical input as required. I do not think that we will be in a position to draw up a specification of the work until we have the full package of information (i.e. after 14 June). At that stage we would be able to evaluate the scale of the work, which may direct the nature of the procurement arrangements.

No specific timescale has as yet been set for a CEC response on risk issues, but I think we can assume that we will come under substantial pressure to deliver - despite having been kept out of the loop for some months. I have asked Duncan how the exercise is to be funded - he was unable to give a precise answer, other than to assure us that funding would be found.

Can you confirm that you are agreeable to the principle of external review? - if so, we can discuss with Duncan what steps might be taken at this time.

Nick and I would be happy to discuss.

Thanks

Alan

From: Colin MacKenzie
Sent: 26 May 2007 10:05
To: Alan Squair
Cc: Nick Smith
Subject: EDINBURGH TRAM PROJECT: SCOTTISH POWER AGREEMENT
Importance: High

Alan and Nick,

I somehow managed to delete an e-mail from Andrew Fitchie of DLA, but at least kept a hard copy.

He suggests an agenda for the meeting next Wednesday as follows:

1. Background to the Utilities Diversion Agreements and generally third party agreements in the ETN Project.
2. MUDFA.
3. The Scottish Power and Telewest draft agreements.
4. CEC's support for tie's covenant
5. Actions arising.

Seems fine to me, although that is largely irrelevant since I will not be in attendance. No doubt you will have your own ideas on what might be added to the agenda.

A couple of pointers, if I may, following my discussion with Gill on Friday afternoon. DLA should be asked to provide the Council with a risk table, explaining for the SP agreement (which is the only one I have seen) the nature and

quantification of risks which might pass to the Council as a party to the contract, or as a guarantor. DLA and tie should also be asked to explain how these risks will be set off with any contractors which are actually going to be doing the work on behalf of tie/CEC, assuming that it is not SP doing the work.

Perhaps you could send Duncan Fraser a copy of your note, Nick. Emphasise to him this is **not** to be passed outwith the Council.

At this stage we have no authority to bind the Council to becoming a party to the SP contract, nor to giving a guarantee. Once we are better informed I suspect that we will report on the matter to the IPG and thereafter to Council seeking instructions. Please ascertain from DLA what the timescale is for the SP works to inform our internal mechanism and timescale for considering the issue and obtaining instructions.

Good luck with the meeting.

Kind regards,

Colin MacKenzie
for Council Solicitor