
From: Stewart McGarrity
Sent: 20 February 2009 09:27
To: Fitchie, Andrew
Cc: Graeme Bissett (external contact); David Mackay; Steven Bell; Jim McEwan
Subject: RE: BSC

Andrew,

Below is an extract from my note of the 10th February (BB only) meeting as edited and validated by Steven. You have the full note and Stevens validation in your mailbox (17th Feb).

I believe it was David who specifically brought up the £50-80m “demand” in his opening remarks at the joint BB/S/C meeting on Tuesday night this week (17th Feb) – I would note there was no denial whatsoever from BB and Dr Keys berg repeated (several times) their requirement to know they could recover their extra direct and time related costs before they could proceed.

Does this do the trick of do you think we need to document more?

Stewart

They have examined their projected outturn costs on the project which will give them an exposure of between £50m and £80m. The bottom end of this range comprises broadly £20m of direct costs due to Notified Departures/tie Changes, £20m extension of programme (the full 70 weeks delay so far @ circa £300k prelim rate per week) and £10m delay and disruption which was a broad estimate. R Sheehan said he had been through the calculation and was confident it was accurate and suggested it had been reality checked, (*implication being unlike other estimates provided*). This is still a working estimate – it could go down or up a bit with good planning but for example if we/CEC should not think a compromise at £20m for instance is deliverable. This is for BB only and does not provide for Siemens.

(Even if they do have a £50m projected loss/exposure which was couched in terms of “tie’s problem” - this anticipates that a contractual dispute would resolve with tie responsible for 100% BDDI to IFC evolution to our account and 100% of project delay (70 wks ie Oct 12 ops commencement) to our account. We have no visibility of how they get to the £20m direct costs of change figure at all – if they had shared the estimates with us it would have been helpful they quoted £16m + £4m changes in progress)

They will not be allowed by their German HC to proceed unless it’s clear that they can recover this shortfall – therefore they require us help them cover projected costs otherwise it will revert to a contractual dispute and neither party will benefit.

Stewart McGarrity
Finance Director
tie Limited
Mobile: [REDACTED]

From: Fitchie, Andrew [mailto:Andrew.Fitchie@dlapiper.com]
Sent: 19 February 2009 23:25
To: David Mackay; Graeme Bissett (external contact); Stewart McGarrity; Steven Bell; Jim McEwan
Subject: Re: BSC

Legally Privileged

Would like to see the conversation with BSC senior reps. about them making a loss on ETN minuted or noted in tie's contemporary files/project notes by a couple of tie participants.

Kind regards
Andrew Fitchie
Partner
DLA Piper Scotland LLP
T: [REDACTED]
M: [REDACTED]
F: [REDACTED]

----- Original Message -----

From: david_mackay@[REDACTED] <david_mackay@[REDACTED]>
To: graeme.bissett@[REDACTED] <graeme.bissett@[REDACTED]>; Stewart McGarrity <stewart.mcgarritty@tie.ltd.uk>; Steven Bell <steven.bell@tie.ltd.uk>
Cc: Fitchie, Andrew
Sent: Thu Feb 19 23:16:42 2009
Subject: Re: BSC

Graeme,
Many thanks. All the more important that we don't get soft!
David

>-----Original Message-----

>From: graeme.bissett@[REDACTED]
>Date: 19/02/2009 21:53
>To: "David Mackay" <david_mackay@[REDACTED]>, "Stewart McGarrity" <stewart.mcgarritty@tie.ltd.uk>, "Steven Bell" <steven.bell@tie.ltd.uk>
>Cc: "Andrew Fitchie" <andrew.fitchie@dlapiper.com>
>Subj: BSC

>
>One point I didn't spell out in my note earlier today is the significance of our present debate to BB's listed company responsibilities. They made an unplanned announcement about the Norwegian losses at a level of £50m exposure. This is in relation to a full financial years numbers but an anticipated loss over a period into the future has to be assessed that way.

>
>If BB think there is a loss approaching a big number they have a profit warning problem. Their guidance for 2009 is c€300m PBIT.

>
>They now have a publically known project problem where their own numbers imply a problem of this scale. Their next steps need to be taken with this pressure fully taken into account.

>They will currently need to be taking advice on their market regulation responsibilities and we should keep close watch on their announcements via their website.

>
>In addition to the commercial contract pressure you guys have them under, I believe they now have a public markets dimension which would promote a "no gain \ no loss mentality". They need to assess and potentially announce their real likely level of loss under various outcomes, of which tie rolling over may not now seem as likely.

>
>The stronger the line tie takes on credible grounds, the bigger this problem becomes.

>
>Regards

>
>Graeme

>-----
>Graeme Bissett

>0044 [REDACTED]

>
>Sent from my BlackBerry® wireless device

What's on TV tonight? - <http://www.tiscali.co.uk/tv>

This email is from DLA Piper Scotland LLP.

The contents of this email and any attachments are confidential to the intended recipient. They may not be disclosed to or used by or copied in any way by anyone other than the intended recipient. If this e mail is received in error, please contact DLA Piper Scotland LLP on +44 (0) 8700 111111 quoting the name of the sender and the email address to which it has been sent and then delete it.

Please note that neither DLA Piper Scotland LLP nor the sender accepts any responsibility for viruses and it is your responsibility to scan or otherwise check this email and any attachments.

DLA Piper Scotland LLP is a limited liability partnership registered in Scotland (registered number SO300365), which provides services from offices in Scotland. A list of members is open for inspection at its registered office and principal place of business Rutland Square, Edinburgh, EH1 2AA. Partner denotes member of a limited liability partnership.

DLA Piper Scotland LLP is regulated by the Law Society of Scotland and is a member of DLA Piper, a global legal services organisation, the members of which are separate and distinct legal entities. For further information, please refer to www.dlapiper.com.
