
From: Anthony Rush [rush_aj@[REDACTED]]
Sent: 13 September 2010 21:36
To: david_mackay@[REDACTED]; Richard Jeffrey
Cc: Jim Molyneux; William Mowatt; Steven Bell; Fitchie, Andrew
Subject: Carlisle

David/Richard

Please excuse me if I don't get much done with commenting on the Infraco proposal tonight – I have been bogged down with calls since I got in.

Bill is looking at the key differences and Jim is looking at the price movements. Jim will join us at Citypoint at 1300 so that we can go over them before our meeting with EK at 1500. I am also not inclined to use too much energy on their proposal – my intention is to get them back on ours.

So that Richard doesn't think I was being patronising when we got cut-off, I think I should explain why Jim and I thought he was so effective today.

One explanation for the behaviour of EK the weekend before last and the tone of their proposal is that they are hopeful that our approach is solely motivated by myself and that I am using Carlisle to build the termination case against them. Getting rid of me they may have thought would open it up for them.

Richard was so definite and put across our position with such an obvious knowledge of where we are that they can (or maybe I should say should) have no doubts that our proposal contains the key irrevocable requirement "price certainty". Moreover Richard knows what we mean by "price certainty". In my view all five of them couldn't have gone away from the meeting thinking that if they want Carlisle to succeed they don't have to accept that.

I also think the exchange that Richard and I had on the allegation that our Chairman had agreed to compare our proposal with theirs not only effectively refuted that but it also made them aware that I was working to "instructions".

EK has agreed to meet tomorrow at 1500 to discuss my email to him:

"What I would like to understand is the causes of what appears to be material differences to what you agreed with Jim and I is a basis to reach agreement. I have three questions.

What conditions in our proposal are unacceptable to Infraco?

What conditions would Infraco like to revise?

What conditions would Infraco like to add?

I would ask you to take account of Richard's clear statement on what cannot be accepted by tie."

Which gets us back to our proposal - despite their proposal saying they won't discuss it.

The principal issue I would like to be able to find an answer to is CEC's approvals. Can Steven come up with a suggestion as to how we can get CEC to get them all cleared by say the end of September? Answers by 1430 tomorrow please Steven – despite the fact that the blame may lay with Infraco. Are there any strings we can pull at the top in CEC – again attaching no blame to CEC, but recognising that this appeared to be the only possible factor we could help with.

I don't think that the new price makes much difference to the comparisons we worked out when we got Enenkel's letter. Jim makes a very good point on quantum of risk from BDDI2 to IFC . By their latest proposal they have some £90 million of sub-contract work left on Off-street works (excluding the Depot) – just how much risk can there be in that at this stage?

EK "asked" Jim if he should bring Walker and Flynn along and Jim dismissed the idea. There may be a plus point or two if they do come along but on balance if we are to move things on I think not. In any event it gives a lie to Wakeford's deliberate praising of EK and repeating that he speaks for all parties.

Next Steps

As frustrating as it may seem I think we do need not to be seen to throw in the towel whilst they want to keep Carlisle alive.

One week tomorrow they have to respond to the first three RTN's – I am meeting Andrew on Thursday and one of the subjects we will consider is calling the Bond. It will push them further and give us an indication as to whether we can get price certainty at the right price.

We have to get the Preliminaries Adjudication right (does CEC and TS know of it?)

I am afraid to say that we have to consider opening up more DRP's on changes – we will have a better idea how many on Thursday.

Submit more RTN's.

See you as soon as I can tomorrow – we are living in interesting times.

Tony

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Bow Tel [REDACTED]
Mobile [REDACTED]
email [rush.aj@\[REDACTED\]](mailto:rush.aj@[REDACTED])