
From: Graeme Bissett [REDACTED]
Sent: 08 August 2008 12:17
To: Willie Gallagher; Stewart McGarrity
Subject: BSC dispute management - strictly confidential

Brief summary of the meeting this am :

1. Both v26 and v31 are embedded in the contract, v26 as the contract programme and v31 as a notified departure. There is no argument that tie owe BSC for the July-Sep 2011 delay, taking this matter in isolation. BSC have claimed £5m, we believe the unmitigated cost would be £1.4m and the quantification will need negotiated.
2. Tie has formally notified BSC of mitigating actions which BSC are legally obliged to execute. The programme effect needs quantified but should reduce the July-Sep delay.
3. BSC have not (to our knowledge) commenced execution. This is a contractual breach ; this needs confirmed but if so will counteract their claim under 1.
4. In addition, we have evidence of BSC's failure to mobilise – another contractual breach – which we have initially quantified as a risk of 28 week delay from July. The support for this argument needs to be made robust.
5. The obligation to pay for v31 is separate legally from our counter-claims and if common sense doesn't prevail, separate dispute resolution procedures could ensue.

The team's objective is to achieve a wash of all the above, although the mobilisation risk needs careful grounding before we'd cap it to deal with the v26/v31 issue. Assuming we can create the support for our arguments convincingly, the issue is one of tactics and negotiating skill and I'd have confidence in the team to handle this well.

A related tricky area is the desire to do better than July. BSC are tabling an "integrated" programme next Wednesday which seeks to do this and for which they will want paid extra acceleration money. We may be prepared to do so, and will need to work out the gains and the gain-share. It is not easy to see how v31 and related matters can be separated from the more constructive "win-win" opportunity and I think we have to see what develops next before crystallising tactics. It may be net beneficial to us to roll the whole thing together.

Too many of these challenge sessions in the past have resulted in radically different next steps being taken. The situation needs careful monitoring and subject to getting rigorous support for our positions, I think Frank, Dennis and Susan have got a grip on what is a difficult early test of our competence and resolve.

Regards
Graeme

Graeme Bissett

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