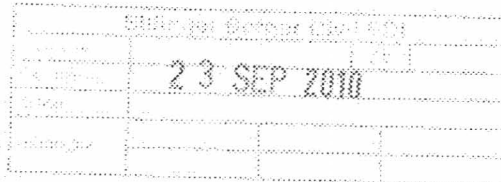


Our ref: 25.1.201/MRH/6777
Your ref: INF CORR 5994

Bilfinger Berger-Siemens- CAF
Consortium

22 September 2010

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For the attention of Steven Bell – Tram Project Director

Dear Sirs,

**Edinburgh Tram Network Infraco
Improper Application of Clause 34.1**

We refer to your letter reference INF CORR 5994 dated 8 September 2010.

Contrary to your assertion we did not "accept the content" of your letter. Rather we agreed with a statement which has been advanced by Infraco in each Adjudication to date concerning Notified Departures, namely that the test for whether a Notified Departure has occurred is an objective one.

We see no purpose in debating INTCs in a global manner in terms of whether we have submitted information timeously. As previously stated, we will continue to pursue each INTC to the point of agreement or determination and will not be drawn into a futile debate to the contrary.

You state that you were using "Lord Dervaird's decision on a without prejudice basis". It would be more accurate to say that you were **not** adhering to the decision on a without prejudice basis by setting it aside. This is contrary to the fact that the Adjudicator's decision is binding until a Court decides otherwise under Schedule Part 9.

We refute the allegations in your final paragraph concerning the critical path and our failure to manage the design process. There are many reasons why the Project has been delayed and our submission in respect of delayed access due to the continuing MUDFA Works requires to be addressed through the issue of a tie Change Order before we are able to submit a revised Programme for your acceptance.

Yours faithfully,


M Foerder
Project Director
Bilfinger Berger Siemens CAF Consortium

cc: R. Walker – Bilfinger Berger
Michael Flynn – Siemens
A. Campos - CAF
M Berrozpe – Siemens
A. Urriza - CAF