

From: Henley, John
Sent: April 16, 2018 5:37 PM
To: Harrington, Tim; Mike.Buckle
Cc: Parmiter, James
Subject: RE: Change Orders in Dispute

Gents:

Had a call from Scott to discuss the COs 15 minutes ago.

Essentially, their position is:

PC-0005 Trailers: Agreed to pay \$80k for the materials.

PC-0027 & 0028 Tray Claims: His view is nothing owed. To settle would consider a partial amount of the material cost. Told him that was not going to fly but we will discuss as partners & get back to him tomorrow. My view is we hold on this one as we made a significant concession on taking out the ATCL adjustment to get this done. Force them to defend this approach at the Sponsors meeting.

PC-041: Wants to put on hold for now until we confirm that there are no other HVAC equipment claims coming. If there are he wants one CO not a load of smaller ones. Appears they will pay the \$36k but do not want this to start an avalanche of HVAC COs.

In addition, we discussed two other issues:

- a) The status of the Design Review meetings and CG push back on the minutes. Explained that the push back was not about having the meetings as we see them as valuable. The minutes were insisting that the meetings had to be held in St. John's. I explained that it is not always practical and the project team wanted the flexibility to have the meetings by videoconference, on-site or in St. John's. He agrees with this approach.
- b) The Elevator operations and maintenance issue and CG not wanting to take this role. I explained to him that the issue was not CG not willing to take over responsibility for the elevator but that we do not want it in general service as it will affect trade productivity. Our experience is that once an elevator is available no one will walk the stairs and will queue for a lift before/after each break vs walk the stairs. Equally, after two years of construction the elevator interior will be trashed and need to be replaced. Our view is we will take over the operations and maintenance on the basis that we will only use it for required material moves and not personnel. He agrees with that approach but would like a simple calculation to show the productivity risk. *(TIM: please have Brad B put something simple together).*

Please give me a call if you want to discuss.

Regards

John J.

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From: Henley, John
Sent: Monday, April 16, 2018 2:40 PM
To: Harrington, Tim; Mike.Buckle
Cc: Parmiter, James
Subject: RE: Change Orders in Dispute

Tim/Mike:

Updated notes from the meeting this AM with Nalcor. Level 1 Dispute Meeting for PCOs:
0005,0027,0028,0041

Note this was the formal Level 1 Dispute meeting albeit Scott O'Brien did not show. Nalcor was represented by Paul Adams and Kumar ?? CG by Tim H (telecon) and me. It was a follow on from the initial discussion last Thursday April 12/18.

PC-005: Relocation of Site Trailers: \$190,444.83

Re-hashed the previous discussion. Nalcor position is that they helped us out for the office area, Astaldi materials in the way etc. Equally they cleared ground in the PH area. Made it clear they had to move it in any event. Discussed the merits of our CO. Very clear that Nalcor amenable to the materials portion but highly reluctant on the ATCL adjustment. CG position is that the cost to hook-up three locations near the PH far exceeds the plan of one location (temporary power, moving trailers etc.)

CG final position was a) ATCL no adjustment, b) Materials: \$105K - \$36K for the staircase (never installed) = \$80k. Nalcor positive and will revert with final answer.

PCO-0027: Modification of Cable Tray Supports: \$32,332.14

Showed them the drawing and explained the extra hardware required to bridge the out of plane beam. General discussion on the issue. Paul/Kumar not that familiar with the details.

Once again ATCL was an issue but OK with the material cost.

CG Final position a) ATCL no adjustment, b) Materials: \$17k. Nalcor positive and will revert with final answer.

PCO-0028: Type 2 Cable Tray Supports: \$251,226.67

Went back over the previous arguments. Nalcor have apparently spent a lot of money with SNC on the engineering review of the tray support issue. Showed picture of the hanging support. Their tray typical detail drawings at bid never showed anything like this. CG needs the labour and material adjustment.

Nalcor not budging on the labour ATCL adjustment but amenable to the material argument. Discussed in detail the need to have the labour adjusted on a go forward basis for unbudgeted scope.

Agreed that we would drop the ATCL request this time only, and very clear this is not a precedent, to get the material paid.

CG Final position a) ATCL no adjustment "This Time Only" b) Materials: \$105k. Nalcor positive and will revert with final answer.

PCO-0041: Change of Condensing Unit Type/Model: \$36,255.66

Nalcor very concerned that the HVAC price is LS and how do they know this is legit. They suggested that they should ask for a detailed breakdown on the HVAC bid. CG reminded them that HVAC was bid LS at their request. We are only billing them for the incremental cost of the condensers above the spec'd version which is not available with a CRN # as the Canadian facility has closed. They knew our argument was strong and the only fear was that there were another 10 COs coming on HVAC that they have no visibility on. CG agreed to review the procurement on HVAC and advise if there were any other known equipment COs coming.

CG final position is a) ATCL adjustment: N/A b) Material \$36k which includes 13% M/U. Nalcor positive and will revert with final answer.

General Comment:

The goal of today was to get some of these issues moving forward and resolved recovering our out of pocket costs. The ATCL labour is a dilemma as we are getting our costs paid plus M/U as long as we are under the ATCL. A reduced M/U for a portion above the ATCL and then none. Practically, as long as the PF is 1.0 or more the amount at risk on small COs is small \$.

However, the cumulative effect could be significant and we need to be very clear with Naclor that we have not argued the ATCL on these issues as a sign of good faith. We cannot continue to have the ATCL issue as an absolute NO on a go forward basis. **Point needs to be made at the Sponsors meeting assuming we get the CO offers approved.**

Other Issues:

Reminded Paul A that Scott committed to have the answer on the Staff and Site charge today. Made it clear that it will be raised tomorrow again at the Sponsor's level if we do not get this resolved.

Tim H fill in any blanks in the above as you see fit.

Regards

John J.

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From: Henley, John
Sent: Friday, April 13, 2018 3:12 PM
To: Harrington, Tim; Mike.Buckle
Subject: Change Orders in Dispute

Tim/Mike:

My notes from the high level discussion on the disputed COs with Scott O'Brien and Paul Adams yesterday.

The plan is to meet again on a formal basis on Monday at 10 AM.

PCO-0041: Change of Condensing Unit Type/Model: \$36,255.66

Scott does not want to address this issue in isolation. He would prefer to see a CO for the whole system? He appears to believe there are puts/takes coming on other components. Tim any idea what else is out there related to the HVAC system

My sense is he has no issue with the extra cost on the specific issue but is looking to trade it off against other items he believes are out there. Tim any insight as to what could be the trade?

PC-005: Relocation of Site Trailers: \$190,444.83

Scott's view is they gave us a better/agreed location for the office. He also believes they met their contractual commitments on the Power House area. In addition, in his view they did us a favour by levelling the upper parking lot area at their cost to help us get the trailers placed.

I explained that we did not carry costs to put site trailers at multiple locations near the Power House and that Nalcor had committed to an area and then did not allow us to occupy it as another Contractor was in that space. We expended significant additional money on materials etc than budget.

I also explained that there is a real difference between the Trade Labour costs on these COs vs the material & third party costs. The trade labour is essentially an increase in the ATCL and only a hard cost to Nalcor if we exceed the ATCL. (Note the CO includes \$36k for a scaffold stairwell which we did not spend)

He has agreed to look at the issue again. He had not considered the labour cost and I believe he wanted time to think that through.

PCO-0028: Type 2 Cable Tray Supports: \$251,226.67

Scott was adamant that Nalcor was not paying for Type 2 tray support modifications. His view is that Nalcor have done CG a favour by not holding us to their spec on the trays and if they did we would have to eat a significant amount of rework. Both he and Paul were concerned that we even considered putting in a CO given the concessions they have given us.

I explained that Type 2 angle iron supports were not shown in the bid documents, where all tray details are unistrut. Equally, we do not believe that Nalcor have given us concessions on the tray spec.

This will be a hard one to get settled. We need to understand what is driving their view on the "Concessions"??

PCO-0027: Modification of Cable Tray Supports: \$32,332.14

Same comments as above on trays. However, he relented a bit when I explained the issue was the location of the building structure we have to tie into that requires modified tray supports.

Again, my view is this will be difficult to resolve until we peel back the tray concession perspective.

We will try again on Monday after they have had some time to think about it. The ATCL argument got some traction in principle.

Staff and Site Overhead CO Factor:

This issue is not in formal dispute but I reminded him that he owes us an answer. He promised to get back with a firm answer at the next meeting, now set for Monday. General sense is he believes he can sell a version of this approach.

I will send out an update on Monday, April 16/18.

Regards

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