

RELEASE IN FULL

Draft MEMORANDUM

To: Ambassador Joseph Wilson

From: Geoffrey T Keating

Date: August 11, 2010

Subject: Symbion Power, LLC: Iraq Reconstruction Projects and Claims Status

Symbion Power LLC, a US corporation, was awarded eight projects by the U. S. Joint Contracting Command-Iraq (JCC-I). These projects were located near the cities of Dahuk, Basrah, Fallujah, Haditha, Hilla, Ramadi, and Farabi & Jamila, both in Sadr City. All projects involved electrical power transmission, distribution and substations. Symbion has extensive experience in this type of work and prior work in Iraq.

Unlike the early cost-plus contracts that have caused so much waste and abuse, Symbion's Iraq reconstruction contracts were fixed price contracts won in competition with other major US and international companies. These contracts presented both financial constraints and physical risk as well as the dangers of the battlefield. For its efforts, Symbion has received high praise from the US Army for succeeding with projects many deemed impossible.

Among the most difficult was the **Hilla Contract**. This \$28.3 Million design and build contract required 85 km of towers and transmission lines. Many problems were encountered especially access to the many parcels of private land promised by the US Army. This caused many delays and interruptions in placing the 280 towers over 85 km. Deteriorating security from the outset also required extraordinary measures. After a year and a half, the US Joint Contracting Command terminated this project for government's convenience on February 1, 2008, a time when Symbion had progressed the work to 90% completion. Work then stopped and the project was turned over to the US Army.

Within 9 months of the termination, Symbion filed three claims for a schedule extension and additional costs pursuant to contract terms: (a) a \$10.2 million claim for additional piling to support tower foundations; (b) a \$3.15 million claim for 91 days extended contract time and related costs; and (c) a \$1.1 million claim for costs of turning over the project to US forces. No negotiations on the three claims have occurred since they were submitted in 2008.

Symbion's \$10.2 mm piling claim submitted in July 2008 was deemed valid but only \$2.7 million was recognized and paid. An appeal to the Armed Services Board of Contract Appeals for the disallowed \$7.5 mm resulted in an Order in Jan. 2010 that the contract price be increased \$10.2 million. Not even a partial payment has been made since then. No discussions whatsoever have occurred on the other two claims. During this time Symbion having incurred the added costs 2-3 years ago has been acting as the Army's lender. This impacts its business. Part of the problem is that the Hilla contract from the June 2006 award to present has had 13 different Contracting Officers in 4 years.

All Hilla claims now are under a DCAA audit. Negotiations await audit completion.