

立法會
Legislative Council

LC Paper No. CB(1)914/06-07
(These minutes have been seen
by the Administration)

Ref: CB1/BC/3/05

Bills Committee on Rail Merger Bill

**Minutes of twelfth meeting on
Tuesday, 9 January 2007, at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon LAU Kong-wah, JP
Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon Fernando CHEUNG Chiu-hung
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon TAM Heung-man
- Members absent** : Dr Hon LUI Ming-wah, SBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Hon Emily LAU Wai-hing, JP
Hon CHEUNG Hok-ming, SBS, JP
Hon CHIM Pui-chung
Hon KWONG Chi-kin

- Public Officers attending** :
- Mr Patrick HO
Deputy Secretary for the Environment, Transport and Works
 - Miss Ida LEE
Principal Assistant Secretary for the Environment,
Transport and Works
 - Mr Kady LO Kin-hung
Chief Inspecting Officer (Railways)
Environment, Transport and Works Bureau
 - Mr David LAU
Principal Assistant Secretary for Financial Services and the
Treasury
 - Mr Sunny CHAN Yuen-sun
Senior Government Counsel
Department of Justice
 - Mr Albert YUEN Lap-pun
Assistant Commissioner for Transport/Bus & Railway
 - Miss Alice AU YEUNG
Principal Transport Officer (Bus and Railway)
Transport Department
- Attendance by invitation** :
- MTR Corporation Limited
 - Mr Andrew McCUSKER
Operations Director
 - Mr Wilfred LAU
Head of Operations
 - Mrs Miranda LEUNG
General Manager – Corporate Relations
 - Ms Maggie SO
External Affairs & Government Relations Manager
 - Kowloon-Canton Railway Corporation
 - Mr Y T LI
Senior Director, Transport

Mr Raymond WONG
Senior Corporate Affairs Manager

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Mr Anthony CHU
Acting Senior Council Secretary (1)3

Ms Sarah YUEN
Senior Council Secretary (1)6

Action

I Confirmation of minutes and matters arising

- (LC Paper No. CB(1)580/06-07 - Minutes of the meeting held on
14 November 2006
LC Paper No. CB(1)590/06-07 - Minutes of the meeting held on
30 November 2006)

The minutes of the meetings held on 14 and 30 November 2006 were confirmed.

II Integrated Operating Agreement

- (LC Paper No. CB(1)627/06-07(01) - The Administration's response to
issues raised at the meeting on
19 December 2006 on integrated
Operating Agreement
LC Paper No. IN03/06-07 - Information note on major changes
proposed in the draft integrated
Operating Agreement between the
MTR Corporation Limited and the
Government prepared by Research
and Library Services Division of the
LegCo Secretariat
LC Paper No. CB(1)520/06-07(01) - Information paper on the integrated
Operating Agreement provided by the
Administration

Action

LC Paper No. CB(1)565/06-07(01) - Speaking note of Mr Andrew McCUSKER, Operations Director of MTR Corporation Limited at the meeting on 19 December 2006)

2. Members noted the Administration's response to questions raised by Mr LAU Kong-wah as set out in LC Paper No. CB(1)661/06-07(01) tabled at the meeting.

(Post-meeting note: The paper was issued to members vide LC Paper No. CB(1)681/06-07 dated 10 January 2007.)

3. The Bills Committee deliberated (index of proceedings attached at **Annex**).

4. The Bills Committee had examined whether the proposed fare adjustment mechanism (FAM) could adequately safeguard public interest. The Bills Committee had also reviewed whether there was a need to include specific provisions in the integrated Operating Agreement (integrated OA), requiring the post-merger corporation (MergeCo) to consult the Panel on Transport and consider the level of public acceptance based on passenger surveys prior to changing the level of any fare under the FAM.

5. The Administration pointed out that after the rail merger, fares of MergeCo would be adjusted according to a formula which was linked to changes in consumer price index and wage index. In general, this formula could reflect economic conditions in Hong Kong and affordability of the public. The introduction of a direct-drive fare adjustment formula operating under the proposed FAM was objective and transparent. Hence, the proposed arrangement was to require MergeCo to formally notify the Panel on Transport and the Transport Advisory Committee (TAC) in writing instead of consult them, within a reasonable period prior to implementation of the new fares.

6. Some members had expressed grave concern about the slippage in the implementation of the Shatin to Central Link (SCL). Views had been expressed that as a result of the rail merger, implementation of SCL had been withheld for years. There were also worries that with only one railway corporation left after the rail merger, the Administration would have little bargaining power when negotiating with MergeCo on the implementation of and funding arrangements for new railway projects. As a result, public interest would be scarified. In view of the uncertainty of the future of SCL, particularly the implementation timetable and funding approach for the project, the Bills Committee had examined whether it was appropriate to bundle the consideration of the Rail Merger Bill with the SCL project.

7. The Administration had pointed out that since the acceptance of the SCL tender bid of Kowloon-Canton Railway Corporation (KCRC) in June 2002, KCRC had made changes to its original proposed SCL scheme, including two major revisions to the original proposal in the year 2004. As a result, the Government needed to consider in

Action

detail the technical, operational and financial implications on the SCL projects in respect of such substantive amendments. Thereafter, an agreement would need to be reached on a draft final proposal which would then be submitted to the Chief Executive in Council for approval, and then the necessary statutory procedures for public consultation would be proceeded with. On the other hand, the implementation programme for the SCL was also dependent on the progress of the Kai Tak Planning Review and the Wan Chai Development Phase II Review which had yet to be finalized. Whilst the Government would discuss with the railway corporations the implementation details of SCL, including the funding approach for the project, taking into account the progress of the rail merger exercise, it would be inappropriate and unwise to bundle the two together because that could delay the merger exercise and hence the proposed rail fare reduction that would be made possible by the merger synergy. Early approval of the merger would help ensure the adoption of integrated interchange arrangements for SCL proposed under the merger. The abolition of the second boarding charge under a merger scenario would also benefit passengers.

8. Regarding the implementation of new railway projects after the rail merger, the Administration pointed out that Government would consider whether to adopt the "ownership approach" or the "concession approach" for implementing new railway projects on a case-by-case basis with a view to ensuring that the public would be benefited from the railway development. After the rail merger, if an agreement on the terms for MergeCo to take forward a new project which was not natural MTR-extension on the basis of the "ownership approach" could not be reached, Government would have the additional option for requiring MergeCo to take up the operator's role and operate the new project under the "concession approach". The above would apply to the SCL.

9. Regarding the concerns expressed by some members in respect of the setting of initial fares for future new projects, the Administration advised that when setting fares for new railways, the railway corporations had all along taken into account the prevailing fare table and the same approach was expected of MergeCo irrespective of which funding approach was adopted for pursuing a new railway project. MergeCo would be required under the integrated OA to consult the Panel on Transport and TAC if the initial fares were inconsistent with the prevailing fare table of MergeCo, whereas MergeCo would be required to brief the Panel on Transport and TAC if the initial fares were consistent with the prevailing fare table of MergeCo.

10. On competition-related matters, the Administration pointed out that MergeCo would continue to face strong competition from other modes of public transport. Hence, competition would still exist after the merger and prevent MergeCo from taking a monopoly position in the provision of transport service.

Admin

11. The Administration was requested to provide information on the following –

- (a) The Administration to consider, in respect of the requirement under the integrated OA for MergeCo to give written notification to the Legislative Council (LegCo) before implementing fare adjustments, whether

Action

MergeCo would respond to queries raised or requests for information by LegCo and whether MergeCo would attend meetings of LegCo to answer members' questions on the relevant subject if requested;

- (b) Given that the proposed arrangement under the Fare Adjustment Mechanism was to require MergeCo to formally notify the Transport Panel and TAC in writing within a reasonable period prior to implementation of the new fares, the Administration was requested to consider specifying in clear terms when the notification should be given;
- (c) The Administration to provide a table setting out the railway lines outlined in the Railway Development Strategy 2000 or discussed by the Subcommittee on Matters Relating to Railways under the Transport Panel in the past six years, and specify which of them were natural extensions of MTR and which were not; and
- (d) The Administration to provide information on the bidding proposals from the two railway corporations for SCL.

III Any other business

- 12. The Bills Committee agreed to examine the integrated OA clause by clause at the next meeting scheduled for Tuesday, 16 January 2007 at 10:45 am.
- 13. There being no other business, the meeting ended at 12:55 pm.

**Proceedings of the twelfth meeting of
the Bills Committee on Rail Merger Bill
on Tuesday, 9 January 2007, at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Confirmation of minutes and matters arising</i>			
000000 - 000051	Chairman	- Confirmation of minutes of the meetings held on 14 and 30 November 2006 (LC Paper Nos. CB(1)580/06-07 and CB(1)590/06-07)	
<i>Agenda Item II – Integrated Operating Agreement</i>			
000052 - 000327	Chairman	- Papers issued since last meeting	
000328 - 000812	Administration Mr LAU Kong-wah	- Briefing by the Administration (LC Paper No. CB(1)627/060-07(01)) - Examination of integrated Operating Agreement (integrated OA)	
000813 - 001347	Mr WONG Kwok-hing Administration	- Discussion on the proposed Fare Adjustment Mechanism (FAM) and Shatin to Central Link (SCL)	
001348 - 001955	Mr LEE Wing-tat Administration	- Discussion on the implementation of SCL and the bargaining power of Government after the rail merger when discussing with the post-merger corporation (MergeCo) the financial arrangements for new railway projects	
001956 - 002723	Mr LAU Kong-wah Administration	- Discussion on the need for MergeCo to consult the Panel on Transport and consider the level of public acceptance prior to changing the level of any fares under the FAM, and the implementation and funding arrangement for SCL	
002724 - 003302	Mr Andrew CHENG Administration	- Discussion on the implementation of and funding arrangement for SCL, and the bargaining power of Government after the rail merger when discussing with MergeCo the financial arrangements for new railway projects	
003303 - 003751	Miss TAM Heung-man Administration	- Discussion on the implementation of and funding arrangement for SCL, and the need for bundling the consideration of the Rail Merger Bill with the SCL	

Time marker	Speaker	Subject(s)	Action required
003752 - 004336	Ms LI Fung-ying Administration Chairman	- Discussion on the setting and monitoring of railway fares, and implementation of railway projects under the "Concession Approach"	
004337 - 004937	Mr TAM Yiu-chung Administration MTR Corporation Limited	- Discussion on the need for MergeCo to consult the Panel on Transport on future fare adjustment, and whether Government could direct MergeCo to build and operate railway projects	
004938 - 005559	Mr LEE Cheuk-yan Administration	- Discussion on how railway projects would be implemented under the "Concession Approach", the setting of railway fares, and the power of LegCo to monitor future fare adjustment	
005600 - 010337	Dr Fernando CHEUNG Administration	- Discussion on property, fare and staff-related matters arising from the rail merger, and implementation of SCL	
010338 - 011028	Mr Albert HO Administration Chairman	- Discussion on the bargaining power of Government after the rail merger when discussing with MergeCo the funding arrangements for new railway projects, the implementation of SCL, and competition state in the public transport service sector	
011029 - 011652	Mrs Selina CHOW Administration	- Discussion on the proposed FAM and expression of dissenting views on the proposed bundling of the consideration of the Rail Merger Bill with the SCL project as suggested by some other members	
011653 - 012158	Mr Ronny TONG Administration	- Discussion on how railway projects could be taken forward by other railway companies other than the existing ones	
012159 - 012642	Mr LEUNG Kwok-hung	- Expression of views, objecting to the proposed rail merger	
012643 - 013232	Ir Dr Raymond HO Administration	- Discussion on the state of competition in the public transport service market, practicability of inviting railway operators other than the existing ones to take forward railway projects and the bargaining power of Government after the rail merger when discussing with MergeCo the funding arrangements for new railway projects	

Time marker	Speaker	Subject(s)	Action required
013233 - 013645	Mr WONG Kwok-hing Administration	- Discussion on the need for MergeCo to consult LegCo prior to changing the level of any fare under the proposed FAM	Administration to take necessary follow-up action
013646 - 014139	Mr LEE Wing-tat Administration	- Discussion on the need to bundle the consideration of the Rail Merger Bill with the SCL project - Request for information on the bidding proposals from the two railway corporations for SCL and delineation of railway projects in terms of whether they were natural extensions of MTR or not	Administration to take necessary follow-up action
014140 - 014814	Mr LAU Kong-wah Administration	- Discussion on the funding arrangement and implementation timetable for SCL	
014815 - 015351	Mr Andrew CHENG Administration	- Discussion on the implementation of SCL and the setting of initial fares for new railway projects	
015352 - 015745	Miss TAM Heung-man Chairman	- Discussion on Government's long-term railway policy	
015746 - 020228	Mr Ronny TONG Administration	- Discussion on the bargaining power of Government under the "Concession Approach", and how Government could take forward a railway project constructed by a third party but operated by MergeCo if an agreement on the terms of the railway project could not be reached between the two under the "Concession Approach"	
020229 - 020617	Dr Fernando CHEUNG Administration	- Discussion on the setting of initial fares for new railway projects	
020618 - 020743	Mr Abraham SHEK	- Expression of dissenting views on the proposed bundling of the consideration of the Rail Merger Bill with the SCL project as suggested by some other members	
<i>Agenda Item III – Any other business</i>			
020744 – 021020	Chairman Mr Andrew CHENG Mr LAU Kong-wah	- Date of next meeting	