

政府總部
環境局

香港添馬添美道2號
政府總部東翼15至16樓



本函檔號 Our Ref: ENB CR 2/2061/13

電話 Tel : (852) 3509 8658

來函檔號 Your Ref: HAD C&W DC/13/5/2(12-13)-11 P. 11

傳真 Fax : (852) 2147 5834

28 January 2014

Clerk to the Establishment Committee
(Attn: Mr Hugo CHIU)
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr Chiu,

**Establishment Subcommittee
Follow-up to meeting on 8 January 2014**

Thank you for your letter dated 8 January 2014 to the Financial Services and the Treasury Bureau on the above subject, which has been referred to us for reply. Our response to the questions raised therein is provided below.

“Stranded Costs”

The relevant provisions on “Stranded Costs” including its definition in the Scheme of Control Agreements (SCAs) signed between the Government and the two power companies are set out in the **Annex**.

The Stranded Costs provisions were introduced in the current SCAs in 2008, in view of the Government’s intention to introduce competition to the electricity market in as early as 2018. Experience

overseas is that when electricity market is opened up, there is usually a mechanism to allow existing market players to recoup the costs for the assets that have become stranded. In line with international practices, the SCAs stipulate that in the event of a change implemented by the Government to the electricity supply market structure that causes material impact to the power companies, they shall recover from the market stranded costs that cannot be mitigated by measures required by the Government. The amount of stranded costs, if any, and the mechanism to recover it from the market are to be discussed and agreed on between the Government and the power companies in accordance with Clause 8 to the SCAs.

Experience and expertise of officers

The review of the regulatory framework for the post-2018 electricity market (“the Review”) will cover a wide range of policy, economic, legal, technical and financial issues that require thorough examination, and entail substantial work, including formulation of possible regulatory options that may be suitable for Hong Kong, overseeing related consultancy studies to assess implications of potential options, preparation of a public consultation exercise and engagement activities to gauge the views of the public and various stakeholders, intensive discussion and negotiation with power companies, mapping out implementation issues for possible changes to the regulatory framework, etc. Having regard to the nature and complexity of the work involved, we consider it appropriate for the proposed dedicated team to be set up in the Environment Bureau to be headed by an Administrative Officer Staff Grade C (“AOSGC”) with professional support from different streams of expertise including treasury accountants, engineers and lawyers to be rendered by staff within the Bureau, the Department of Justice, Electrical and Mechanical Services Department, and other sources including external consultancies as well.

In identifying a suitable officer to take up the proposed “AOSGC” post, we will take into account his or her background and experience in policy analysis and formulation, coordination of complex and time critical assignments, communication with stakeholders, project management, and negotiation.

Timetable

The current SCAs will expire in 2018, with an option exercisable by the Government to extend the term for five years until 2023. As stipulated in the SCAs, before implementing any changes to the regulatory regime, the Government will take into account all relevant factors, and discuss with the power companies market readiness, potential future changes to the electricity supply regulatory framework and transition issues before 2016. We will take into account the relevant provisions in the SCAs in undertaking the review. Subject to the progress of the review, our plan is to consult the public in 2014. We will report the outcome of the consultation and consult the relevant panel of the Legislative Council on the way forward in a timely manner, having regard to the development of the review.

(Philip Har)
for Secretary for the Environment

c.c.

Secretary for Financial Services and the Treasury

(Attn: Miss Joyce Kok)

Secretary for the Civil Service

(Attn: Mr Raymond Ng)

Provisions on Stranded Costs in the SCAs**Clause 8- STRANDED COSTS**

- (1) In the event that any of the parties considers that Stranded Costs may arise as a result of a Specified Market Change or a proposed Specified Market Change, [the power companies] and the Government shall in good faith discuss, and [the power companies] shall implement, such measures as are reasonably required by the Government to mitigate the amount of such Stranded Costs.
- (2) [The power companies] shall recover from the market Stranded Costs that cannot be mitigated by the measures referred to in sub-clause (1) (“Residual Stranded Costs”), in the amount and with the mechanism as determined and agreed under sub-clause (3) or, in the absence of such agreement, in the amount determined under clause 9.
- (3) No less than thirty-six months prior to the effective date of a Specified Market Change and in any event no later than [30 September 2020 in case of CLP; or 31 December 2020 in case of HEC], the Government shall institute discussions with [the power companies] for the purpose of :-
 - (a) determining whether Stranded Costs are likely to arise from a Specified Market Change or a proposed Specified Market Change;
 - (b) agreeing on the amount of the Residual Stranded Costs, if any, that may arise or has arisen; and
 - (c) having regard to international practices, agreeing on the mechanism for the recovery from the market of the Residual Stranded Costs.”

Schedule 1 [(29) for HEC; (32) for CLP]

“Stranded Costs” means-

“costs incurred by [the power companies] in relation to investments made or agreements entered into under the schemes of control in respect of [their] Electricity-Related activities (including, inter alia, costs of investments and of fuel and power purchase agreements, which have been approved by the Government):-

- (a) to the extent that they have not already been recovered and cannot in future be recovered in the market as a result of a change implemented by the Government to the electricity supply market structure causing material impact to [the power companies] in respect of [their] Electricity-Related activities (“Specified Market Change”);
- (b) which may include a return on the aforementioned costs which is fair and reasonable taking into account all circumstances; and
- (c) net of the aggregate appreciation in value of all capital investments as a result of the Specified Market Change.”