

LC Paper No. CB(1)524/99-00
(These minutes have been
seen by the Administration)

Ref: CB1/BC/9/98/2

**Bills Committee on
Electricity (Amendment) Bill 1999**

**Minutes of meeting held on
Tuesday, 29 June 1999, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon Fred LI Wah-ming (Chairman)
Dr Hon Raymond HO Chung-tai, JP
Hon Ronald ARCULLI, JP
Hon CHAN Kam-lam
- Member absent** : Hon SIN Chung-kai
- Public officers
Attending** : Mr Eric JOHNSON
Principal Assistant Secretary for Economic Services
- Mr Roger LAI Sze-hoi
Regulatory Services Controller, Electrical and
Mechanical Services Department, EMSD
- Mr Stephen CHAN Hung-cheung
Acting Chief Engineer (Electricity Legislation),
EMSD
- Mr SIU Kam-wah
Senior Engineer (Nuclear & Utility Safety), EMSD
- Mr Geoffrey FOX
Senior Assistant Law Draftsman
- Ms Phyllis POON
Government Counsel

Clerk in attendance : Ms Estella CHAN
Chief Assistant Secretary (1)4

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Mr Daniel HUI
Senior Assistant Secretary (1)5

I Discussion with the Administration

(LC Paper No. CB(1)1594/98-99 - Letter dated 24 June 1999 from the Administration)

LC Paper No. CB(1)1608/98-99 - Draft Committee Stage Amendment (4th draft) provided by the Administration)

Recapitulating on developments since the last meeting, the Chairman said that the Administration had provided data on the number of casualties arising from damage to electricity supply lines during construction works as compared to those arising from damage to gas pipes in the Administration's letter dated 24 June 1999. The Administration had also indicated in the letter that it would not move a Committee Stage Amendment (CSA) to enable the making of the Electricity Supply Lines (Protection) Regulation (the Regulation) to be subject to "positive vetting" by the Legislative Council.

Committee Stage Amendment on "positive vetting"

2. Mr Ronald ARCULLI was dissatisfied with the Administration's refusal to move a CSA to enable the making of the Electricity Supply Lines (Protection) Regulation to be subject to "positive vetting" by the Legislative Council. He said that this amendment was necessary in order to allow sufficient time for the Legislative Council to consult with the industry before approving the Regulation. The Principal Assistant Secretary for Economic Services (PAS/ES) clarified that notwithstanding the Administration's position in this regard as set out in its letter dated 24 June 1999, the Administration was prepared to accede to the Bills Committee's request to move a CSA to enable the making of the Regulation to be subject to "positive vetting" by the Legislative Council.

Draft CSA in respect of Clause 4(a)

3. Mr ARCULLI pointed out that the draft CSA in respect of clause 4(a) as proposed by the Administration failed to address his concern raised at the last meeting about the absolute standard implied by the phrase "...activities....are

performed without risk of electrical accident or interruption to the supply of electricity". He added that replacing "without risk of" by "in a manner that avoids causing an" would not alleviate the absolute standard of testing implied in this proposed enabling section. He requested the Administration to propose alternative wording which would not create such an effect. In response, PAS/ES and the Senior Assistant Law Draftsman (SALD) suggested that "without risk of" be replaced by "in a manner that minimizes causing an". Mr ARCULLI was content with the proposed amendment. In reply to the Assistant Legal Adviser 2's question, SALD confirmed that the latest proposed wording was consistent with the objective of the long title of the Electricity Ordinance (Cap. 406) and section 10 of the draft Electricity Supply Lines (Protection) Regulation (the draft Regulation).

Consultation with industry on the Code of Practice

4. In reply to the Chairman's question on whether the industry had been consulted in drawing up the Code of Practice on Working near Electricity Supply Lines (Code of Practice), CE/EL confirmed that relevant parties including the Hong Kong Construction Association had been consulted. Comments received from the consultees had been incorporated into the revised Code of Practice as appropriate. He added that there would be a six-month grace period after enactment of the Regulation and any further amendments to the Code could be incorporated during the grace period.

Timing of examination of the draft Regulation

5. Mr ARCULLI raised a question on whether the Bills Committee should examine the draft Regulation at this stage. He pointed out that the Bill was enabling in nature and Members of the Legislative Council would vote on the Bill only when Second Reading debate on the Bill was resumed. On the other hand, the draft Regulation would have to go through the "positive vetting" mechanism when it would be presented to the Council in future. He wondered whether it would be more appropriate to examine the draft Regulation under the "positive vetting" procedures. In this regard, ALA2 and the Clerk explained that according to practices of previous Bills Committees on enabling bills, the Bills Committees had examined the bill as well as the draft regulation because the substance of an enabling bill was normally contained in the relevant draft regulation. After passage of the enabling Bill by the Legislative Council, the Executive Council would make the relevant regulation. Regulations subject to "negative vetting" procedures (S.34(1), Cap.1) would be made by the Executive Council and be gazetted while regulations subject to "positive vetting" (S.35, Cap. 1) would be submitted to LegCo in draft form by the relevant Bureau Secretary under cover of a LegCo resolution to be moved by the Secretary. In examining the gazetted regulation or the draft regulation, the Legal Service Division of the LegCo Secretariat would check whether the gazetted regulation or the draft regulation had taken into account comments made by the relevant Bills Committee and would recommend whether a subcommittee on subsidiary

legislation should be set up to examine the gazetted regulation or the draft regulation.

6. PAS/ES advised that after consultation with relevant parties, the Administration had proposed certain amendments to the draft Regulation attached to the LegCo Brief on this Bill. The Administration would like to know members' comments on the proposed amendments before proceeding further.

7. Mr CHAN Kam-lam opined that examination of the draft Regulation at this stage would enable the Administration to know LegCo Members' views on the draft Regulation at an early stage and to make appropriate amendments before putting forward the draft Regulation for "positive vetting". He agreed to proceed with examination of the draft Regulation by the Bills Committee. Dr Raymond HO Chung-tai shared Mr CHAN's view.

Way forward

8. Dr Raymond HO suggested and members agreed that the Bills Committee should invite relevant trade bodies to give views on the revised draft Regulation before proceeding further. As requested by the Chairman, PAS/ES agreed to provide to the Bills Committee a copy of the revised draft Regulation incorporating amendments proposed by the Administration.

9. Having regard to the impending summer recess and in order to allow sufficient time for the trade bodies to comment on the revised draft Regulation, members agreed that the next meeting of the Bills Committee should be held on 2 September 1999 to examine comments on the revised draft Regulation received from relevant trade bodies and the Administration's response to these comments. Members also agreed to proceed with examination of the revised draft Regulation and the updated draft CSAs reflecting agreed amendments in paragraphs 2 and 3 above at the meeting on 2 September 1999, at 10:45 am.

10. There being no other business, the Chairman declared the meeting closed at 3:30 pm.