

立法會
Legislative Council

LC Paper No. CB(1)2244/06-07
(These minutes have been seen
by the Administration)

Ref: CB1/BC/3/05

Bills Committee on Rail Merger Bill

**Minutes of twenty-fifth meeting on
Tuesday, 24 April 2007, at 4:30 pm
in Conference Room A of the Legislative Council Building**

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

- 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 David LAU
Principal Assistant Secretary for Financial Services and the Treasury
 - Mr Sunny CHAN Yuen-sun
Senior Assistant Law Draftsman
Department of Justice
 - Miss Clara LEUNG
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
 - Mr Leonard TURK
Legal Director & Secretary
 - Mr Wilfred LAU
Head of Operations
 - Mrs Miranda LEUNG
General Manager – Corporate Relations
 - Ms Maggie SO
External Affairs & Government Relations Manager
 - Mr Richard THORNHILL
Partner, Slaughter & May
(Legal Adviser of MTR Corporation)

Ms Peggy LEUNG
Associate, Slaughter & May
(Legal Adviser of MTR Corporation)

Kowloon-Canton Railway Corporation

Mr Michael KWAN
Train Operations Manager

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

Ms Sarah YUEN
Senior Council Secretary (1)6

Mr Anthony CHU
Council Secretary (1)2

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I Meeting with the Administration/the two railway corporations

- (LC Paper No. CB(1)1293/06-07(01) - The Administration's consolidated response to Dr Hon Fernando CHEUNG Chiu-hung's submissions on the integrated Operating Agreement
- LC Paper No. CB(1)1345/06-07(01) - Information paper provided by the Administration
- LC Paper No. CB(3)700/05-06 - the Bill
- LC Paper No. CB(1)1330/06-07(01) - Marked-up copy of the Bill
- LC Paper No. CB(1)1330/06-07(02) - Letter from Assistant Legal Adviser (ALA) to the Administration dated 10 August 2006
- LC Paper No. CB(1)1330/06-07(03) - The Administration's reply dated 19 September 2006 to ALA's letter dated 10 August 2006
- LC Paper No. CB(1)1330/06-07(04) - Letter from ALA to the Administration dated 26 October 2006

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- LC Paper No. CB(1)1330/06-07(05) - The Administration's reply dated 8 November 2006 to ALA's letter dated 26 October 2006
- LC Paper No. CB(1)1345/06-07(02) - Relevant extract of Kowloon-Canton Railway Corporation Ordinance (Cap. 372))

As the Chairman was out of town due to other official commitment and would not be able to chair the meeting, the Deputy Chairman chaired this meeting.

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

Matters arising from previous meetings

3. The Bills Committee continued to discuss the Administration's consolidated response to Dr Fernando CHEUNG Chiu-hung's submissions on the integrated Operating Agreement (IOA) (LC Paper No. CB(1)1293/06-07(01)). The Chair recapped that at the last meeting, members had already completed deliberation on Item (a) of the response in respect of the provision of concessionary fares to persons with disabilities (PwDs) and agreed that members should proceed to discuss the remaining items direct at this meeting. He then invited members to go through the remaining items one by one.

4. Noting the decision of the Bills Committee, Mr LEUNG Yiu-chung sought the agreement of the Chair to revisit the provision of concessionary fares to PwDs under Item (a) of the response. The Chair reiterated that since the issue had already been discussed at the last meeting, this meeting was not intended for the purpose of discussing the issue. Moreover, the subject matter was more appropriate to be dealt with by the Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities. However, as an exceptional arrangement, he allowed Mr LEUNG to raise a short follow-up question on the subject matter.

5. After going through the Administration's reply to Dr Fernando CHEUNG Chiu-hung's submissions on the IOA, Mr LEUNG Yiu-chung sought to propose a motion relating to item (a) of the response. Mr Andrew CHENG indicated his support for the Bills Committee to deal with the motion. He also remarked that as the meeting was intended to deal with the Administration's response, Mr LEUNG's proposal should deem to be directly related to the agenda item of the meeting. After all, there was nothing in the agenda which precluded members to discuss Item (a) of the response.

6. The Chair however remarked that as the Bills Committee had already agreed at the last meeting that members would only deal with the remaining items of the response (i.e. items other than Item (a)) at this meeting and he had clearly conveyed the decision of the Bills Committee to members at the beginning of the meeting, he

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ruled that the motion was not directly related to the agenda item of this meeting. Pursuant to the power granted to the chair under House Rule 22(p), he ruled that the motion would not be dealt with.

Clause-by-clause examination of the Bill

7. The Bills Committee proceeded to examine the Bill clause by clause. Members agreed to use the Chinese version of the marked-up copy of the Bill (LC Paper No. CB(1)1330/06-07(01)) as the basis for clause-by-clause examination of the Bill. The Bills Committee examined the long title of the bill and the effect of the long title on members' right to move committee stage amendments to the Bill, particularly in respect of issues pertaining to fare regulation, and whether the long title of the Bill could be amended under the Rules of Procedure.

Follow-up actions

8. The two railway corporations were requested to provide employment statistics of PwDs in their corporations and publish the related statistics on an annual basis.

II Any other business

9. There being no other business, the meeting ended at 6:30 pm.

**Proceedings of the twenty-fifth meeting of
the Bills Committee on Rail Merger Bill
on Tuesday, 24 April 2007, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Meeting with the Administration/the two railway corporations			
000000 - 000107	Deputy Chairman (Chair of the meeting and hereinafter called "Chair")	- Opening remarks	
<i>Matters arising from previous meetings</i>			
000108 - 001230	Chair Dr Fernando CHEUNG Administration MTR Corporation Limited (MTRCL) Mr LEE Cheuk-yan Kowloon-Canton Railway Corporation (KCRC)	- Discussion on the appropriateness of requiring the post-merger corporation (MergeCo) to set a target for employing people with disabilities (PwDs) - Members' request for details on the two railway corporations' employees who were PwDs	The two railway corporations to take necessary follow-up actions
001231 - 001612	Chair Mr LEUNG Yiu-chung Administration	- Discussion on the reasons for not adding a new clause in the integrated Operating Agreement (IOA) on provision of half-fare concession to full-time students aged 25 or below, senior citizens aged 65 or above and PwDs, and query of the adequacy of efforts made by the Administration to secure MTRCL's agreement to changes to the IOA proposed by the Bills Committee - Chair's advice that the provision of concessionary fares to PwDs should be followed up by the Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities	
001613 - 002108	Chair Dr Fernando CHEUNG Administration	- Discussion on the need for the Administration to promote PwD employment by MTRCL and KCRC, so as to set a good example for the proper discharge of corporate social responsibility - Discussion on whether the promotion of PwD employment should be followed	

Time marker	Speaker	Subject(s)	Action required
		up as a welfare issue by other committees	
002109 - 002614	Mr Andrew CHENG Administration	- Discussion on the need for the Administration to continue to pursue provision of half-fare concession to PwDs	
002615 - 003617	Chair Dr Fernando CHEUNG Administration Mr LEE Wing-tat MTRCL	- Administration's assurance in response to Dr Fernando CHEUNG that it would positively follow up with MTRCL his request for MergeCo to publish in its annual report the number of its PwD employees - Discussion on the appropriateness and viability of MTRCL setting a target for employing PwDs and even adopting it as a policy direction	Administration to take necessary follow-up actions
003618 - 005355	Chair Dr Fernando CHEUNG Administration Mr Jeffrey LAM Mr LEE Wing-tat MTRCL Mr LEUNG Yiu-chung Miss TAM Heung-man	- Discussion on the need, appropriateness and financial viability of adding a new clause to the IOA to ensure MergeCo would allocate suitable shops for rental by social enterprises at a concessionary rent to facilitate employment of PwDs and the disadvantaged groups	
005356 - 010205	Chair Dr Fernando CHEUNG MTRCL KCRC	- Discussion on the suggestion to add a new clause in the IOA to ensure that MergeCo would set up a Corporate Social Responsibility Committee comprising individuals (including representatives of the disadvantaged groups, the PwD community and the public) to facilitate and assist the corporation in fulfilling its corporate social responsibility more effectively - Dr Fernando CHEUNG's expression of regrets over the Administration's and the two railway corporations' negative response to all his suggestions covered in the Administration's consolidated response to his submissions on the IOA (LC Paper No. CB(1)1293/06-07(01))	
010206 - 011311	Chair Mr Andrew CHENG Mr LEUNG Yiu-chung Assistant Legal Adviser 3 (ALA3) Dr Fernando CHEUNG	- Discussion on whether the motion which Mr LEUNG Yiu-chung sought to propose should be proceeded with	

Time marker	Speaker	Subject(s)	Action required
<i>Clause-by-clause examination of the Bill</i>			
011312 - 012249	Chair Mr LAU Kong-wah Ms LI Fung-ying Mr LEE Wing-tat Clerk Mr Andrew CHENG Administration	- Discussion on how to proceed with the clause-by-clause examination of the Bill	
012250 - 012407	Administration	- Briefing by the Administration on the long title of the Bill	
012408 - 013103	Chair Mr LAU Kong-wah Administration Mr Andrew CHENG	- Clarification of certain points in paragraph (a) of the long title	
013104 - 014001	Chair Mr LEE Cheuk-yan Administration ALA3 Mr LEUNG Kwok-hung	- Discussion on the need to expressly state in the long title that the Bill did not cover regulation of fares according to the fare adjustment mechanism	
014002 - 014124	Chair Mr LEUNG Kwok-hung Administration	- Discussion on the rationale for effecting the proposed rail merger by arranging for MTRCL, a privatized company, to take over KCRC, which was wholly owned by Government and hence accountable to the public, and not the other way round	
014125 - 014829	Chair Mr LEE Wing-tat ALA3 Administration	- Discussion on whether the long title would affect the Chief Executive in Council's power to give directions to MTRCL in relation to fares	
014830 - 015717	Mr Andrew CHENG Administration	- Mr Andrew CHENG's comments on paragraph (a) of the long title and request for improvement	
<i>Agenda Item II – Any other business</i>			
015718 - 015725	Chair Mr Andrew CHENG Mrs Selina CHOW Mr LAU Kong-wah Administration	- Meeting arrangements	