

立法會
Legislative Council

LC Paper No. CB(1)337/06-07
(These minutes have been seen
by the Administration)

Ref: CB1/BC/3/05

Bills Committee on Rail Merger Bill

**Minutes of fourth meeting on
Tuesday, 24 October 2006, at 4:30 pm
in the Chamber of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)
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 Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
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
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
- Members absent** : Hon Albert HO Chun-yan
Hon SIN Chung-kai, JP
Hon Abraham SHEK Lai-him, JP
Hon LEUNG Kwok-hung
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon TAM Heung-man

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 Government Counsel
Department of Justice

Mr Lewis LAW Chung-ming
Government Counsel
Department of Justice

Attendance by invitation : MTR Corporation Limited

Mr Lincoln LEONG
Finance Director

Mr William CHAN
Human Resources Director

Mrs Miranda LEUNG
General Manager – Corporate Relations

Ms Maggie SO
External Affairs & Government Relations Manager

Kowloon-Canton Railway Corporation

Mrs Mimi CUNNINGHAM
Director – Human Resource

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

Action

I Confirmation of minutes and matters arising

(LC Paper No. CB(1)2303/05-06 - Minutes of the meeting held on 20 September 2006)

The minutes of the meeting held on 20 September 2006 were confirmed.

2. The Chairman said that she had liaised with the Administration after the meeting on 5 October 2006 to see whether the Administration could provide the requested information on valuation of property package of the rail merger proposal in confidence. The Administration had yet to respond to the matter. In this connection, members of the Democratic Party reiterated that should the Administration and the MTR Corporation Limited (MTRCL) fail to provide the requested information, they would consider invoking the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to request the parties concerned to produce the information to the Bills Committee for consideration.

II Staff-related issues arising from the rail merger

(LC Paper No. CB(1)126/06-07(01) - Information paper on staff-related matters arising from rail merger provided by the Administration)

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

4. The Bills Committee had reviewed the latest progress regarding staff-related matters arising from the rail merger exercise. Views had been expressed that the Administration and the two railway corporations should ensure job security for all staff, including non-frontline staff and contract staff. Queries had also been raised over the need for the post-merger corporation (MergeCo) to conduct selection exercises for individual staff, given the worries expressed by the staff side over the appointment and selection processes which might not be conducted in a fair and equitable manner. As a result, the interests of staff would be compromised. The Administration explained the reasons of setting the provision of job security to frontline staff as a key parameter of the rail merger, and the two corporations reaffirmed that they would take into account the interests of all staff and the appointment and selection process would be fair and equitable.

Action

5. On issues relating to the terms and conditions of employment for all staff of MergeCo, there were concerns about the need to appoint an independent consultant to conduct a study with a view to developing a single set of terms and conditions of employment and grading structure for MergeCo. Views had also been expressed that as a matter of principle, the new set of terms and conditions of employment for MergeCo should not be worse off than the existing terms and conditions. To gain the support of the staff side, all staff should also be given the right to opt between the new terms or the existing ones after the rail merger. The two corporations explained that the new set of terms and conditions would be comparable to the existing ones.

6. The Bills Committee also urged the Administration and the two railway corporations to fully consult staff on merger-related matters affecting them before making any final decisions. Views had been expressed that it might be difficult for members to support the Bill if a consensus view could not be reached between the staff side and the management side over the staff-related matters arising from the rail merger. There were suggestions that MergeCo should seek the prior consent of trade unions over staff-related matters arising from the rail merger and establish a formal mechanism for soliciting the support of trade unions. The two corporations advised that they would continue discussions with the staff side on relevant matters under existing communication channels.

Admin/
MTRCL/
KCRC

7. The Bills Committee noted that the two railway corporations would consult their staff on the new terms and conditions of employment in late 2006. Members requested the two corporations to report back the proposed terms of the remuneration package, and feedback of staff to the Bills Committee and provide further information relating to the selection and appointment of individual staff, and details of the Voluntary Separation Scheme. The two corporations undertook to inform the Bills Committee of the result of their consultation with staff on the relevant matters.

III Any other business

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

**Proceedings of the fourth meeting of
the Bills Committee on Rail Merger Bill
on Tuesday, 24 October 2006, at 4:30 pm
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 – 000034	Chairman	Confirmation of minutes of the meeting held on 20 September 2006 (LC Paper No. CB(1)2303/05-06)	
000035 – 000206	Chairman	Opening remark	
000207 – 001034	Mr Andrew CHENG Chairman Administration ALA3	Request for information on valuation of the property package and procedures for invoking the powers under the Legislative Council (Powers and Privileges) Ordinance by Mr Andrew CHENG	
<i>Agenda Item II – Staff-related issues arising from the rail merger</i>			
001035 – 001322	Administration	Briefing on the Administration's paper (LC Paper No. CB(1)126/06-07(01))	
001323 – 002106	MTR Corporation Limited (MTRCL)	Briefing by MTRCL	
002107 – 002617	Kowloon-Canton Railway Corporation (KCRC)	Briefing by KCRC	
002618 – 003400	Mr Andrew CHENG Administration MTRCL KCRC	<ul style="list-style-type: none"> - Mr Andrew CHENG's expression of concern about the number of job vacancies available after the rail merger given the slippage in the implementation of railway projects as well as the job security, selection and appointment of individual staff, including both frontline and non-frontline staff - The Administration's explanation that preparatory work for new railway projects were on-going, and according to the two corporations, due to business growth as well as retirement and turnover, a total of 1 300 job vacancies would be available in the first three years after the rail merger - MTRCL/KCRC's explanation that the post-merger corporation (MergeCo) would provide necessary assistance to redeploy and retrain affected staff. Consideration would be given to 	

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		<p>providing a voluntary separation scheme (VSS) if necessary. Majority of frontline staff would remain in their present positions upon the merger. Selection of staff where necessary would be conducted in a fair and equitable manner</p>	
003401 – 003959	Mr LEE Cheuk-yan MTRCL KCRC Administration	<ul style="list-style-type: none"> - Mr LEE Cheuk-yan's expression of concern about the drafting of the provisions in the Rail Merger Bill which did not provide for the necessary assurance of continued employment of serving staff on existing terms after the rail merger - Mr LEE Cheuk-yan's expression of concern about the need and justifications for engaging a consultant to conduct a study to develop a new set of terms and conditions of employment (the Study). All staff should be given a right to opt between the new terms or the existing ones after the rail merger - MTRCL's explanation that it was its prevailing practice to conduct annual survey of private sector pay trends to ascertain that the salaries of MTRCL remained comparable with pay in the private sector so as to retain talents - MTRCL/KCRC's explanation that after the rail merger, a unified set of terms and conditions of employment was necessary to facilitate the integration of the human resources of the two corporations in the spirit of "One Company, One Team". The new terms and conditions of employment would be comparable to the existing ones. Staff would be fully consulted before a final decision was made 	
004000 – 005221	Mr TAM Yiu-chung MTRCL KCRC Mr LEE Wing-tat Administration	<ul style="list-style-type: none"> - Mr TAM Yiu-chung's expression of concern about the right of serving staff in case the new terms and conditions of employment offered to them were worse off than the existing ones - Mr TAM Yiu-chung's expression of concern about the timing of notification of appointment, posting, and the new terms and conditions of employment as well as the selection process and 	

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		<p>selection criteria for individual staff, and the composition of the selection panels</p> <ul style="list-style-type: none"> - MTRCL/KCRC's explanation that the new terms and conditions of employment, as a total package, would be comparable to the existing ones. In the light of the findings and recommendations of the Study, the corporations would consult staff on the new terms and conditions before making a final decision on the matter. As the selection process would take time, the staff would be informed of the new positions as soon as possible. Indeed, the majority of the frontline staff should remain in their present positions. Posting arrangements would only be made for some frontline staff. On selection of non-frontline staff, the criteria would be drawn up jointly by the two corporations - Mr LEE Wing-tat's reiteration of views that Government and MergeCo should provide job security to all staff including non-frontline staff so as to solicit members' and the public's support for the Bill. Relay of the concern expressed by non-frontline staff of KCRC about the selection and appointment of staff, particularly whether the selection process would be conducted in a fair manner with full transparency - The Administration's explanation of the corporations' estimate of the timeframe for the selection of senior management of MergeCo and all other staff - Assurance from the two railway corporations that selection of staff would be conducted in a fair and equitable manner. The selection and appointment criteria would be drawn up jointly by the two corporations. Further details would be provided to the staff side in due course. The railway corporations would also make every effort to re-deploy affected staff to available vacancies and provide training and assistance to help staff concerned settle in their new jobs 	

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005222 – 005639	Ms LI Fung-ying MTRCL	<ul style="list-style-type: none"> - Ms LI Fung-ying's expression of concern about the failure of the Government and the two railway corporations to provide job security to all staff as it related to the merger integration process, the possibility that the new terms and conditions of employment might be worse off than the existing ones, the terms of and eligibility criteria for the VSS. The two railway corporations were urged to provide the related details to the Bills Committee for consideration - MTRCL's explanation that the Study would be completed by the end of 2006. Staff would be fully consulted on the recommendations before making a final decision. Relevant details would be provided to the staff side 	
005640 – 010233	Ms Emily LAU MTRCL KCRC	<ul style="list-style-type: none"> - Ms Emily LAU's enquiry about the delineation and representativeness of various consultative groups, including Staff Consultative Committees (SCCs), Consultative Committees (CCs) and staff unions, and whether staff would be allowed to vote on merger-related matters affecting them - Ms Emily LAU's expression of concern about the staff involvement in merger-related matters affecting them before making any final decision - MTRCL/KCRC's explanation that there were one SCC in MTRCL and 20 CCs in KCRC, and members of the SCC/CC were directly elected amongst staff although the voting procedures were not identical between the two corporations - MTRCL's explanation that it aimed to increase staff's involvement, and hence, their support for the merger. It would fully consult staff on merger-related matters affecting them before making any final decisions. Regarding the implications of redeployment of staff, both corporations had a good track record in this area of work. The two corporations also had an appeal mechanism in place for handling staff-related matters arising from the rail merger. The mechanism would be 	

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		reviewed from time to time	
010234 – 010744	Mr WONG Kwok-hing MTRCL	<ul style="list-style-type: none"> - Mr WONG Kwok-hing's expression of view that undertakings should be made by the Administration and the two railway corporations to ensure that the new terms and conditions of employment should not be worse off than the existing ones, and that job security should be provided to all staff including non-frontline staff and contract staff. To safeguard the interest of staff, prior consent from the Alliance of Five Unions in Two Rails (Five Unions) should be sought before implementing any staff-related measures arising from the rail merger - MTRCL's explanation that MTRCL would consult the Five Unions and SCC/CC on staff-related issues before making a final decision. The years of service of staff would not be affected by the merger. Details of the grading structure, terms and conditions for MergeCo would be made with reference to the findings and recommendations of the Study. It was expected that the terms and conditions, as a total package, would be comparable to the existing ones. For non-frontline staff, as job vacancies would be available after the rail merger, the corporations would assist to re-deploy affected staff to available vacancies as far as possible 	
010745 – 011420	Ir Dr Raymond HO MTRCL Administration	<ul style="list-style-type: none"> - Ir Dr Raymond HO's expression of concern about manpower drain due to uncertainty arising from the rail merger and slippage in the implementation of railway projects. Job security should be provided to railway expertise in the two railway corporations for the benefits of Hong Kong - MTRCL's explanation that the turnover rate of the Corporation was low. As railway implementation required different expertise at different stages, the demand for technical professional staff would vary from time to time. If the railway projects in the pipeline could be implemented, new job vacancies for technical professional staff would be available 	

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		<ul style="list-style-type: none"> - The Administration's explanation that it was examining the implementation details of Shatin to Central Link taking into account the planning proposals from Kai Tak Planning Review and Wan Chai Development Phase II Review 	
011421 – 012025	Dr Fernando CHEUNG Administration MTRCL	<ul style="list-style-type: none"> - Dr Fernando CHEUNG's expression of view that staff were important assets of the railway corporations, and hence, the new terms and conditions offered to staff of MergeCo should not be worse off than the existing ones. There was also a need for MergeCo to set a voluntary target for employing persons with disabilities (PwDs) within the corporation - Administration's explanation that ensuring job security for frontline staff was one of the key parameters for the rail merger. MergeCo would consult the staff on the new terms and conditions of employment before a final decision was made - MTRCL's explanation that the two corporations had fulfilled their social corporate responsibility as equal opportunities employers. MergeCo would consider how to provide more employment opportunities for PwDs 	
012026 – 012635	Mr LEUNG Yiu-chung MTRCL Administration	<ul style="list-style-type: none"> - Mr LEUNG Yiu-chung's expression of concern about the relative bargaining strength of staff during the merger, and the mechanism for resolving conflict between the management and staff in case a consensus could not be reached over staff-related matters - MTRCL's explanation that the two corporations had an established mechanism for resolving matters of mutual concerns in the past. The two corporations would maintain good and harmonious staff relations through the existing communication channels 	

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012636 – 013141	Mrs Selina CHOW	<ul style="list-style-type: none"> - Mrs Selina CHOW's expression of view that staff support was a key parameter to ensure the success of the merger. Whilst fare reduction and other benefits were made possible by synergies to be achieved as a result of the rail merger, there was a need for MergeCo to address the concerns expressed by the staff side and fully consult them on merger-related matters affecting them before making any final decisions 	
013142 – 013313	Mr Albert CHAN	<ul style="list-style-type: none"> - Mr Albert CHAN's objection to the rail merger as public and staff interests would be sacrificed as a result 	
013314 – 013924	Mr LEE Cheuk-yan Administration	<ul style="list-style-type: none"> - Mr LEE Cheuk-yan's expression of view that undertakings must be given by MergeCo to ensure that the new terms and conditions of employment should not be worse off than the existing ones and staff should be given a right to opt between the new terms and the existing ones after the rail merger - Mr LEE Cheuk-yan's expression of concern about the drafting of proposed section 52D of the Mass Transit Railway Ordinance (Cap. 556) ("MTRO") in clause 19 of the Bill as it did not provide for the necessary safeguards to ensure continuity of employment contracts, particularly when staff were dismissed before the merger effective date - Administration's explanation that proposed section 52D of the MTRO in clause 19 was adequate to provide continuity of employment contracts. Should there be any change to the employment contract before the merger effective date, it had to be agreed by the staff 	
013925 – 014820	Dr Fernando CHEUNG Ms Emily LAU MTRCL KCRC Chairman	<ul style="list-style-type: none"> - Reiteration of view by Dr Fernando CHEUNG and Ms Emily LAU that undertakings must be given by MergeCo to ensure that the new terms and conditions of employment should be no worse off than the existing ones. In the absence of staff support of the merger, members would have difficulties in supporting the Bill 	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> - Reiteration of view by Dr CHEUNG and Ms LAU that MergeCo should provide greater employment opportunities for PwDs and offer concessionary fares to PwDs - MTRCL/KCRC's explanation that the Study should be completed by the end of 2006. With findings and recommendations from the Study, the two corporations would consult staff on the new terms and conditions of employment. The Bills Committee would be informed of the result of consultation with staff on the recommendations of the Study in due course 	
014821 – 015308	Mr LEE Cheuk-yan Administration MTRCL	<ul style="list-style-type: none"> - Mr LEE Cheuk-yan's query about the provision of job security for staff as they could be dismissed before the merger effective date, and hence, the provision governing the continuity of employment contracts would cease to apply - Administration's explanation that an employment contract would be vested in MTRCL if it was in force immediately before the merger effective date and the employment under the contract would be deemed to be a single continuous employment - MTRCL's explanation that all frontline staff were assured of job security since the merger proposal was announced on 11 April 2006. Not being classified as frontline staff did not necessarily mean that there would be job security issues to the staff concerned. The majority of staff were expected to remain in their prevailing jobs 	
<i>Agenda Item III – Any other business</i>			
015309 – 015552	Chairman	<ul style="list-style-type: none"> - Public hearing scheduled for Saturday, 28 October 2006 - Date and agenda of next meeting 	