

**立法會**  
**Legislative Council**

LC Paper No. CB(1)424/14-15  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/02/14/1

**Bills Committee on District Cooling Services Bill**

**Minutes of first meeting**  
**held on Tuesday, 25 November 2014, at 9:00 am**  
**in Conference Room 2A of the Legislative Council Complex**

**Members present** : Ir Dr Hon LO Wai-kwok, BBS, MH, JP (Chairman)  
Hon WONG Ting-kwong, SBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Alan LEONG Kah-kit, SC  
Hon WU Chi-wai, MH  
Hon Tony TSE Wai-chuen, BBS

**Member absent** : Hon CHAN Hak-kan, JP

**Public Officers attending** : **For item II**

Mrs Dorothy MA  
Principal Assistant Secretary for the Environment (Energy)

Miss Sheena YAP  
Assistant Secretary for the Environment (Energy)2

Mr Harry LAI  
Assistant Director/Electricity & Energy Efficiency  
Electrical and Mechanical Services Department

Mr YIP Man-kit  
Senior Engineer/Professional Support 3  
Electrical and Mechanical Services Department

Mr Peter SZE  
Senior Government Counsel  
Department of Justice

**Clerk in Attendance :** Ms Miranda HON  
Chief Council Secretary (1)1

**Staff in attendance :** Miss Evelyn LEE  
Assistant Legal Adviser 10

Ms Shirley CHAN  
Senior Council Secretary (4)1

Miss Lilian MOK  
Senior Council Secretary (1)1

Ms Mandy LI  
Council Secretary (1)1

Miss Mandy POON  
Legislative Assistant (1)1

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Action

**I. Election of Chairman**

Election of Chairman

Mr WONG Ting-kwong, the Member who had the highest precedence among members of the Bills Committee present at the meeting, presided at the election of Chairman of the Bills Committee.

2. Mr WONG Ting-kwong invited nominations for the chairmanship of the Bills Committee. Mr Tony TSE nominated Ir Dr LO Wai-kwok, and the nomination was seconded by Ms Cyd HO. Ir Dr LO accepted the nomination.

3. There being no other nominations, Ir Dr LO Wai-kwok was declared Chairman of the Bills Committee. Ir Dr LO then took the chair.

4. The Chairman sought members' view on the need for a deputy chairman. It was agreed that no deputy chairman was required.

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**II. Meeting with the Administration**

- (LC Paper No. CB(1)272/14-15(01) — Assistant Legal Adviser's letter dated 13 October 2014 to the Administration
- LC Paper No. CB(1)272/14-15(02) — Administration's reply to Assistant Legal Adviser's letter dated 13 October 2014
- LC Paper No. CB(1)272/14-15(03) — Background brief prepared by the Legislative Council Secretariat

Relevant papers

- LC Paper No. CB(3)10/14-15 — The Bill
- File Ref: ENB CR 4/2061/08 — Legislative Council Brief
- LC Paper No. LS5/14-15 — Legal Service Division Report)

5. With the aid of a power-point presentation, the Principal Assistant Secretary for the Environment (Energy) and the Assistant Director of Electrical and Mechanical Services/Electricity & Energy Efficiency briefed members on the District Cooling Services Bill ("the Bill").

*(Post-meeting note: A set of the power-point presentation materials was circulated to members vide LC Paper No. CB(1)292/14-15(01) on 26 November 2014.)*

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

- Admin 7. The Administration was requested to provide the following information –
- (a) in respect of the Administration's decision to provide district cooling services through legislative means,
- (i) whether the Administration had considered any alternative means to provide district cooling services to potential users in the Kai Tak Development ("KTD"), such as by contractual means; if yes, details of the alternative means that were

Action

considered and the relevant legal justifications for not adopting the relevant means; if not, the considerations of not considering any alternative means before proposing the Bill;

- (ii) the relevant legal justifications for deciding to provide district cooling services and to charge for the services concerned through legislative means, including an elaboration on the application of the authority which was stated in paragraph (iii) of the letter dated 21 November 2014 issued by the Administration and the legal justifications in addition to the said authority;
- (b) in respect of district cooling services which had been provided by the Administration (or by any service provider together with the Administration), details of the arrangements, in particular the services which were provided to the Kai Tak Cruise Terminal and the Ching Long Shopping Centre located in KTD, including the means of providing such services and the charging arrangement;
  - (c) in respect of district cooling services which were proposed to be provided by the Bill,
    - (i) details concerning how district cooling services would be provided in KTD, in particular whether any service providers would be involved besides the Administration and, if yes, the relevant arrangements including how the service provider was selected and the relationship between the Administration and the service provider;
    - (ii) details of the arrangements for money that was receivable or received pursuant to the provision of district cooling services proposed by the Bill; and
  - (d) clarify whether option would be given to individual occupiers/tenants of a building to which district cooling services were provided to opt out for subscription to the services, and if so, how this could be effected in terms of legal and technical arrangements.

Invitation of views

8 Members agreed to invite deputations to give their views on the Bill at the meeting on 16 December 2014. Members also agreed to post a notice on the Legislative Council website and write to the 18 District Councils to invite written submissions on the Bill.

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**III. Any other business**

Arrangements of future meetings

9. Members agreed to the following schedule of meetings –

<u>Date</u>	<u>Time</u>
Tuesday, 16 December 2014	10:45 am
Tuesday, 13 January 2015	10:45 am
Thursday, 29 January 2015	8:30 am

10. Ms Cyd HO suggested and members agreed that an additional meeting should be arranged in early January 2015.

*(Post-meeting note: With the concurrence of the Chairman, an additional meeting has been scheduled for 5 January 2015 at 4:30 pm. The schedule of meetings and notice of the next meeting were issued to members vide LC Paper Nos. CB(1)295/14-15 and CB(1)296/14-15 respectively on 26 November 2014.)*

11. There being no other business, the meeting ended at 10:34 am.

Council Business Division 1  
Legislative Council Secretariat  
9 January 2015

**Bills Committee on District Cooling Services Bill**

**Proceedings of the first meeting  
on Tuesday, 25 November 2014, at 9:00 am  
in Conference Room 2A of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda Item I - Election of Chairman</i>			
000100 - 000240	Mr WONG Ting- kwong Mr Tony TSE Ms Cyd HO Ir Dr LO Wai-kwok	Election of Chairman  Ir Dr LO Wai-kwok was elected Chairman of the Bills Committee.	
<i>Agenda Item II - Meeting with the Administration</i>			
000241 - 000414	Chairman	Opening remarks	
000415 - 002427	Administration	Briefing by the Administration on the District Cooling Services Bill ("the Bill")	
002428 - 002650	Chairman Administration	<p>The Chairman enquired about the charging mechanism of the district cooling system ("DCS") at the Kai Tak Development ("KTD").</p> <p>The Administration responded that the DCS at KTD would provide services to the public and private non-domestic developments in the district. Non-Government buildings using district cooling services at KTD would be charged on the basis of the charging arrangements stipulated in the Bill. At the moment, the Administration was providing district cooling services to the Kai Tak Cruise Terminal Building managed by the Tourism Commission and the Ching Long Shopping Centre under the Hong Kong Housing Authority ("HA"). The Administration currently relied on the Memorandum of Administrative Arrangements signed between HA and the Government to collect district cooling services charges from HA. Subject to the passage of the Bill, HA would be subject to the charging arrangements provided in the Bill.</p> <p>The Administration further advised that the Kai Tak Cruise Terminal Building was a Government building, and its owner, i.e. the Government, would not be subject to the</p>	

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		<p>charging regime provided in the Bill. The Electrical and Mechanical Services Department ("EMSD") had worked out the administrative arrangements for recovering the utility costs arising from the provision of district cooling services to the Government buildings. Nevertheless, the notional revenue from Government departments would be incorporated into the financial model for assessing the DCS's financial performance and for calculating the appropriate tariff that could achieve full cost recovery.</p>	
<p>002651 - 005307</p>	<p>Chairman Mr Tony TSE Administration Assistant Legal Adviser 10 ("ALA10")</p>	<p>Mr Tony TSE enquired –</p> <p>(a) about the justifications for introducing a new legislation to provide for the collection of district cooling services charges from user buildings in KTD and whether the Administration had considered any alternative means, such as by contractual means to provide the said cooling services;</p> <p>(b) whether the Bill would only apply to the DCS in KTD;</p> <p>(c) whether the Administration had taken into account different factors, such as the anticipated cooling demand, economic uncertainties arising from inflation, changes in interest rates, government land sale results in KTD etc, when determining the level of district cooling services charges; and</p> <p>(d) about the contingency arrangements to be implemented when the provision of district cooling services was suspended or terminated due to unforeseeable circumstances.</p> <p>The Administration responded that –</p> <p>(a) it had sought legal advice from the Department of Justice which advised that according to the House of Lords in <i>McCarthy &amp; Stone (Developments) Ltd. v Richmond upon Thames London Borough Council</i> [1992] 2 A.C. 48, clear and explicit statutory authority was required for the Government to impose charges. Section 3(1) of the Public Finance Ordinance</p>	

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		<p>(Cap. 2) provided that any charges received for the purposes of the Government would form part of the general revenue unless there were express statutory provisions to provide for alternative arrangements. To empower EMSD to make use of the district cooling services charges received to settle payment to the DCS operator as well as the utility costs arising from the operation of the DCS in KTD directly, the Administration would need to introduce relevant statutory provisions to provide for this offsetting arrangement. The Bill also contained other provisions such as access for inspection and maintenance and offences which required legislation;</p> <p>(b) Schedule 1 to the Bill specified the DCS(s) in relation to which the Bill applied and Schedule 2 to the Bill provided for the calculation of charges for district cooling services provided by each DCS specified in Schedule 1. Currently, Schedules 1 and 2 to the Bill covered only the DCS in KTD. The Bill, if passed, might apply to other DCS that might be constructed by the Government in future subject to future amendments to the Schedules;</p> <p>(c) the proposed district cooling services charges sought to achieve full cost recovery of the DCS in KTD over its project life, which was estimated to be 30 years, at an appropriate target rate of return. The target rate of return had been worked out taking into account the nature of the industry, the specific project related risk, the market interest rate as well as the expected rate of return for similar investment; and</p> <p>(d) the DCS in KTD was the first project of its kind to be implemented by the Government in Hong Kong. It was a large-scale centralized air-conditioning system ("ACS") planned to serve the public and private non-domestic developments in the district. The technology had been widely adopted in other parts of the world. In KTD, there were two DCS plant rooms, namely the Southern DCS Plant Room and the Northern DCS Plant Room. There were also a number of chillers which could serve</p>	



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		<p>as standby chillers for one another. The overall reliability would be higher when compared with that of traditional standalone water-cooled air-conditioning systems ("WACS") installed in individual buildings. There were also standby chilled water pipes for supplying chilled water to the consumers.</p> <p>Mr TSE requested the Administration to provide further information regarding the need for legislation to provide the legal backing for the collection of charges for using the district cooling services. Noting that the proposed district cooling services charges sought to recover both the capital and operating costs of the DCS in KTD over 30 years, Mr TSE also requested the Administration to provide details of arrangement for money that was receivable or received pursuant to the provision of district cooling services proposed by the Bill.</p> <p>The Chairman remarked that the Administration would conduct review on the level of district cooling services charges if there were significant changes to the costs of and revenue from the DCS in KTD by not less than once every five years.</p> <p>ALA10 undertook to provide further information concerning the legal justifications for the collection of district cooling services charges through legislative means for members' reference.</p>	<p>Admin (paragraphs 7(a) and (c) of the minutes refer)</p>
<p>005308 - 010316</p>	<p>Chairman Mr WONG Ting- kwong Administration</p>	<p>Mr WONG Ting-kwong enquired –</p> <p>(a) whether individual occupiers/tenants of a user building in KTD to which district cooling services were provided would be allowed to install conventional ACSs for cooling purpose;</p> <p>(b) whether the DCS in KTD would provide heating services to user buildings; and</p> <p>(c) whether it was too optimistic to estimate that the DCS in KTD could have a project life of 30 years.</p>	

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		<p>The Administration responded that –</p> <p>(a) while DCS would provide services to all public and private non-domestic developments in KTD, occupiers/tenants of a user building could install conventional ACSs for cooling purpose if they so wished. Given that the Administration would impose a requirement for all private non-domestic projects to construct and maintain DCS substation to connect to DCS in the conditions of land sale and that the proposed DCS tariff was set a competitive level, there should not be economic incentive for private non-domestic building owners to install separate chiller plants and associated electrical equipment in their buildings;</p> <p>(b) DCS users might install heating devices in the ACSs of their buildings to provide heating in winter time if they so wished; and</p> <p>(c) with proper maintenance and repair, the large-scale electrical and mechanical facilities to be used in the DCS in KTD could have a life span of at least 30 years.</p>	
010317 - 012150	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai enquired –</p> <p>(a) about the ratio of public and private non-domestic developments in KTD;</p> <p>(b) about the details of the arrangements of district cooling services which had been provided by the Administration, in particular the services which were provided to the Kai Tak Cruise Terminal Building and the Ching Long Shopping Centre in KTD, including the means of providing such services and the charging arrangement;</p> <p>(c) whether the Administration would grant gross floor area ("GFA") concessions to user buildings; and</p> <p>(d) whether the occupiers/tenants of a user building would be able to adjust the indoor temperature setting of their air-conditioned offices and venues.</p>	

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		<p>The Administration responded that –</p> <p>(a) KTD had a planned total of about 1.73 million square metres of non-domestic air-conditioned gross floor areas. All public developments in KTD, which accounted for around 35% of the total air-conditioned floor area in the district, would subscribe to district cooling services. The remaining 65% was private non-domestic projects, such as shopping malls, hotels and office buildings;</p> <p>(b) the Government would not be subject to the charging regime provided in the Bill for Government buildings using district cooling services. The user departments would pay the utility costs arising from the provision of district cooling services to EMSD through administrative arrangements;</p> <p>(c) while there was no GFA concessions as the GFA for DCS substation rooms in user buildings was non-accountable, more flexible building designs would be allowed for user buildings as there was no need to install separate chiller plants and associated electrical equipment in these buildings; and</p> <p>(d) although the DCS in KTD was a centralized cooling system, indoor temperature could be adjusted through the air-conditioning system installed in individual user buildings.</p> <p>Noting that the district cooling services at KTD would not be provided through the Electrical and Mechanical Services Trading Fund and that the Government buildings using the services would be charged by administrative arrangements, Mr WU requested the Administration to provide further details concerning how the district cooling services in KTD would be provided, in particular whether any service providers would be involved besides the Administration and, if yes, the relevant arrangements including how the service provider was selected and the relationship between the Administration and the service provider.</p>	<p>Admin (paragraphs 7 (b) and (c) of the minutes refer)</p>

Time marker	Speaker	Subject(s)	Action required
012010 - 012212	Chairman Ms Cyd HO	Members agreed to the proposed schedule of meetings as well as to invite deputations to give their views on the Bill at the meeting scheduled for Tuesday, 16 December 2014, at 10:45 am.	
012213 - 012757	Chairman Ms Cyd HO ALA10	<p>Ms Cyd HO requested the Administration to clarify whether option would be given to individual occupiers/tenants of a user building to which district cooling services were provided to opt out for subscription to the services, and if so, how this could be effected in terms of legal and technical arrangements.</p> <p>Ms HO opined that meters should be installed to measure and record the consumption information of individual occupiers/tenants since the actual consumption of district cooling services by individual occupiers/tenants would vary with circumstances.</p>	Admin (paragraph 7(d) of the minutes refers)
012758 - 013408	Chairman Mr Alan LEONG ALA10	<p>Mr Alan LEONG doubted the need for introducing a new piece of legislation to provide for the collection of district cooling services charges as the provision of district cooling services was a commercial behaviour. He requested the Administration to provide further information in this regard.</p> <p>Mr LEONG was concerned that the DCS at KTD might turn into a "white elephant project". He commented that in view of rapid technology advancement, DCS might no longer be an energy-efficient ACS in future and user buildings might choose not to subscribe district cooling services. Under these circumstances, the Administration might not be able to recover the capital and operating costs of the DCS at KTD over its service life of 30 years.</p>	Admin (paragraph 7(a) of the minutes refers)
013320 - 013431	Chairman Ms Cyd HO	The Chairman agreed to Ms Cyd HO's suggestion that the Bills Committee should convene an additional meeting in early January 2015 in order to expedite the scrutiny of the Bill.	Clerk
013409 - 013431	Chairman	Closing remarks	