

**立法會**  
**Legislative Council**

LC Paper No. CB(1)425/14-15  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/2/14/1

**Bills Committee on District Cooling Services Bill**

**Minutes of second meeting**  
**held on Tuesday, 16 December 2014, at 10:45 am**  
**in Conference Room 2 of the Legislative Council Complex**

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

**Member absent** : Hon WONG Ting-kwong, SBS, JP

**Public Officers attending** : **For item I**

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 (Law Drafting Division)  
Department of Justice

Mr Henry CHAN  
Senior Government Counsel (Acting) (Law Drafting Division)  
Department of Justice

**Attendance by  
invitation** : **For item I**

Community & Construction Professionals' Development Centre

Dr King WONG  
Chief Executive

Building Services Operation and Maintenance Executives  
Society

Mr Martin WAN  
President

Construction Industry Council

Mr WONG Chung-kit  
Senior Manager  
Council Services Secretariat

The Hong Kong Institute of Architects

Mr Franky CHOI  
Chairman of Environment and Sustainable Development Committee

The Hong Kong Institute of Facility Management

Dr Eric CHAN  
Past President

The Hong Kong Association of Energy Engineers

Dr Raymond CHAN  
President

**Clerk in Attendance :** Ms Shirley CHAN  
Chief Council Secretary (1)1

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

Miss Lilian MOK  
Senior Council Secretary (1)1

Ms Mandy LI  
Council Secretary (1)1

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**I. Meeting with deputations and the Administration**

Meeting with the Administration

(LC Paper No. CB(1)343/14-15(02) — List of follow-up actions arising from the meeting on 25 November 2014

LC Paper No. CB(1)343/14-15(03) — Administration's response to the issues raised at the meeting on 25 November 2014

Relevant papers

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(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

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LC Paper No. CB(1)272/14-15(03) — Background brief prepared by the Legislative Council Secretariat)

Meeting with deputations

The Chairman invited views from the following deputations –

- (a) Community & Construction Professionals' Development Centre;
- (b) Building Services Operation and Maintenance Executives Society (LC Paper No. CB(1)366/14-15(01));
- (c) Construction Industry Council (LC Paper No. CB(1)357/14-15(01));
- (d) The Hong Kong Institute of Architects;
- (e) The Hong Kong Institute of Facility Management; and
- (f) The Hong Kong Association of Energy Engineers (LC Paper No. CB(1)366/14-15(02)).

2. Members also noted the following submissions from deputations not attending the meeting –

(LC Paper No. CB(1)343/14-15(01) — Submission from The Real Estate Developers Association of Hong Kong (English version only)

LC Paper No. CB(1)357/14-15(02) — Submission from The Hong Kong Institution of Engineers (English version only)

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

4. The Administration was requested to -

- (a) provide a written response to the views expressed by the deputations at the meeting;

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- (b) provide a written response to the submission from the Real Estate Developers Association of Hong Kong (LC Paper No. CB(1)343/14-15(01)) proposing to establish a back-up system to provide uninterrupted supply of essential services such as electricity and air-conditioning in the Kai Tak Development ("KTD") and grant gross floor area concessions to such system;
- (c) provide a written response to the submission from the Hong Kong Institution of Engineers (LC Paper No. CB(1)357/14-15(02)), in particular to the suggestions mentioned in paragraphs 5 and 6 of the submission;
- (d) advise how the Administration could prevent possible abuse of the appeal mechanism provided under the District Cooling Services Bill ("the Bill");
- (e) consider setting up a penalty mechanism under the Bill to penalize individual occupiers/tenants of a user building whose behaviour or activities jeopardized the satisfactory operation of the district cooling system ("DCS") in KTD; and
- (f) advise whether the DCS at KTD would provide services to domestic developments in the district.

5. The Chairman reminded members that the next meeting of the Bills Committee had been scheduled for Monday, 5 January 2015, at 4:30 pm.

**II. Any other business**

6. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 1  
Legislative Council Secretariat  
9 January 2015

**Bills Committee on District Cooling Services Bill**

**Proceedings of the second meeting  
on Tuesday, 16 December 2014, at 10:45 am  
in Conference Room 2 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda Item I - Meeting with deputations and the Administration</i>			
000457 - 001006	Chairman	Opening remarks	
001007 - 001431	Dr King WONG, Community & Construction Professionals' Development Centre	Expression of views that –  (a) the Centre supported the introduction of the District Cooling Services Bill ("the Bill");  (b) proper maintenance and repair should be conducted to ensure the satisfactory operation of the district cooling system ("DCS") in the Kai Tak Development ("KTD"); and  (c) the planning of the entire pipe network in KTD should facilitate future maintenance works.	
001432 - 001845	Mr Martin WAN, Building Services Operation and Maintenance Executives Society	Presentation of views as set out in submission (LC Paper No. CB(1)366/14-15(01))	
001846 - 002338	Mr WONG Chung-kit, Construction Industry Council	Presentation of views as set out in submission (LC Paper No. CB(1)357/14-15(01))	
002339 - 002818	Mr Franky CHOI, The Hong Kong Institute of Architects	Expression of views that –  (a) the Institute supported the introduction of the Bill;  (b) apart from the construction of DCS, the Administration should apply advanced green building designs in KTD to further enhance energy efficiency;  (c) a real-time energy saving monitoring system should be established in KTD to monitor the effectiveness of DCS;  (d) an independent advisory organization should be set up to provide further insight into the	

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		<p>operation of DCS;</p> <p>(e) the residual heat from DCS should be recovered to maximize efficiency;</p> <p>(f) precautionary measures for the operation of the DCS in KTD should be planned ahead; and</p> <p>(g) tariff review should be conducted on a bi-annual basis to review changes to the actual costs of and revenue from the DCS in KTD.</p>	
002819 - 003043	Dr Eric CHAN, The Hong Kong Institute of Facility Management	<p>Expression of views that –</p> <p>(a) the Institute supported the introduction of the Bill;</p> <p>(b) the DCS charging mechanism and relevant arrangements should be simple, reasonable and transparent to all DCS users;</p> <p>(c) the Administration should define clearly the responsibilities of the DCS operator and DCS users regarding the maintenance and repair of the DCS in KTD;</p> <p>(d) the residual heat from DCS should be recovered to maximize efficiency; and</p> <p>(e) the DCS in KTD could serve as a successful example of large-scale centralized air-conditioning system ("ACS") which might be implemented in other new development areas in future.</p>	
003044 - 003553	Dr Raymond CHAN, The Hong Kong Association of Energy Engineers	Presentation of views as set out in submission (LC Paper No. CB(1)366/14-15(02))	
003554 - 004900	Chairman Administration	<p>Administration's general response to deputations' views –</p> <p>(a) the DCS in KTD sought to promote energy efficiency and conservation;</p> <p>(b) most Government buildings in KTD had adopted green building design and features. For example, the new Trade and Industry Tower had been presented a Platinum rating in the Building Environmental Assessment Method (commonly referred to as "BEAM")</p>	

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		<p>Plus Provisional Assessment conducted by the Hong Kong Green Building Council;</p> <p>(c) all Government buildings which accounted for around 35% of the total air-conditioned floor area in KTD would subscribe to district cooling services;</p> <p>(d) the Electrical and Mechanical Services Department ("EMSD") would set up liaison groups to enhance communication with DCS users in order to provide more efficient customer-based services;</p> <p>(e) while the DCS in KTD was the first project of its kind in Hong Kong, the technology had been widely adopted in other parts of the world. The operational reliability of the system was over 99%;</p> <p>(f) the charging mechanism and relevant charging arrangements of DCS were clearly set out in the Bill;</p> <p>(g) tariff review would be conducted at least once every five years and additional reviews could be conducted if necessary;</p> <p>(h) the implementation of DCS in KTD would tie in with the overall planning and development schedule of various projects in the district. Advanced technologies would be adopted to enhance the energy efficiency of the system as far as practicable;</p> <p>(i) EMSD as the district cooling services provider in KTD had employed a contractor to carry out the construction and daily operation of the DCS in KTD. The contractor was overseen and supervised by EMSD to ensure that proper and satisfactory service would be delivered to DCS users; and</p> <p>(j) the underground pipe network for distributing chilled water to DCS users was managed in a systematic way. Water leakage detection system would be installed along chilled water pipes to detect the location of water leakage.</p>	



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004901 - 005454	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE referred to the submission of the Real Estate Developers Association of Hong Kong ("REDA") (LC Paper No. CB(1)343/14-15(01)) which proposed to establish a back-up system to provide uninterrupted supply of essential services such as electricity and air-conditioning in KTD and grant gross floor area concessions to such system.</p> <p>The Chairman requested the Administration to provide a written response to REDA's submission.</p>	Admin (paragraph 4(b) of the minutes refers)
005455 - 010822	Chairman Mr WU Chi-wai Administration Mr Martin WAN	<p>Mr WU Chi-wai expressed concerns about –</p> <ul style="list-style-type: none"> <li>(a) the accuracy of the meters to be installed in user buildings;</li> <li>(b) possible suspension and termination of district cooling services; and</li> <li>(c) the appeal mechanism provided under the Bill.</li> </ul> <p>The Administration responded that –</p> <ul style="list-style-type: none"> <li>(a) meters would be installed in user buildings to measure the actual cooling capacity and actual cooling energy consumption of the buildings. These meters were highly accurate and reliable, and their overall inaccuracies were usually in turn within 1%. The arrangements for testing of meter as set out in the Bill were in line with those of the Water Supplies Department;</li> <li>(b) the Bill provided that an approved consumer of a user building who doubted the accuracy of a meter, which measured the actual cooling capacity and actual cooling energy consumption of that building, could apply for testing of the meter. If the testing result revealed that the meter was not registering correctly, no fee for testing would be payable by the approved consumer. EMSD would conduct validation on site for meters annually and send them to the manufacturer for calibration every five to six years to ensure their accuracy;</li> <li>(c) the Director of Electrical and Mechanical Services ("DEMS") might suspend or terminate the provision of district cooling</li> </ul>	

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		<p>services to a user building in case of, among other cases, non-payment of district cooling services charges or failure to comply with the improvement notices issued by DEMS. DEMS might issue improvement notice to an approved consumer if DEMS was of the opinion that the behaviour of, or an installation of the building by, the approved consumer was jeopardizing or would jeopardize the operation or reliability of district cooling services; and</p> <p>(d) the Bill provided that a person who was aggrieved by a specified decision or direction made by DEMS might appeal to an appeal board. Clause 22(1) of the Bill set out the decisions and direction against which an appeal might be lodged to an appeal board.</p> <p>On the accuracy of meters, Mr Martin WAN advised that although it was impossible to have all measuring instruments fully accurate, the Administration should further enhance the accuracy of meters to avoid overcharging.</p>	
010823 - 011237	<p>Chairman Mr Tony TSE Administration Dr WONG King</p>	<p>In response to Mr Tony TSE's enquiry about the testing of meters, the Administration explained that according to the Bill, the meter would be regarded as registering incorrectly if the inaccuracy exceeded 3% above or below the correct amount. Under this circumstance, the approved consumer would not need to pay for the testing and EMSD would make suitable adjustments to the charges. Since the testing of meter involved complicated technical issues and substantial costs, the Administration considered it reasonable to set the accuracy tolerance of water meters plus or minus 3%.</p> <p>Dr WONG King pointed out that as the measurement of a meter might exceed 3% above or below the correct amount, district cooling services charges might be over-estimated or under-estimated. The Administration might consider engaging engineers of "control, automation and instrumentation" (commonly known as "CAI") discipline to monitor and test the accuracy of meters.</p>	
011238 - 012414	<p>Chairman Ms Cyd HO Mr WONG Chung-kit</p>	<p>Ms Cyd HO sought elaboration from Mr WONG Chung-kit, Senior Manager of the Council Services Secretariat of the Construction Industry</p>	

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	Administration	<p>Council ("CIC"), on CIC's submission (LC Paper No. CB(1)357/14-15(01)).</p> <p>Mr WONG Chung-kit advised that since the DCS in KTD was the first project of its kind in Hong Kong, user buildings might encounter some unexpected hiccups, especially in the early implementation stage. In this connection, the Administration should provide more efficient customer-based services to DCS users.</p> <p>The Administration supplemented that apart from energy saving, DCS also had other benefits, such as reducing the total building cost by about 5-10%, enabling more flexible building designs and reducing heat island effects in KTD. While the capacity charge would be levied according to the contract cooling capacity of a user building, an approved consumer for a user building might revise the contract cooling capacity of the building subject to DEMS's agreement.</p> <p>As regards the charging level, the Administration explained that it planned to achieve full cost recovery within the project life of DCS (i.e. 30 years) and set the proposed DCS tariff at a competitive level in order to provide adequate economic incentives for private non-domestic building owners to subscribe to district cooling services.</p> <p>Ms Cyd HO requested the Administration to provide a written response to the submission from the Hong Kong Institution of Engineers (LC Paper No. CB(1)357/14-15(02)), in particular to the suggestions mentioned in paragraphs 5 and 6 of the submission.</p> <p>The Chairman also requested the Administration to provide a written response to the views expressed by the deputations at the meeting.</p>	<p>Admin (paragraph 4(c) of the minutes refers)</p> <p>Admin (paragraph 4(a) of the minutes refers)</p>
012415 - 013905	Chairman Administration Assistant Legal Adviser 10 ("ALA10")	<p>Administration's response to the issues raised at the meeting of the Bills Committee on 25 November 2014 (LC Paper No. CB(1)343/14-15(03))</p> <p>ALA10 sought clarification as to why the Administration had decided to impose the relevant charges for the provision of district cooling</p>	

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		<p>services on non-Government users through legislative means while the charging arrangements for the Ching Long Shopping Centre managed by the Hong Kong Housing Authority ("HA") were based on the Memorandum of Administrative Arrangements ("the Memorandum") signed between HA and the Government.</p> <p>The Administration explained that according to the principle established in the case of <i>McCarthy &amp; Stone (Developments) Ltd. v Richmond upon Thames London Borough Council</i> [1992] 2 A.C. 48, there should be clear statutory authority based on which the Government might impose a charge or a fee. While the power to charge might either be based on an express statutory provision or arise by necessary implication, the Administration considered it necessary to introduce a new piece of legislation to provide legal backing for the Government to collect charges from non-Government users subscribing to district cooling services in order to avoid any challenges to the legality of district cooling services charges.</p> <p>As for the charging arrangements between the Government and HA which was a financially autonomous body, the Administration further explained that under the Memorandum, HA was required to pay to the Government for services provided by the Government and it was not likely that HA could challenge the Government for imposing such charges. However, it would be undesirable to extend such arrangements to all other district cooling services users in KTD. The Administration considered that a clear and explicit statutory authority was required for the Government to impose charges.</p>	
013906 - 014130	Chairman Mr WU Chi-wai	<p>Mr WU Chi-wai requested the Administration to –</p> <p>(a) advise how the Administration could prevent possible abuse of the appeal mechanism provided under the Bill; and</p> <p>(b) consider setting up a penalty mechanism under the Bill to penalize individual occupiers/tenants of a user building whose behaviour or activities jeopardized the satisfactory operation of the DCS in KTD.</p>	Admin (paragraphs 4(d) and (e) of the minutes refer)

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014131 - 014453	Chairman Ms Cyd HO Administration	Ms Cyd HO requested the Administration to advise whether the DCS at KTD would provide services to domestic developments in the district.	Admin (paragraph 4(f) of the minutes refers)
014454 - 014546	Chairman	Date of next meeting	

Council Business Division 1  
Legislative Council Secretariat  
9 January 2015