

ENB CR 4/2061/08
LS/B/1/14-15
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By Fax (2147 5834)

13 October 2014

Miss Sheena YAP
Assistant Secretary for the Environment (Energy)2
Environment Bureau
15/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Miss YAP,

District Cooling Services Bill

I am scrutinizing the Bill with a view to advising Members on its legal and drafting aspects and would like to seek information or clarification on the following matters –

Application of the legislative proposal

Paragraph 5 of the LegCo Brief issued by the Environment Bureau dated 24 September 2014 (File Ref: ENB CR 4/2061/08) states that the Administration "will require private non-domestic projects in KTD to connect to the DCS...". However, according to clause 4 of the Bill, an owner or occupier of a building or a person responsible for the management of a building may apply for approval as the consumer of district cooling services for the building. As such, it appears that the proposal may be applicable to both domestic and non-domestic projects. In the light of the aforesaid, please clarify—

- (a) the kinds of projects to which the Bill is proposed to be applicable;
and
- (b) whether an application fee would be payable for the application.

Tariff Adjustment

Paragraph 15 of the LegCo Brief states that the Administration "will conduct tariff review at least once every five years." However, it seems that the review is not provided in the Bill. As such, please provide the legal considerations of not making any relevant provision in the legislative proposal.

Legal authorities of advice sought

According to paragraph 17 of the LegCo Brief, it is stated that "Legal advice indicates that explicit statutory authority is required for the Government to impose a charge, fee or levy". Please provide the legal authorities of the legal advice.

As the House Committee will consider the Bill at its meeting on 17 October 2014, I look forward to receiving your reply in both Chinese and English languages by **15 October 2014**, if practicable.

Yours sincerely,

(Miss Evelyn LEE)
Assistant Legal Adviser

c.c. DoJ (Attn.: Mr Peter SZE, SGC) (Fax : 2536 8143)