

Summary of Minutes of the 86th Interconnection Committee Meeting

Date and time: Tuesday, January 16, 2007, 10:00-12:00

Location: Conference Room No. 1001, MIC

Attendees: Interconnection Committee Mr. Toukai, Committee Chair; Mr. Sakai, Deputy Chair; Mr. Aida, committee member; Mr. Sato, committee member; Mr. Fujiwara, committee member
MIC Mr. Sakurai, Director-General of the Telecommunications Business Department; Mr. Taniwaki, Director of the Tariff Division; Mr. Ninomiya, Senior Planning Officer of the Tariff Division; Mr. Katagiri, Deputy Director of the Tariff Division; Mr. Yokote, Deputy Director of the Tariff Division; Secretary

[Summary of Agenda Item]

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| <p>Preparation of interconnection rules pertaining to revision of collocation rules</p> <ul style="list-style-type: none">○ MIC explained the gist of the draft report and deliberations followed.○ As a result, the Secretary (MIC) made an announcement to the effect that this would be carried over to the next consultation that would be held on January 23. |
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[Discussion Details]

Preparation of interconnection rules pertaining to revision of collocation rules

I: Reviewing the scope of category I designated telecommunications facilities

Mr. Sato, committee member: In response to an opinion that the designation method for category I designated telecommunications facilities should be changed from the current negative list method to a positive list method, if it is determined that the bottleneck nature of a candidate facility is assessed ex post facto, we must have a system that discloses exact information on the candidate facility a definite period of time before construction of the facility starts because such information is vital to assess the bottleneck nature.

MIC: Basically, the current designation method with negative lists can achieve its central purpose while the market is drastically changing. It would be difficult for the positive list method that NTT East and NTT West propose in their opinions to guarantee such resistance to change.

Mr. Toukai, Committee Chair: Can we understand that the facilities that are derived from excluding those that have no bottleneck from the whole include those that have bottleneck and those that fall in the gray zone?

MIC: Basically, Mr. Toukai's understanding is right.

Mr. Sato, committee member: We need to not only pay attention to facilities, but also consider the comparability of competition in upper layers. The point of comparability of competition does matter. It comes down to a matter of techniques whether we should adopt a positive or negative list method to accomplish the purpose.

MIC: Adopting a positive or negative list method comes down to a matter of the burden of proof. In a negative list method, it is NTT East and NTT West that bear the burden of proof, and in a positive list method, it is competing carriers that bear it. The moot point is whether it is appropriate for NTT East and NTT West to continue to bear the burden of proof in future.

Mr. Sato, committee member: The present situation is that NTT East and NTT West have the overwhelming volume of information, so it is important that they will disclose the information.

Mr. Fujiwara, committee member: Page 2 says that MIC plans to put into force the Competition Safeguard System under the continuous review of the system operation over the validity of the scope of category I designated telecommunications facilities. I am wondering what it really means.

MIC: MIC plans to develop the Competition Safeguard System and establish the guidelines for applications of the system based on the Competition Promotion Program 2010. Specifically, MIC intends to validate the scope of designated telecommunications facilities on a regular basis in each fiscal year, and at the same time, reports the results to the Information and Communications Council.

Mr. Aida, committee member: How about adding a foot note to that effect?

MIC: Understood.

Mr. Fujiwara, committee member: Even if there are two contradictory designation methods as an approach, I feel sure that the situation that worries NTT East and NTT West will be improved if MIC validates the scope every fiscal year while actually operating the system.

II: Reviewing the calculation method of interconnection charges

(Setting interconnection charges of subscriber dark fiber for each multipoint terminal line)

Mr. Aida, committee member: Page 17 says that "The point may be discussed again when examining the interconnection rules concerning the next-generation network of NTT East and NTT West," which I think seems to be rather an unexpected statement. If the page said that as such and such may be possible in NGN, it will be appropriate to examine the such and such when discussing the interconnection rules, the logical necessity would seem to hold water.

MIC: One of the grounds for NTT's assertion is that NTT must "(ii) fundamentally modify regional IP networks to share OSU because they lack the function of blocking communications from other carriers" and will need a vast amount of fund. This, however, is not a rationale at present time at least for NGN that will be constructed in future. In addition, nobody now understands the technical issues of sharing OSU and relationships between existing regional IP networks and shared OSU because the details of NGN are still unknown. For this reason, MIC's purport is that it would be appropriate to reexamine whether the point of view of NTT East and NTT West can also hold true as it is in future when discussing interconnection rules concerning NGN of NTT East and NTT West.

Mr. Aida, committee member: Alternatively, can MIC not request NTT to create NGN as a network that is capable of sharing OSU when NTT actually develops it?

If NTT has constructed NGN, it is very likely that we will argue the same thing. If NTT said something like they had already planned to share OSU in NGN, it would be constructive to discuss them in relation to the interconnection rules concerning NGN. But, since we do not have such an assumption, I cannot find any meaning at all in awaiting NGN to be completed. Conversely, can we not expect that MIC will request NTT to create NGN in a way that it is capable of sharing OSU when NTT actually develops it?

Mr. Toukai, Committee Chair: The draft report argues which is appropriate to oblige NTT to share OSU or to wait until we start to discuss the interconnection rules concerning NGN. At the same time, we may conclude that MIC will request NTT to design an alternative until they complete NGN, admitting that sharing OSU is difficult at the present time.

Mr. Sato, committee member: The report looks like proposing two arguments. If we decided that it was appropriate to adopt the proposition that we would reexamine the point of view of NTT East and NTT West when discussing the interconnection rules concerning NGN, it would mean that we will accept a reason or reasons why we judged that sharing OSU was difficult assuming present network environments when we start to discuss the interconnection rules concerning NGN. I think that if we concluded that sharing OSU was difficult in current network environments, we would need a

mechanism that would promise the realization of competition as a tentative measure until NTT completes NGN. I expect that the report will be finalized in the light of other opinions such as public comments, but it still leaves room for discussions including wordings. I would like the report to indicate that the possibility of this matter should be tapped to its utmost extent, including ample information provided by NTT East and NTT West, so that readers may understand our intention that competition among optical services will be desirable in a new age.

MIC: MIC intends to plan to deliberate on the interconnection rules concerning NGN without delay after MIC receives a finalized report on this matter from the deliberation procedure within this year. MIC wishes to examine the wordings in this report, taking our intention into consideration.

Mr. Sakai, committee member: The three considerations (on page 17) on OSU sharing that NTT East and NTT West argue reflects different viewpoints. Only Consideration (ii) indicates a point to remember on current network environments, and Considerations (i) and (iii) indicate significant points, so we may need to promptly examine them.

(Reviewing the post-settlement system)

Mr. Sato, committee member: Page 12 says that "The use department may not be prohibited from using profits that the management department acquires in the current system." I wonder what in the world this means.

MIC: A management department and a use department are different conceptual entities in accounting. The purport of the page is that it stops short of guaranteeing that a management department must use all incomes that it earns.

Mr. Sato, committee member: Does it indicate the fact that the use department is using incomes that the management department earns?

MIC: The purport is that it would not be impossible in terms of the mechanism.

Mr. Sato, committee member: I do not know whether NTT is actually doing such things, but if the mechanism allows them to do so, that is a problem.

Mr. Toukai, Committee Chair: The only thing we can do to prevent this is to set a rule that prohibits the use department from using incomes that the management department generates.

Mr. Sato, committee member: The practice is not illegal because we do not have any rules that prohibit such practices and it may be no problem practically if NTT does not engage in it. We, however, can say that the mechanism could cause problems in competition.

Mr. Toukai, Committee Chair: I recognize that we need to turn what Mr. Sato pointed into one of the issues for the current account system. I, however, do not seem to understand why MIC must use such wording from the viewpoint of discussions on the post-settlement system, so I would like to request MIC to adopt more appropriate wording.

MIC: Understood.

Mr. Sakai, Deputy Chair: I presume that NTT East and NTT West argue that if the net profit to net worth ratio is a risk-free rate, investment incentives will not be working, there will be no carriers that invest in telecommunication businesses, and eventually carriers will use the facilities of NTT. Other carriers must construct their own facilities. Isn't it good that everything costs less if you rent it?

Mr. Sato, committee member: The net profit to net worth ratio is derived from adding an appropriate risk premium to a risk-free rate. The committee is arguing that as reviewing the settlement system will decrease risks, the degree of decreased risks should be reflected in the net profit to net worth ratio. I myself do not think that it should be made a risk-free rate.

Mr. Toukai, Committee Chair: I agree with you. However, it is not that we take it as the same as the general facility investment theory. We must always take specific approaches to the net profit to net worth ratio in exchange for connection to bottleneck facilities.

(Review concerning the validation (stack tests) of relationships between interconnection charges and user prices)

Mr. Fujiwara, committee member: Page 6 will be converted to an article in a law. Will it be included in Article 33 Paragraph 4 of the Telecommunications Business Law?

MIC: MIC envisages that it will be added to the Rules for Interconnection Charges as one of principles to be used when setting interconnection charges without changing any laws.

Mr. Fujiwara, committee member: Can we interpret Article 33 Paragraph 4 in the Telecommunications Business Law to mean what MIC intends to do is right?

MIC: Article 33 Paragraph 4 Particular 2 in the Telecommunications Business Law says that "The interconnection charges shall be fair and justifiable in light of the costs calculated in accordance with the methods specified in the applicable ministerial ordinance of the MIC as a fair amount based on efficient management cost." As the applicable ministerial ordinance in this provision refers to the Rules for Interconnection Charges, MIC thinks that Page 6 can be established as one of principles to be used when setting interconnection charges in the Rules.

Mr. Fujiwara, committee member: I would like to request MIC to stipulate the purposes of stack tests in the points of view in the draft report although they may be self-evident.

MIC: Understood.

III: Preparation of collocation rules

(Collocation as to the handling of utility poles)

Mr. Aida, committee member: Can we conclude that the collocation rules for utility poles will lose their raison d'être when the utility poles are buried under the ground?

MIC: MIC heard from interconnection carriers that it was possible to conduct work related to utility poles on their own account, but would be difficult to do so if they were fully laid out in conduits.

Mr. Aida, committee member: I think it will be difficult to stretch wires such as crossovers if electric wires are buried under the ground. Since interconnection carriers did not submit their opinions this time, the report from this committee may not need to mention the point. I wonder, however, if we do not need at all to consider the status of the collocations rules after utility poles are buried under the ground. I personally feel uneasy about it. As to costs required for modifying utility poles such as vertical guy-wires, I think that we will have no alternatives but to oblige an interconnection carrier that causes the work for installing a vertical guy-wire to bear the costs. In the first place, I would like to request MIC to present quantitative data as to the number of maintenance cases such as replacing utility poles on a regular basis and the number of cases where NTT must collect an individual cost from work such as installing a new vertical guy-wire.

MIC: Let us consider Mr. Aida's request.

Mr. Sato, committee member: I wonder if power poles can be handled more easily under the same conditions as those for NTT poles as the latter will be more easily handled. In addition to this, I would like MIC to explain to me under what circumstances power poles are being used.

MIC: The current situation is that NTT poles, including power poles, are being handled with the use rules based on "the Guideline for Use of Utility Poles, Ducts, Conduits, Etc. Owned by Public Utilities." A power pole has predetermined joint-use points for NTT East and NTT West and other carriers use other general joint-use points. As the number of general joint-use points is limited, other carriers are principally obliged to share them under a bundling rule, which does not include NTT East and NTT West. MIC hears that as the strength of power poles is higher than that of NTT poles, vertical guy-wires need less often to be installed to the former than to the latter.

Mr. Sato, committee member: Although it has nothing direct to do with the report, I would like to request MIC to provide information on whether interconnection carriers are satisfied with the usage of power poles and whether they have some requests on it, in conjunction with the report.

MIC: Understood.

Mr. Sakai, Deputy Chair: I understand what page 20 means is the following: For the time being, we should think of other alternatives than WDM equipment if NTT has no free lines and if such

alternatives are impossible by any means, NTT may be allowed to deal with requests from interconnection carriers by installing WDM equipment. If that is the case, an individual interconnection carrier that requested NTT to install WDM equipment should be obliged to bear the cost. The committee will reexamine whether these measures are appropriate when it discusses whether it is right to convert them to rules after a certain period of time has passed. Am I right?

MIC: Yes. It is not appropriate to oblige NTT to install WDM equipment, and it may be possible that NTT installs and shares WDM equipment at their discretion. If that is the case, it is still premature at this point in time to collect the costs as interconnection charges from as many interconnection carriers as possible so that the burden may be minimized.

Mr. Sakai, Deputy Chair: Does MIC leave the matter to the discretion of NTT on a temporary basis including costs, modifications, etc. when NTT installs individual pieces of WDM equipment?

MIC: Yes. MIC may conclude that we will pay attention for a while to whether everything will really go all right with such a rule and reexamine the rule after a certain period of time elapses.

IV: Other issues

(Nominal person of line)

Mr. Aida, committee member: The reference in page 14 of document 1 greatly helps us understand moot points about the nominal person of line. In addition, I would like to request MIC to provide any information on whether the ratios of nominal persons of line rejected when NTT and interconnection carriers perform work show apparent differences. If both NTT and interconnection carriers showed high ratios of the rejections, it would mean that the concept per se of the nominal person of line became outdated. If the ratios showed difference, I would think that there were system problems such as matching, so we would need to examine the matter.

Mr. Sato, committee member: I would like to request MIC to present any information that indicates differences in terms of time such as the number of days required for NTT East and NTT West and other interconnection carriers to confirm the nominal persons of line from the viewpoint of comparability of competition.

MIC: Let us consider Mr. Sato's request.

V: Overview

Mr. Toukai, Committee Chair: I would like MIC to provide a document that includes specific pictures about determining a market used in competition appraisal in page 7 in the next Interconnection Committee meeting. Page 12 says that proposition (i) "produces the highest difference between interconnection charge costs and incomes in applicable fiscal years" among three propositions. But, as there may be various cases such as the changes of demand in the real world, we should not draw such a conclusion. I would like MIC to use more appropriate wordings. And, page 15 says that it is consistent to use a similar approach to the calculation methods of net profit to net worth ratios for major corporations, when calculating net worth costs used to calculate interconnection charges. If we accepted it, it could serve as the basis for including sales operation costs and business expenses in a net worth cost, so I would like MIC to adopt clearer wordings that will eliminate such misunderstanding.

MIC: Understood.

(End)