

## Summary of Minutes of the 89th Interconnection Committee Meeting

Date and Time: Monday, March 19, 2007, 16:00 to 17:30

Location: Conference Room 1001

Attendees

Interconnection Committee

Mr. Toukai, Committee Chair; Mr. Sakai, Deputy Chair; Mr. Aida, committee member; Mr. Sato, committee member; and 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; and Secretary

[Summary of Agenda Item]

### Development of the Interconnection Rules pertaining to the Review, etc. on the Collocation Rules

- MIC explained the draft report, and deliberation followed.
- As a result, it was agreed that the draft report should be revised based on the deliberation at the committee, and then submitted to the Telecommunications Business Sub-Council as the committee's study results. The details of the report were left to the discretion of Committee Chair Toukai.

[Discussion Details]

### Development of the Interconnection Rules pertaining to the Review, etc. on the Collocation Rules

Mr. Sakai, Committee Deputy Chair: The MIC opinion no. 11 in Page 11 of Reference 1 says: An interconnection charge should be determined valid when a reasonable ground is offered. I'd like to confirm that the stack testing is the primary checking, and the secondary checking should be conducted separately.

MIC: Stack testing just compares user fees and interconnection charges and determines which are greater. Even in the case where the interconnection charge is greater than the user fee, as long as NTT East and NTT West present a reasonable ground for the validity of the interconnection

charge, it will be determined that the interconnection charge is valid and therefore should be approved.

Mr. Sakai, Committee Deputy Chair: So, when the user fee is too low, stack testing verifies whether there is any problem in light of ensuring fair competition, which is different from the issue of validity of interconnection charges—Now I understand it.

Mr. Fujiwara, committee member: What standards are being applied to the current stack testing to determine the validity?

MIC: The current stack testing verifies if a user fee is greater than the operating expenses plus the amount for the interconnection charge. The study group held in 2002 studied the framework of the stack testing and concluded that, since it is difficult to have an absolute definition of the ordinary expenses and other factors, they should be decided when needed--that's the basic standpoint of the current testing.

Mr. Fujiwara, committee member: Prevention of unfair competition is regarded as a legal issue, in general, and the validity in light of fair competition includes it as well. Has the examination by the Cabinet Legislation Bureau or other institutions clarified that point?

MIC: We don't think the scope of the validity in light of fair competition was discussed in depth back then.

Mr. Fujiwara, committee member: Considering that the promotion of fair competition is included in the purpose (in Article 1) of the Telecommunications Business Law, it is surely possible to understand that the validity in light of fair competition covers prevention of unfair competition. However, in developing a ministerial ordinance, how to include specific examination standards is a critical factor.

MIC: In Page 17 of Reference 2, it is stated: "Stack testing should be operated by the administrative authorities under objective and transparent standards while the transparency is ensured to the utmost extent. To that end, based on this report, 'it is appropriate to immediately develop the guideline for conducting stack testing (tentative title)' in regard to the categories, scopes, and method of stack test verification." We would like to improve the transparency of the standards to be applied when examining the reasons why the interconnection charge becomes greater than the user fee as a result of stack testing, by presenting our opinion and inviting public comment thereon.

Since any ministerial ordinance does not exceed the authority by law, the assumption for determining the validity of the interconnection charges is that the interconnection charges are on a cost basis.

Mr. Toukai, Committee Chair: We understand that one numerical target should not be defined for stack testing. Instead, in operating stack testing, various methods can be used. For example, it is possible to ask for the carrier to provide explanation, and conduct discussion at the Interconnection Committee based on the outline of the reference provided, or discuss the case as an issue of competition policy in a greater scale.

MIC: The guideline for conducting stack testing is regarded as the standards that eliminate the need for the carrier to explain the validity, not the standards that ultimately determine the validity of the interconnection charge.

Mr. Fujiwara, committee member: I'd like to know if the "Denryoku jigyoisha (electric provider)" in the MIC opinion no. 52 in Page 35 of Reference 1 is the generic term. I remember that the Telecommunications Business Law uses the term "Denki jigyoisha (power provider)."

MIC: We'd like to check it, and make correction when needed.

Mr. Aida, committee member: Description in Page 17 of Reference 2 can be read as if the guideline for conducting stack testing has already been enforced. It should be specified that the guideline will be developed in the future.

MIC: We will correct the wording as you suggest.

Mr. Sato, committee member: NTT uses the term "competition neutral" in the opinion no. 5 in Page 5 of Reference 1. I understand that the concept of competition neutral is used in such context as the appropriate share of usage or the fairness of burden sharing. The implication of the NTT's comment, "The competitive neutrality will be impaired," seems slightly different.

In the MIC opinion no. 23 in Page 19 of Reference 1, the handling of the cases where the discrepancy between the forecast in the previous year and the actual figure is outstanding is basically right, but we need to pay close attention as to whether or not the discrepancy exists under a reasonable management. For example, when intentional mobilization of customers has affected the interconnection revenue, or when a decrease in one carrier's interconnection revenue leads to an increase in other carrier's interconnection revenue, how are these cases be handled? Isn't it required to add the condition that "when cost collection is deemed reasonable?"

MIC: We will request the Interconnection Committee to conduct examination when the actual interconnection charges are calculated. At that stage, verification is possible. We will also carry out the public comment procedure.

Mr. Sakai, Committee Deputy Chair: How will the calculation method be institutionalized?

MIC: It will be institutionalized by revising the interconnection rules.

Mr. Fujiwara, committee member: Could you explain the background of the MIC opinion no. 28 in

Page 21 of Reference 1?

MIC: We developed the Guideline concerning Protection of Accounts Receivable pertaining to Interconnections, etc., between Telecommunication Carriers in the Telecommunications Business Filed in December 2006. Later, based on the guideline, NTT East and West applied for authorization to the changes to the interconnection tariffs, on which we are now consulting with the Telecommunications Council and inviting public comment. We will put it on the Interconnection Committee's agenda in April or May.

As for the MIC opinion no. 52 in Page 34 of Reference 1, since the purposes of the interconnection rules for utility poles are not necessarily different from those of the Guideline for Use of Utility Poles, Ducts, Conduits, etc. Owned by Public Utilities, we would like to correct that point.

Mr. Toukai, Committee Chair: In regard to the MIC opinion no. 58 in Page 39 of Reference 1, could you tell us whether grasping the net fixed assets is difficult or grasping the usage status of each pole is difficult?

MIC: The latter is the more decisive factor.

Mr. Toukai, Committee Chair: If so, I suggest to avoid the working as if the use of the net fixed assets is denied, and specify the purpose, for example, to conduct interconnection charge calculation based on the net fixed asset.

MIC: we will make correction based on your remark.