

Summary of Minutes of the 92nd Interconnection Committee Meeting

Date and Time: Friday, May 11, 2007, 14:00 to 15:40

Location: Conference Room 1001

Attendees:

Interconnection Committee

Mr. Toukai, Committee Chair; Mr. Sakai, Deputy Chair; Mr. Sato, committee member; Mr. Naoe, 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

[Discussion Details]

Authorization of Changes to Interconnection Tariffs concerning Category I Designated Telecommunications Facilities of NTT East and NTT West (Development of Provisions pertaining to Protection of Accounts Receivable)

(Mr. Sato, committee member)

In the light of past discussions, I understand the reason for setting such provisions. But I'd like to confirm whether NTT will provide quarterly reports about the status of operations to MIC so that MIC can check it, because there are concerns about this. Consideration should be given, or an exclusion clause should be provided, to the small businesses involved, such as providers, where there are special circumstances. At the same time, even small businesses may need to pay a security deposit in case they fail to make payment.

(MIC)

The objective of the changes to the interconnection tariffs is to ask for collateral in case they fail to pay the amount due. It is hard to be against the idea of not asking for collateral when the amount is small.

(Mr. Toukai, Committee Chair)

Is it correct to say then that this provision applies to ISPs as well?

(MIC)

Yes, that's correct.

(Mr. Toukai, Committee Chair)

So, there is no special measure under consideration. Is that right?

(Mr. Sato, committee member)

I think that's right. But we may need to consider them in the future.

(Mr. Fujiwara, committee member)

In its response to Opinion No. 2, in which the issue of the amount of the security deposit was raised, MIC does not specify the amount it thinks appropriate, instead only referring to a "reasonable" amount that would offer protection in the case of nonpayment. Meanwhile, MIC does specify the amount in its response to Opinion No. 12. I think this should be noted in MIC's response to Opinion No. 2. In the case of defaults within the past year, MIC's response to Opinion No. 6 makes exceptions for administrative delays or errors. I think that should be clearly stated in the tariffs in order to prevent any confusion. Specifically, I suggest that Article 75-3, paragraph 1, item 1, which appears to stipulate that a deposit is required from any applicant for interconnection who has in the past failed to make a payment by the due date, should include the phrase "without good reason" or "due to a reason attributable to the applicant."

(Mr. Toukai, Committee Chair)

I agree. The current provision requires a deposit even when payment is made on the day after the due date. Whether or not such cases should be excepted needs to be considered.

(Mr. Fujiwara, committee member)

Regarding the setting of criteria mentioned in Opinion No. 8, NTT East and West stated that in regard to the portion that they should decide separately, they would disclose the criteria to interconnection applicants. I suggest that that be included in their comment.

(MIC)

We would like to make changes as suggested.

(Mr. Fujiwara, committee member)

Article 48-3 on submission of information stipulates that NTT may ask for the submission of documents that show "financial standing, such as balance sheets and profit and loss statements."

I think "such as" is too vague. I'm not saying they should list all the information they need in

detail, but they must give an indication of what they might ask for other than balance sheets and PL statements. Otherwise, interconnection applicants cannot make a decision.

(MIC)

NTT East and West have explained that the provision specifies the information that a credit assessment institution needs to conduct an assessment.

(Mr. Sato, committee member)

Interconnection applicants are concerned about the information they have to submit.

(Mr. Toukai, Committee Chair)

Generally, “financial documents” means BS, PL and their attached statements. It means financial information specified in the Companies Act, rather than securities reports. I understand financial documents and their attachments fall within the scope, but the list can be extensive.

(Mr. Fujiwara, committee member)

There should be some limit, for example, the scope could be limited to the documents required by the Commercial Code.

(Mr. Naoe, committee member)

How about specifying the information as to what the credit assessment institution requires?

(Mr. Toukai, Committee Chair)

It is also hard to define a credit assessment institution. The definition can go on and on.

(Mr. Naoe, committee member)

The current provision requires payment of a deposit if the specified information is not submitted.

(MIC)

When NTT East and West present the information submitted by an interconnection applicant to a credit assessment institution, NTT and the institution conclude a nondisclosure agreement. The Business Law also prohibits misuse of information obtained from interconnection. Therefore, there is nothing to worry about.

(Mr. Naoe, committee member)

In some cases a credit assessment institution may be unable to conduct an assessment due to a lack of information. If an interconnection applicant does not provide supplementary information as requested, will the application for interconnection be rejected?

(Mr. Fujiwara, committee member)

First, a request for collateral is made, rather than the application being rejected outright.

(MIC)

As you can see in MIC's response to Opinion to No. 20, the scope may be limited to information related to BS and PL. The proposed tariffs are to "define (the scope) separately." The validity of the contents can be confirmed as the verification conducted is based on quarterly reports. If NTT requests information beyond the limits of what is necessary, an order to improve business will be issued.

(Mr. Toukai, Committee Chair)

Each item of Article 75-3, paragraph 1 defines a case where collateral is required. The nature of the case described in Item 5, which refers to an applicant not submitting information as requested, seems different from that of other cases.

(Mr. Fujiwara, committee member)

It stipulates that an applicant who does not submit information for assessment may be regarded as being a potential defaulter. I think it's quite natural. But because of that, the information to be provided for assessment must be specified.

(MIC)

Item 5 of Article 75-3, paragraph 1 describes a case where an applicant does not submit information "without justifiable reason." This provision does not apply to a case where an applicant questions the reason and requests an explanation from NTT East and West. It basically means that an applicant who simply declines to submit information may be penalized.

(Mr. Naoe, committee member)

A lot of the new ISPs may not be in good financial standing. How much impact will the payment of a security deposit have on them? Are the interconnection charges so considerable? Or, are they actually enormous and will prevent new entries?

(Mr. Sato, committee member)

As small ISPs are generally not in good financial standing, they may have difficulties if they provide collateral. But I don't fully know their actual situation.

(Mr. Naoe, committee member)

I heard that the interconnection charges are a big burden on ISPs. Considering their cash flow, a four-month deposit seems high.

(Mr. Toukai, Committee Chair)

It definitely is.

(Mr. Sato, committee member)

It does seem logical, but the fact that it will be a very heavy burden on some applicants is still a concern. I suggest adding to the draft report some mandatory measures to be taken as necessary,

in addition to the two-year review.

(MIC)

It is hard to put new entrants and established entities under the same umbrella, but we think there should be some procedure followed in cases where verification uncovers unsatisfactory results.

(Mr. Fujiwara, committee member)

In the case of a new entrant failing to pay its account, as specified in Article 22, item 3, will it be required to make a deposit, rather than have its application rejected?

(MIC)

Exactly.

(Mr. Naoe, committee member)

Consolidation and alliance of ISPs will be accelerated, but we don't want to eliminate aspirants.

(Mr. Sato, committee member)

Undoubtedly there are some concerns, but having an exclusion clause is also problematic. The possible solution may be to verify and take necessary measures if any problems arise.

(Mr. Naoe, committee member)

Some big businesses are having problems. Generally, any company considers a certain level of bad debt to be a necessary risk. If NTT East and West's risks are eliminated, interconnection applicants may be unable to operate.

(MIC)

The recent review of the interconnection rules found it undesirable to ask NTT East and West to assume the risks in cases where the interconnection charges are based on actual costs. Accordingly, the report of March 30 proposed the concept of collecting risks (bad debts) that still exist even when a deposit is made for an interconnection charge. The current issue is where to draw the line, but it is difficult to determine the responsibility of each applicant. Therefore, checks should be made quarterly.

(Mr. Toukai, Committee Chair)

I understand Mr. Naoe's concerns. However, since the market is open to new entrants, I suggest moving in this direction to avoid any problems for users.

(Mr. Naoe, committee member)

Is it correct to say that verification will be conducted and measures will be taken where necessary?

(Mr. Toukai, Committee Chair)

In order to clarify the purpose, it should be added that verification will be conducted and the tariffs will be reviewed as necessary.

(MIC)

It is possible to clarify in the tariffs that delinquency within the past year, which was mentioned earlier, should be excluded if, for example, it was through no fault of the interconnection applicant. We will take your opinion on board and change the wording accordingly.

(Mr. Toukai, Committee Chair)

That would be appreciated. I will change the draft report and opinions in line with today's discussion and submit the report to the Telecommunications Sub-Council.