

Biannual Report of the Electricity and Gas Market
Surveillance Commission
(From September 2022 to March 2023)

December 2023
Electricity and Gas Market Surveillance Commission

Pursuant to the provisions of Article 66-16 of the Electricity Business Act (Act No. 170 of 1964), the Electricity and Gas Market Surveillance Commission (hereinafter referred to as the “Commission”) publishes its operating report for the period from September 1, 2022 to March 31, 2023 as follows.

December 8, 2023

Electricity and Gas Market Surveillance Commission

Akihiko Yokoyama, Ph.D, Chairperson

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Introduction Establishment of the Electricity and Gas Market Surveillance Commission

In conjunction with the implementation of electricity system reform based on the Act on the Partial Amendment of the Electricity Business Act, etc. (Act No. 47 of 2015, hereinafter referred to as the “Third Step Revision of Act”), which came into effect in 2015, the Electricity Market Surveillance Commission was established on September 1, 2015, as a regulatory organization with independence and a high level of expertise under direct control of the Minister of Economy, Trade and Industry in order to strengthen functions such as surveillance of proper electricity trade and to take necessary measures to ensure proper electricity trade. Since April 1, 2016, roles relating to gas business and heat supply business have been added and the name has been changed to the Electricity and Gas Market Surveillance Commission (hereinafter referred to as “Commission”).

The Commission is composed of a chairperson and four commissioners. They are appointed by the Minister of Economy, Trade and Industry from experts with professional knowledge and experience in laws, economics, finance or engineering with the ability to make fair and neutral decisions in relation to their duties, and are required to exercise their authorities independently.

The term of office of the chairperson and commissioners is set at three years according to Article 66-8 of the Electricity Business Act. The term of office was renewed at the end of August 2021, and the chairperson and commissioners as of March 31, 2023 are as follows.

[Names of commissioners]

(Chairperson)

Akihiko Yokoyama, Ph.D Professor Emeritus, the University of Tokyo

(Commissioners)

Yumiko Iwafune, Ph.D Project Professor, Institute of Industrial Science, the University of Tokyo

Kaeko Kitamoto Certified Public Accountant

Kuninobu Takeda, Ph.D Professor, Department of Law and Political Science, Graduate School of Law and Politics, Osaka University

Masanori Maruo Managing Director, SMBC Nikko Securities Inc.

Chapter 1. Efforts to ensure fair trade in the retail and wholesale electricity trade

1.1. Qualification screening for registration of electricity retailers and retail services

[Summary]

- As a result of screening by the Commission for registration of electricity retailers and retail services, up until the end of March 2023, 721 electricity retailers and 31 retail services were registered.

When the Minister of Economy, Trade and Industry intends to register electricity retailers and retail services by specified electricity transmission and distribution utilities, the Minister is required to hear the opinions of the Commission. The Commission, upon receiving the request for opinions from the Minister of Economy, Trade and Industry, conducted the qualification screening from the viewpoint of whether the applicants do not fall under the registration refusal requirements stipulated in the Electricity Business Act (from the viewpoint of the protection of the interest of electricity consumers) and shared the results with the Minister of Economy, Trade and Industry. As a result of the screening, up until the end of March 2023, 721 electricity retailers were registered, including 10 new registrations and 27 cancellations. On the other hand, up until the end of March 2023, 31 retail services were registered, including 2 new registrations and no cancellations.

1.2. Publication of the Electricity Trading Report

[Summary]

- The Commission collected information necessary to surveil retail electricity trade from electricity industry utilities and published the results every month.

The Commission, according to the Electricity-Related Reporting Rules (Ministry of International Trade and Industry Ordinance No. 54 of 1965), has regularly received information report necessary to surveil retail electricity trade from electricity industry utilities and Japan Electric Power Exchange (herein after referred to as the “JEPX market”), wholesale market. A part of the information received in these reports, such as the amount of electricity sales, was published every month.

1.3. Provision of consultation services

[Summary]

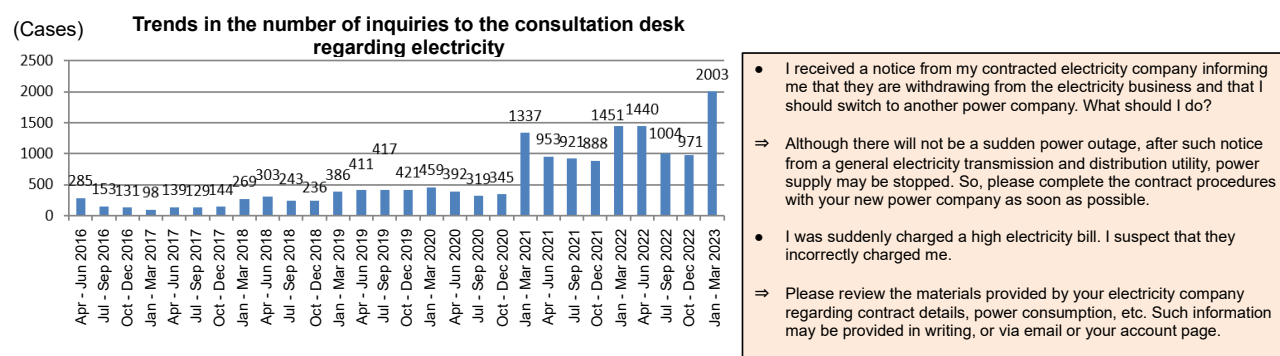
- The Commission established a consultation desk (information provision desk) to provide advice to consumers regarding problems when concluding a retail supply contract, receive information regarding

possible legal violations by business operators, and provide administrative guidance, if necessary.

The Commission established a consultation desk to respond to inquiries received from electricity customers and provided answers and advice to questions. During a period from September 2022 to March 2023, a total of 3,358 inquiries were received.

Through these services, if any information on inappropriate business activities was detected, the Commission investigated the facts and provided administrative guidance to the concerned electricity retailers, if necessary.

○ Trends in the number of inquiries (electricity) to the consultation desk and examples



1.4. Surveillance on retail trade

[Summary]

- The Commission provided administrative guidance to business operators that engaged in problematic practices under the Electricity Business Act regarding retail electricity sales.
- As an example of major efforts to surveil retail trade, the Commission provided administrative guidance to electricity retailers and monitored the retail market by focusing on specific retail contract prices as follows.

In April 2016, entry into the retail electricity business was fully liberalized, allowing any consumer, including households, to freely choose their electricity company and rate structure. Under the situation, to optimize the retail electricity supply trade, the Commission, based on the "Guidelines for Retail Electricity Business," monitors the activities of business operators, regarding the provision of information to consumers and the contractual form and coverage, including provision of administrative guidance to the operators who engaged in problematic practices under the Electricity Business Act.

The specific examples of administrative guidance provided during a period from September 2022 to March 2023 are as follows.

(1) Administrative guidance

Electricity retailer A mistakenly collected fees for issuing meter reading slips for approximately 2,000 retail

supply contracts. The practice is considered to be problematic from the viewpoint of ensuring proper electricity trade. Therefore, in October 2022, the Commission provided an administrative guidance to the company A to promptly implement the necessary collective measures.

(2) Collection of report

On March 30, 2023, general electric utilities were found to have committed acts in violation of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947) and received a cease-and-desist order or a surcharge payment order from the Fair Trade Commission.

In response to the announcement of this measure, on the same day, the Commission, based on the authority delegated pursuant to the provisions of Article 114, Paragraph 2, and Article 106, Paragraph 3 of the Electricity Business Act, requested the five electricity retailers to report the matter.

(3) Focused retail market monitoring

To ensure fair competition in the retail market, the Commission has begun the Focused Retail Market Monitoring from September 2019 and published the survey results approximately twice a year. The monitoring to understand the competitive situation in the retail market is performed through review of retail contract details by interviewing with electricity retailers who provide retail contracts that fall below a certain price level.

(a) Background

The summary of the Specialized Meeting for Transitional Regulated Electricity Tariff (hereinafter referred to as the “Specialized Meeting for Transitional Regulated Tariff”) held on April 23, 2019, cited the “sustainability of the competitive environment” as one of the factors to be considered when deciding whether to lift the transitional regulated electricity tariff. More specifically, the meeting pointed out that if a business operator that has dominant power in the wholesale market provides unfair internal subsidy to its internal retail division, and the retail division that receives such internal subsidy engages in acts such as underselling, the distortion of competition in the retail market could happen, resulting in the maintenance or strengthening of the said business operator’s position in the retail market. In addition, the meeting noted that (1) to prevent such unfair internal subsidies, the non-discrimination of internal and external trade should be effectively secured as the most realistic means, and (2) to detect whether “unfair internal subsidy” is provided and whether any distortion of competition in the retail market is caused by underselling, the market situation should be properly understood by monitoring specific retail prices.

Based on these recommendations, the 38th and 40th Specialized Meeting for Policy Design held in May and July 2023 studied how to implement the focused retail market monitoring, resulting in the initiation of the monitoring in September 2019.

(b) Monitoring results

During a period from September 2022 to March 2023 covered by this biannual report, the 78th Specialized Meeting for Policy Design held in October 2022 examined retail contracts that started electricity supply between January and June 2022 and reported that no individual case was found where the retail unit price was lower than the variable power supply cost, as a result of the investigation.

(4) Proposals for institutional measures related to retail electricity business

Responding to the increasing withdrawal of electricity retailers due to the soaring electricity market prices, the 75th to 78th Specialized Meeting for Policy Design held in July to October 2022 discussed the necessary institutional measures. These meetings concluded that the following institutional measures should be implemented regarding the matters related to the start of, after the start of, and the withdrawal from retail electricity business. In December 2022, the Commission submitted a proposal to the Minister of Economy, Trade and Industry as follows.

- Matters related to the start of retail electricity business
 - The relevant laws and regulations should stipulate that an applicant for registration is required to submit documents related to “analysis of business risk factors” and “examination of countermeasures against such risk factors,” etc., together with a three-year business plan based on such information. Furthermore, it should be stipulated that the proper analysis of the above upon registration is confirmed.
- Matters related to after the start of retail electricity business
 - The Guidelines for Electricity Retail Business should stipulate that it is desirable practice for electricity retailers to provide easy-to-understand information to consumers about their financial situation through websites, pamphlets, flyers, etc. as much as possible. Furthermore, it should be stipulated that providing information in a false or misleading manner is considered a problematic practice.
- Matters related to the withdrawal from retail electricity business
 - The relevant laws and regulations should stipulate that if an electricity retailer intends to suspend or abolish all of its business, the retailer must provide a notification period of 30 days or more to its customers, and in particular, a notification period of 90 days or more, in cases where a longer notification period is likely required, such as when canceling extra-high or high voltage contracts. Furthermore, it should be stipulated that in providing such information, the retailer is required to use a method that ensures proper recognition by customers and letters and formats written in an easy-to-see manner.
 - The relevant laws and regulations should stipulate that if an electricity retailer intends to suspend or abolish part of its business, which may impede the interests of its consumers, the retailer is required to ensure the above-mentioned notification period and appropriate notification method.
 - The Guidelines for Electricity Retail Business should stipulate that it is a problematic practice for an electricity retailer to not promptly notify its customers when the retailer recognizes the possibility of cancellation of wheeling service contracts from general electricity transmission and distribution utilities due to non-payment of wheeling service charges, and thinks that there is no prospect of taking measures to avoid such a situation. Furthermore, it should be stipulated that in providing such information, the retailer is required to use a method that ensures proper recognition by customers and letters and formats written in an easy-to-see manner.
 - The Guidelines for Electricity Retail Business should stipulate that it is appropriate for an electricity retailer to review its system to handle inquiries and complaints in a timely manner as necessary, when the number of inquiries and complaints from consumers is expected to increase due to suspension or closure of retail electricity business, revision of rates, etc. Furthermore, it should be stipulated that failure to take such

measures is a problematic practice.

- The Guidelines for Electricity Retail Business should stipulate that it is a desirable practice for an electricity retailer to develop a system to allow provision of multiple methods, such as the website and email, to its consumers to choose when they intend to cancel a retail supply contract or make related inquiries.

1.5. Examination of retail electricity regulated tariff for which transitional measures have been taken

[Summary]

- The Commission examined the applications for approval to revise their special retail supply provisions submitted by seven deemed electricity retailers. As a result, the Commission submitted its initial response to the Minister of Economy, Trade and Industry, informing that it is appropriate to recalculate the costs by reviewing the latest fuel costs, wholesale electricity market prices, and electricity futures prices.
- The Commission checked the details of the notifications of changes to the special retail supply provisions due to the introduction of the revenue cap system by six deemed electricity retailers. As a result, the Commission answered to the Minister of Economy, Trade and Industry that the Commission has no objections to the details of these notifications.

In November 2022 and January 2023, seven deemed electricity retailers (Hokkaido Electric Power Co., Inc., Tohoku Electric Power Co., Inc., TEPCO Energy Partner Inc., Hokuriku Electric Power Company, the Chugoku Electric Power Co., Inc., Shikoku Electric Power Co., Inc. and The Okinawa Electric Power Co., Inc.) submitted the applications for approval to revise their special retail supply provisions to the Minister of Economy, Trade and Industry. Accordingly, in December 2022 and January 2023, the Minister of Economy, Trade and Industry asked the Commission's opinions about these applications.

Upon receiving the request for opinions from the Minister of Economy, Trade and Industry, the 28th to 39th Specialized Meeting for Tariff System held in December 2022 to March 2023 conducted strict examinations to confirm whether the details of the applications were appropriate in light of the Guidelines for Examination of Special Retail Supply Provisions of Deemed Electricity Retailers established in April 2016.

The 37th and 38th Specialized Meeting for Tariff System held in March 2023 discussed the period for recording fuel costs, based on the latest exchange rates and fuel cost levels. Based on this result, in March 2023, the Commission submitted its initial response to the Minister of Economy, Trade and Industry, stating that it is appropriate to recalculate the costs related to these applications by reviewing the latest fuel costs, wholesale electricity market prices, and electricity futures prices.

In February 2023, six deemed electricity retailers (TEPCO Energy Partner Inc., Chubu Electric Power Miraiz Co., Inc., Hokuriku Electric Power Company, the Kansai Electric Power Co., Inc., the Chugoku Electric Power Co., Inc., and Kyushu Electric Power Co., Inc.) submitted the notifications of changes to the special retail supply provisions due to the introduction of the revenue cap system to the Minister of Economy, Trade and Industry. Accordingly, in March 2023, the Minister of Economy, Trade and Industry asked the Commission's unreserved opinions about these notifications.

Upon receiving the request for unreserved opinions from the Minister of Economy, Trade and Industry, the 38th Specialized Meeting for Tariff System held in March 2023 checked the details of these notifications in light of the Third Interim Report of the Sustainable Electricity System Development Subcommittee, Basic Policy Subcommittee, Advisory Committee for Natural Resources and Energy in January 2022 and Article 2 (5) and (13) of the Assessment Standards, etc. for Administrative Action by the Minister of Economy, Trade and Industry based on the Supplementary Provisions of the Act on the Partial Amendment of the Electricity Business Act (20160325 Resources No. 12) (hereinafter referred to as the “Assessment Standards”). As a result, in March 2023, the Commission answered to the Minister of Economy, Trade and Industry that the Commission has no objections to the details of these notifications.

1.6. Audit of deemed electricity retailers

[Summary]

- The Commission audited the operations and accounting of deemed electricity retailers.

When the retail electricity market was fully liberalized in April 2016, the general electric utilities were allowed to maintain regulated tariff (transitional regulated tariff) as a transitional measure for retail tariff for low voltage (household use, etc.).

Pursuant to the provisions of Article 21 of the Supplementary Provisions of the Act on the Partial Amendment of the Electricity Business Act (Act No. 72 of 2014), the Committee audited the deemed electricity retailers subject to transitional measures for regulated tariff (10 companies).

1.7. Ex-post facto assessment of retail electricity regulated tariff based on transitional measures after the end of the cost calculation period

[Summary]

- The Commission conducted ex-post facto assessments of retail electricity regulated tariff based on transitional measures after the end of the cost calculation period. As a result, the Commission submitted its opinion to the Minister of Economy, Trade and Industry, stating that none of the three companies subject to audit were required to apply for approval for price revision.

The Ministry of Economy, Trade and Industry is authorized to conduct ex-post facto assessment of retail electricity regulated tariff based on transitional measures in the Supplementary Provisions of the Act on the Partial Amendment of the Electricity Business Act for every fiscal year after the end of the cost calculation period to check needlessly affluent profit margins and to release the results to the public.

Upon receiving the request for opinions from the Minister of Economy, Trade and Industry in February 2023, the 36th Specialized Meeting for Tariff System held in February 2023 conducted ex-post facto assessment and checking over three deemed electricity retailers whose cost calculation period had ended (Chubu Electric Power Miraiz Co., Inc., the Kansai Electric Power Co., Inc., and Kyushu Electric Power Co., Inc.) based on Article 2 (6)

5 of the Assessment Standards. As a result, the Commission concluded that the three deemed electricity retailers subject to ex-post facto assessment this time were not required to apply for approval for the reduction of current tariff (Reference: Figure 1: Results of applying the Assessment Standards).

Based on the above, in March 2023, the Commission submitted its opinion to the Minister of Economy, Trade and Industry, stating that no retailers were required to apply for approval for the reduction of retail electricity regulated tariff based on transitional measures, in light of Article 2 (6) 5 of the Assessment Standards.

Figure 1: Results of applying the Assessment Standards

- As a result of examination based on the Assessment Standards, the Commission concluded that three deemed electricity retailers ^{(*)1} that had not revised their tariffs after the end of the cost calculation period were not subject to the consideration of issuing an order for them to apply for approval for price revision.

^{*}1: The following companies were not subject to ex-post facto assessment, because they were then applying for approval to increase retail transitional regulated electricity tariff: Hokkaido Electric Power, Tohoku Electric Power, TEPCO Energy Partner, Hokuriku Electric Power, Chugoku Electric Power, Shikoku Electric Power, and Okinawa Electric Power.

(Unit: billion yen)

Results of examination based on the Assessment Standards (steps 1 and 2)		Chubu Electric Power Miraiz ^{*2}	Kansai Electric Power	Kyushu Electric Power	10 companies
Step 1	A. Criteria based on profit ratio of regulated sectors of electricity business				
	Average for 3 fiscal years (1) ^{*3}	3.8%	6.8%	7.1%	
	Average of 10 companies for 10 fiscal years (2)				2.4%
	Does the figure exceed the average of 10 companies for 10 fiscal years [i.e., (1) > (2)]?	Yes	Yes	Yes	
Step 2	B. Criteria based on accumulated excess profits of regulated sectors of electricity business				
	Accumulated excess profits at the end of FY2020 (3) ^{*4}	△1,599	△614	△136	
	Excess profits at the end of FY2021 (4) ^{*5}	△397	△181	△1	
	Accumulated excess profits at the end of FY2021 [i.e., (5) = (3) + (4)] ^{*5}	△1,996	△796	△138	
	Business compensation amount (specified level of amount) (6) ^{*6}	423	392	231	
	Does the figure exceed the specified level of amount [i.e., (5) > (6)]?	No	No	No	
	C. Criteria based on profit and loss of liberalized sector ^{*7}				
	FY2020 (7)	+109	△44	+45	
	FY2021 (8)	△876	672	△140	
	Are the figures in red for the last two years [i.e., (7) < 0 and (8) < 0]?	No	No	No	
Result	Is the company subject to the consideration of issuing an order for it to apply for approval for price revision? (Either both A and B are Yes, or A and C are Yes.)	No	No	No	

^{*}2: Figures before FY2019 were based on the data from the former Chubu Electric Power. Figures from FY2020 were based on the data from Chubu Electric Power Miraiz.

^{*}3: Simple average of profit ratio of regulated sectors of electricity business of each year for a period of three years from April 2019 to March 2022

^{*}4: The amount excluding the portion of the former General Provisions for Selection from the accumulated excess profits up to FY2015

^{*}5: For Kansai Electric Power, the excess contract amount (26 million yen) has already been reflected (subtracted) in the current year's excess profits and the accumulated excess profits at the end of the current year. This is not applicable to other companies. (See slide 7 for more details.)

^{*}6: Business compensation amount equivalent for the regulated sector (limited to those related to specified retail supply provisions)

^{*}7: Profit and loss of liberalized sector: Profit and loss of liberalized sector of electricity business

(Source: Prepared by the Executive Bureau of the Commission based on the interviews and the departmental statement of income and expenditure of each business operator)

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(Overall results)

- Step 1 of the Assessment Standards [criteria based on profit ratio of electricity business] showed that three companies (Chubu Electric Power Miraiz, Kansai Electric Power, and Kyushu Electric Power) had the average profit ratio for the last three fiscal years exceeding the average profit ratio of 10 companies for 10 fiscal years.
- However, Step 2 of the Assessment Standards [criteria based on accumulated excess profits] or [criteria based on profit and loss of liberalized sector] shows that all three companies have the accumulated excess profits at the end of FY2021 lower than the specified amount, and the business of the liberalized sector did not suffer a deficit for the last two years.
- As a result of the above examination based on the Assessment Standards, the Commission concluded that three deemed electricity retailers that had not revised their tariffs after the end of the cost calculation period (those other than Hokkaido Electric Power, Tohoku Electric Power, TEPCO Energy Partner, Hokuriku Electric Power, Chugoku Electric Power, Shikoku Electric Power, and Okinawa Electric Power) were not subject to the consideration of issuing an order for them to apply for approval for price revision.

(Conclusions)

- Based on the above, the Commission concluded that the deemed electricity retailers subject to ex-post facto assessment this time were not required to apply for approval for the reduction of current tariff.
- The above conclusion was the result of an assessment that also reflected the excess contract amount confirmed by Kansai Electric Power (not applicable for other companies).

1.8. Surveillance on wholesale trade

[Summary]

- Through monitoring of the day ahead market, the Commission discovered that Chugoku Electric Power Co., Inc. had not disclosed insider information that was required to be disclosed in a timely manner, and had been conducting related trades in the day ahead market. Therefore, on March 31, 2023, the Commission issued a business improvement administrative recommendation to the company. In addition, the Commission confirmed several incorrect bids and provided business improvement administrative guidance in writing to business operators that had not yet delivered their entire surplus.
- The result of monitoring of the baseload market discovered that one of the large-scale electricity generation utilities in the East Japan area changed its estimation method of the unit fuel cost price and increased the supply price in the auction held in September 2022. As the company did not provide an objective and reasonable explanation regarding the timeliness of the changes, the Commission requested this business operator to make corrections at subsequent auctions. Then, the correction was duly confirmed in an auction held in November, 2022.

To ensure proper electricity trade, the Commission monitored and analyzed the trade situation in the wholesale electricity market, and provided administrative guidance if any problematic practice was observed.

In addition, every quarter, the Commission prepared and published an electricity market monitoring report that analyzed and verified the voluntary efforts by general electric utilities and JERA Co., Inc. as well as the competitive situation in the electricity market with stationary observation (Reference: Figure 2: Major indexes in the reports from July to September 2022).

Figure 2: Major indexes in the reports from July to September 2022

			Report this time July - Sep 2022	Comparison to the same period last year (July - Sep 2021)	Reference FY2021 (Apr 2021 - Mar 2022)	FY2020 (Apr 2020 - Mar 2021)
JEPX market	Percentage in electricity sales ^{*3}		39.9%	43.6%	39.9%	38.9%
	Day-ahead market	Tender				
		Selling bid volume compared to the same period last year	0.9 times	1.1 times	1.0 times	1.1 times
		Buying bid volume compared to the same period last year	0.9 times	1.1 times	1.1 times	1.1 times
		Contract				
		Contracted volume	85.2 billion kWh	92.3 billion kWh	327.2 billion kWh	312.8 billion kWh
		Contracted volume compared to the same period last year	0.9 times	1.1 times	1.0 times	1.1 times
		Average contract price (System price)	24.8 yen/kWh	8.2 yen/kWh	13.5 yen/kWh	11.2 yen/kWh
		Occurrence rate of market splitting between the east and west market	31.0%	33.7%	32.1%	72.7%
	Intraday market	Contract				
Retail market (reference) ^{*1}	Bilateral trade	Contracted volume	1.51 billion kWh	1.07 billion kWh	4.18 billion kWh	4.02 billion kWh
		Average contract price	28.4 yen/kWh	8.4 yen/kWh	14.5 yen/kWh	12.4 yen/kWh
	Forward market	Contract				
	Electricity sales	Contracted volume	0.003 billion kWh	0.015 billion kWh	0.047 billion kWh	0.027 billion kWh
		Supply volume to outside	14.02 billion kWh	15.64 billion kWh	—	—
			217.2 billion kWh ^{*2}	214.3 billion kWh	832.1 billion kWh	816.4 billion kWh
		Electricity sales	43.8 billion kWh	47.6 billion kWh	178.6 billion kWh	153.2 billion kWh
New entrants	Electric sales compared to the same period last year		0.9 times	1.2 times	1.2 times	1.2 times
		Share of new entrants	19.5% (as of September)	21.7% (as of September)	—	—

^{*1}: Source: Electricity Trading Report

^{*2}: The monthly electricity sales may slightly differ from the actual monthly demand, because the source data from the Electricity Trading Report shows the monthly electricity sales volume and sales amount measured between the dates of meter reading, the practice that most business operators use. To avoid giving excessive work in calculating precise monthly sales from the first day to the last day of a month to business operators, the Commission permits them to report the sales between the dates of meter reading as "monthly sales."

^{*3}: The percentage in electricity sales indicates the average value for the relevant period.

Source: Prepared by the Executive Bureau of the Commission based on the documents submitted to the 80th Specialized Meeting for Policy Design held in December 2022.

To realize stable and low-cost supply of electricity through competition among electricity retailers, which is the goal of electricity system reform, the activation of the wholesale electricity market is indispensable. Therefore, the Commission made the efforts toward the activation of the wholesale electricity market as follows.

(1) Surveillance on day ahead market

The Commission monitors on a daily basis whether any unfair trades are taking place in bidding on the JEPX day ahead market. Through the monitoring, the Commission confirmed several mistakes in bidding. The Commission conducted fact-finding investigations with each of these business operators and confirmed that none of them had any intention of changing the market price. However, the Commission reminded them that strict measures could be taken if the similar bidding behavior would be repeated in the future, requested them to take thorough recurrence prevention measures, and alerted market participants through press releases, etc. In particular, to some business operators that have not delivered the entire surplus amount, the Commission provided written administrative guidance for business improvement, requesting them to take thorough recurrence measures, considering the possibility of occurrence of significant fluctuation of the actual contracted price. Through the monitoring, the Commission discovered that Chugoku Electric Power Co., Inc. had not disclosed information on output power reduction, which was required to be disclosed in a timely manner, and had been conducting related trades in the day ahead market. Therefore, on March 31, 2023, the Commission issued a business improvement administrative recommendation to the company, asking them not to make high bids aimed at curbing fuel consumption without disclosing information on output reductions.

In addition, after the verification of the sharp increase in the electricity day ahead market price occurred in the winter of FY2020, the Commission requested general electric utilities and JERA to provide data showing that they had supplied all available bid volume to the market, if the electricity day ahead market price became 30 yen or more after June 29, 2021. The same confirmation results were promptly disclosed on the Commission's website.

To further enhance information disclosure, the JEPX market updated its website on February 20, 2023, enabling viewers to check the bidding status near the contract point in more detail.

(2) Surveillance on baseload market

The baseload market was established in the JEPX market in FY2019 to promote equal footing in the access environment for baseload power supply among electricity retailers and thereby revitalize retail competition, by creating an environment in which newly entered electricity retailers due to electricity liberalization can use baseload power supply in the same environment as retail services provided by general electricity utilities.

Based on the purpose of the baseload market, the Baseload Market Guidelines (hereinafter referred to as "Guidelines") recommended that it is appropriate for large-scale electricity generation utilities, such as general electric utilities in each area, to supply the amount calculated by the Agency for Natural Resources and Energy (obligated supply amount) to the market, with the upper limit being the price based on the average cost of electricity generation for baseload power sources (hereinafter referred to as the "supply ceiling price"). On the other hand, if the procurement price for baseload power sources in the retail sector of large-scale electricity generation utilities is unreasonably lower than the supply price, the purpose of the baseload market may not be achieved.

From these viewpoints, the Commission monitored the details of baseload market auctions implemented to date, including whether appropriate quantities and prices had been offered and whether there had been any problematic

bidding actions in the fiscal year before and after the fiscal year of delivery in the base load market.

The result of monitoring of the fiscal year before the delivery fiscal year confirmed that the amount of electricity supplied by each large-scale electricity generation utility had met the amount of electricity stipulated in the Guidelines.

However, in calculating the supply ceiling price in the auction held in September 2022, the Commission discovered that one of the large-scale electricity generation utilities in the East Japan area changed its estimation method of the unit fuel cost price and increased the supply price from the previous auction. As the company did not provide an objective and reasonable explanation regarding the timeliness of the changes, the Commission requested this business operator to make corrections at subsequent auctions.

In fact, no impact on the contract results due to the estimate change was confirmed. Then, the correction of the method of estimating unit fuel costs of the said business operator was duly confirmed in an auction held in November 2022.

The Commission confirmed that, except for the above estimate change, the supply ceiling price of each large-scale electricity generation utility was set in accordance with the Guidelines, and that they supplied electricity to the baseload market at a price below the supply ceiling price. However, in calculating fuel costs, they overestimated the price fluctuation risk, resulting in extremely high supply ceiling prices and, therefore, extremely high supply prices.

The result of monitoring of the fiscal year after the delivery fiscal year confirmed that some large-scale electricity generation utilities had made calculation errors in their estimated electricity generation cost. Therefore, the Commission issued warnings to these business operators. In fact, the impact of this calculation error on the supply ceiling price was minimal and did not affect the contract results. On the other hand, no cases were identified in which the wholesale supply price of baseload power sources to the retail sector of a large-scale electricity generation utilities or within its group is considered to be unreasonably lower than the price supplied to the baseload market.

As mentioned above, various issues were recognized in calculating fuel costs, such as each company had considerable discretion, which had a large impact on supply prices, which could lead to substantial holding off the market, and it is difficult to confirm non-discrimination between inside and outside the companies. Therefore, the 79th, 80th, and 82nd Specialized Meeting for Policy Design held in November 2022, December 2022, and February 2023, respectively, studied how to reform the system. As a result, the 82nd Meeting held in February 2023 determined to submit the Commission's proposal to the Agency for Natural Resources and Energy to introduce a scheme of ex-post facto settlement of fuel costs.

Based on the above proposal, the Working Group for Policy Review established under the Advisory Committee for Natural Resources and Energy is discussing the matter for future market improvements.

(3) Surveillance on capacity market

The capacity market was established under the Organization for Cross-regional Coordination of Transmission Operators (hereinafter referred to as "OCCTO"), aiming to improve the predictability of investment recovery for electricity generation utilities, secure the balancing power necessary to make renewable energy a main power source, and deal with medium- to long-term supply shortages. In capacity market auctions, if a business operator that has dominant power in the market (hereinafter referred to as a "market-dominant operator") may not bid for power supply or bid with a capacity lower than the expected capacity without a justifiable reason (hereinafter referred to as "holding off"), and bid at a price that unfairly exceeds the amount that needs to be recovered from the capacity market to maintain the power supply (hereinafter referred to as "price gouging"), a contract price may be higher

than the price originally formed, increasing the amount of capacity contribution that electricity retailers must pay, which could consequently harm the interests of electricity consumers.

From this viewpoint, based on the Tender Guidelines in the Capacity Market (hereinafter referred to as the “Capacity Market Guidelines”), the Commission monitors holding off and price gouging by market-dominant operators. In the FY2022 Main Auction held in October 2022 (for actual supply and demand in FY2026), from the following viewpoint of problematic practice, the Commission monitored the tender before and after the bid accepting period.

- Monitoring of holding off: Based on the Capacity Market Guidelines, the Commission requested the power sources that were deemed to have the possibility of holding off to submit the list, the explanation of reasoning, and the supporting evidence to confirm the rationality.

- Monitoring of price gouging: Based on the Capacity Market Guidelines, the Commission requested the power sources that became subject to monitoring to explain the cost calculation method and basis, such as labor costs and repair costs that constitute the bid price, to confirm the rationality and appropriateness of bid price according to the Capacity Market Guidelines.

The result of the monitoring showed that no problematic practice was discovered based on the Capacity Market Guidelines, with the exception of some power supply bids submitted by JERA Co., Inc. JERA Co., Inc. informed the Commission that the company miscalculated the revenue from other markets that could be earned by operating the power supplies, and as a result, for some power supplies, submitted bids that exceeded the amount that would need to be recovered from the capacity market to maintain the power supply. Therefore, on January 25, 2023, the Commission provided business improvement administrative guidance to the company. In addition, the Commission reported the above monitoring results at the Working Group for Policy Review established under the Advisory Committee for Natural Resources and Energy.

(4) Surveillance on inter-market manipulation

When the Tokyo Commodity Exchange (hereinafter referred to as “TOCOM”) approved the listing of electricity futures in September 2019, the Guidelines for Proper Electric Power Trade clarified the regulations on inter-market manipulation. Additionally, in May 2020, the European Energy Exchange (hereinafter referred to as “EEX”) started clearing services for Japanese electricity futures trading.

Subsequently, the hikes in the day ahead market prices in the winter of FY2020 triggered the expectations for further utilization of electricity futures trading; the trading volume and number of participants in electricity futures are steadily increasing.

However, in the unlikely event that day ahead market prices are manipulated to enjoy an advantage in other electricity-related trade such as the futures market, the distrust of the market may force participants in the day ahead market to withdraw from the futures market, which could result in inhibiting the activation of electricity futures trading.

Therefore, it is becoming increasingly important for the Commission to monitor inter-market manipulation in cooperation with the authorities that monitor commodity futures markets.

Under the situation, in December 2022, the Commission concluded an MoU with EEX and received futures trading information from EEX. In addition, the 80th Specialized Meeting for Policy Design held in December 2020 reported that the Commission was receiving futures trading information from TOCOM and EEX and determined to request the business operators participated in the futures trade at odd intervals to submit trading information that cannot be covered by the above TOCOM/EEX report.

1.9. Activation of wholesale electricity trade

[Summary]

- The Commission had requested general electric utilities and JERA Co., Inc. to take the following measures to ensure effectiveness toward a year-round contract starting from the beginning of FY2023: (1) Clarification of negotiation schedule, (2) Creation and publication of wholesale standard menu (template), and (3) Information blocking between electricity generation division and retail division, etc. The Commission focused on checking the progress of these efforts and reported the results. Furthermore, the Commission also formulated the evaluation policy for year-round wholesale contracts with non-discrimination between inside and outside the companies.

(1) Measures to prevent unfair internal subsidy between electricity generation division and retail division

The summary of the Specialized Meeting for Transitional Regulated Electricity Tariff cited the “sustainability of the competitive environment” as one of the factors to be considered when deciding whether to lift the transitional regulated electricity tariff. More specifically, the meeting pointed out that if a business operator that has dominant power in the wholesale market provides unfair internal subsidy to its internal retail division, and the retail division that receives such internal subsidy engages in acts such as underselling, the distortion of competition in the retail market could happen, resulting in the maintenance or strengthening of the said business operator’s position in the retail market.

Furthermore, when the capacity market is introduced, it is assumed that a similar discussion may arise regarding internal subsidies from the electricity generation division to the retail division of business operators that receive income from capacity contributions (which may include companies other than general electric utilities and JERA Co., Inc.)

Based on these findings, the Commission studied measures to prevent unfair internal subsidy by business operators with dominant market power in the wholesale market. As a result, on July 1, 2020, based on the idea of maximizing profits from electricity generation from a medium- to long-term viewpoint, the Commission requested general electric utilities and JERA Co., Inc. to make a commitment to make rational judgments about trade conditions of both inside and outside the company or the group to ensure indiscriminate wholesale of electricity. The Commission also requested general electric utilities and JERA Co., Inc. to report to the Commission regarding specific measures to ensure the implementation of their commitments.

Subsequently, by the end of July 2020, all general electric utilities and JERA Co., Inc. announced that they would make commitments and reported on specific measures to ensure the implementation of their commitments. To check the progress of each company's efforts on the commitments, the Commission conducted follow-up work in the form of receiving data and explanations regarding trade prices and individual conditions inside and outside the company and the group, of which results were reported at the Specialized Meeting for Policy Design. As a result, the meeting pointed out several issues, such as the fact that negotiation opportunities are not necessarily secured indiscriminately between inside and outside the company or the group, the fact that option values are not clarified and optional

products are not necessarily secured indiscriminately between inside and outside, and the fact that it was not clear whether the interests of the electricity generation division are necessarily the same as the division in charge of wholesale trade.

Based on these findings, the 71st Specialized Meeting for Policy Design held in March 2022 requested general electric utilities and JERA Co., Inc. to take the following measures to ensure effectiveness toward a year-round contract starting from the beginning of FY2023 at the latest: (1) Clarification of negotiation schedule and implementation of indiscriminate negotiation, (2) Creation and publication of wholesale standard menu (template), and (3) Information blocking between electricity generation division and retail division and further thorough documentation of internal trade, etc. The 79th Specialized Meeting for Policy Design held in November 2022 focused on checking the progress of these efforts and reported the results as follows: (1) Seven companies announced their negotiation schedule on their website, (2) 10 companies announced their wholesale standard menu on their website, and (3) All eight general electric utilities, which have integrated electricity generation and retail services established internal rules regarding information blocking between the electricity generation division and retail division. The Commission clarified that it was a great step forward for many business operators to start new efforts to ensure the effectiveness of non-discriminatory wholesaling both inside and outside the company or the group toward the FY2023 wholesale negotiations, and the efforts to secure transparency by some business operators that adopted a tender system or broke system in which their own retail division can participate toward the FY2023 wholesale negotiations was appreciated. On the other hand, some business operators were still under consideration, and others already started efforts but did not announce the negotiation schedule or specific conditions of the wholesale standard menu. The Commission determined to confirm more details with such business operators after the fact.

Furthermore, the 56th Electricity and Gas Basic Policy Subcommittee of the Electricity and Gas Business Subcommittee of the Advisory Committee for Natural Resources and Energy held in November 2022 decided that all-time backup would be abolished sequentially starting from areas where non-discrimination has been confirmed. In addition, in evaluating the current non-discrimination of general electric utilities and JERA Co., Inc., the Commission studied the items to check with each company and the evaluation criteria prior to follow-up work. The 83rd Specialized Meeting for Policy Design held in March 2023 discussed its evaluation policy.

As for future actions, the Commission will check and assess non-discriminatory nature of bilateral contracts for the full year of FY2023 based on the above-mentioned assessment policy, of which examination is expected to be made at the Specialized Meeting for Policy Design to be held in the middle of 2023. In addition, the Commission will continue to regularly follow up on the implementation progress of the commitments of general electric utilities and JERA Co., Inc., and study necessary actions.

(2) Selling bids at prices based on the marginal cost of all surplus electricity in the day ahead market

○ Efforts in the past years

● Inclusion of opportunity costs in selling bids in the day ahead market

Verification of the sharp increase in the day ahead market price between December 2020 and January 2021 pointed out that it is appropriate to allow bidding that reflected opportunity cost from the viewpoint of appropriately issuing price signals during fuel shortages.

The 66th Specialized Meeting for Policy Design held in October 2021 and the 67th Specialized Meeting for Policy Design held in November 2021 discussed the matter and clarified that allowing bids that incorporated opportunity cost policy in situations where fuel constraints were occurring or were likely to occur would have a certain need because of its expected effects of sending price signals to market participants, creating an incentive for electricity generation utilities to bid preferentially on the day ahead market for limited supply capacity, and suppressing the occurrence and continuation of sell-out events.

Accordingly, for trade after December 1, 2021, the Commission allowed the inclusion of opportunity cost policy in selling bids in the day ahead market. For the time being, general electric utilities and JERA Co., Inc. will newly adopt the concept of opportunity cost, and if they reflect it in the bidding price, they will immediately submit to the Executive Bureau of the Commission the explanation for the basis that the bidding price and quantity are appropriate.

- Review of the fuel cost policy based on marginal cost

So far, the provision of all surplus electricity at marginal cost was positioned as a voluntary initiative of the general electric utilities and JERA Co., Inc., and detailed setting methods and changes thereto were left to a certain degree of discretion by each company.

At the sharp increase in the day ahead market price between December 2020 and January 2021, the market was in a sold-out state where all of the sell bids were executed; a spiral price increase was occurring as business operators who wanted to avoid shortage imbalances competed for the limited amount of supply in the sold-out state. The business operators that have revised their supply price to the day ahead market from the inventory unit price to a unit price that takes into account the additional procurement unit price will be easier to procure additional fuel. Therefore, it is believed that by allowing this, the company's cost control policy and fuel supply and demand situation can be reflected as a price signal, creating the effect of encouraging companies to make additional procurements.

The 66th Specialized Meeting for Policy Design in October 2021 and the 67th Specialized Meeting for Policy Design in November 2021 discussed the matter and approved that the business operators were allowed to change their cost control policy and reflect it on their bid prices. However, the accounting method for calculating inventories and costs differs for each business operator. Therefore, to maintain consistency in calculations, each business operator was requested to publish on its website the matter and start date at least one week before the start, and immediately report and provide explanations to the Executive Bureau of the Commission after bidding.

The 68th Specialized Meeting for Policy Design held in December 2021 reviewed the fuel cost policies based on marginal cost of Tohoku Electric Power Co., Inc., JERA Co., Inc., and The Kansai Electric Power Co., Inc. The 70th Specialized Meeting for Policy Design held in February 2022 reviewed the same of Chugoku Electric Power Co., Inc. The 73rd Specialized Meeting for Policy Design held in May 2022 reviewed the same of Hokkaido Electric Power Co., Inc. and reported that no major impact on market price was confirmed at the same time.

- Proposals regarding the disclosure of electricity generation-related information and voluntary efforts by general electric utilities in the day ahead market

After the sharp increase in the day ahead market price during the FY2020 winter, the importance of disclosing information on electricity generation and clarifying market manipulation activities was pointed out in order to

further improve the transparency of the wholesale electricity market. Accordingly, the 377th Commission held in July 2022 discussed the matter. As a result, the Commission concluded that the Guidelines for Proper Electric Power Trade should be revised to position the disclosure of electricity generation results and bidding at prices based on the marginal cost of all surplus electricity in the day ahead market as follows. Pursuant to the provisions of Article 66-14, Paragraph 1 of the Electricity Business Act, the Commission made a proposal to the Minister of Economy, Trade and Industry in the same month, and the said guidelines were revised in November of the same year.

- The Guidelines add the following as desirable: on electricity generation units with an approved output of 100,000 kW or more, electricity generation utilities must publish their electricity generation performance for each unit/frame within five days after actual supply and demand through the system developed and operated by general electricity transmission and distribution utilities and OCCTO, unless there is a reasonable reason not to do so.
- The Guidelines add the following regarding selling bids in the day ahead market:
 - From the viewpoint of ensuring trust in the wholesale electricity market, it is desirable for business operators that place bids in the day ahead market to bid for the full amount of surplus electricity at a price based on marginal cost.
 - As long as such practice is performed in the day ahead market, the business operator does not fall under the category of market manipulation, which executes or does not execute a trade that has a significant impact on the market price for the purpose of manipulating the market price.
 - The business operators that are likely to have dominant market power are particularly urged to bid for the full amount of surplus electricity at a price based on marginal cost. If such business operator supplies the market at a price higher than the price based on marginal cost without rational reason or fails to supply the full amount of surplus electricity to the market, such action could be an element that is strongly deemed to fall under the category of market manipulation, which executes or does not execute a trade that has a significant impact on the market price for the purpose of manipulating market price.
 - The full amount of surplus electricity mentioned above refers to the remaining supply capacity after subtracting the company's expected demand (the sum of the company's retail demand and the supply amount based on bilateral contracts with other companies), reserve capacity, and bidding constraints from the company's supply capacity for each frame calculated at the time of bidding on the day ahead market.
 - The marginal cost mentioned above refers to the cost required to generate an additional 1 kWh of electricity. Regarding fuel costs, additional fuel procurement costs may be considered when it becomes necessary to procure additional fuel to meet future demand as fuel is consumed through bidding on the wholesale electricity market and such additional procurement at the relevant price and quantity is objectively considered reasonable. Regarding the concept of marginal cost, the price of a future electricity trade can be considered an opportunity cost when fuel constraints occur, an incompatible relationship exists, and the validity of the price and quantity can be objectively confirmed.
 - The above-mentioned business operators that may have dominant market power refer to those that have a market share of more than 20% based on the electricity generation capacity (including the electricity generation capacity through long-term, fixed bilateral contracts) in markets segmented by interconnection lines with a consistently high rate of disruption, or to those that are considered to be major or pivotal suppliers whose supply capacity is essential to meet demand, including those that have the electricity generation capacity with a market share of more than 50% in the market defined based on whether there is

a month in which the grid disconnection rate exceeds a certain value at least once in the past five years, for the time being.

Chapter 2. Efforts in the field of electricity transmission and distribution services

2.1. Surveillance on electricity transmission and distribution business

[Summary]

- During the period from September 1, 2022, to March 31, 2023, information leakage was discovered with general electricity transmission and distribution utilities and their affiliated deemed electricity retailers. The Commission conducted necessary investigation and published the report on this matter, and recommended the Minister of Economy, Trade and Industry to issue business improvement orders to the utilities.

To ensure proper electricity trade, the Commission monitored the status of operations of general electricity transmission and distribution utilities, and provided administrative guidance if any inappropriate operation of the wheeling service provisions or violation of activity regulations was observed.

During a period from September 1, 2022 to March 31, 2023 covered by this biannual report, between the end of 2022 to the beginning of 2023, at seven general electricity transmission and distribution utilities, some of the information regarding the customers of newly entered electricity retailers (hereinafter referred to as “new entrants”), which were learned by the general electricity transmission and distribution utilities in connection with their wheeling supply services and electricity quantity adjustment services, were available to the employees of their specially affiliated deemed electricity retailers. The Commission's investigation revealed that such information was actually used by the deemed electricity retailers for active sales activities to acquire or for responding to customers. The seven general electricity transmission and distribution utilities are Tohoku Electric Power Network Co., Inc., Chubu Electric Power Grid Co., Inc., Kansai Transmission and Distribution Inc., Chugoku Electric Power Transmission & Distribution Co., Inc., Shikoku Electric Power Transmission & Distribution Co., Inc., Kyushu Electric Power Transmission and Distribution Co., Inc., and the power transmission and distribution division of the Okinawa Electric Power Co., Inc.: their specially affiliated deemed electricity retailers are Tohoku Electric Power Co., Inc., Chubu Electric Power Miraiz Co., Inc., the Kansai Electric Power Co., Inc., Chugoku Electric Power Co., Inc., Kyushu Electric Power Co., Inc., and the retail division of the Okinawa Electric Power Co., Inc. In investigating the information leakage, the Commission issued emergency inspection instructions to all general electricity transmission and distribution utilities and deemed electricity retailers, and requested the business operators that were found to have leaked or viewed information to report the matter. In addition, the Commission conducted on-site inspection at Kansai Transmission and Distribution Co., Inc., the Kansai Electric Power Co., Inc., Kyushu Electric Power Transmission and Distribution Co., Inc., Kyushu Electric Power Co., Inc., Chubu Electric Power Grid Co., Inc., and Chubu Electric Power Miraiz Co., Inc., and requested these companies to establish the form to receive information and implement other necessary measures to appropriately handle this matter.

Based on the results of these investigations, the Commission published the Report on the Leakage of Non-Public Information by General Transmission and Distribution Utilities dated March 31, 2023, reporting the findings regarding this matter at each business operator, legal assessment, and the measures to be taken.

In addition, in the above report, the Commission concluded that business improvement orders should be issued to some business operators (Kansai Transmission and Distribution Co., Inc., Kansai Electric Power Co., Inc., Kyushu Electric Power Transmission and Distribution Co., Inc., Kyushu Electric Power Co., Inc., and Chugoku Electric Power Network Co., Inc.). On the same day, the Commission recommended the Minister of Economy, Trade and Industry to issue business improvement orders to request the following to the above companies.

- The general electricity transmission and distribution utilities and the deemed electricity retailers should discuss and formulate a plan to promptly eliminate the shared use of information systems related to wheeling information, and submit the plan to the Minister of Economy, Trade and Industry by the date specified by the same. Kansai Transmission and Distribution Co., Inc., Kansai Electric Power Co., Inc., and Chugoku Electric Power Network Co., Inc. should implement the plan while regularly reporting its progress to the Ministry of Economy, Trade and Industry.
- Compliance with activity regulations is a major prerequisite for business operation. To this end, it is necessary for business operators, including all employees in the organization, to study and implement measures to fundamentally strengthen internal controls and thoroughly reform awareness within the company.
- The details and causes of the cases must be investigated. The results should be publicized to society and strict action should be taken against those involved.

2.2. Audit of general electricity transmission and distribution utilities

[Summary]

- The Commission audited the operations and accounting of general electricity transmission and distribution utilities and electricity transmission utilities. The Commission focused on checking of profit and loss of wheeling services, development of system to prevent prohibited behaviors associated with wheeling supplies, and operational procedures of general provisions.

Pursuant to the provisions of Article 105 of the Electricity Business Act, the Commission conducted audits of 13 general electricity transmission and distribution utilities and electricity transmission utilities.

The FY2022 audit particularly focused on the following items.

- Every year, general electricity transmission and distribution utilities experience some accounting problems related to transmission and distribution operations, such as miscalculations in wheeling service charges and long-term non-payment of construction cost contributions, with electricity retailers and electricity generation utilities. Each company is currently investigating the causes and implementing recurrence prevention measures. FY2021 had also such miscalculations in wheeling service charges and long-term non-payment of construction cost contributions occurred. Therefore, in FY2022, the Commission continued the audits by focusing on the operational procedures of general provisions, including the progress in implementing recurrence prevention measures, from the viewpoint of preventing recurrence.

- On December 28, 2020, the Accounting Rules for Calculation of Profit and Loss of Electricity Wheeling Services were revised to prohibit the inclusion of increased expenditures due to inappropriate orders and contracts as expenses in calculating excess profits related to wheeling services. Upon receiving this amendment to the ministerial ordinance, in auditing FY2021 profit and loss of wheeling services, the Commission confirmed whether the excess contract amount (referring to the excess amount paid, exceeding the reasonable amount of the contract, in cases where transparency or fairness is not ensured without justifiable reason in the procedures related to the commission or service contracts) was included in calculating the excess profit statement, together with their investigation methods. As a result, the Commission confirmed the excess contract amounts and continued to focus on the inclusion of excess contract amount in the FY2022 audit.

- Upon facing the cases of information leakage by general electricity transmission and distribution utilities, the Commission strengthened the audit of information management in the FY2022 audits related to system development.

2.3. Ex-post facto assessment of profit and loss of wheeling services by general electricity transmission and distribution utilities

[Summary]

- The Commission conducted ex-post facto assessment of profit and loss of wheeling services. After reviewing 10 business operators subject to the assessment, the Commission submitted its report to the Minister of Economy, Trade and Industry that none of these operators were required to apply for approval for the revision of their wheeling service provisions. The Commission also confirmed the progress of each company's efforts to improve management efficiency.

The business environment surrounding the grid system in Japan is undergoing major changes. While electricity demand tends to be sluggish due to the decreasing population and advancing energy conservation, the need to address the aging of electricity transmission and distribution equipment that was developed during the past economic growth period and the need to develop grid interconnection associated with the expanded use of renewable energy are increasingly growing.

To maintain future wheeling supply charges to a minimum while responding to these changes in the business environment, general electricity transmission and distribution utilities are required to reduce costs as much as possible through the efforts to improve management efficiency, and make scheduled and efficient capital investments to prepare for the expanded use and stable supply of renewable energy in the future.

With the awareness of the above issues, the 416th Commission held in February 2023, the 36th Specialized Meeting for Tariff System held in February 2023, and the 422nd Commission held in March 2023 examined the ex-post facto assessment of FY2021 profit and loss of general electricity transmission and distribution utilities to promote the simultaneous pursuit of lower wheeling service charges and stable supply of high-quality electricity, based on the request of opinions from the Minister of Economy, Trade and Industry. Based on this result, the Commission answered to the Minister of Economy, Trade and Industry that the subject 10 general electricity transmission and distribution utilities were not required to be ordered to apply for approval for the revision of wheeling service provisions, in light of Article 2 (15) of the Assessment Standards, etc. for Administrative Action by the Minister of Economy, Trade and Industry based on the Electricity Business Act before being revised by the Directive (20221021 Resources No. 3) to Partially Amend the Assessment Standards, etc. for Administrative Action by the Minister of Economy, Trade and Industry based on the Supplementary Provisions of the Act on the Partial Amendment of the Electricity Business Act to which the provision then in force remains applicable under the provisions of the Supplementary Provisions (20221021 Resources No. 3) of the Assessment Standards, etc. for Administrative Action by the Minister of Economy, Trade and Industry based on the Electricity Business Act (20000529 Resources No. 16).

2.4. Surveillance on procurement and operational status of balancing power and study to secure more efficiency

[Summary]

- The Specialized Meeting for Policy Design discussed and studied open procurement of balancing power and procurement in the balancing market, and proposed the revision of the Balancing Market Guidelines to the Minister of Economy, Trade and Industry.

(1) Monitoring the results of open procurement of balancing power and additional supply capacity, etc. (hereinafter referred to as "balancing power") and the operational status

The open procurement of balancing power by general electricity transmission and distribution utilities is a system to procure cost-effective balancing power as a result of competition among electricity generation utilities, and achieve more robust balancing power for the entire electricity market. However, currently, there seems to be not many power sources owned by companies other than general electric utilities available as balancing power. Therefore, to improve this situation and promote more competition, transparent and appropriate open procurement, as well as appropriate information provision to the potential bidders, should be secured to encourage and expand electricity generation utilities and other parties to participate in bidding.

Under the situation, the Commission analyzed the results of open procurement of balancing power to monitor whether any problems with the bidding behavior of general electricity utilities exist, and whether the operation of balancing power by general electricity transmission and distribution utilities is appropriate based on the capacity (kW) prices and electricity amount (kWh) prices.

The results of open procurement of balancing power and the results of monitoring the operational status were reported to the Specialized Meetings for Policy Design held from September 2022 to March 2023. The same meetings studied the improvement measures such as clarifying the policy on the calculation method of other market returns under the price rules of open procurement of black start function and clarifying how to raise issues regarding the handling of fuel cost fluctuation risk in the open procurement of additional supply capacity.

(2) Surveillance on the balancing market

When general electricity transmission and distribution utilities procure the balancing power necessary to control frequencies in their power service areas and adjust the supply and demand balance, they need to secure the balancing power necessary for their actual operation, without giving preferential treatment to specific power sources or bearing excessive costs.

From this viewpoint, open procurement of balancing power by general electricity transmission and distribution utilities was implemented from 2016. In addition, based on the interim report of the Policy Subcommittee for Implementing Electricity System Reform, designing details of the balancing market and developing an environment where general electricity transmission and distribution utilities can procure and trade balancing power in the market were recommended as appropriate.

Subsequently, the Working Group for Policy Study of the Agency for Natural Resources and Energy and the committee of OCCTO discussed the detailed design of the balancing market. From 2021, the trading of the balancing power responding to renewable energy forecast errors (replacement reserve for FIT or RR-FIT) and from FY2022, the trading of the balancing power responding to demand forecast errors occurring after gate closing (replacement reserve or RR) were started.

With insufficient competition in the balancing market, business operators with dominant market power may exercise their market power and obtain unfair profits by setting unreasonably high bid prices. The Commission, based on the increase in the contract price of replacement reserve for FIT or RR-FIT in August 2022, requested some members in the balancing market to report the matter in September 2022. The results of analysis and identified issues from the reports of the market members were discussed and studied at the 78th and 79th Specialized Meeting for Policy Design held in October and November 2022. Specifically, the meetings clarified the concept of bidding amounts for a business operator that, in supplying Δ kW to the balancing market, reduced the output of other units to maintain the minimum output, and participated in the bid to the balancing market including the units that had surplus capacity due to reducing these units.

Based on these clarifications, in December 2022, the Commissions submitted a proposal to the Minister of

Economy, Trade and Industry regarding the revision of the Balancing Market Guidelines.

In addition, to monitor operations and analyze the background of business operators' behaviors based on the Balancing Market Guidelines, the Commission requested some members of the balancing market to report the matter in February 2022, and continued discussions and study.

2.5. Surveillance on the operational status of the imbalance pricing system

[Summary]

- The Specialized Meeting for Policy Design started discussion and study toward unifying the compensation fee calculation index and reserve margin for compensation imbalance charges.

Under the balancing system based on planned value, electricity retailers and electricity generation utilities are required to formulate their own demand and generation plans for each 30-minute period, where a day is divided into 48 periods. The gap (imbalance) between these plans and actual results shall be adjusted by using power sources openly procured by general electricity transmission and distribution utilities from electricity generation utilities (open procurement in the balancing market started from FY2021). The cost is recovered from electricity retailers and electricity generation utilities as an imbalance charge. As above, the imbalance charge serves as a settlement price for electricity excess or deficiency in actual supply and demand, while also serving as the basis for price signals in wholesale electricity trading.

From FY2022, a new imbalance fee system has been in operation, and a compensation imbalance charge is applied in a tight supply-demand situation. To calculate the compensation imbalance charge, the compensation fee calculation index is used. The Imbalance Charge System after FY2022 aims for the unification of the compensation fee calculation index with the reserve margin (wide-area reserve margin) of each general electricity transmission and distribution utilities in the future (FY2024). Therefore, the Specialized Meeting for Policy Design started discussion and study toward unifying the compensation fee calculation index and reserve margin.

2.6. Examination of wheeling service charges under the new wheeling service charge system (revenue cap system), establishment of the Working Group for Progress Confirmation of more efficient Electricity Transmission and Distribution, and consideration of electricity generation-side fee (Generation charge or G-charge).

[Summary]

- Regarding the new wheeling service charge system (revenue cap system) scheduled to be introduced in FY2023, the Commission verified and examined documents related to revenue projections and wheeling service supply provision submitted by general electricity transmission and distribution utilities.
- Based on the decision to introduce an electricity generation-side fee in FY2024, the Specialized Meeting for Policy Design discussed and studied in preparation for its introduction.

(1) Examination of wheeling service charges under the new wheeling service charge system

The 201st Ordinary Session of the Diet enacted the Act on the Partial Amendment of the Electricity Business Act to Establish a Resilient and Sustainable Electricity Supply System, introducing a new wheeling service charge

system (revenue cap system that periodically approves the upper limit of income and sets the wheeling service charges within that range) from 2023.

Regarding the detailed design of the new wheeling service charge system, it was agreed that active involvement of committees with expert knowledge was required through examination of wheeling service charges and ex-post facto evaluation. From this viewpoint, in July 2020, the Sustainable Electricity System Development Subcommittee of the Advisory Committee for Natural Resources and Energy decided that the Commission and the Agency for Natural Resources and Energy should work together on this matter. Based on this, the Specialized Meeting for Fee Examination, which was established to examine retail electricity regulated tariff based on transitional measures and wheeling service charges, was reorganized into the Specialized Meeting for Tariff System, and started discussions on the detailed design of the wheeling service charge system from July 2020. In addition, in January 2021, the Working Group for Tariff System was established under the Specialized Meeting for Tariff System to discuss highly specialized and detailed issues, and has been conducting discussions. A total of eight Special Meetings for Tariff System and a total of six Working Groups for Tariff Systems were held to complete the detailed study on the policy design and compile an interim report by November 2021. Afterwards, the Specialized Meeting for Tariff System continued discussion on the issues for continued discussion and draft guidelines regarding the system.

Based on the promulgation of the Ministerial Ordinance Concerning Revenue Outlook for Wheeling Service Supply by General Electricity Transmission and Distribution Utilities in July 2020, each general electricity transmission and distribution utilities submitted documents related to their revenue projections under the new revenue cap system to the Agency for Natural Resources and Energy. Upon receiving the request for unreserved opinions from the Agency for Natural Resources and energy, the 14th Specialized Meeting for Tariff System held in July 2020 started necessary verification on the related documents. The Commission continued the discussion on the matter for a total of 14 meetings up to the 27th Specialized Meeting for Tariff System held in November 2022. During a period from September 2022 to March 2023 covered by this biannual report, a total of 10 meetings, from the 18th to 27th Specialized Meetings, were held.

General electricity transmission and distribution utilities, based on the above discussions and the enforcement of the Government Order Setting the Partial Enforcement Date of the Act on the Partial Amendment of the Electricity Business Act to Establish a Resilient and Sustainable Electricity Supply System, calculated their appropriate revenue projections again, and submitted their applications for approval of revenue projections to the Minister of Economy, Trade and Industry in December 2022. Upon receiving a request for opinions from the Minister of Economy, Trade and Industry, the 29th Specialized Meeting for Tariff System examined the details of the applications for approval in December 2022. In addition to the verifications of the previous Specialized Meeting for Tariff System, the Commission conducted a strict examination to confirm whether the applications conformed with the opinions submitted to the Minister of Economy, Trade and Industry from the Minister of State for Special Missions (Consumer and Food Safety) on November 29, 2022, and the Specialized Meeting's comments on the above opinions clarified at the 28th Specialized Meeting for Tariff Systems held in December 2022. The Commission reported the results to the Minister of Economy, Trade and Industry, and based on the results, these revenue projections were approved in December 2022.

Thereafter, the general electricity transmission and distribution utilities established the wheel service provisions based on the approved revenue projections and submitted the applications for approval to the Minister of Economy, Trade and Industry in December 2022. Upon receiving the request for opinion on the applications for approval from the Minister of Economy, Trade and Industry, the 31st and 32nd Specialized Meeting for Tariff System held in January 2023 conducted strict examinations. Based on the above submitted answer, the Minister of Industry, the Minister of Economy, Trade and Industry approved the wheeling service provisions in January 2022.

(2) Establishment of the Working Group for Progress Confirmation of more efficient Electricity Transmission and Distribution

With the introduction of a new wheeling service charge system, general electricity transmission and distribution utilities were required to steadily implement business plans, including efficiency plans, of which achievement status was an important assessment item under this system. Therefore, to confirm whether general electricity transmission and distribution utilities were making progress toward improving management efficiency as they moved forward with their investment plans, the Commission determined to establish the Working Group for Progress Confirmation of more efficient Electricity Transmission and Distribution under the Specialized Meeting for Tariff System in January 2023.

(3) Consideration of electricity generation-side fee

It was necessary to use and strengthen the grid more efficiently and reliably toward the expanded introduction of renewable energy. Therefore, with respect to the costs necessary to maintain and expand electricity transmission and distribution facilities, which were entirely borne by electricity retailers under the current system, the Commission had been discussing the introduction of the electricity generation-side fee, which requires electricity generation utilities, who were also using the grid just like consumers, to bear a portion of the costs, thereby making the costs more fairly shared.

The Sixth Strategic Energy Plan, approved by the Cabinet in October 2021, stated that the consideration of electricity generation-side fee, including its necessity, should be continued.

Based on the situation, the 38th Subcommittee on Mass Introduction of Renewable Energy and Next Generation Electricity Networks, Energy Conservation and New Energy Subcommittee/Electricity and Gas Business Subcommittee, Advisory Committee for Natural Resources and Energy, held in December 2021, concluded that it was necessary to reconsider how to charge the electricity generation-side fee for renewable energy power sources and how to adjust the share, and how to ideally recover the cost through renewable energy levies and a new wheeling service charge system toward stable and reliable recovery of electricity transmission and distribution-related costs, thus postponing the introduction of the electricity generation-side fee in FY2023. Instead, with FY2024 in mind, the Subcommittee advanced the discussions at the related committees on how to recover costs related to power transmission and distribution, including electricity generation-side charges, to be concluded by the end of FY2022, with the aim of realizing the system as early as possible.

Based on the above situation, consideration for the smooth introduction of the electricity generation-side fee was continued. The 47th Subcommittee on Mass Introduction of Renewable Energy and Next Generation Electricity Networks, Energy Conservation and New Energy Subcommittee/Electricity and Gas Business Subcommittee, Advisory Committee for Natural Resources and Energy, held in December 2022, concluded that the already certified FIT/FIP (*including the cases that were won in the bidding in the fiscal year before the introduction of electricity generation-side fee) would be subject to the electricity generation-side fee after the end of procurement period, new FIT/FIP would be considered based on the calculation of the procurement prices, and non-FIT/post-FIT would promote business ingenuity (bilateral contracts, etc.) and ensures smooth reflection of fees. In addition, it is determined that the pumped-storage electricity generation and storage batteries would be waived from the charging per kWh, from the viewpoint of fairness with other power sources, considering the impact of the electricity generation-side fees on the resulted electricity charges through such power sources. In addition, in February 2023, the Electricity and Gas Basic Policy Subcommittee, Electricity and Gas Business Subcommittee, Advisory Committee for Natural Resources and Energy, issued the Interim Report on the Future Direction of Electricity Policy, which decided to introduce the electricity generation-side fee in FY2024.

Chapter 3. Efforts to ensure fair trade in the retail and wholesale gas trade

3.1. Qualification screening for registration of gas retailers

[Summary]

- As a result of screening by the Commission for registration of gas retailers, up until the end of March 2023, 1,360 gas retailers were registered.

When the Minister of Economy, Trade and Industry intends to register gas retailers, the Minister is required to hear the opinions of the Commission. The Commission, upon receiving the request for opinions from the Minister of Economy, Trade and Industry, conducted the qualification screening from the viewpoint of whether the applicants do not fall under the registration refusal requirements stipulated in the Gas Business Act (from the viewpoint of the protection of the interest of gas consumers) and shared the results with the Minister of Economy, Trade and Industry. As a result of the screening, up until the end of March 2023, 1,360 gas retailers were registered.

3.2. Publication of the Gas Trading Report

[Summary]

- The Commission collected information necessary to surveil retail gas trade from gas industry utilities and published the results every month.

The Commission, according to the Gas-Related Reporting Rules (Ministry of International Trade and Industry Ordinance No. 16 of 2017), has regularly received information report necessary to surveil retail gas trade from gas industry utilities. A part of the information received in these reports, such as the amount of gas sales, was published every month.

3.3. Provision of consultation services

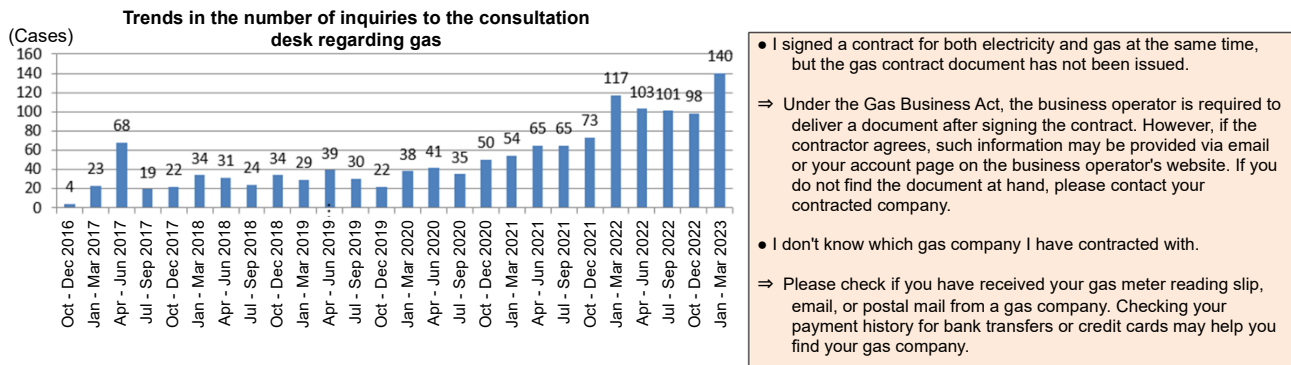
[Summary]

- The Commission established a consultation desk (information provision desk) to provide advice to consumers regarding problems when concluding a retail supply contract, receive information regarding possible legal violations by business operators, and provide administrative guidance, if necessary.

The Commission established a consultation desk to respond to inquiries received from gas customers and provided answers and advice to questions. During a period from September 2022 to March 2023, a total of 273 inquiries were received.

Through these services, if any information on inappropriate business activities was detected, the Commission investigated the facts and provided administrative guidance to the concerned gas retailers, if necessary.

○ Trends in the number of inquiries (gas) to the consultation desk and examples



3.4. Surveillance on retail trade

[Summary]

- The Commission provided administrative guidance to business operators that engaged in problematic practices under the Gas Business Act regarding retail gas sales.

In April 2017, entry into the retail gas business was fully liberalized, allowing any consumer, including households, to freely choose their gas company and rate structure. Under the situation, to optimize the retail gas supply trade, the Commission, based on the "Guidelines for Retail Gas Business," monitors the activities of business operators, regarding the provision of information to consumers and the contractual form and coverage, including provision of administrative guidance to the operators who engaged in problematic practices under the Gas Business Act.

The specific examples of administrative guidance provided during a period from September 2022 to March 2023 are as follows.

○ Administrative guidance

From around September 2022 to January 2023, Company B, which is a distributor for Gas Retailer Company A, posted on Company B's website that Company A provided retail supplies and Company B acted as an intermediary business to conclude gas retail supply contracts with consumers. However, the tariff advertised on the website was different from the actual situation. In addition, Company A did not provide appropriate guidance or supervision to Company B regarding such advertisement. These actions may hinder the formation of understanding among consumers regarding the supply conditions related to Company A's retail gas supply. Therefore, the Commission provided administrative guidance to Company A and Company B to execute proper gas retail and establish the necessary system to ensure the credibility and accuracy of the advertised details.

3.5. Audit of deemed general gas retailers

[Summary]

- The Commission audited the operations and accounting of deemed general gas retailers.

When the retail gas market was fully liberalized in April 2017, a regulated retail tariff (transitional regulated tariff) was allowed to continue in the area where competition was recognized as insufficient.

Pursuant to the provisions of Article 45-2 of the Gas Business Act before revision based on the provisions of Article 5 of the Act on the Partial Amendment of the Electricity Business Act (Act No. 47 of 2015; hereinafter referred to as the "Revised Act"), which was still deemed effective pursuant to the provisions of Article 22, Paragraph 4 of the Supplementary Provisions of the same act, the Committee audited four deemed gas retailers that were subject to the transitional measures for a regulated tariff.

3.6. Ex-post facto assessment of retail gas regulated tariff based on transitional measures after the end of the cost calculation period

[Summary]

- The Commission conducted ex-post facto assessments of retail gas regulated tariff based on transitional measures after the end of cost calculation period. As a result, the Commission submitted its opinion to the Minister of Economy, Trade and Industry, stating that none of four companies subject to audit were required to apply for approval for price revision.
- The result of special follow-up gas monitoring showed that no business operators that were subject to written administrative guidance for a period from September 2022 to March 2023.

(1) Ex-post facto assessment of retail gas regulated tariff based on transitional measures after the end of the cost calculation period

The Ministry of Economy, Trade and Industry is authorized to conduct ex-post facto assessment of retail gas regulated tariff based on transitional measures in the Supplementary Provisions of the Act on the Partial Amendment of the Gas Business Act for every fiscal year after the end of the cost calculation period to check needlessly affluent profit margins and to release the results to the public.

Upon receiving the request for opinions from the Minister of Economy, Trade and Industry, and the Directors of regional bureaus of the Ministry of Economy, Trade and Industry in October 2022, the 25th Specialized Meeting for Tariff System held in November 2022 conducted ex-post facto assessment and checking over three deemed gas retailers whose cost calculation period had ended (Toho Gas Co., Ltd., Nippon Gas Co., Ltd., and Nankai Gas Co., Ltd.) based on Article 2 (8) 4 of the Assessment Standards, etc. for Administrative Action by the Minister of Economy, Trade and Industry (20170329, Resources No. 5; hereinafter referred to as "Assessment Standards") based on the Supplementary Provisions of the Act on the Partial Amendment of the Electricity Business Act. As a result, the Commission concluded that the three deemed gas retailers subject to ex-post facto assessment this time were not required to apply for approval for the reduction of current tariff (Reference: Figure 5: Results of applying the Assessment Standards).

Based on the above, in November 2022, the Commission submitted its opinion to the Minister of Economy, Trade and Industry, and the Director-generals of competent regional bureaus of the Ministry of Economy, Trade and Industry, stating that no operators were required to apply for approval for the reduction of retail gas regulated tariff based on transitional measures, in light of Article 2 (8) 4 of the Assessment Standards.

○ Discussion summary of the Specialized Meeting for Tariff System (November 2022)

Figure 5: Results of applying the Assessment Standards

- As a result of examination based on the Assessment Standards, the Commission concluded that three deemed gas retailers (other than Atami Gas*1) that had not revised their tariffs after the end of the cost calculation period were not subject to the consideration of issuing an order for them to apply for approval for price revision.

*1: Atami Gas was not subject to ex-post facto assessment, because its cost calculation period (from January 2022 to December 2024) has not ended.

(Unit: million yen)

Results of examination based on the Assessment Standards		Under control of the Ministry	Under control of (and assessment by) each competent regional bureau of the Ministry of Economy, Trade and Industry		4 companies
		Account settlement in March	Account settlement in March	Account settlement in March	
		Toho Gas	Nippon Gas (Kanto and Nanpeidai areas)	Nankai Gas	
Step 1	A. Criteria based on profit ratio of regulated sectors of gas business				
	Average for 3 fiscal years (1) *2	△8.5%	△14.1%	△2.0%	
	Average of 4 companies for 10 fiscal years (2)				△1.2%
	Does the figure exceed the average of 4 companies for 10 fiscal years? [i.e., (1) > (2)]?	No	No	No	
Result	Is the company subject to the issuing of an order for it to apply for approval for price revision?	No	No	No	

*2: Simple average of profit ratio of regulated sectors of gas business of each year

(Source: Prepared by the Executive Bureau of the Commission based on the interviews and the departmental statement of income and expenditure of each business operator)

(Overall results)

- Step 1 of the Assessment Standards [criteria based on profit ratio of gas business] showed that no companies had the average profit ratio for the last three fiscal years exceeding the average profit ratio of four companies for 10 fiscal years.
- As a result of examination based on the Assessment Standards as above, the Commission concluded that three deemed gas retailers (other than Atami Gas) that had not revised their tariffs after the end of the cost calculation period were not subject to the consideration of issuing an order for them to apply for approval for price revision.

(Conclusions)

- Based on the above, the Commission concluded that the deemed gas retailers subject to ex-post facto assessment this time were not required to apply for approval for the reduction of current tariff.

(2) Special follow-up monitoring on gas retail price

The 29th Subcommittee for Gas System Reform, Subcommittee for Basic Policy, Advisory Committee for Natural Resources and Energy, held in February 2016, clarified that among gas retailers that were not subject to transitional measures for regulated gas retail tariff or for which transitional measures for regulated gas retail tariff were lifted, the business operators whose city gas or community gas utilization rate exceeded 50% in their former service areas would be monitored for their rate levels (gas rate based on the monthly gas consumption of a standard household) in the relevant service area for three years as a special follow-up monitoring to prevent unreasonable increases in retail gas rates.

Based on the above clarification, the Commission regularly receives reports from these business operators on their standard retail tariff for households to check the status of retail tariff revisions. The results showed that no business operators were subject to written administrative guidance for a period from September 2022 to March 2023.

3.7. Follow-up on gas wholesale commitment

[Summary]

- Based on the results of follow-up with the three major gas companies regarding compliance with their commitments, the Commission requested the companies to take appropriate measures.

After the full liberalization of the gas retail market in April 2017, gas retailers were free to set their tariff in principle. However, in service areas designated by the Minister of Economy, Trade and Industry (designation of former specified service areas), where a particularly strong need existed to protect the interests of consumers, transitional measures for regulated retail tariffs were maintained.

In August 2020, it was confirmed that Tokyo Gas Co., Ltd., Osaka Gas Co., Ltd., and Toho Gas Co., Ltd. (hereinafter referred to as the "three major companies") partially met the criteria for lifting the transitional regulated tariff regulations. Then, in November 2020, the Minister of Economy, Trade and Industry requested the Commission's opinion on the cancellation of the designation of former specified service areas with transitional measures for regulated retail tariffs for the three major companies.

As a result of discussion, the Commission recommended that the following commitments be expressed by the three major companies to cancel the designation of the specified former service areas with transitional measures for regulated retail tariff.

- If the company received a request from other business operators to outsource work related to gas production (including work related to part of processes such as heat adjustment and odor addition; the same shall apply hereinafter), the company shall accept it unless there was an unavoidable reason to do so, such as lack of equipment capacity. In particular, if a business operator that has already concluded an outsourcing contract with the company for the operations related to gas production wishes to continue the operations, the company shall continue to do so unless there is an unavoidable reason.
- If the company receives a request from other business operators to receive wholesale gas supply, the company shall do so unless there was an unavoidable reason to do so, such as lack of supply capacity.
- Regarding Start-up Wholesales, the company shall understand the purpose of the system, i.e., to support new entrants by developing an environment in which new entrants can procure city gas at a price level that can ensure competitiveness with the retail business of former deemed gas retailers, and actively work to improve the utilization of the system by new entrants. In this regard, when setting the wholesale price, the company shall understand the principle of stipulation that requires individual wholesale price negotiation between wholesalers and user business operators at a price under the upper limit wholesale price calculated by deducting certain expenses from the lowest retail tariff of a standard menu of former deemed gas retailers, and shall respond to the request and negotiate in good faith with other business operators.

In January 2021, the Commission submitted its answer to the Minister of Economy, Trade and Industry, stating that as for the above examination results, these commitments should be expressed by the three major companies prior to lifting the transitional measures for regulated retail tariff. Then, in February 2021, the three major companies expressed their commitments. In October 2021, transitional measures for regulated tariffs were lifted for Tokyo Gas Co., Ltd. and Osaka Gas Co., Ltd. Lifting of the measure for Toho Gas Co., Ltd. shall be discussed after the disclosure of an investigation undergoing by the Fair Trade Commission regarding their gas trade.

The Commission conducts a follow-up examination once a year to check whether the three major companies are complying with their commitments. For a period from September 2022 to March 2023, based on the follow-up results, the Commission requested business operators to take appropriate actions in wholesale trade negotiations if there was a suspected violation of commitment.

Chapter 4. Efforts in the field of gas pipeline services

4.1. Surveillance on general gas pipeline service providers and specified gas pipeline service providers

[Summary]

- The monitoring of operations of general gas pipeline service providers and specified gas pipeline service providers for a period between September 1, 2022 to March 31, 2023, discovered no cases that would lead to administrative recommendation for business improvement.

To ensure proper gas trade, the Commission monitored the status of operations of general gas pipeline service providers and specified gas pipeline service providers, and provided administrative guidance if any inappropriate operation of the transportation service provisions was observed.

The monitoring of operations of general gas pipeline service providers and specified gas pipeline service providers for a period between September 1, 2022 to March 31, 2023, discovered no cases that would lead to administrative recommendation for business improvement.

4.2. Audit of general gas pipeline service providers

[Summary]

- The Commission audited the operations and accounting of general gas pipeline service providers, specified gas pipeline service providers, and gas manufacturers. The Commission focused on checking of profit and loss of gas transportation services and prohibited behaviors associated with transportation services.

Pursuant to the provisions of Article 170 of the Gas Business Act, the Commission conducted audits of 257 general gas pipeline service providers, specified gas pipeline service providers, and gas manufacturers (hereinafter collectively referred to as “general gas pipeline service providers, etc.”).

The FY2022 audit particularly focused on the following items.

- The FY2021 audit showed the decreased number of items requiring correction compared to the last year. However, the audit still found 80 items requiring correction due to misunderstanding of ministerial ordinance or errors in calculation of allocated cost by the companies both under control of the central government and regional bureau. Therefore, the FY2022 audit continued to focus on the correctness of the profit and loss of transportation services to eliminate errors in calculation of allocated cost associated with transportation services.
- From April 2022, general gas pipeline service providers over a certain size were required to be split into several companies, and all general gas pipeline service providers and specified gas pipeline service providers were required to develop a system based on activity regulations. In addition, as parent companies were then prohibited to demand discriminatory treatment to their affiliated general gas pipeline service providers or specified gas pipeline service providers, the Commission focused on the prohibited behaviors and system development associated with transportation services, including appropriate implementation of above provisions.

4.3. Ex-post facto assessment of profit and loss of transportation services by general gas pipeline service providers

[Summary]

- The Commissions conducted an ex-post facto assessment of FY2022 profit and loss of transportation services of gas pipeline service providers and confirmed that the accumulated excess profits of the four companies as of the end of FY2021 exceeded a certain amount, which was the criterion for issuing administrative change orders. The Commissions also confirmed that the discrepancy rate between the expected unit price and the actual unit price of three companies as of the end of FY2021 exceeded minus 5%, which was the criterion for issuing an administrative change order. Therefore, the Commission conducted additional analysis and assessment of the details of tariff revision notification of the business operators that exceeded the criterion.

General gas pipeline service providers and specified gas pipeline service providers (excluding those approved by the Minister of Economy, Trade and Industry as not requiring to establish the transportation service provisions; hereinafter in this item referred to as "gas pipeline service providers") are required to prepare and publish their profit and loss statement of transportation services every fiscal year. If the accumulated excess profit exceeds a certain amount or if the deviation rate exceeds minus 5%, the Minister of Economy, Trade and Industry can order them to apply for a price reduction in transportation services. Therefore, on October 31, 2022, the Minister of Economy, Trade and Industry, and on October 27, 2022, the Directors of competent regional bureaus of the Ministry of Economy, Trade and Industry, requested the Commission to provide its opinion on the FY2021 profit and loss of the gas pipeline service providers. Upon receiving the requests, the Commission through its Specialized Meeting for Tariff System conducted statutory ex-post facto assessment (stock management and flow management) and additional analysis and assessment, and compiled the results in March 2023.

As a result, four of the 147 companies subject to the ex-post facto assessment (Sennan Gas Co., Ltd., ENEOS LNG Service Co., Ltd., Inuyama Gas Co., Ltd., and Chubu Electric Power Miraiz Co., Inc.) had their accumulated excess profits as of the end of FY2021 exceed a certain amount that is the criterion for issuing an administrative change order. In addition, three companies (Hiroshima Gas Co., Ltd., Fukuyama Gas Co., Ltd., and Yamaguchi Gohdoh Gas Co., Ltd.) had their discrepancy rate between the expected unit price and the actual unit price as of the end of FY2021 exceeded minus 5%, which was the criterion for issuing an administrative change order. Among these companies, three companies (Hiroshima Gas Co., Ltd., Fukuyama Gas Co., Ltd., and Yamaguchi Gohdoh Gas Co., Ltd.) that had their discrepancy rate between the expected unit price and the actual unit price as of the end of FY2021 exceeded minus 5%, which was the criterion for issuing an administrative change order, provided reasonable explanations regarding the appropriateness for them to maintain the current transportation service contract rates. The Commission submitted its opinion to the Minister of Economy, Trade and Industry and the competent Directors of regional bureaus of the Ministry of Economy, Trade and Industry, stating that it was appropriate to issue administrative change orders from the competent office to the business operators other than the above three companies, if they would not submit notifications of price revision in their transportation service provisions by the specified date.

Subsequently, the Commission confirmed that business operators whose price revision date was set at the end of December 2022 had submitted notifications of transportation service charge revisions.

Chapter 5. Efforts in heat supply business

[Summary]

- As a result of screening by the Commission for registration of heat supply operators, up until the end of March 2023, 76 heat supply operators were registered in 136 areas.

1. Qualification screening for registration of heat supply operators

When the Minister of Economy, Trade and Industry intends to register heat supply operators, the Minister is required to hear the opinions of the Commission. The Commission, upon receiving the request for opinions from the Minister of Economy, Trade and Industry, conducted the qualification screening from the viewpoint of whether the applicants do not fall under the registration refusal requirements stipulated in the Heat Supply Business Act (from the viewpoint of the securing the daily life of heat supply receivers or convenience for business activities) and shared the results with the Minister of Economy, Trade and Industry. As a result of the screening, up until the end of March 2023, 76 heat supply operators were registered in 136 areas.

2. Designation of heat supply service area as the specified service area

Of the service areas operated by the above heat supply operators, the Minister of Economy, Trade and Industry designated 17 service areas of 13 operators as specified service areas, in which it is recognized as highly necessary to protect the interests of heat supply recipients within the relevant service area because of their difficulty in selecting other heat source equipment to replace the current heat supply. For a period from September 2022 to March 2023, there were no changes to the designation areas.

Chapter 6. Public relations, dispute resolution, etc.

6.1. Public relations and consumer protections

[Summary]

- The Commission actively advertised and publicized market liberalization through its website and other means and also made efforts to strengthen consumer protection by publishing examples of consultation received from consumers and advice on them.

Even after starting the full liberalization of the electricity retail market, it is important for consumers to have accurate information so that they can make appropriate choices that suit their needs without getting into trouble.

With this awareness in mind, the Commission has been actively advertising and promoting liberalization through its website and other means.

In addition, continuing from last year, the Commission and the National Consumer Affairs Center of Japan jointly worked to strengthen consumer protection by publishing examples of consultation received from consumers and advice on them.

Furthermore, as mentioned earlier, the Commission has set up a consultation desk to respond to consumers' inquiries regarding problems related to concluding retail supply contracts. The number of consultations from September 2022 to March 2023 was 3,631, including electricity and gas.

6.2. International cooperation

[Summary]

- The Commission cooperated with overseas energy regulatory bodies to exchange opinions and collect information.

The Commission, in cooperation with overseas energy regulatory bodies, collect information on the world's energy markets and systems.

In September 2022, the Insight Seminar of the Asia Pacific Energy Regulators Forum (hereinafter referred to as “APER”) was held online to exchange opinions and collect information on the energy conversion efforts of each country. In addition, the Commission plans to participate in the Regulatory Energy Transition Accelerator, an international initiative to facilitate information exchange by national and regional energy regulatory bodies toward accelerated decarbonization, launched in November 2021. The Commission conducted preparatory research to participate in its workshop.

6.3. Dispute resolution

[Summary]

- The Commission received no requests for mediation or arbitration, and complaints.

1. Mediation and arbitration

Pursuant to the provisions of the Electricity Business Act, the Commission is required to mediate and arbitrate contracts related to electricity transactions when requested, unless the request has an improper purpose.

Similarly, pursuant to the provisions of the Gas Business Act and the Heat Supply Business Act, the Commission is required to mediate and arbitrate contracts related to gas trade and wholesale heat supply.

Dispute resolution shall be conducted mainly by the mediation commissioners and the arbitration commissioners. Mediation commissioners and arbitration commissioners are appointed for each case from among the commission members and other personnel designated in advance by the Commissions (Article 35, Paragraph 3 and Article 36, Paragraph 3 of the Electricity Business Act). As of March 31, 2023, the candidates for mediation commissioners and arbitration commissioners are as follows.

(Commissioners)

- Yumiko Iwafune, Ph.D Project Professor, Institute of Industrial Science, the University of Tokyo
- Kaeko Kitamoto Certified Public Accountant
- Kuninobu Takeda, Ph.D Professor, Dean of the Department of Law and Political Science and the Graduate School of Law and Politics, Osaka University
- Masanori Maruo Managing Director, SMBC Nikko Securities Inc.

(Special commissioners)

- Ryuichi Inagaki, Lawyer Ryuichi Inagaki Law Office
- Ryoichi Komiyama Professor, Graduate School of Engineering, the University of Tokyo
- Makoto Tanaka Professor, National Graduate Institute for Policy Studies
- Azusa Tsutsumi Certified Public Accountant
- Kayo Nishikawa Professor, Graduate School of International Social Sciences, Yokohama National University
- Yasuhiro Hayashi Professor, School of Advanced Science and Engineering, Waseda University

For a period between September 2022 and March 2023, the Commission received no requests for mediation or arbitration.