

The JFTC Issued Cease and Desist Orders and Surcharge Payment Orders against
the Former General Electricity Utilities, etc.

March 30, 2023

Japan Fair Trade Commission

The Japan Fair Trade Commission (hereinafter referred to as “JFTC”) today issued cease and desist orders and surcharge payment orders against Chubu Electric Power Co., Inc., Chubu Electric Power Miraiz Co., Inc., The Chugoku Electric Power Co., Inc., Kyushu Electric Power Co., Inc. and Kyuden Mirai Energy Co., Inc. pursuant to the provisions of the Antimonopoly Act (hereinafter referred to as “AMA”).

In this case, “the Former General Electricity Utilities ^(Note 1), etc.” (Chubu Electric Power Co., Inc., Chubu Electric Power Miraiz Co., Inc., The Chugoku Electric Power Co., Inc., Kyushu Electric Power Co., Inc., Kyuden Mirai Energy Co., Inc. and The Kansai Electric Power Co., Inc.) violated the provision of the Article 3 (prohibition of unreasonable restraint of trade) of the AMA.

The JFTC today also made a request to the Federation of Electric Power Companies of Japan, which consists of the Former General Electricity Utilities, as described in Section 2 below.

In addition, the JFTC today provided information to the Electricity and Gas Market Surveillance Commission, which monitors the electricity market, as described in Section 3 below.

(Note 1) “The Former General Electricity Utilities” means electric power companies that had been approved of a geographical monopolization in retail supply in their supply areas by entrance restraints under the Electricity Business Act (Act No. 170 of July 11, 1964).

Section1 The cease and desist orders and the surcharge payment orders

1 The companies that were involved in the violation, the companies subject to the cease and desist orders and/or the surcharge payment orders, and the amount of the surcharge (See also Appendix):

(1) Electricity supplied for large-scale users ^(Note 2) in the supply area ^(Note 3) of Chubu Electric Power or The Kansai Electric Power

No.	Name of company involved in the violation	Cease and desist order	Surcharge payment order	Amount of surcharge
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1	Chubu Electric Power Co., Inc.	—	○	20,183,380,000 yen
2	Chubu Electric Power Miraiz Co., Inc.	○	○	7,372,520,000 yen
3	The Kansai Electric Power Co., Inc.	—	—	—
Total				27,555,900,000 yen

(2) Electricity supplied for negotiation basis users ^(Note 6) in the supply area of The Chugoku Electric Power or The Kansai Electric Power and for the public offices, etc. in the supply area of The Chugoku Electric Power

No.	Name of company involved in the violation	Cease and desist order	Surcharge payment order	Amount of surcharge
1	The Chugoku Electric Power Co., Inc.	○	○	70,715,860,000 yen
2	The Kansai Electric Power Co., Inc.	—	—	—
Total				70,715,860,000 yen

(3) Electricity supplied for the public offices, etc. in the supply area of Kyushu Electric Power or The Kansai Electric Power

No.	Name of company involved in the violation	Cease and desist order	Surcharge payment order	Amount of surcharge
1	Kyushu Electric Power Co., Inc. ^(Note 7)	○	○	2,762,230,000 yen
2	Kyuden Mirai Energy Co., Inc.	○	—	—
3	The Kansai Electric Power Co., Inc.	—	—	—
Total				2,762,230,000 yen

(Note 2) "Large-scale user" means a user in the "extra-high voltage" or the "high voltage and large scale" category (except for the public offices, etc.).

(Note 3) “The supply area” means a supply area of a Former General Electricity Utility that had been permitted to conduct general electricity business under the Electricity Business Act (Act No. 170 of July 11, 1964) prior to its revision by the Act for Partial Revision of the Electricity Business Act and the Gas Business Act (Act No. 50 of 1999).

(Note 4) All the names of the companies are provided hereafter without “Co., Inc.”.

(Note 5) A hyphen “—” in the tables above means that the company in the same line is not subject to the cease and desist order and the surcharge payment order. A circle “○” in the tables above means that the company in the same line is subject to the cease and desist order or the surcharge payment order.

(Note 6) “Negotiation basis user” means a user in the "extra-high voltage", the "high voltage and large scale" or the "high voltage and small scale" category (except for the public offices, etc.).

(Note 7) Kyushu Electric Power utilized the Reduction System for Cooperation in Investigation.

2 Outline of the Violation

- (1) The supply areas of Chubu Electric Power and The Kansai Electric Power
- a. Chubu Electric Power and The Kansai Electric Power reached an agreement by November 2, 2018 at the latest, to mutually restrict their business activities for getting the other’s large-scale users in the other’s supply area, in order to prevent the level of electricity rates from falling that can be caused by proposing estimates ^(Note 8) at low rates to large-scale users in the supply area of Chubu Electric Power or The Kansai Electric Power and in order to secure their own profit. Chubu Electric Power Miraiz took over the whole business for retail supply of electricity from Chubu Electric Power on April 1, 2020 and joined the agreement above instead of Chubu Electric Power.
 - b. Based on the agreement, Chubu Electric Power (In case of on and after April 1, 2020, it means Chubu Electric Power Miraiz. Chubu Electric Power and Chubu Electric Power Miraiz are hereinafter referred to as the “two companies in the Chubu Electric Power Group”) and The Kansai Electric Power conducted following acts, etc.
 - (i) The Kansai Electric Power proposed estimates to large-scale users in the supply area of Chubu Electric Power only through an agent, user referral business operators introducing the large-scale users to The Kansai Electric Power or the large-scale users requesting to propose estimates.
 - (ii) Chubu Electric Power significantly lowered its sales target for getting large-

scale users in the supply area of The Kansai Electric Power.

- (iii) The two companies in the Chubu Electric Power Group and The Kansai Electric Power proposed estimates that were not expected to get the other's large-scale users in the other's supply area, or declined to propose estimates to the other's large-scale users in the other's supply area.
 - (iv) The two companies in the Chubu Electric Power Group and The Kansai Electric Power raised the level of electricity rates that they quoted for large-scale users in the other's supply area, for example, by raising the lower limit of electricity rates, which was a criterion for estimates for large-scale users, in the other's supply area.
 - (v) The two companies in the Chubu Electric Power Group and The Kansai Electric Power maintained or raised the level of electricity rates that they quoted for large-scale users in their own supply area, for example, by raising the lower limit of electricity rates, which was a criterion for estimates for large-scale users, in their own supply area.
- c. By the above agreement, the two companies in the Chubu Electric Power Group and The Kansai Electric Power substantially restrained competition in the field of electricity supplied for large-scale users in the supply area of Chubu Electric Power or The Kansai Electric Power.

(Note 8) "Estimate" means an estimate for electricity rate. The same applies hereinafter.

- (2) The supply areas of The Chugoku Electric Power and The Kansai Electric Power
- a. The Chugoku Electric Power and The Kansai Electric Power reached a following agreement by November 8, 2018 at the latest, in order to prevent the level of electricity rates from falling that can be caused by proposing estimates at low rates to negotiation basis users in the supply area of The Chugoku Electric Power or The Kansai Electric Power, and by bidding at low electricity rates in the tenders held by the public offices, etc. in the supply area of The Chugoku Electric Power, and in order to secure their own profit:
 - (i) to mutually restrict their business activities for getting the other's negotiation basis users in the other's supply area; and
 - (ii) as for The Kansai Electric Power, to restrict participations and bids at low rate in the tenders held by the public offices, etc. in the supply area of The Chugoku Electric Power on or after November 8, 2018.

- b. Based on the agreement, The Chugoku Electric Power and The Kansai Electric Power conducted following acts, etc.
- (i) The Chugoku Electric Power and The Kansai Electric Power proposed estimates to negotiation basis users in the other's supply area only through agents, user referral business operators introducing the negotiation basis users to The Chugoku Electric Power or The Kansai Electric Power or the negotiation basis users requesting to propose estimates.
 - (ii) The Chugoku Electric Power and The Kansai Electric Power raised the level of electricity rates that they quoted for negotiation basis users in the other's supply area, as for The Kansai Electric Power, by raising the lower limit of electricity rates, which was a criterion for estimates, and as for The Chugoku Electric Power, by raising the level of electricity rates to quote, for the negotiation basis users in the other's supply area.
 - (iii) The Chugoku Electric Power and The Kansai Electric Power maintained or raised the level of electricity rates that they quoted for negotiation basis users in their own supply area, for example, by raising the lower limit of electricity rates, which was a criterion for estimates, for negotiation basis users in their own supply area.
 - (iv) Regarding the bids held by the public offices, etc. in the supply area of The Chugoku Electric Power, The Kansai Electric Power expressed its intention to The Chugoku Electric Power that it would not to participate in the bids whose volume of annual electricity supplies are less than three hundred thousand kilowatt-hours, and it would raise the lower limit, which was a criterion for proposing electricity rates to the bids and would not propose the electricity rates under the lower limit.
 - (v) The Chugoku Electric Power raised the level of electricity rates proposed to the bids held by the public offices, etc. in the supply area of The Chugoku Electric Power.
- c. By the above agreement, The Chugoku Electric Power and The Kansai Electric Power substantially restrained competition in the field of electricity supplied for negotiation basis users in the supply area of The Chugoku Electric Power or The Kansai Electric Power and for the public offices, etc. in the supply area of The Chugoku Electric Power.
- (3) The supply areas of Kyushu Electric Power and The Kansai Electric Power

- a. Kyushu Electric Power and The Kansai Electric Power reached an agreement by October 12, 2018 at the latest, to mutually restrict proposals at low electricity rates in the bids held by the public offices, etc. in the other's supply area on or after that day, in order to prevent the level of electricity rates from falling by bidding at low electricity rates in the tenders held by the public offices, etc. in the supply area of Kyushu Electric Power or The Kansai Electric Power and in order to secure their own profit.
- b. Kyushu Electric Power informed Kyuden Mirai Energy of information described in "a" above, and Kyuden Mirai Energy joined the agreement above by October 31, 2018 at the latest.
- c. Based on the agreement, Kyushu Electric Power, Kyuden Mirai Energy and The Kansai Electric Power conducted following acts, etc.
 - (i) The Kansai Electric Power raised the lower limit, which was a criterion for proposing electricity rates to the bids held by the public offices, etc. and informed Kyushu Electric Power of the level of electricity rates that The Kansai Electric Power would propose to the bids held by the public offices, etc. in the supply area of Kyushu Electric Power or The Kansai Electric Power.
 - (ii) Kyushu Electric Power informed Kyuden Mirai Energy of the level of electricity rates that The Kansai Electric Power would propose described in (i) above.
 - (iii) Taking into consideration the level of electricity rates that The Kansai Electric Power would propose as described in (i) above, Kyushu Electric Power and Kyuden Mirai Energy (hereinafter referred to as the "two companies in the Kyuden Group") raised the electricity rates that they proposed to the bids held by the public offices, etc. in the supply area of Kyushu Electric Power or The Kansai Electric Power.
 - (iv) Taking into consideration the demand volume ^(Note 9), etc. that The Kansai Electric Power supplied in the supply area of Kyushu Electric Power, the two companies in the Kyuden Group set the upper limit of the demand volume that Kyuden Mirai Energy would supply in the supply area of The Kansai Electric Power.
- d. By the above agreement, the two companies in the Kyuden Group and The Kansai Electric Power substantially restrained competition in the field of electricity supplied for the public offices, etc. in the supply area of Kyushu Electric Power or The Kansai Electric Power.

(Note 9) “Demand volume” means the total volume of contracted electric power supply for the public offices, etc.

3 Outline of the Cease and Desist Orders

The JFTC issued cease and desist orders for each of the violations described in 2 above as follows:

- (1) Companies subject to the cease and desist orders (hereinafter referred to as "addressees") shall resolve at the board of directors:
 - a. to confirm termination of the agreements described in 2(1)a, 2(2)a or 2(3)a above;
 - b. to ensure that each of the addressees shall not restrict the following acts mutually and in concert with any other companies in the future:
 - (i) as for Chubu Electric Power Miraiz, the business activities for getting other’s large-scale users
 - (ii) as for The Chugoku Electric Power, the business activities for getting other’s negotiation basis users and the participations and bids at low rate in the tenders held by the public offices, etc.
 - (iii) as for the two companies in the Kyuden Group, the proposals at low electricity rates in the bids held by the public offices, etc.; and
 - c. to ensure that each of the addressees shall not exchange information about electricity rates, etc. jointly with any other retail electricity suppliers in the future.
- (2) Chubu Electric Power Miraiz shall disseminate the measures taken in accordance with (1) above to large-scale users in the supply area of Chubu Electric Power or The Kansai Electric Power. The Chugoku Electric Power shall disseminate the measures taken in accordance with (1) above to negotiation basis users in the supply area of The Chugoku Electric Power or The Kansai Electric Power and to the public offices, etc. in the supply area of The Chugoku Electric Power. The two companies in the Kyuden Group shall disseminate the measures taken in accordance with (1) above to the public offices, etc. in the supply area of Kyushu Electric Power or The Kansai Electric Power. Each of the addressees shall also thoroughly disseminate those measures to its employees.
- (3) Chubu Electric Power Miraiz shall not restrict the business activities for getting other’s large-scale users, The Chugoku Electric Power shall not restrict the business activities for getting other’s negotiation basis users and

the participations and bids at low rate in the tenders held by the public offices, etc. and the two companies in the Kyuden Group shall not restrict the proposals at low electricity rates in the bids held by the public offices, etc., mutually and in concert with any other companies in the future.

(4) Each of the addressees shall not exchange information about electricity rates, etc. with any other retail electricity suppliers in the future.

(5) Each of the addressees shall take necessary measures to do followings:

a. to thoroughly disseminate the code of conduct with regard to compliance with the AMA in relation to business activities for retail supply of electricity to the executives and employees (as for Kyuden Mirai Energy, formulation of such code of conduct and thorough dissemination of it to the executives and employees.);

b. to implement a regular training program for its executives and employees who are involved in the business activities for retail supply of electricity and regular audit by the legal section and the third party, with regard to compliance with the AMA in relation to the business activities; and

c. to create rules to regulate proper treatment to those who cooperated in an investigation related to an infringement of the AMA.

4 Outline of the Surcharge Payment Orders

Chubu Electric Power, Chubu Electric Power Miraiz, The Chugoku Electric Power and Kyushu Electric Power shall pay the amount of surcharge (101,033,990,000 yen in total) described in 1 above respectively by October 31, 2023.

Section2 The request to the Federation of Electric Power Companies of Japan

Chubu Electric Power, The Chugoku Electric Power, The Kansai Electric Power and Kyushu Electric Power, which are the members of the Federation of Electric Power Companies of Japan, and their subsidiary sales companies committed the acts described in 2 of Section 1 above in violation of the AMA, and the JFTC issued the cease and desist orders. In addition, as a result of the investigation, the JFTC found that the companies that were involved in the violation exchanged information related to the violations in this case, on the occasion of meetings held by the Federation, or by making use of the business relationships which their employees were temporary transfers to the Federation built while they were transfers. Therefore, the JFTC requested the Federation

to make sure that all the members, executives and employees would not perform similar conducts in this case or exchange information which might violate the AMA.

Section 3 The provision of information for the Electricity and Gas Market Surveillance Commission

The JFTC provided information on the following facts found as a result of the investigation to the Electricity and Gas Market Surveillance Commission in order to promote proper competition in the electricity market.

- 1 The companies committed the acts in violation of the AMA as described in 2 of Section 1 above and the JFTC issued the cease and desist orders.
- 2 The Former General Electricity Utilities and their subsidiary sales companies held meetings and exchanged information about their business activities. Moreover, before conducting business activities outside of each supply area, Former General Electricity Utilities and their subsidiary sales companies customarily exchanged information with other Former General Electricity Utilities about the business activities for the users in the supply areas of the other Former General Electricity Utilities. It was their business practice called "moral code." This kind of information exchanges were done by the Former General Electricity Utility's or its subsidiary sales company's personnel in wide range of positions, such as representatives, executives and employees.
- 3 Some of the Former General Electricity Utilities and their subsidiary sales companies restrained other Former General Electricity Utilities from setting retail supply at low rates, by taking advantage of the Electricity and Gas Market Surveillance Commission's monitoring survey on retail supply rates of the Former General Electricity Utilities and their subsidiary sales companies.
- 4 Some of the Former General Electricity Utilities intended to mutually win users without price competition, in order to indicate that users' shifting occurred as a result of competition.
- 5 Some of the Former General Electricity Utilities generated or purchased electricity which is equivalent to most of the demand in each supply area. Their retail rates or their subsidiary sales companies' retail rates, and their wholesale rates to their subsidiary sales companies were lower than those to the New Power Companies ^(Note 10) except for their subsidiary sales companies.

6 Some of the Former General Electricity Utilities intended to reduce competitiveness of the New Power Companies which depended on purchasing electricity from the wholesale market or other companies, for example, by narrowing down the amount of electricity supply to the wholesale market and raising the market rate ^(Note 11) .

7 Some of the Former General Electricity Utilities requested the New Power Companies not to supply electricity in their own supply area, when they negotiated with the New Power Companies on wholesale trade of electricity.

(Note 10) “The New Power Companies” means the retail electricity suppliers that entered the electricity market after its liberalization.

(Note 11) “The market rate” means procurement rate from the Japan Electric Power Exchange.

* This is a tentative translation. Please refer to the original text written in Japanese.

URL: https://www.jftc.go.jp/houdou/pressrelease/2023/mar/230330_daisan.html