

August 21st, 2013

International Accounting Standards Board
30 Cannon Street
London EC4M 6XH
United Kingdom

Subject: Comments on Exposure Draft – Regulatory Deferral Accounts (ED/2013/5)

We are pleased to submit our comments in response to the Exposure Draft “Regulatory Deferral Accounts” as issued by the International Accounting Standards Board (IASB).

This response has been prepared by and reflects the bundled views of the following Belgian entities operating in the electricity and gas transmission/distribution sector:

- *Elia System Operator SA/NV (“Elia”)*
- *Fluxys Belgium SA/NV (“Fluxys”)*
- *Eandis CVBA (“Eandis”)*
- *Ores SCRL (“Ores”)*

Together, the companies employ 9.424,4 persons (Average full time equivalent) during 2012 and reported in their financial statements 2012 a total asset base of 20.371 million euro and operating revenue of 5.268,14million euro.

Elia is a financial statements preparer. Elia is the sole transmission system operator (TSO) for the Belgian very high-voltage and high-voltage electricity networks, and for the offshore grid in the Belgian territorial waters of the North Sea. Elia also has a 60 % equity interest in 50Hertz transmission GmbH (“50Hertz”), one of Germany’s four TSO’s operating the very high-voltage transmission network in the northeastern part of the country.

Fluxys is a financial statements preparer. Fluxys Belgium (a subsidiary of Fluxys) is the sole gas transmission operator (TSO) in Belgium and, in addition, offers storage and LNG terminalling services (through its subsidiary Fluxys LNG). Fluxys controls other subsidiaries active in gas transmission in Germany and in Switzerland and has, among other, stakes in companies linking the gas networks between England and Belgium, and between England and the Netherlands.

The Economic group Eandis and the Eandis group are financial statements preparers. The Economic group Eandis comprises 7 mixed Flemish Distribution System Operators (DSO), the operating company Eandis cvba, and its subsidiaries.

The Distribution System Operators own the low voltage and mid voltage distribution networks for electricity as well as low pressure and mid pressure distribution networks for gas operated by Eandis.

The group operates in the Flemish region (Belgium) and covers 78 % of the municipalities of the Flemish region.

The Economic group ORES (ORES) is a financial statements preparer. Ores (ORES) comprises 8 Walloon Distribution System Operators (DSO) and a limited liability partnership (ORES SCRL), the operating company of the DSO’s. It is the largest distribution system operator (DSO) of electricity and natural gas in Wallonia, covering 80 % of the regional market.

We fully appreciate and support the IASB's efforts to further provide guidance on the Regulatory Deferral Accounts issue. We welcome this Exposure Draft as a first step and encourage the IASB to pursue their comprehensive project.

Due to the nature of the services we offer, there is a high degree of interest in the financial statements of our companies. Whilst the regulatory environment in which we operate is, in essence, the result of a legislative and legal process, it has significant economic consequences.

The regulation conveys certain economic rights and obligations which, in our view, should be reflected as assets and liabilities in the statement of financial position similar to other tangible and intangible rights and obligations. We believe that attention should be given to the underlying substance and economic reality and not merely to the IFRS legal/technical form.

Recognition of regulatory deferral accounts will increase transparency and enable the users of our financial statements to more easily understand the economic effects of the regulation.

Without reliable and useful information in the statement of financial position, we believe that a significant element of our day-to-day operations remains off balance. Not recognizing these items greatly affects the way our business is analyzed and results in less meaningful information to both investors and regulators.

The current economic climate urges in particular many smaller utility companies to search for alternative financing in order to revive and perpetuate their growth. Hence, many utility companies issue bonds (Eurobond, retail bond) or rely on a private placement or a private equity investor. These investors require IFRS financial statements that are relevant and useful.

We perceive this Exposure Draft as a useful step towards the development of an authoritative IFRS standard for rate-regulated activities. As explained in our responses to the questions below, we believe the scope of the interim standard should be broadened in order to allow all IFRS preparers to recognize deferral accounts. We further agree with the additional disclosure requirements as this allows us to provide useful supplementary information on our regulatory environment and our business.


Please ~~contact~~ see contact list at the end of the document if you wish to discuss any of the views raised in this letter.

Yours sincerely,

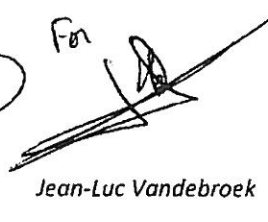
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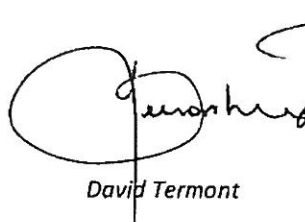
Ores SCRL



Jan Gesquière



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Dominique Offergeld

Chief Financial Officer

Chief Financial Officer

Chief Financial Officer

Chief Financial Officer

ED - Interim Standard – Regulatory Deferral Accounts

SCOPE

Question 1

The Exposure Draft proposes to restrict the scope to those first-time adopters of IFRS that recognised regulatory deferral account balances in their financial statements in accordance with their previous GAAP.

Is the scope restriction appropriate? Why or why not?

We believe that the IASB should broaden the scope to allow IFRS preparers to recognize regulatory deferral accounts.

In our view there are good reasons to allow it:

There is a high degree of public interest attached to the services rendered by our companies due to the specific nature, hence the reason for a legal base of rate regulation. However, while regulation is essentially a legislative and legal concept, it is also an economic one. The regulation conveys certain economic rights and obligations, the existence of which should be reflected as assets and liabilities in the statement of financial position in the same manner as other tangible and intangible rights and obligations.

We believe that attention should be given to the underlying substance and economic reality and not merely the IFRS legal/technical form.

Further, we believe that the users of our financial statements (like for example credit-rating agencies, investors and regulators), are better informed about our economic reality and recognition of deferral balances provides more reliable and relevant information.

We understand the objective of the interim standard, but maybe, by broadening the scope, the Board could view it as a good field test for its comprehensive project later this year.

Question 2

The Exposure Draft proposes two criteria that must be met for regulatory deferral accounts to be within the scope of the proposed interim Standard. These criteria require that:

- (a) an authorised body (the rate regulator) restricts the price that the entity can charge its customers for the goods or services that the entity provides, and that price binds the customers; and**
- (b) the price established by regulation (the rate) is designed to recover the entity's allowable costs of providing the regulated goods or services (see paragraphs 7–8 and BC33–BC34).**

Are the scope criteria for regulatory deferral accounts appropriate? Why or why not?

We agree with the first criteria, i.e. an authorised body establishes the price that the company must charge its customers and that price binds the customers.

Whilst we support the objective specified in paragraph 8, we find that the wording may be improved to ensure that the proposed accounting can be applied consistently. More specifically, we find that the difference between incentives to increase efficiency (which would affect rates applied) and “rates based on targeted or assumed costs” is unclear. We would recommend to provide some indicators to clarify what is meant with “a link with the actual costs”.

The rate-setting system generally applicable in Belgium to the TSO's and DSO's, is a hybrid of a cost-plus mechanism and features designed to achieve productivity, efficiency and reliability targets.

The total revenues approved by the regulator should cover:

the recovery of operational and financial costs deemed reasonable, including depreciation and pension costs

a fair return on the Regulated Asset Base

the cost of discharging public service obligations, if any and where applicable.

The incentive mechanism set by the federal regulator (CREG) to improve productivity and efficiency is based on the application of a mandatory percentage of reduction of controllable costs fixed at the beginning of the regulatory period.

The regulation system aims to provide a fair return on the amounts invested by the operators. However, without prejudice and to promote efficiency, the return can be increased or decreased when the objectives set by the regulator, for example, cost reduction targets/incentive mechanism, are met or, conversely, are not achieved. Incentives currently in force pertain to cost efficiency.

Question 3

The Exposure Draft proposes that if an entity is eligible to adopt the [draft] interim Standard it is permitted, but not required, to apply it. If an eligible entity chooses to apply it, the entity must apply the requirements to all of the rate-regulated activities and resulting regulatory deferral account balances within the scope. If an eligible entity chooses not to adopt the [draft] interim Standard, it would derecognise any regulatory deferral account balances that would not be permitted to be recognised in accordance with other Standards and the Conceptual Framework (see paragraphs 6, BC11 and BC49).

Do you agree that adoption of the [draft] interim Standard should be optional for entities within its scope? If not, why not?

We are convinced if IFRS would allow recognition of deferral balances, many (if not most) utility companies will do so as this provides more decision useful information for the reader.

The choice of different approaches is equally possible in different standards (e.g. subsequent measurement in IAS 16 and IAS 38, accounting policy choice in IAS 8, IFRS 4 and IFRS 6).

We therefore agree that the interim standard should be optional rather than mandatory (taking into account our response to question 1). We believe that any impact on the comparability of financial statements would remain limited.

RECOGNITION, MEASUREMENT AND IMPAIRMENT

Question 4

The Exposure Draft proposes to permit an entity within its scope to continue to apply its previous GAAP accounting policies for the recognition, measurement and impairment of regulatory deferral account balances. An entity that has rate-regulated activities but does not, immediately prior to the application of this [draft] interim Standard, recognise regulatory deferral account balances shall not start to do so (see paragraphs 14–15 and BC47–BC48).

Do you agree that entities that currently do not recognise regulatory deferral account balances should not be permitted to start to do so? If not, why not?

We understand that the interim standard may introduce diversity between the IFRS preparers and therefore reduce comparison. However, we believe that the proposed restriction should be based on principles instead of imposing a “firm line”. In general, the recognition of regulatory deferral account balances should be made possible as this results in more useful information in the users’ economic decision-making process regardless of the previous GAAP treatment.

Preparers should disclose their assessment of the added value of recognition and provide additional disclosures (as proposed in the ED).

We deem it not appropriate to let local GAAP drive the (non)recognition of deferral accounts under IFRS, especially when considering that local GAAP is frequently silent on the specific issue. On a consolidated level, this may give rise to inconsistencies between the different jurisdictions in which a group is active.

Question 5

The Exposure Draft proposes that, in the absence of any specific exemption or exception contained within the [draft] interim Standard, other Standards shall apply to regulatory deferral account balances in the same way as they apply to assets and liabilities that are recognised in accordance with other Standards (see paragraphs 16–17, Appendix B and paragraph BC51).

Is the approach to the general application of other Standards to the regulatory deferral account balances appropriate? Why or why not?

We believe that, taking into account the specific nature, regulatory deferral account balances should be treated as other assets and liabilities whenever this is possible.

PRESENTATION

Question 6

The Exposure Draft proposes that an entity should apply the requirements of all other Standards before applying the requirements of this [draft] interim Standard. In addition, the Exposure Draft proposes that the incremental amounts that are recognised as regulatory deferral account balances and movements in those balances should then be isolated by presenting them separately from the assets, liabilities, income and expenses that are recognised in accordance with other Standards (see paragraphs 6, 18–21 and BC55–BC62).

Is this separate presentation approach appropriate? Why or why not?

We support the presentation of the regulatory deferral account balances as separate line items in the statement of financial position as this increases transparency and clarifies the impact of those on the financial statements.

With respect to the presentation in the income statement, we recommend to present the line item 'Net movement in regulatory deferral account balances' as part of the operating results instead of classifying it after the line item 'Income tax expense' (see Example 3 - Illustrative presentation of financial statements).

Whilst the separate presentation clarifies the impact on the business, the position of the line item on the income statement (i) may result in inconsistencies for income tax reconciliation, (ii) and as we consider the regulatory deferral account balances as a fundamental part of our business activities, we believe that these balances should be presented as part of the operating results. The current presentation may be interpreted as a non-recurring event that should be disregarded and it could influence the interpretation and calculation of business ratio's by different stakeholders.

DISCLOSURE

Question 7

The Exposure Draft proposes disclosure requirements to enable users of financial statements to understand the nature and financial effects of rate regulation on the entity's activities and to identify and explain the amounts of the regulatory deferral account balances that are recognised in the financial statements (see paragraphs 22–33 and BC65).

Do the proposed disclosure requirements provide decision-useful information? Why or why not?

We support the principles on which the extensive disclosure requirements are based (i.e. relevance in enabling users to evaluate the nature of and the risks associated with rate regulation and its effects on the financial position, financial performance and cash flows).

We believe that these disclosures will enable users of financial statements to improve their understanding of the impact of rate regulation on the business activities and operations of the companies.

Please identify any disclosure requirements that you think should be removed from, or added to, the [draft] interim Standard.

We concur with proposed disclosures. Indeed we believe it is important to provide sufficient information and we prefer some flexibility depending on the environment in which companies operate.

Question 8

The Exposure Draft explicitly refers to materiality and other factors that an entity should consider when deciding how to meet the proposed disclosure requirements (see paragraphs 22–24 and BC63–BC64).

Is this approach appropriate? Why or why not?

We support the principles on which the disclosures should be based. As mentioned above, a multitude of different rate regulations exist. In order to allow utility companies reflecting their economic reality and to enable users of financial statements to evaluate the impact of rate regulation on the performance of the company, a principle-based approach is essential.

TRANSITION

Question 9

The Exposure Draft does not propose any specific transition requirements because it will initially be applied at the same time as IFRS 1, which sets out the transition requirements and relief available.

Is the transition approach appropriate? Why or why not?

We refer to our answers to questions 1 to 3.

OTHER COMMENTS

Question 10

Do you have any other comments on the proposals in the Exposure Draft?

We fully appreciate and support the efforts of the Board to address accounting for rate regulation. The current financial reporting would be improved if the accounting for rate regulation is clarified in a principle based standard.

We encourage the IASB to pursue the project in the development of a standard on rate-regulated assets and liabilities. We consider the interim standard as an important step in improving the information on rate regulation reported in financial statements in accordance with IFRS.

We perceive this Exposure Draft as a useful step. The current economic climate urges many smaller utility companies to search for alternative financing in order to perpetuate their growth. Hence, many utility companies issue bonds (Eurobond, retail bond) or rely on a private placement or a private equity investor. These investors require IFRS financial statements that are relevant and reliable. As mentioned above, we therefore would strongly support the recognition of deferral accounts for all IFRS reporters.

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