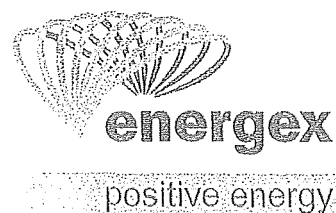


9 October 2009

The Chairman
Australian Accounting Standards Board
PO Box 204
Collins Street West VIC 8007



Dear Sir

ED185 Rate Regulated Activities

We are pleased to provide comments in relation to the ED185 Rate-regulated Activities.

In summary, we consider that current accounting policy and practice is consistent with the requirements of the proposed standard and support the proposal to issue a standard specifically addressing the recognition and disclosure of the financial effects of rate regulation.

We anticipate that the release of this standard will improve the ability to recognise the benefits and obligations imposed by rate regulation. However, while in overall support of the proposal we see a number of areas where further refinement is required:

- The scope could be further clarified for application to regulated entities subject to a hybrid of the price cap and revenue cap methodologies,
- Reconsideration of paragraphs requiring annual restatement for the effect of interest rates of amounts capitalised in property, plant and equipment or intangibles pursuant to paragraphs 8-12 and BC52,
- Inclusion of consequential amendments to AASB116; and
- Expansion of illustrative examples.

We attach a schedule of responses to the questions proposed by the International Accounting Standards Board (IASB).

If you have any questions regarding our comments please contact Di Lindsay, Manager Group Financial Reporting and Accounting on (07) 3404 6503

Yours sincerely

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Responses to specific IASB questions on ED 185 *Rate-related Activities*

Scope

Question 1

The exposure draft proposed two criteria that must be met for rate-regulated activities to be within the scope of the proposed IFRS.

Is the scope definition appropriate? Why or why not?

ENERGEX considers the proposed scope definition to be appropriate but would suggest clarification of the scope on the following:

Where revenue is regulated by a revenue cap as opposed to a price cap.

Although an entity may be regulated by a revenue cap, the determination of the cap can be based on a cost-of-service principle and thereby meeting criteria 3(b) but not necessarily 3(a) which refers to regulation on a price basis. The question is whether or not the reference to "price" in paragraph 3(a) is intended to include revenue caps which ultimately result in a pricing schedule approved by the regulator. It is possible that an entity's revenue can have a combination of price caps and revenue caps depending on the type of goods or services provided.

In Example 2 of the draft illustrative examples, the revenue cap does not fall within the proposed scope due to the basis in which the allowed revenue was determined ie based on industry averages and an efficiency factor. If it is intended that there may be some instances where a revenue cap should fall within the scope, ie based on cost-of-service regulation, then an example could be included in the illustrative examples for clarification.

Where prices are established for end-customers (indirect) but billing is to a Retailer (direct).

In a Full Retail Competition (FRC) environment the "customer" is the electricity Retailer and the end-customer is the Retailer's customer. Given that if the regulator establishes/approves rates based on categories of the end-customer rather than the Retailers as the "customer", it could be assumed in this situation it should still fall within the scope.

However, if the Retailer is not regulated then there could be uncertainty as to whether or not the regulated prices can be seen as binding to the end-customer in order to satisfy paragraph 4. We do not believe the proposed standard is intended to exclude entity's that fall within this type of regulated environment and therefore would suggest clarification be given by including an illustrative example.

Recognition and measurement

Question 2

The exposure draft proposes no additional recognition criteria. Once an activity is within the scope of the proposed IFRS, regulatory assets and regulatory liabilities should be recognised in the entity's financial statements.

Is this approach appropriate? Why or why not?

ENERGEX agrees with the proposed approach and does not consider any additional recognition criterion is required provided the clarifications mentioned in Question 1 can be included.

Question 3

The exposure draft proposes that an entity should measure regulatory assets and regulatory liabilities on initial recognition and subsequently at their expected present value, which is the estimated probability-weighted average of the present value of the expected cash flows.

Is this measurement approach appropriate? Why or why not?

ENERGEX support this measurement technique and consider that it is consistent with AASB137 Provisions, Contingent Liabilities and Contingent Assets.

Question 4

The exposure draft proposes that an entity should include in the cost of self-constructed property, plant and equipment or internally generated intangible assets used in regulated activities all the amounts included by the regulator even if those amounts would not be included in the assets' cost in accordance with other IFRSs (see paragraph 16 of the draft IFRS and paragraphs BC49-BC52 of the Basis for Conclusions). The Board has concluded that this exception to the requirements of the proposed IFRS was justified on cost benefit grounds.

Is this measurement approach appropriate? Why or why not?

ENERGEX agree with the proposed measurement basis but recommend refinement to ensure that it fully aligns with the requirements of AASB116 Property, Plant and Equipment.

ENERGEX note that the intention of the paragraphs 8-12, and BC52 of the proposed standard is to allow capitalisation of additional costs such as overhead that may not necessarily be allowed pursuant to AASB116 Property, Plant and Equipment. This is proposed on the basis that additional capitalised cost is allowed for by the regulator and subjected to future economic benefits in the form of future revenue.

An example might be where a methodology developed pursuant to AASB116 Property, Plant and Equipment gives rise to an overhead capitalisation rate of 60% of indirect costs; however regulation may allow capitalisation of 80% of overhead costs and provide for subsequent recovery via future regulated revenue. The difference between these two approaches represents the differing interpretation of "directly attributable" from an accounting and regulatory viewpoint.

In this example, the proposed standard will allow the capitalisation of the additional 20% of overhead however the impact of paragraphs 12 and BC52 become significant. These paragraphs require such additional costs to be remeasured at each reporting date effecting restatement on the basis of movements in interest rates.

This proposed approach is in conflict with existing requirements in AASB116 Property, Plant and Equipment which does not consider annual restatement of underlying values to account for movements in interest rates. Separate component assets would need to be created which are not representative of an underlying physical asset. As such these are more representative of an intangible asset. However, in order to achieve the measurement application proposed in paragraphs 12 and BC52 but still enable consistency with requirements of existing AASB116 Property, Plant and Equipment applicable to the entire class of assets, a non-current asset class separate to property, plant and equipment or intangible assets would be required. While paragraph 16 attempts to address such an issue, its application when compared to BC52 is inconclusive.

We do not believe that such an outcome is representative of the substance of the underlying transaction nor the regulation which facilitates its recovery in the form of future revenue.

While ENERGEX agree with the exception of allowing these additional costs to be capitalised on the basis that future economic benefits arise, we do not support the application of BC52 in its current form. Rather, ENERGEX considers that the existing requirements of AASB116 Property, Plant and Equipment should be applied where by any additional cost capitalised against property, plant and equipment or internally generated intangible assets are attached to underlying assets and depreciated or amortised over the useful life of the underlying asset. The application of AASB136 Impairment of Assets is then applied to these assets in a manner consistent with paragraphs 20 and BC53 and BC54.

While supportive of the overall approach, ENERGEX consider that in the case of BC52, the reporting burden imposed is not justified on cost benefit grounds and recommend amendment to BC52 and inclusion of illustrative examples on this topic to ensure appropriate and consistent application by regulated entities.

Question 5

The exposure draft proposes that at each reporting date an entity should consider the effect on its rates of its net regulatory assets and regulatory liabilities arising from the actions of each different regulator. If the entity concludes that it is not reasonable to assume that it will be able to collect sufficient revenues from its customers to recover its costs, it tests the cash-generating unit in which the regulatory assets and regulatory liabilities are included for impairment in accordance with IAS36 Impairment of Assets. Any impairment determined in accordance with IAS36 is recognised and allocated to the assets of the cash-generating unit in accordance with that standard (see paragraph 17-20 of the draft IFRS and paragraphs BC53 and BC54 of the Basis for Conclusions).

Is this approach to recoverability appropriate? Why or why not?

ENERGEX are supportive of this approach and consider it to be consistent with current requirements in AASB136 Impairment of Assets.

Disclosures

Question 6

The exposure draft proposes disclosure requirements to enable users of financial statements to understand the nature and the financial effects of rate regulation on the entity's activities and to identify and explain the amounts of regulatory assets and regulatory liabilities recognised in the financial statements.

Do the proposed disclosure requirements provide decision-useful information? Why or why not? Please identify any disclosure requirements that you think should be removed from, or added to, the draft IFRS.

ENERGEX agrees that the proposed disclosure requirements will provide decision-useful information. It will provide transparency as to the nature and extent of the regulated activities, a general understanding of the regulated process and the amounts that are being recognised as regulatory assets and regulatory liabilities. Although there is a comprehensive list of disclosure requirements, paragraph 30 allows judgement as to the information to be disclosed in order to meet the objectives of paragraph 24 i.e. understanding of the nature and financial effects of regulated activities.

Transition

Question 7

The exposure draft proposes that an entity should apply its requirements to regulatory assets and regulatory liabilities existing at the beginning of the earliest comparative period presented in the period in which it is adopted. Any adjustments arising from the application of the draft IFRS are recognised in the opening balance of retained earnings.

Is this approach appropriate? Why or why not?

ENERGEX agree that retrospective application may be difficult due to the current accounting treatment for some entities and support the proposed approach with the reasons set out in the basis of conclusion BC62-BC63.

We acknowledge the need to extend the normal period between the date of finalising the standard and its effective date to enable the restatement of comparatives for the first year of application.

Other comments

Question 8

Do you have any other comments on the proposals in the exposure draft?

ENERGEX considers that the basis for conclusions provide critical application advice that cannot be determined from the exposure draft itself. The inclusion of such critical advice in the form of a basis for conclusions would result in more consistent application across regulated entities.

ENERGEX also considers that consequential amendments to AASB116 Property, Plant and Equipment should be made to specifically reference application of the proposed standard on rate regulated activities.