SAS Quadra 05. Bloco J. CFC
Brasilia, Distrito Federal – Brazil
www.cpc.org.br

O CPC quer receber comentários sobre a minuta de carta-resposta sobre Rate Regulation

O CPC preparou a minuta de carta-resposta abaixo sobre o Discussion Paper – “Reporting the financial effects of rate regulation” que será enviada ao IASB até 15 de janeiro de 2015. Desta forma, está convidando o público para que envie comentários sobre essa minuta **até 05 de janeiro de 2015** para remessa da carta final ao IASB.

Os comentários devem ser enviados para o e-mail operacoes@cpc.org.br.

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January 15, 2015

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

RE: DP 2014/2 – Reporting the Financial Effects of Rate Regulation

Dear Board Members,

The Comitê de Pronunciamentos Contábeis - CPC (Brazilian Accounting Pronouncements Committee)[1] welcomes the opportunity to respond to DP 2014/2 – Reporting the Financial Effects of Rate Regulation.

We are a standard-setting body engaged in the study, development and issuance of accounting standards, interpretations and guidance for Brazilian companies.

In general our conclusions, which are reflected in the responses to the Discussion Paper, are the following:

1. We understand IASB shall focus the discussion on defined rate regulation, which contains elements of both cost recovery and incentives. We understand that this type of regulation is the one that creates a significantly different economic environment and consequently requires the development of a specific accounting treatment.
2. Most of the users of regulated entities general purpose financial statements already consider, when performing analysis, the balances originated from the rate regulation, even though these balances are not recognized in such financial statements.
3. We understand that a combination between (i) changing the definitions of assets and liabilities in the Conceptual Framework to enable the recognition of the deferred regulatory balances as assets and liabilities; and (ii) develop a specific accounting requirement in IFRS to defer/accelerate the recognition of costs and revenues (or a combination of both) is the adequate approach;

[1] The Brazilian Accounting Pronouncements Committee (CPC) is a standard-setting body engaged in the study, development and issuance of accounting standards, interpretations and guidance for Brazilian companies. Our members are nominated by the following entities: ABRASCA (Brazilian Listed Companies Association), APIMEC (National Association of Capital Market Investment Professionals and Analysts), BMFBOVESPA (Brazilian Stock Exchange and Mercantile & Future Exchange), CFC (Federal Accounting Council), FIPECAFI (Financial and Accounting Research Institute Foundation) and IBRACON (Brazilian Institute of Independent Auditors).

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4. We understand that the definitions proposed in the Conceptual Framework discussion paper, issued in July 2013, would accommodate the specific accounting requirement related to rate regulation, and the recognition of related assets/liabilities. However, due to the importance of the matter, we understand that a specific accounting requirement as a result of the Rate Regulated project shall not be conditioned to the conclusion off the Conceptual Framework project.
5. We understand that self-regulated co-operatives shall not be included within the defined rate regulation, unless there is a formal rate regulator whose role and authority is defined by law overseeing the co-operative.

The detailed responses to the questions are included below. If you have any questions about our comments, please contact us at operacoes@cpc.org.br.

Yours sincerely,

Idésio da Silva Coelho Júnior
Chair of International Affairs
Comitê de Pronunciamentos Contábeis (CPC)

Responses to questions in the ED

Question 1
(a) What information about the entity's rate-regulated activities and the rate-regulatory environment do you think preparers of financial statements need to include in their financial statements or accompanying documents such as management commentary?

Please specify what information should be provided in:
(i) the statement of financial position;
(ii) the statement(s) of profit or loss and other comprehensive income;
(iii) the statement of cash flows;
(iv) the note disclosures; or
(v) the management commentary.

(b) How do you think that information would be used by investors and lenders in making investment and lending decisions?

Response 1
(i) the statement of financial position:

- Receivable or payable tariff differences.
- Evaluate the need to keep the assets and liabilities balances gross or net under the light of the right of compensation.
- Classify the balances into current and noncurrent considering the recovery or payment expectation.

(ii) the statement(s) of profit or loss and other comprehensive income:

- The classification in the statement of profit and loss shall reflect the nature of the transaction.
- If the rate regulated balance is expected to originate a future rate increase/decrease due to an already accomplished performance obligation at a rate that could not be accurately calculated (and for which a best estimate was set at the beginning of the tariff period), the rate difference balance shall be accounted adjusting the operation's revenue.
- If the rate regulated balances refers solely to an adjustment to the reimbursable expenditures under the light of the regulatory arrangement, it shall be accounted as a lower expenditure.

(iii) the statement of cash flows:

Variances in assets and liabilities originated from the rate regulation shall be included as variances from the operations.

(iv) notes disclosures:

- A specific note disclosure explaining the composition of the statement of financial position balances, and its movements during the fiscal year.
- On the revenue, costs and operating expenses notes the amounts accounted to the income statement shall be indicated.
- Narrative explaining the estimates that might be part of the regulatory amounts.

- Narrative explaining the rate mechanism, its periodicity, main variables and assumptions, changes during the year, foreseeable changes and risk analysis.

(v) Management commentary:

- Explanation on the main variances on the balances when compared to expectations and prior period(s).
- Narrative on the Market impacts and the economy background over the regular balances.

Please note that these responses are conditioned to the adoption of the approach suggested in the response to question 7.

Finally, in the mature regulatory systems, or those who have proven operationally effective, investors and lenders understand that it is probable that these regulatory balances will be received or paid in the near future. Consequently, they consider that these balances represent a firm right to receive/duty to pay originated from the regulatory arrangement, as well as a guaranteed expected cash flow.

In its decision-making process they understand that, in the current format by not allowing the recognition of such balances, the IFRS do not reflect the economic effect derived from the regulatory arrangement, and almost configure as a “form over the essence” approach.

Currently most of the investors and lenders already use financial statements figures adjusted for amounts derived from rate regulation on its decision making. For example, in Brazil some financial indexes covenants clauses included in loan agreements adjust the financial statements figures in order to consider the regulatory amounts.

Question 2
Are you familiar with using financial statements that recognize regulatory deferral account balances as regulatory assets or regulatory liabilities, for example, in accordance with US generally accepted accounting principles (GAAP) or other local GAAP or in accordance with IFRS 14? If so, what problems, if any, does the recognition of such balances cause users of financial statements when evaluating investment or lending decisions in rate-regulated entities that recognize such balances compared to:

(a) non-rate-regulated entities; and

(b) rate-regulated entities that do not recognize such balances?

Response 2
We understand that there are no problems on the recognition of such balances.

In fact, we understand that the problem arises when such balances are NOT recognized, especially when comparing rate regulated entities that do recognize to those that do not recognize such balances.

Question 3
Do you agree that, to progress this project, the IASB should focus on a defined type of rate regulation (see Section 4) in order to provide a common starting point for a more focused discussion about whether rate regulation creates a combination of rights and obligations for which specific accounting guidance or requirements might need to be

developed (see paragraphs 3.6–3.7)? If not, how do you suggest that the IASB should address the diversity in the types of rate regulation summarized in Section 3?

Response 3
We agree that IASB shall focus on defined rate regulation, as defined in the Discussion Paper.

However, situations where (i) the regulatory arrangement is considered cost-of-service rate regulation; and (ii) the entity is considered, in the relationship with the regulator and/or grantor, principal and not agent according to IAS 18, shall be included in the project scope. While it might seem straight forward that the retaining significant business risk (i.e., act as principal) implies in some incentive component included in the regulatory arrangement, it might be possible a cost-for-service regulated entity to escape from the defined rate regulation definition.

Question 4
Paragraph 2.11 notes that the IASB has not received requests for it to develop special accounting requirements for the form of limited or 'market' rate regulation that is used to supplement the inefficient competitive forces in the market (see paragraphs 3.30–3.33).

(a) Do you agree that this type of rate regulation does not create a significantly different economic environment and, therefore, does not require any specific accounting requirements to be developed? If not, why not?

(b) If you agree that this type of rate regulation does not require any specific accounting requirements, do you think that the IASB should, alternatively, consider developing specific disclosure requirements? If so, what would you propose and why?

Response 4
We agree that 'market" rate regulation does not create a significantly different economic environment and, therefore, does not require any specific accounting requirements to be developed.

For such cases, the IFRS disclosure requirements related to operating context, commitments and contracts, and revenue recognition relevantly address the subject, and consequently we do not believe any other specific requirement is needed.

Question 5
Paragraphs 4.4–4.6 summarize the key features of defined rate regulation. These features have been the focus of the IASB's exploration of whether defined rate regulation creates a combination of rights and obligations for which specific accounting guidance or requirements might be developed in order to provide relevant information to users of general purpose financial statements.

(a) Do you think that the description of defined rate regulation captures an appropriate population of rate-regulatory schemes within its scope? If so, why? If not, why not?

(b) Do you think that any of the features described should be modified in order to include or exclude particular types of rate-regulatory schemes or rate-regulated activities included within the scope of defined rate regulation? Please specify and give reasons to support any modifications to the features that you suggest, with particular reference to why the features may or may not give rise to circumstances that result in particular information needs for users of the financial statements.
(c) Are there any additional features that you think should be included to establish the scope of defined rate regulation or would you omit any of the features described? Please specify and give reasons to support any features that you would add or omit.

We believe that de description of defined rate regulation is detailed enough to capture an appropriate population of regulation formats. Additionally, the description and characteristics are adequately stated. However, it is important to emphasize that some flexibility when scoping the descriptions is welcome, in order to allow a certain level of professional judgment when applying the concepts. Otherwise, entities that would benefit the users of their financial statements if applying a hypothetical future accounting requirement from IASB might find difficult to fit in a definition if it is too restrictive or specific. For example, the situation as described in Question 3, where (i) the regulatory arrangement is considered cost-of-service rate regulation; and (ii) the entity is considered, in the relationship with the regulator and/or grantor, principal and not agent according to IAS 18.

Question 6
Paragraphs 4.62–4.72 contain an analysis of the rights and obligations that arise from the features of defined rate regulation.
(a) Are there any additional rights or obligations that you think the IASB should consider? Please specify and give reasons.

(b) Do you think that the IASB should develop specific accounting guidance or requirements to account for the combination of rights and obligations described? Why or why not?

Response 6
We believe that rights and obligations are adequately considered. Additionally, we understand that the value of rights and obligations described are intrinsic when the acquisition of the license or right to operate. Consequently, we understand that specific accounting guidance or requirement is not necessary.

Question 7
Section 5 outlines a number of possible approaches that the IASB could consider developing further, depending on the feedback received from this Discussion Paper. It highlights some advantages and disadvantages of each approach.

(a) Which approach, if any, do you think would best portray the financial effects of defined rate regulation in IFRS financial statements and is most likely to provide the information that investors and lenders consider is most relevant to help them make their investing and lending decisions? Please give reasons for your answer?

(b) Is there any other approach that the IASB should consider? If so, please specify and explain how such an approach could provide investors and lenders with relevant information about the financial effects of rate regulation.

(c) Are there any additional advantages or disadvantages that the IASB should consider before it decides whether to develop any of these approaches further? If so, please describe them.

If commenting on the asset/liability approach, please specify, if it is relevant, whether your comments reflect the existing definitions of an asset and a liability in the *Conceptual Framework* or the proposed definitions suggested in the *Conceptual Framework* Discussion Paper, published in July 2013.

Response 7
It is not reasonable to carry on not allowing the balances deriving from rate regulation to be accounted for the financial statements. Investors and lenders at entities who operate in a rate regulated environment already use financial statements adjusted for those balances when making decisions. That said, we understand that a combination of (i) changing the assets and liabilities definitions at the Conceptual Framework to enable the recognition of balances derived from rate regulation as assets and liabilities; and (ii) develop a specific accounting requirement in IFRS to defer/accelerate the recognition of costs/revenues (or a combination of both) would be the most adequate approach. However, due to the importance of the matter, we understand that a specific accounting requirement as a result of the Rate Regulated project shall not be conditioned to the conclusion off the Conceptual Framework project.

We understand that a change in the assets and liabilities definitions in the Conceptual Framework is needed. On that sense, we also understand that the definitions proposed and suggested in the Discussion Paper related to the Conceptual Framework, issued in July 2013, would adequately accommodate a specific accounting requirement related to rate regulation, and the recognition of the related assets and liabilities.

The Discussion Paper related to the conceptual framework brings a change to the assets definition by removing the sentence "**and from which future economic benefits are expected to flow to the entity"**

In fact, the entity has the right to recover such tariff from the moment it has been granted the right to operate, and consequently receive the tariff difference to be charged to the customers.

That said, the deletion of the "future economic benefits" requirement, proposed by the Conceptual Framework Discussion Paper, is key to enable such recognition. So, "guaranteed future economic benefits" is not a requirement but these benefits if flown will flow to the entity.

The Discussion Paper related to the conceptual framework also brings a change to the liabilities definition by removing the sentence "**the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits".**

We understand there is a clear past event behind the recognition of a liability: the fact the entities have charged more tariff than contractually allowed for the supply of goods and services.

Also, the entity is not capable of avoiding returning to the customer such tariff differences, due to regulation requirements and due the fact it is normally the only operator within that are.

So, in the end, a good analogy would be with prepayments for future services, and the "settlement" concept deletion is key, since the "payment" will be through the rendering of additional services/delivering additional goods.

Question 8
Does your organization carry out activities that are subject to defined rate regulation? If so, what operational issues should the IASB consider if it decides to develop any specific accounting guidance or requirements?

Response 8
Entities subject to defined rate regulation normally have regulatory financial reporting requirements. Consequently, balances arising from rate regulation are normally well controlled and scrutinized by the regulator. As such, no major operation issue shall arise if IASB decides to develop a specific accounting guidance. A minor issue might arise if the classification the IASB proposes for a potential asset/liability is different from the regulatory accounting guidance.

Question 9
If, after considering the feedback from this Discussion Paper and the *Conceptual Framework* project, the IASB decides to prohibit the recognition of regulatory deferral account balances in IFRS financial statements, do you think that the IASB should consider developing specific disclosure-only requirements? If not, why not? If so, please specify what type of information you think would be relevant to investors and lenders in making their investing or lending decisions and why.

Response 9
We do believe that the disclosure only approach would not reflect the essence over the form and we urge IASB not to take this approach. However, if the Board decides to prohibit the recognition of regulatory deferral account balances in IFRS financial statements, we understand that at minimum specific disclosure requirements should be developed. Such requirements should be similar to those suggested in the response to question 1, item iv.

Question 10
Sections 2 and 6 discuss some of the information needs of users of general purpose financial statements. The IASB will seek to balance the needs of users of financial statements for information about the financial effects of rate regulation on an entity's operations with concerns about obscuring the understandability of financial statements and the high preparation costs that can result from lengthy disclosures (see paragraph 2.27).

(a) If the IASB decides to develop specific accounting requirements for all entities that are subject to defined rate regulation, to what extent do you think the requirements of IFRS 14 meet the information needs of investors and lenders? Is there any additional information that you think should be required? If so, please specify and explain how investors or lenders are likely to use that information.

(b) Do you think that any of the disclosure requirements of IFRS 14 could be omitted or modified in order to reduce the cost of compliance with the requirements, without omitting information that helps users of financial statements to make informed investing or lending decisions? If so, please specify and explain the reasons for your answer.

Response 10
The requirements that we believe adequate are summarized in the response to question 1. We understand that the IFRS 14 requirements, to a certain extent, meet to what we believe adequate. However, IFRS 14 requirements of maintaining segregation of balances from the statement of financial position and statement of operations do not appear adequate, albeit we understand this requirements derives from the fact IFRS 14 is a transitional rule. When a definitive accounting requirement related to the subject is issued, balances from regulated activities will incorporate to the financial statements more naturally.

Question 11
IFRS 14 requires any regulatory deferral account balances that have been recognized to be presented separately from the assets and liabilities recognized in the statement of financial position in accordance with other Standards. Similarly, the net movements in regulatory deferral account balances are required to be presented separately from the items of income and expense recognized in the statement(s) of profit or loss and other comprehensive income. If the IASB develops specific accounting requirements that would apply to both existing IFRS preparers and first-time adopters of IFRS, and those requirements resulted in the recognition of regulatory balances in the statement of financial position, what advantages or disadvantages do you envisage if the separate presentation required by IFRS 14 was to be applied?

Response 11
Refer to response 10. We understand that the IFRS 14 separate presentation requirement derive from the fact IFRS 14 is a transitional rule. We do not envisage a reason for the final definitive accounting guidance to bring specific separate disclosure requirements. The materiality qualitative and quantitative criteria, already implicit to the IFRS, shall be naturally applied to the entities that operate in a rate regulation environment, and balances derived from rate regulation.

Question 12
Section 4 describes the distinguishing features of defined rate regulation. This description is intended to provide a common starting point for a more focused discussion about whether this type of rate regulation creates a combination of rights and obligations for which specific accounting guidance or requirements should be developed. Paragraph 4.73 suggests that the existence of a rate regulator whose role and authority is established in legislation or other formal regulations is an important feature of defined rate regulation. Do you think that this is a necessary condition in order to create enforceable rights or obligations, or do you think that co-operatives or similar entities, which operate under self-imposed rate regulation with the same features as defined rate regulation (see paragraphs 7.6–7.9), should also be included within defined rate regulation? If not, why not? If so, do you think that such co-operatives should be included within the scope of defined rate regulation only if they are subject to formal oversight from a government department or other authorized body?

Response 12
The co-operatives role cannot be mixed to the regulator role. The co-operatives are normally created to strengthen their associates against the market, and not to protect the customer and set rate. Consequently, while a co-operative normally seeks to set a

price floor to a given price in order to protect its associates, it rarely sets a ceiling to the price.
That said, we understand that unless the co-operative itself is subject to regulation from a regulator whose role and authority is established in legislation or other formal regulations, co-operatives shall not be included in scope of the potential new accounting guidance or requirement.

Question 13
Paragraphs 7.11–7.22 highlight some of the issues that the IASB may consider if it continues to progress this project. Do you have any comments or suggestions on these or any other issues that may or may not have been raised in this Discussion Paper that you think the IASB should consider if it decides to develop proposals for any specific accounting requirements for rate-regulated activities?

Response 13
Several times discussions around the recognition of regulatory assets and liabilities ended or were addressed by IAS 37 – Provisions and Contingencies. That said we believe important to address the interactions of future specific accounting requirements to IAS 37, especially to differentiate assets and liabilities which shall qualify to be recognized as per the new rule from contingent assets and liabilities, and consequently retrieve them from IAS 37 scope.