Tricia O'Malley
IFRIC Co-ordinator
International Accounting Standards Board
30 Cannon Street
London
EC4M 6XH

15 December 2008

Dear Ms O'Malley

IFRIC tentative agenda decision: IAS 37 Provisions, Contingent Liabilities and Contingent Assets – Regulatory assets and liabilities

We are responding to your invitation to comment on the above Tentative Agenda Decision, published in the November 2008 edition of IFRIC Update, on behalf of PricewaterhouseCoopers. Following consultation with members of the PricewaterhouseCoopers network of firms, this response summarises the views of member firms who commented on the agenda decision. 'PricewaterhouseCoopers' refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

We note that the IFRIC was asked to consider whether rate regulated entities could or should recognise a liability or an asset as a result of regulation by regulatory bodies or governments. The IFRIC is proposing not to take the issue onto its agenda for three main reasons:

- Divergence does not seem to be significant in practice;
- Resolving the issue would require interpretation of the definitions of assets and liabilities of the Framework; and
- The issue relates to more than one active Board project.

We agree that there is not significant divergence in practice amongst today's users of IFRS. This reflects the regulatory regimes of the majority of today's users of IFRS. Both across Europe and in Australia regulation is more incentive based or a mixture of rate regulated and incentive based combined with market liberalisation for all but the infrastructure assets. This is also the case for many emerging markets such as Russia and China. However, there are several significant countries that use cost-of-service rate regulation (in this form of regulation revenues are based on specific and actual cost of the entity, plus a return on invested capital) that are adopting IFRS in 2011, including Canada and India. The absence of clearer guidance on the interaction of the legal provisions of certain cost based rate regulation schemes with the definitions of assets and liabilities is likely to represent a challenging and highly material issue. This would also be the case for many US rate regulated entities and thus may prove to be a concern that could impact the widespread adoption of IFRS in the United States. Thus, divergence, even if one believes it does not yet exist, is a very real possibility when these countries adopt IFRS. The due process requirements of IFRIC and the IASB would mean a considerable period of divergence before any changes could be put in place.

IFRIC has been asked to consider the question of rate regulated assets and liabilities on a previous occasion and also rejected the request at that point. That previous request was also rejected on the grounds that it would require interpretation of the definitions of assets and liabilities from the Framework. We agree that working from the Framework may be necessary but the significant community of users that would be interested in such interpretations suggest that this is an area where interpretation might provide practical help.

The active Board projects are presumably revenue recognition and the revisions to IAS 37. Neither of these projects is looking specifically at this area and thus they are unlikely to address the concerns of preparers and users in this area.

We believe that a narrow short term project on regulatory assets and liabilities should be added to the Board's agenda. We agree that tentative agenda decision appropriately reflects the IFRIC agenda criteria and this is not an appropriate project for IFRIC. However, as explained above, we believe that this issue should be addressed by the IASB.

If you have any questions in relation to this letter please do not hesitate to contact Richard Keys, PwC Global Chief Accountant (+44 20 7312 4555), or Mary Dolson (+44 20 7804 2930).

Yours sincerely,

PricewaterhouseCoopers LLP