



N A R U C  
National Association of Regulatory Utility Commissioners

September 4, 2013

International Accounting Standards Board  
30 Cannon Street  
London, EC4M6XH  
United Kingdom

RE: ***Regulatory Deferral Accounts*** Exposure Draft (ED 2013/5)  
Comments due by 4 September 2013-09-04

Dear Sirs and Madams:

The National Association of Regulatory Utility Commissioners (NARUC) respectfully offers these comments in response to the April, 2013, International Accounting Standards Board (IASB) Exposure Draft (ED/2013/5) on *Regulatory Deferral Accounts*. The inquiry seeks comments on ten specific questions on the proposed interim standard specifying the financial reporting requirements for regulatory deferral account balances that may arise when an entity subject to rate regulation provides goods or services.

NARUC has long been recognized by the United States Congress and Courts<sup>1</sup> as an appropriate representative for those government officials in the fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands, charged with regulating utilities and common carriers. NARUC members are designated by the laws of their respective jurisdictions to represent the public interest. These regulatory entities are key users of financial statements. The regulation of utilities in the United States has evolved for over a hundred years. Each State currently has at least one statutorily designated entity to oversee the operations of public utilities within its jurisdiction. It is common practice for regulators to monitor investments, expenses, and earnings through utility financial statements. Publicly issued financial statements are also crucial element in setting retail public utility rates. Rates charged to customers may not be changed independently by the utility between regulatory proceedings. *Indeed, the starting point for many rate setting methodologies is the utility's audited financial statements.*

NARUC's members are therefore necessarily *very* interested in the outcome of any provisions that recognize, or more importantly in inappropriately fail to recognize, rate-regulated entities under International Financial Reporting Standards (IFRS). Any transition from current reporting standards to international standards will impose significant costs on both utilities and regulatory agencies. These additional costs will likely be paid by U.S. utility consumers. NARUC

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<sup>1</sup> See 47 U.S.C. § 410(c) (1971) (Congress designated NARUC to nominate members of Federal-State Joint Boards to consider issues of concern to both the FCC and State regulators.); *Cf.* 47 U.S.C. § 254 (1996). *Cf. NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where the Court explains "...Carriers . . . applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations. . .the ICC issued to create the "bingo card" system.)

is also concerned about the possible impact on the financial viability of regulated utilities and cost impact on customers if the United States adopts IFRS even with an interim *Regulatory Deferral Accounts* standard before permanent guidance is developed through the comprehensive Rate-regulated Activities Project (BC18) and the *Conceptual Framework* review and update (BC14) is completed.

United States Generally Accepted Accounting Principles (U.S. GAAP) permits, and many regulators require, entities to recognize the effects of regulatory decisions in the financial statements of rate-regulated entities consistent with ASC Topic 980, *Regulated Operations* (formerly known as FASB Statement No. 71, *Accounting for the Effects of Certain Types of Regulation*). The regulated books are used by regulators to establish rates and support operations including credit worthiness, repayment of indebtedness and returns to investors. The differences between U.S. GAAP and IFRS will cause difficulty in comparing the regulated books with IFRS financial statements. This will likely cause confusion for customers. It may also cause multiple adjustments to be made and significant explanations required to reconcile the differences so comparisons can be made by regulators, debt holders, shareholders and customers.

Many regulatory concepts and standards utilized by the U.S. utility regulatory bodies and related to rate regulated companies using U.S. GAAP for financial reporting purposes are recognized in the Exposure Draft (ED/2013/5) on *Regulatory Deferral Accounts*. NARUC believes this is an important step toward convergence of U.S. GAAP and IFRS.

NARUC genuinely appreciates IASB's efforts to continue its review of Rate-regulated Activities and seeking comments on this proposed interim standard.

Our responses to the questions posed follows:

#### Question 1

**The Exposure Draft proposes to restrict the scope to those first-time adopters of IFRS that recognized regulatory deferral account balances in their financial statements in accordance with their previous GAAP. Is the scope restriction appropriate? Why or why not?**

Restricting the recognition of regulatory deferred account balances to first-time adopters in accordance with previous GAAP is an important initial step. Entities with international affiliates may find early adoption of this proposed interim standard and IFRS to be more comprehensive for consolidation purposes. The magnitude and customer impact from regulatory deferred account balances in the U.S. is very large. Therefore, until the final comprehensive determination has been established for Rate-regulated Activities, this interim standard may not entice many U.S. utilities to early adoption. The interim standard reduces the financial impact on customers of rate-regulated entities transitioning to IFRS. The interim standard will, at the same time, maintain the ability of users of financial statements with regulatory deferred account balances to understand, evaluate and track the impact of rate regulation from decisions by the regulatory body. Regulatory agencies should be able to utilize the U.S. GAAP standards and guidance if the regulatory body finds the use of deferred account balances to be the most reasonable type of rate regulation for an entity and its customers. Unless there is a purchase or merger, this restriction for first-time adopters in the interim standard should not overly limit decisions by a regulatory body.

## 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 authorized 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?

The two criteria identified above are similar to most of the regulatory deferred accounts under U.S. GAAP. Therefore, NARUC believes the two criteria that must be met for regulatory deferred accounts to be within the scope of the proposed interim standard are acceptable for the interim standard.

## 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 derecognize any regulatory deferral account balances that would not be permitted to be recognized 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?

Optional adoption of the interim standard should be a smaller burden for regulatory bodies to address than the impact that would be experienced if there is no recognition of regulatory deferred amounts. Based on prior comments filed by regulated entities and regulatory bodies with the IASB and the Securities Exchange Commission, NARUC believes the number of regulated entities in the U.S. that may choose not to adopt a standard for regulatory deferred amounts may be small.

## 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, recognize 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 recognize regulatory deferral account balances should not be permitted to start to do so? If not, why not?

See Question 1. The position and rationale are similar so it will not be repeated.

## 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 recognized 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?**

It is reasonable to expect other standards to apply to regulatory deferral account balances in the same way the standards apply to assets and liabilities. Exceptions should be explicitly noted and explainable.

#### **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 recognized 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 recognized in accordance with other Standards (see paragraphs 6, 18–21 and BC55–BC62). Is this separate presentation approach appropriate? Why or why not?**

The proposal to present regulatory deferral account debit balances separately from regulatory deferral account credit balances is appropriate. Separate presentation provides information so a user may evaluate the impact of regulatory deferrals. Recognizing incremental regulatory deferral account balances and the movements in these balances separately from assets, liabilities, income and expenses should provide more useful and understandable financial information for users to evaluate the impact of regulatory deferral decisions by the regulatory body.

#### **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 recognized in the financial statements (see paragraphs 22–33 and BC65). 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] interim Standard.**

Disclosure requirements to better evaluate and understand the regulatory deferral account balances and changes are appropriate. Descriptions and the timing of recovery from customers or return to customers for deferrals are appropriate. Disclosures should provide information to assist all users understand and evaluate the impact and also compare financial statements for rate-regulated entities with regulatory deferral amounts to other rate-regulated entities and entities that are not rate-regulated.

#### 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?**

Materiality, fluctuations in the magnitude of deferrals and changes in the type of deferral are important considerations for disclosures. The volume of disclosure should not be disproportionate to the risk level for the type of regulatory mechanism and changes in the deferrals.

#### 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?**

IFRS 1 adequately sets out transition requirements for first-time adopters to IFRS. Additional references for transition may be required with the Rate-regulated Activities Project if the eligible scope is expanded beyond that in the interim standard.

#### Question 10

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

Many NARUC members believe the use of regulatory deferred accounts provides the best method to enforce the financial aspects of rate regulated activities. The proposed interim standard for regulatory deferred accounts is a step to recognize decisions by the regulatory bodies when establishing rates paid by customers.

We appreciate both your interest in this topic and the opportunity to provide input. If you have any questions about NARUC's positions, please do not hesitate to contact the undersigned at 202.898.2207 or via e-mail at [jramsay@naruc.org](mailto:jramsay@naruc.org) or call the Chair of NARUC's Staff Subcommittee on Accounting and Finance Ms. Terri Carlock, at 208.334.0356 or via e-mail at [Terri.Carlock@puc.idaho.gov](mailto:Terri.Carlock@puc.idaho.gov).

Respectfully Submitted,

*James Bradford Ramsay*

GENERAL COUNSEL

National Association of Regulatory Utility Commissioners

1101 Vermont Avenue, Suite 200

Washington, DC 20005

Tel. 202.898.2207

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