Economic Benefits from Use of a Windfarm (IFRS 16 *Leases*)

The Committee received a request about whether, applying paragraph B9(a) of IFRS 16, an electricity retailer (retailer) has the right to obtain substantially all the economic benefits from use of a windfarm throughout the term of an agreement with a windfarm generator (supplier). In the fact pattern described in the request:

a. the retailer and supplier are registered participants in an electricity market, in which customers and suppliers are unable to enter into contracts directly with each other for the purchase and sale of electricity. Instead, customers and suppliers make such purchases and sales via the market's electricity grid, the spot price for which is set by the market operator. The retailer therefore purchases electricity from the grid.
b. the retailer enters into an agreement with the supplier. The agreement:
    i. swaps the spot price per megawatt of electricity the windfarm supplies to the grid during the 20-year term of the agreement for a fixed price per megawatt, and is settled net in cash. In effect, the supplier receives a fixed price per megawatt for the electricity it supplies to the grid during the period of the agreement and the retailer settles with the supplier the difference between that fixed price and the spot prices per megawatt for that volume of electricity.
    ii. transfers to the retailer all renewable energy credits that accrue from use of the windfarm.

Paragraph 9 of IFRS 16 states that 'a contract is, or contains, a lease if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration'. To control the use of an identified asset for a period of time, the customer—throughout the period of use—must have both the right to obtain substantially all the economic benefits from use of the identified asset and the right to direct the use of that asset (paragraph B9 of IFRS 16).

Paragraph B21 of IFRS 16 specifies that 'a customer can obtain economic benefits from use of an asset directly or indirectly in many ways, such as by using, holding or sub-leasing the asset. The economic benefits from use of an asset include its primary output and by-products (including potential cash flows derived from these items), and other economic benefits from using the asset that could be realised from a commercial transaction with a third party'.

The Committee observed that, in the fact pattern described in the request, the economic benefits from use of the windfarm include the electricity it produces (as its primary output) and the renewable energy credits (as a by-product or other economic benefit from use of the windfarm).

The agreement results in the retailer settling with the supplier the difference between the fixed price and the spot prices per megawatt of electricity the windfarm supplies to the grid throughout the 20-year term of the agreement. That agreement, however, conveys neither the right nor the obligation for the retailer to obtain any of the electricity the windfarm produces and supplies to the grid. Although the retailer has the right to obtain the renewable energy credits (which represent a portion of the economic benefits from use of the windfarm), the retailer does not have the right to obtain substantially all the economic benefits from use of the windfarm because it has no right to obtain any of the electricity the windfarm produces throughout the period of the agreement.

The Committee therefore concluded that, in the fact pattern described in the request, the retailer does not have the right to obtain substantially all the economic benefits from use of the windfarm. Consequently, the agreement does not contain a lease.

The Committee concluded that the principles and requirements in IFRS Standards provide an adequate basis for an entity that enters into an agreement as described in the request to assess whether it has the right to obtain substantially all the economic benefits from use of an identified asset. Consequently, the Committee decided not to add a standard-setting project to the work plan.

In considering the request, the Committee noted two other agenda decisions that include explanatory material that may be relevant to the agreement described in this request:

a. the Agenda Decision *Meaning of delivery* (IFRS 9 *Financial Instruments*) (August 2005); and

b. for entities applying the hedge accounting requirements in IFRS 9 or IAS 39 *Financial Instruments: Recognition and Measurement*, the Agenda Decision *Application of the Highly Probable Requirement when a Specific Derivative is Designated as a Hedging Instrument* (IFRS 9 and IAS 39) (March 2019).