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Nos références

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Objet

Paris, le 21 février 2007

Dear Sir,

We greatly appreciate the opportunity offered by EFRAG to express comments in relation to the adoption of IFRIC 12 Service Concession Arrangements. This letter confirms the mail we sent to EFRAG on January 19, 2007.

EDF Group has been involved, for many decades, in different concessions service arrangements for transportation and distribution of energy, as well as for management of hydroelectric infrastructures. We operate about 1500 such contracts in France and, more recently, an additional number abroad through foreign subsidiaries.

EDF agrees that this interpretation will be helpful for contracts which fall within the scope described in the Consensus.

EDF nevertheless considers that all contracts do not automatically fall within the scope.

In this respect, EDF is uncomfortable as the Interpretation does not take into account the diversity of situations that are met in public service arrangements.

A literal reading of paragraph 5 could indeed lead practically every public to private arrangements to be qualified as within the scope.

We feel confused that the interpretation does not stress specifically that the question of control, dealt with in paragraph 5, should be a matter of judgment. When using this paragraph to determine the degree of control, companies should also consider the point in substance, using as well paragraph 3 of the background or paragraphs BC 27 and BC 28. Besides AG2 should also been examined not literally but in substance, taking into account the prevailing conditions for each type of contracts.



More precisely, paragraph 5 ignores the different possible levels of control exerted by the operator on the infrastructure.

That is why, from our point of view, control should be appreciated in substance through an analysis of the clauses of the contracts themselves and also from the different legal, technical and economical environments prevailing in each country.

It is also worth mentioning that the control, as defined in paragraph 5, is measured from the position of the grantor even though IFRIC does not specify the accounting by grantors. We strongly believe that it is not helpful for the operator, who must consider the substance of the control, to be compelled to do it from the point of the view of the grantor, who is not directly interested by the accounting consequences of the interpretation.

The following appendix is the mail which was sent by EDF to the IFRIC prior November 13th meeting .

Sincerely yours.

A handwritten signature in black ink, which appears to read 'M. Ichard', is positioned above the typed name.

Pierre Ichard
Head of Corporate and Group Accounting



Appendix. Copy of the mail sent to IFRIC on November 10, 2006

Dear Mrs Whelan,

In view of the 13th of November meeting we would like beforehand to present you the observations EDF wishes to express on this occasion.

As we previously wrote to the IASB, we have so far considered that our company was outside the scope of the Interpretation (Exposure Drafts) for its concession contracts of electricity distribution as we consider that we have control over the assets used to distribute electricity. Based on the near-final draft that was published, we consider that the following matters still need to be clarified.

- Background : we understand that the substance of the background is to present the type of service arrangements contracts which shall be examined in the scope. In this respect, can we consider that contracts that would not present one or more than one of the four "common features" listed in paragraph 3 of the background are automatically outside the scope of the Interpretation? We believe that a positive answer to this question would greatly alleviate our remaining questions about the scope. Moreover we believe this answer would address the questions that were asked by the French Accounting Authority (CNC) in connection with the notion of control.

- In the case of a negative answer, we have the following difficulties when examining the situation of EDF concession service arrangements for energy distribution in respect of the scope, and particularly of the application guidance related to paragraph 5.

1. The first difficulty was already mentioned in EDF's answer to the IASB in May 2005. Given the legal environment in France of the business of electricity distribution, we do not believe it is correct to consider that the local authorities, which in our case are the grantors, and the regulator are related parties : even if they all act in the public interest, grantors are locally elected authorities while the regulator is an independent national authority setting one uniform tariff for all concessions irrespective of the economic performance of each concession arrangement taken separately.

Moreover we think that in its present drafting, AG2 contradicts paragraph 3(c) of the background or at least makes this paragraph ineffective and useless.

To solve this difficulty, we propose a change in the present draft of AG2 consisting in replacing "shall be regarded" by " ... provided the prices are differentiated by service arrangement [...] could be regarded as ... ". After modifications the proposed AG2 would be as follow :

The control or regulation referred to in condition (a) could be by contract or otherwise (such as through a regulator), and includes circumstances in which the grantor buys all of the output as well as those in which some or all of the output is bought by other users. In applying this condition, the grantor and any related parties could shall be considered together. If the grantor is a public sector entity and provided that prices are differentiated by service arrangement, the public sector as a whole, together with any regulators acting in the public interest, could shall be regarded as related to the grantor for the purposes of this Interpretation.



2. A second question which we would like to clarify is the relationship between the notion of control by the operator and the consideration that the operator would obtain at the end of the concession according to the contract.

On the one hand, paragraph 5(b) sets a criterion where it should be analysed whether the grantor controls any significant residual interest in the infrastructure at the end of the term of the arrangement. On the other hand, paragraph 3(d) in the Background refers to arrangements where the operator receives little or no incremental consideration when the operator hands over the infrastructure.

The consideration to be received by the operator for returning the infrastructure to the grantor at the end of the period of the arrangement may be very material if the price for this consideration is based on the residual value (or fair value) of the infrastructure at the time of hand over. In light of the description in paragraph 3(d), one view could be that, when the consideration received by the operator is equivalent to the residual interest in the infrastructure, criterion 5(b) is not met.

However, if this view is correct, we question how this view would be affected if, at the same time, the conditions of AG4 limiting the operator's practical ability to sell or pledge the infrastructure are met.

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