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International Accounting Standards Board  
IFRS Foundation  
Columbus Building  
7 Westferry Circus  
Canary Wharf  
London  
E14 4HD

### **Comment Letter on IASB Exposure Draft ED/2021/1 Regulatory Assets and Regulatory Liabilities**

We write this comment letter in response to the invitation to comment on the IASB's Exposure Draft Regulatory Assets and Regulatory Liabilities issued January 21, 2021.

This comment letter has been written by Alliander N.V., Enexis Holding N.V. and Stedin Holding N.V. These are the three largest Regional Grid Operators (Distribution System Operators) in The Netherlands. We have written this letter in cooperation as we strive for a uniform application of IFRS to increase comparability in our financial reporting.

In the Netherlands there are several Regional Grid Operators (RGOs) that have a natural monopoly based on geographic division. To protect energy consumers from the disadvantages of monopolistic behavior, RGOs for electricity and gas are regulated. The Netherlands Authority for Consumers and Markets (ACM) determines the regulated rates for RGOs in the Netherlands. The ACM uses an incentive-based regulatory scheme (Incentive Regulation) to determine the regulated rates in order to incentivize RGOs to operate efficiently. The allowed revenue or target revenue is set equal to the expected efficient costs. If a RGO operates more efficiently than the cap (so that its costs are lower than the target), it may keep the resulting profits. On the other hand, if a RGO operates less efficiently and has higher costs than the target, it has to take a loss.

The expected efficient costs are determined by the ACM based on the total operational costs and the capital costs (including a return on investments) of all RGOs in the Netherlands together in a certain reference period. The reference period is generally a three to five-year period. Therefore, the total allowed compensation is calculated based on the expected efficient costs of all RGOs in the Netherlands together instead of the individual RGO (ED.2a). Thus, the regulated rates for the individual RGO are not based on the entity's own costs, but based on the industry average (of all RGOs in the Netherlands). Therefore, the regulated rates calculated based on the industry cost average, can materially differ from the cost development of an individual RGO. From the total allowed compensation, the ACM determines the regulated rates based on expected volumes. If the actual volumes are higher or lower this is not corrected in the regulated rates in the following regulatory period. This means that if the actual volumes in a future period are lower, not the full amount of total allowed compensation is recovered in the regulated rates. For these reasons, we argue that RGOs have no enforceable present right or obligation to add or deduct an amount in determining a regulated rate to be charged to customers in future periods (ED.4-5). The enforceability is dependent on the performance of other RGOs and on the volume estimations by the ACM. Because of this we argue that RGOs in the Netherlands do not fall within the scope of the Exposure Draft.

Furthermore, if RGOs in the Netherlands would fall within the scope of the Exposure Draft the objectives of the Exposure Draft would not be achieved (ED.1-2). In ED.BC128 the Board states that the generally fairly stable and predictable cash flows arising from regulatory assets or regulatory liabilities would typically enable entities to make reasonable estimates when measuring regulatory assets or regulatory liabilities. Based on this, the Board concludes that measurement uncertainty is unlikely to be significant. We conclude, however, that for RGOs in the Netherlands, the regulatory agreement does not give rise to fairly stable and predictable cash flows arising from regulatory assets or regulatory liabilities. This is because the estimation of the regulatory assets and regulatory liabilities is dependent on information that is not in the possession of RGOs as the total allowed compensation (and hence regulated rates) are determined based on the performance of all RGOs together in the Netherlands. Based on current legislation RGOs are not allowed to exchange performance information during a regulatory period. Furthermore, the assumptions and parameters used by the ACM in determining the regulated rates are only transparent to a limited extent for RGOs because the ACM has a deliberate strategy to refrain RGOs from certain relevant information impacting future regulated rates in the acclaimed benefit of the customer. Finally, every regulatory period there are changes in the method (decision method) that the ACM uses to determine the regulated rates. The RGOs are generally not informed about proposed changes by the ACM during the current regulatory period until the final year of that regulatory period. The periodic changes in the decision method are expected to have a material impact on the estimates of regulatory assets and regulatory liabilities.

For these reasons, RGOs will not be able to reasonably/reliably estimate the regulatory assets and regulatory liabilities as there is significant recognition and measurement uncertainty. Doing so would lead to regular and material subsequent adjustments of estimates resulting in high income volatility. It will also decrease the comparability between financial statements of the various RGOs in the Netherlands as the individual RGOs will likely use different assumptions in estimating regulatory assets and regulatory liabilities. Recognition of regulatory assets and regulatory liabilities for RGOs in the Netherlands will therefore not provide a faithful representation to the users of the financial statements (Conceptual Framework 2.12-19; ED.1-2).

**Based on the elaboration above, we are of the following opinion:**

- **In the situation that the allowable income is based on the industry cost average instead of the individual RGO we believe that the scope of the ED should not apply, and that this should be further clarified in the final wording of the Standard;**
- **Even if we would be in the scope of the ED, we believe that due to the same facts and circumstances no regulatory assets and liabilities should be recognized, and that the definitions should be clarified as such accordingly;**
- **Finally, even when certain regulatory assets and liabilities would potentially be recognized we believe that the Standard should contain a threshold that when the measurement uncertainty is so high that no reliable estimate can be made, no regulatory assets and liability should be recognized for this reason.**

Please feel free to contact us if you wish to discuss the contents of this letter.

Yours sincerely,

**Alliander N.V.**

Drs. R.W. Agasi RA  
Corporate Reporting & Planning

**Enexis Holding N.V.**

E. Wolsink MSc RA  
Corporate Control & Reporting

**Stedin Holding N.V.**

D.R. de Jong MSc RA  
Financial Control and Reporting

M.B. Verhaart MSc RA  
Financial Control and Reporting

**CC:** European Financial Reporting Advisory Group (EFRAG)

Dutch Accounting Standards Board (DASB)