

**ERGEG Guidelines for Good Practice on  
Regulatory Accounts Unbundling Ref: E05-CUB-11-02a  
Comments on text and questions raised**

*1. General: Are there any other general guidelines you would like to propose in order to improve cost separation between integrated network companies and other services provided within the group or even within the network company (e.g. for “multi-network” companies)?*

There are no other general guidelines we would like to propose. In addition, a more general point that we would wish to make is that the degree of regulatory attention towards shared services should reflect any additional assurance actually required, taking account of the general regulatory framework that applies. For example, in Great Britain, a great deal of regulatory modelling is carried out during the periodic price reviews to establish comparative efficiency between network operators. Following this process, the information gained by the regulator on the efficient level of costs is used to set an allowance for operating costs for these businesses, which may be less than current levels of operating costs to the extent that companies fall behind the modelled “efficiency frontier”. There is therefore an overall level of assurance that allowed network operating costs are reasonable. An undue emphasis on market testing (as set out in proposed guideline 5) against this background is unwarranted and disproportionate regulation in our view.

*2. G1: Are the mentioned transactions sufficient to cover economic relations between network and affiliated companies?*

We believe the listed items are sufficient. However, we are opposed to blanket publication of transactions between regulated companies and their affiliates. Where market-related margins are applied, this information is commercially confidential and there should not be a requirement for publication. Where necessary, for example as part of periodic efficiency reviews, provision of information of this type only to regulatory authorities should be all that is required.

*3. G2: Do you agree that these pieces of information should not be published but only made available to the regulators? Do you agree that the additional information included under G2 may constitute an economic incentive for unequal treatment of affiliated and non-affiliated companies?*

We agree that the information about “structural elements of affiliation” could be made available to regulators. In our experience, the current formal and informal requirements for provision of information of this type allow the regulators to develop a good understanding of the related parties of individual network operators.

*4. G4: A clear definition of necessary network services is supposed to be the basis for cost allocation. Do you agree that in order to treat economies it is proposed to use*

*the method of “stand alone cost”. Could you imagine different practical solutions to allocate economies? If yes, what are the specific advantages of those methods?*

There is no single “correct” method for allocating overhead costs. It appears sensible to require changes in allocation approaches by network companies to be justified but we do not see any justification for regulatory involvement in requiring allocations to be made on a specific basis.

*5. G5: Working competition via public tendering should guarantee market based prices. Do you agree that these prices should be accepted as market based and do you have proposals on how to calculate cost in case of non-market based procurement (for instance in case of specific services which are only provided by the affiliated company)?*

We strongly disagree with the emphasis on market tendering in this proposed guideline, without any account being taken of the associated regulatory framework. There is a significant cost involved in preparing tender documentation and we believe the decision on what services should be tendered and what can reasonably be provided by affiliates to the network company should rest with the company concerned. The proposed approach where market tendering is not carried out is onerous, intrusive and, in our view, goes beyond the spirit of the unbundling requirements in the internal markets directives where separation of network companies for generation and supply interests is the driver.

Our comments under the first question above are particularly relevant to this proposed guideline. Where there is a periodic process to establish efficient levels of operating cost for the network companies, there is no regulatory reason to also require market testing (or the alternative onerous “approval process” envisaged) of the components of operating costs that the companies choose to source from outside the legal network entity. The framework suggested might have greater merit in countries where there is no assessment of efficient levels of network costs but it still appears to introduce compliance costs and regulatory micro-management for the network businesses.

In our view, therefore, this proposed guideline should be withdrawn and a more tailored, proportionate approach developed to cover only situations where there is a lack of regulatory involvement in establishing efficient levels of network operating costs.

*6. Do you agree that ownership (financing) of assets should not have any impact on capital cost?*

No comment.