DUFF & PHELPS

March 24, 2006

Director, TA&I-FSP
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

RE: Proposed FSP FAS 142-d

Duff & Phelps appreciates the opportunity to submit our comments and responses to the questions raised with regard to the subject proposed FASB Staff Position (FSP) FAS 142-d, Amortization and Impairment of Acquired Renewable Intangible Assets. In addition to responding to Issues 1, 2, and 3, we have provided our comments on other operational aspects of this proposed FSP.

We would be pleased to further discuss our comments and responses with the Board and staff. Please direct any questions to Paul Barnes in our Philadelphia office at 215-430-6025.

Sincerely,

/s/ Paul F. Barnes
Managing Director
Global Leader – Financial Reporting Valuation Services
Issue 1—The proposed FSP indicates that it would be unusual for information about future cash flows to be unavailable for renewable intangible assets that are within the scope of this proposed FSP at their acquisition date or when an impairment charge is recognized. Do you agree?

Based on our experience in conducting valuations of those intangible assets that would fall within the scope of this proposed FSP, we agree that information about future cash flows for such intangible assets should be available at their acquisition date and subsequent date(s) when an impairment is assessed.

Issue 2—The proposed FSP does not provide specific guidance for renewable intangible assets in situations where cash flow information is not available without undue cost and effort because the Board believes that (a) in those unusual situations, other types of valuation information would likely be available to support the estimates needed to comply with the provisions of the proposed FSP and (b) preparers would be capable of using such information in a manner that is reasonable and supportable. Do you believe that specific guidance is necessary?

No, we do not believe that specific guidance is necessary because it is our experience that the requisite cash flow information is either available or can be developed without undue cost and effort.

Issue 3—The Board considered providing guidance on the notion of “substantial cost” of renewal in accordance with paragraph 11(d) of Statement 142; however, based on FASB staff research, it appeared that there is not significant diversity in practice in this area. Do you agree with the Board’s decision not to address this matter? If not, why? What guidance do you believe should be provided?

We would encourage the Board to provide guidance on the notion of “substantial cost” of renewal in accordance with paragraph 11(d) of Statement 142. Although we have not encountered significant diversity in practice in the application of this criterion, we also have not encountered the interpretation of “material modifications” resulting in the disconnect between useful life and period of cash flows utilized in determining fair value that is discussed in Paragraphs 4 and 5 of the proposed FSP. As such, we and others may not fully understand the Board’s intention in assessing and applying the notion of “material modification” and “substantial cost”. The proposed FSP resolves the issue of “material modification” by revising paragraph 11(d) of Statement 142. There is still a potential for inconsistency in the application of guidance provided in Statements 141 and 142 as it relates to “substantial cost” and the Board’s guidance and views as to the non-diversity in practice in the application of this criterion would be beneficial.
Other Comments on the Proposed FSP

1. Definition - Renewable Intangible Assets Subject to Amortization (Proposed Paragraph 15A to Statement 142)

We recommend that the Board provide further guidance with regard to those intangible assets that meet the threshold of a "renewable" intangible asset as defined in Proposed Paragraph 15A to Statement 142. The examples in the Proposed FSP suggest that a renewable intangible asset has a stated multi-year initial contractual term with a finite number of stated renewal periods. However, Paragraph 2 of the Proposed FSP references Paragraph B174 of Statement 141 in discussing "renewable" intangible assets. Paragraph B174 includes customer contracts as an example of contracts that are fixed in duration but that past history provides evidence that the contracts are generally renewed without substantial cost and effort.

It is not clear if the Board intends to have customer related intangible assets fall within the definition of renewable intangible assets subject to Proposed Paragraph 15A.

2. Impairment Test for Renewable Intangible Assets

In general, we do not fully understand the Board’s rationale for developing an impairment test for this particular type of amortizable intangible asset (that is, the fair-value-based test currently applicable to only indefinite-lived intangible assets) that is significantly different than the Statement 144 test applicable to all other amortizable intangible assets. The lack of sensitivity of the Statement 144 test (as stated in Paragraph B15) is not unique to this particular amortizable intangible asset. In addition, since the potential for finite amortization periods in excess of that currently recognized under Statement 142 seems to be an intended consequence of this Proposed FSP, we do not understand why a new and more sensitive impairment test is required to offset this outcome.

From an operational standpoint, the application of a fair-value-based impairment test at least annually to renewable intangible assets presents additional complications and costs. Because the fair value of this type of assets may, depending on the relevant facts and circumstances, be based on a multi-period excess earnings approach, not only do the prospective overall cash flows need to be re-assessed but also the fair value of the contributory assets. As such, the annual impairment test may require a revaluation of contributory assets such as property, plant and equipment, assembled workforce, trademark and tradename, etc. in addition to revised projected cash flows related to the renewable intangible asset.
3. **"Pattern of Economic Benefit" Amortization Methodology**

In Paragraph B9, the Board considered and rejected the "pattern of economic benefit" amortization methodology, due primarily to concerns related to the stated requirement to update the pattern of amortization if there were changes in the underlying cash flows of the assets. It is not clear why those same concerns are not also relevant to the proposed amortization methodology. Absent a downward adjustment in prospective cash flows at a future date relating to an impairment, there may be (1) significant upward adjustments in prospective cash flows and/or (2) other than immaterial downward adjustments (short of an impairment) as compared to the original cash flow projections. The proposed amortization methodology does not appear to require an update to the pattern of amortization resulting from either of these 2 cases. Only in the case of the recognition of an impairment charge is the original pattern of amortization updated for subsequent periods. As such, it is not clear why the "pattern of economic benefit" amortization methodology has been rejected.

Furthermore, Statement 142 (Paragraph 12) requires that "the method of amortization shall reflect the pattern in which the economic benefits of the intangible asset are consumed or otherwise used up. If that pattern cannot be reliably determined, a straight-line amortization method shall be used". If the "pattern of economic benefit" method has been rejected in favor of the amortization methodology in the Proposed FSP, additional guidance will be needed from the Board on how to apply that methodology to amortizable intangible assets other than renewable intangible assets falling within the scope of the Proposed FSP.

4. **Discounted versus Undiscounted Cash Flows**

We do not fully understand the Board's rationale for advocating discounted versus undiscounted cash flows as the basis for attributing the total fair value to the initial and future renewal periods. Although discounted cash flows are employed in calculating the "present" value, and thus the fair value of the renewable intangible asset, this is not necessarily indicative of the "pattern in which the economic benefits are consumed or otherwise used up". As noted in Paragraph B12, the use of discounted cash flows will result in an accelerated amortization pattern for renewable intangible assets with constant annual cash flows. We believe that undiscounted cash flows provide a more representative basis for attribution as undiscounted cash flows more specifically measure the relative rate at which the asset is being consumed, whether by changes in quantity, price, margin and/or term. Although the application of a discount rate to the undiscounted cash flows is necessary to restate the future cash flows in present-value terms, the discount rate is unrelated to the relative rate of consumption of the asset over prospective renewal periods. As with the stated need for a more sensitive impairment test for this type of amortizable intangible asset, is the proposed use of discounted cash flows also meant to address the potential for provisions of the FSP to result in the recognition of amortization expense over longer periods than currently recognized under Statement 142?
5. Tax Benefit of Amortization

The examples in the Appendix conspicuously omit the tax benefit of amortization as a component of the fair value of the renewable intangible asset. It would be helpful to both confirm the inclusion of this component of the fair value as well as illustrate how its fair value should be apportioned to the various renewal periods for purposes of amortization.

6. Undiscounted Cash Flows Increasing Over Time

The examples illustrate cases in which both the undiscounted and discounted cash flows decline in each successive year. Is it the intent of this Proposed FSP that the amortization methodology would also apply if the pattern of discounted cash flows increased over time? Also, how would this methodology be applied in the case of negative discounted cash flows in one or more years/renewal periods, particularly in the initial term of the asset?