March 13, 2012

Financial Accounting Standards Board
Technical Director
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: File Reference No. 2011-230 Proposed Accounting Standards Update (Revised) - Revenue Recognition (Topic 605): Revenue from Contracts with Customers

Dear Technical Director:

PPL Corporation ("PPL") appreciates the opportunity to comment on the Proposed Accounting Standards Update (Revised), Revenue Recognition (Topic 605): Revenue from Contracts with Customers ("Exposure Draft" or "ED"). PPL is an energy and utility holding company that, through its subsidiaries, owns or controls nearly 19,000 megawatts of generating capacity in the United States, sells energy in key U.S. markets, and delivers electricity and natural gas to about ten million end users in the United States and the United Kingdom.

PPL supports the FASB's initiatives for the issuance of high quality accounting standards that provide transparency in financial statements and meet the needs of investors and other market participants. PPL further supports the goal of attaining a single set of high quality global standards through convergence efforts; as such, PPL appreciates the Board's efforts to initiate a joint project to clarify the principles for recognizing revenue and to develop a common revenue standard for U.S. generally accepted accounting principles (U.S. GAAP) and International Financial Reporting Standards (IFRSs).

We concur with many of the issues raised in the comment letter submitted by the Edison Electric Institute (EEI). We would like to reiterate the comments from the EEI letter in this letter.

While the questions and concerns discussed below include specific comments from our industry's perspective, the underlying issues will be applicable broadly to many other industries, such as those that continuously deliver the same product over forward delivery periods, have month-to-month services that can be cancelled at any time by the customer, and/or have pricing based on a future market price. Examples of industries that we believe are likely to be affected include the telecommunication, cable, gas, coal, steel, metal and agriculture industries, and any industry that sells commodity
products. We appreciate your consideration of our comments in response to the underlying issues that have a significant impact across industries.

Identification and Satisfaction of Performance Obligations (Question 1 in the ED)

As background, long term physical energy contracts often involve the obligation to continuously deliver a fungible, homogeneous product to customers over multiple forward delivery periods. These delivery periods are commonly defined in terms of months for forward pricing, contractual terms, and billing purposes. In many cases, the obligation to physically deliver power is accompanied by the obligation to provide additional products such as ancillary services, capacity, and in the case of renewable energy arrangements, renewable energy credits (RECs). Many of these items can typically be bought and sold separately in most North American power markets but are usually provided to the customer simultaneously with the delivery of power.

Given this background, particularly the ready availability to buy or sell the above items separately in their related markets, we believe that the obligations to deliver power and each related product in each forward delivery period (month) represent separate and distinct performance obligations in accordance with paragraph 28 of the ED, but using the practical expedient within the ED, may be accounted for as a single performance obligation. While there is an ability to obtain extremely granular data on certain commodities (e.g., each kWh delivered in 15-minute intervals), the cost and effort of accounting for each of these product delivery intervals as separate performance obligations does not provide any incremental benefit and does not, in our view, change the pattern of revenue recognition. Therefore, we suggest adding a practical expedient clarification to the "sold separately" concept within sub-part (a) of paragraph 28 to indicate that conventional market pricing and billing practices may also be considered in determining the granularity of identified performance obligations on a forward-looking basis.

We also believe that the individual increments of energy-related commodities delivered to the customer meet the criteria in paragraph 37 of the ED for satisfaction of the performance obligations as of a point in time, as evidenced by the fact that utility meters track each individual kWh delivered to the customer at each point in time. Title and physical possession of these commodities transfer to the customer upon receipt. The provider of these energy-related commodities has a present right to receive payment for these products upon delivery to the customer independent of any future deliveries, and all of these products are included on the customer’s bill. Finally, because the customer immediately consumes the power upon delivery, the customer has inherently accepted the asset and assumed the risks and rewards of ownership. The delivery of energy commodities (e.g., power, gas, capacity, etc.) does not create or enhance an asset over time and it creates an asset with an alternative use to the seller because power could be sold in the spot market to another customer. As the examples of identification and
satisfaction of performance obligations currently in the ED relate to the delivery of different products, we request that the Boards provide an example related to the continuous delivery of the same product over multiple forward delivery periods in order to ensure consistency in financial reporting for such contracts.

Given our view that energy commodities are transferred at points in time, we strongly support the practical expedient included in paragraph 30 of the ED that permits an entity to account for products together (even if they are not considered a single performance obligation) if they are delivered to the customer at the same point in time (i.e., they have the same pattern of transfer to the customer). In particular, this provision will simplify the accounting for many types of energy contracts while maintaining transparent financial reporting. The objective of the practical expedient, as stated in paragraph 38, is to “depict the transfer of control of goods...to the customer – that is, to depict an entity's performance.” This objective is clearly met as commodities and the related products and services are delivered at the same point in time.

Paragraph 41 indicates that an output method of measuring progress may be the “most faithful depiction of the entity’s performance,” and we believe this is also true for deliveries of commodities. Paragraph 42 goes on to indicate, with a similar example, that “if an entity has a right to invoice a customer in an amount that corresponds directly with the value to the customer of the entity’s performance completed to date ... [which the paragraph appears to indicate could be] a fixed amount for each hour of service [or goods] provided, the entity shall recognize revenue in the amount to which the entity has a right to invoice.” This is also true for our industry’s contracts. The existence of specific damages or nonperformance clauses reinforces that this is the expectation of both buyer and seller in many of our contracts – when such clauses provide a formula for calculating damages, it generally measures them by reference to the contract price, strongly indicating that both parties assigned the contract price to each unit to be delivered as the measure of its value.

While output (units delivered) is most indicative of performance in our contracts, even the concepts in the input methods paragraphs of the ED support our view. As we discuss more fully below, we often hedge our margins (revenue less power or fuel purchase costs). Thus, the economics of our business and how we operate are measured on and designed to lock in the relationship between cost and revenue. Consistent with the input methods of measuring progress, this characteristic of our industry further supports the use of the contract price as the measure of revenue for performance under our contracts.

In addition, we believe that the core principle of the ED articulated in paragraphs 3 and 70 should take precedence in interpreting and applying some of the more detailed aspects of the ED, including the concept of “the value to the customer.” We do not believe that this concept of value to the customer should be interpreted to require an assessment of the potential for changes in the standalone selling price of the product in
the future. Virtually every product is subject to pricing changes over time, and a key part of the value proposition to a customer from a fixed price contract is to eliminate the risk of those changes. Thus, even for a long-term contract, the buyer has determined that it is willing to accept the possibility that it may pay a price higher than it would otherwise pay if prices were lower in the future in order to assure that it won’t pay a higher price if prices increase. Subsequent changes in prices of the good or service may result in a positive or negative fair value of the contract, but they do not affect the value of the contracted good or service. The ED governs revenue recognition for the sale of products and should not juxtapose a fair value concept in evaluating value of the good or service. The fact that the customer has locked in a historical price is a key portion of the value of the product or service being delivered. Accordingly, we believe it is important for the final standard to clarify that the core principle would take priority in the interpretation of these provisions and that the value to the customer of the goods or services is not the same as the fair value of the contract.

Transaction Price Allocation

Consistent with the ED’s core principle, paragraph 50 of the ED states that the transaction price is the amount of consideration to which an entity expects to be entitled in exchange for transferring promised goods or services (i.e., performance obligations) to a customer (emphasis added). Further, paragraph 70 states that an entity shall allocate the transaction price to each separate performance obligation in a similar manner (i.e., in an amount that depicts the amount of consideration to which the entity expects to be entitled...for each separate performance obligation, emphasis added). Paragraphs 71 and 72 state that entities shall allocate consideration to each separate performance obligation based on the relative standalone selling price of each underlying good or service and that contractually stated prices may, but shall not be presumed to, represent the standalone selling prices.

We believe that for contracts with multiple performance obligations for the same product delivered separately over time (hereinafter referred to as ‘delivery months”), revenue recognition based on the contract price is consistent with the core principle and the defined transaction price in the ED (also consistent with current GAAP). Allocating a standalone selling price based on something other than the contract price to each such obligation will not represent the amount to which the entity expects to be entitled to receive for that specific contract and will be inconsistent with the economic substance of the underlying transaction. Further, we believe that recognizing revenue based on the forward curve at contract inception will distort operating margins, not be useful to investors, reduce comparability between similar market participants, result in unduly burdensome operational requirements, reflect revenues that are not consistent with the economics of our contracts, and in certain cases lead to entirely different revenue patterns depending on the use of alternative accounting elections. Therefore, in order to help assure that the core principle is applied to energy contracts in a consistent and
representationally faithful fashion, we recommend that the Boards clarify and/or provide an example to indicate that the contract price for a contract with multiple deliveries of the same product over future periods reflects the standalone selling price to be allocated to each of those deliveries.

Before elaborating on specific supporting views, it may be helpful to provide background information on how commodities are generally priced. Pricing for energy contracts (and commodity contracts in general) is primarily determined by reference to the forward market price for the commodity at the date of execution. It is important to note that there is not always an observable market for a given commodity instrument or "contract", unlike traditional financial products which are quoted or priced at the instrument level (e.g., one contract to sell a commodity monthly for 12 months would be reflected in an annual increment of the forward curve and priced accordingly, which may not be the same price that 12 different contracts to sell the same commodity one month at a time over the next year would receive). Instead, the market for commodity contracts references the underlying commodity (asset or good) itself. While influenced by many factors, a given commodity's price is typically referenced to a specific delivery location or region and varies by forward delivery period (typically monthly in the forward markets) in reflection of its seasonal supply and demand characteristics. For these reasons, a commodity's market price for future delivery periods, in absence of a long-term contract, is also typically referred to as the "forward curve" for that commodity. In near term forward periods with sufficient liquidity, the curve is quoted as granularly as monthly as supply and demand needs are more visible. As the time horizon increases and liquidity diminishes, quotes will be limited to longer periods of quarters, seasons (summer or winter strips), and calendar (12 month) strips.

Fixed (Strip) Priced Commodity Contracts
Energy companies frequently provide customers with fixed pricing for their energy commodity needs over their respective forward contract term to benefit from certainty in cash flows. Such fixed pricing is based on the forward curve at the date of execution as discussed above. The curve, multiplied by the stated or estimated volumes in each respective forward delivery period, is then divided by total contract volumes in order to derive the fixed price for each unit. Therefore, the amount of total consideration to which the entity is expected to be entitled under the contract is the price curve of the underlying commodity times total expected volumes in each delivery month (i.e., the standalone selling price of the entire contract, were it to be priced as a traditional financial instrument). Further, the amount of consideration the entity is expected to be entitled to receive is clearly the legally fixed contract price. For example, in the event of a contract termination, we are only entitled to receive payment based on the contract price and have no exposure for the difference compared to the forward curve. However, on a delivery month basis, the fixed contract price will almost never be equivalent to the forward curve of each such forward obligation. We offer the following observations in support of our views as mentioned above:
Impact on Margins & the Investor’s View
We are concerned about the impact that allocating pricing to each performance obligation based on the forward curve as opposed to the contracted price will have on our operating margins. Our investors are most interested in the gross margins the contract and related cash flows will provide (e.g., total cash received less hedges and other costs) and are not concerned about the shape of the forward curve. As mentioned above, differing strategies are commonly used to fulfill or economically hedge energy sales contracts, whether by supplying from owned generation, inventory (in the case of gas and storable commodities), offsetting forward market purchases, or otherwise. However, what is common to each strategy is that economically, our margins have been locked in under the contractual arrangements. This aligns our revenue, our margins, and our cash flows and results in reporting results that are consistent with the economics of our businesses and operations.

Given that electricity cannot be stored, the most prevalent economic hedging strategies are to serve the contracts either from generation or from an offsetting market purchase. In the latter case, once an entity has fixed the price of its sales contract it will concurrently execute an offsetting forward market purchase in the wholesale market for roughly (if not exactly) equivalent volumes. The periodic expense of the offsetting fixed price purchase (also based on the forward curve at execution) will be recognized at the fixed price. Therefore, to recognize the individual monthly revenues from the sales contract(s) based on the forward curve price at execution will not only provide asymmetrical margins that are not reflective of either the contractually locked-in margin or the combined strategy’s economics, but in periods where the curve price is below the fixed (average) sales price this may actually result in negative margins as well as volatile margins on a quarterly basis due to the seasonal nature of our business. We do not believe the earnings asymmetry that will result from applying the forward curve allocation model is appropriate given the fixed margin and cash flows that the contract will ultimately produce. This same principle will hold true for electricity sales served from generation, where the cost to generate electricity is fixed based primarily on a combination of the plant’s fixed heat-rate (an efficiency measure expressed in units of fuel required to produce one unit of electricity) plus a locked fuel commodity purchase cost. In addition, it will result in asymmetric accounting by the seller versus the buyer if the seller recognizes revenue allocated based on a forward curve while the buyer recognizes costs based upon the contract price. While not determinative, we believe this is an additional consideration that calls into question the relevance and representational faithfulness of using something other than the contract price to record revenue.

Lack of Comparability & Operational Concerns
As noted above, the market price for a given commodity is directly tied to its respective location and delivery period, among other related factors. However, the forward curve
for a given commodity is likely to vary among market participants. While the commodities markets (particularly energy) have indeed developed over time and, in general, increased in liquidity, there is often still a high degree of judgment involved in developing an estimate of the forward curve for a given product and location. Different locations are traded more actively than others (influenced mostly by availability of supply and demand), as are particular commodities and grades thereof. Power pricing is also influenced by and sold in peak and off-peak products. For most commodities, liquidity tends to decline further out on the time horizon. Therefore, beyond a given tenor for even the most commonly traded wholesale locations, and assuming at least fundamental similarities in curve seasonality or "shape", different market participants' estimate of the same forward price curve will tend to diverge as the time horizon increases and modeled values therefore replace the availability of external quotes. As an example, the availability of price quotes for most actively traded power hubs in North America tends to decline 1.5 to 3 years out on the curve, although it is common for energy suppliers to lock in energy sales for periods of 5 to 7 years (or even up to 30 years in the case of structured products or generation offtake agreements). In addition, many of the physical sales contracts have been assessed under ASC 815 - Derivatives and Hedging and do not meet the requirements to be considered a derivative due to an illiquid market; therefore, it does not seem appropriate to recognize revenue based on a forward market curve. We believe there is a fundamental difference between a fixed contract price for a commodity under a long-term contract and the forward curve projected market price for the commodity. In our view, the former represents the "stand-alone selling price" for the commodity for the given quantity and given term of the contract, while the latter represents the estimated market price for the commodity in absence of a long-term contract. Interjecting the forward curve price for a commodity into the allocation of the transaction price in a long-term commodity contract would result in undue complexity and earnings asymmetry as discussed above.

Further, a given utility may have hundreds or even thousands of individual sales contracts at numerous locations. In addition, a contract may contain several different products, such as electricity, gas, RECs, ancillary services, etc. When one considers the various contract tenors a given utility typically offers, it is quite possible that a single enterprise could (under a forward price allocation and recognition construct) be required to allocate and track the prices and related revenue recognition of millions of individual performance obligations. Such a requirement would necessitate substantial process and systems enhancements in an environment where no such solution currently exists. We do not believe that the potential benefits to financial statement users (as discussed in the preceding section) justify the cost of recognizing revenue based on a forward curve. When we compound these operational constraints by the number of publicly traded utilities and their individually constructed commodity curves, and the potential for comparability to suffer is dramatically increased.
We believe that recording revenue based on the contract price is appropriate even if it results in a different pattern of revenue recognition for a single contract as compared to separate contracts for that same period (for example, a single contract with a two year term versus two, one-year contracts for the same quantity and time period). In other words, we believe that there are fundamental reasons why the pattern of revenue recognized should, in fact, differ depending on the specific and unique characteristics of each contract. This is consistent with, and supported by the portion of paragraph 72 indicating that the best evidence of the standalone selling price is the observable price of a good that the entity sells “separately in similar circumstances to similar customers.” The term, delivery periods, and quantities of term contracts versus single delivery or spot contracts are unique and different circumstances that result in a different price. A key consideration is that the risk profile on a two-year contract can be quite different than that of two one-year contracts. For example, if contracts are structured separately, a counterparty can default on one contract and not the other. The liquidated damages provisions would reference the contract price to determine the settlement amount which is different for each deal. Also, assuming the transactions are hedged, there would be constant margins in both deal structures (i.e., one two-year deal or two one-year deals) which provide the transparency and comparability investors desire. If transactions are executed at different times, the contract prices would appropriately reflect the view of market prices at the various times of execution. Also, one may structure a transaction as two separate contracts in order to reflect that one portion represents a hedge of an existing position whereas the other contract may be more speculative in nature. The ability to account for these separately allows entities to provide the most transparent view of the intent of the transaction. Absent indicators that a transaction was specifically structured to achieve a certain accounting result, we believe that revenue should be recognized at the contract price in order to clearly reflect the fundamental characteristics unique to the specific contract. Consistent with paragraph 72, we believe that a fixed contract price for a term contract represents the standalone selling price for those specific circumstances, and we recommend that the final standard provide examples of what constitutes “similar circumstances” and what would not be considered similar for purposes of identifying the standalone selling price, particularly if a forward curve exists for some period of time.

Variable (Index) Priced Commodity Contracts
For long-term energy sales whose pricing is tied to market (index) rates, the final selling price will (in almost all cases) by definition be equivalent to the standalone selling price at delivery. See further discussion regarding Variable Consideration under Measurement of Revenue section below.

Measurement of Revenue

Variable Consideration (Question 3 in the ED)
We believe that the ED’s provisions on variable consideration need to be revised and clarified for energy and other contracts for which deliveries are priced at spot market prices at the time of delivery. Absent such modifications, we believe that these provisions could be unnecessarily burdensome to implement and could be misinterpreted to require recognition of revenue in amounts that do not faithfully represent the promised consideration for each delivery (i.e., the market price at the time of each delivery). We illustrate our concern below.

Energy companies frequently enter into contracts to sell energy commodities (e.g., power, gas, etc.) at prices that reflect the spot market price for that commodity at the time of delivery (i.e., a “market-based contract”). In these contracts, the spot market price at the time of delivery represents the “cash selling price” for the commodity delivered. Since the actual spot market prices are unknown until the future deliveries take place, the amount of consideration is variable and would have to be estimated at contract inception in accordance with paragraph 54 of the ED which states, “If the promised amount of consideration in a contract is variable, an entity shall estimate the total amount to which the entity will be entitled in exchange for transferring the promised goods or services to a customer. An entity shall update the estimated transaction price at each reporting date to represent faithfully the circumstances present at the reporting date and the changes in circumstances during the reporting period.” Further, paragraphs 77 through 80 of the ED indicate that such changes in the estimated transaction price should be allocated to the separate performance obligations under the contract, but are subject to the following constraints:

- An entity shall allocate to the separate performance obligations any subsequent changes in the transaction price on the same basis as at contract inception;
- However, an entity shall not reallocate the transaction price to reflect changes in standalone selling prices after contract inception.

We are concerned that a strict application of these variable consideration allocation provisions might result in an outcome that is not consistent with the economic substance of the underlying transaction. For instance, we believe that the amount of revenue that a power supplier should recognize for the delivery of power under a market-based contract should be equal to the quantity of power delivered in each increment (e.g., typically an hour) multiplied by the spot market price of power for the hour of delivery. This is the amount to which the provider is entitled and for which the provider will bill its customer. We believe this meets the spirit of the guidance in paragraph 70 of the ED which states that revenue should depict “the amount of consideration to which the entity expects to be entitled in exchange for satisfying each separate performance obligation.”
Conversely, we believe that a strict application of the criteria outlined above could result in a less representative outcome when applied to market-based commodity contracts. For example, if the entity supplying power to a customer is not permitted to adjust the final transaction price for power delivered in a specific hour to the spot market price for that hour due to the second constraint above (that is, the entity shall not reallocate the transaction price to reflect changes in standalone selling prices after contract inception), then the amount of revenue recognized for that hour will be different than the amount of cash collected from the customer based on the spot market price for power delivered during that hour (i.e., the amount is not “reasonably assured” as required by paragraph 81 of the ED).

Accordingly, we request the Boards to modify or clarify in the final standard the following items with respect to the allocation of variable consideration:

1. For market-based contracts, the market price for the good at the time of delivery represents the “cash selling price” for that good and an entity should adjust the transaction price allocated to the distinct good or service delivered to the market price of that good as of the time of delivery to the customer. For variable priced contracts where the contract price is equal to market at the time of delivery for all points in time (i.e., market-based contracts), the final standard should not require the estimation and allocation of variable consideration. This process is neither necessary nor relevant for such contracts, and it should be clear from the final standard that it is not required. Further, the same indicators cited in paragraph 82 for use in determining when an entity’s experience may not be predictive of the amount of consideration the entity is entitled to collect are also relevant in the case of variable priced contracts. In other words, we would not be able to reliably estimate the amount of revenue we expect to receive for market priced contracts due to factors outside of the entity’s control.

2. If such an allocation requirement for market-based contracts is retained in the final standard, an entity should be permitted to update the estimated transaction price at least as frequently as at each reporting date and upon delivery.

**Time Value of Money**

Another area of concern we wanted to highlight relates to the application of the time value of money provisions to fixed-price energy commodity contracts. As noted under the Transaction Price Allocation section above, companies in the energy industry frequently enter into contracts to sell power to customers at a fixed price in small increments (e.g., hourly) for a stated future term. While the fixed contract price is the same for each kilowatt-hour delivered to the customer throughout the entire term, the expected future market price (i.e., evidence of cash selling price) for each future delivery period will vary from the fixed price that is stated in the contract.

The time value of money provisions in paragraph 58 of the ED indicate that a contract has a financing component “if the promised amount of consideration differs from the
cash selling price of the promised goods or services.” Further, paragraph BC144 of the ED also states, “A contract has a financing component if the promised amount of consideration differs from the cash-selling price of the promised goods or services. In that case, the transaction price would be calculated as the nominal amount of customer consideration adjusted for the effects of the time value of money. The transaction price would be allocated to the performance obligations in the contract and, when a performance obligation is satisfied, the amount of revenue recognized would be the amount of the transaction price adjusted for the financing – in effect, the ‘cash selling price’ of the underlying good or service at the time the good or service is transferred.”

Some may interpret these fixed price forward contracts to contain a financing component because, based on our alternative views on price allocation above, the amount of consideration allocated to each performance obligation in the contract (i.e., the fixed strip price) differs from the cash selling prices that the supplier would be willing to separately and individually sell the power for at each forward delivery period during the term of the contract (i.e., if it were making spot market sales or sales under market-based contracts). As discussed in detail above, we believe that the contract price in these circumstances is equivalent to the cash or standalone selling price and that this concern is not applicable. However, even if one were to adopt the alternative interpretation, we strongly believe that, as long as the total transaction consideration under the contract does not differ substantially from the sum of the cash selling prices throughout the contract term, such fixed price forward power contracts do not inherently contain a financing element because: (1) there is usually no significant time lag between the delivery of the power and the cash payment for the power (typical payment terms are 30 days), and (2) the assessment of the transaction consideration for a fixed price contract should be made at the aggregate level for the entire contract and not at the individual performance obligation level.

Viewing these fixed price forward contracts as containing a financing component would introduce undue complexity and would produce an outcome that we believe is inconsistent with the intended objectives of the ED. Accordingly, to prevent misinterpretations of such fixed price forward contracts as containing financing components, we request the Boards to clarify in the final standard the following item with respect to applying the time value of money provisions:

- For a long term contract with multiple deliverables, if the fixed prices in the contract are based on the view of future prices at contract inception (e.g., current forward curve) and there is no significant time lag between delivery of each performance obligation and payment for those performance obligations, by definition, that contract would not contain a financing element.
Also, the following would likewise be a clarification which would result in an appropriate accounting conclusion:

- The application of the time lag practical expedient in paragraph 60 of the ED (e.g., assessing the time lag between delivery of power and cash payment for the power) should be made at the individual performance obligation delivery level rather than for the entire contract as a whole. For example, assume a customer enters into a three year power contract which is billed monthly based on the power volumes delivered in the prior month. If power is delivered in September and payment is due in October, this arrangement would not be viewed as containing a financing element since the goods are delivered and cash is collected for the delivered goods within 30 days. In assessing whether or not a financing exists in a contract with multiple performance obligations, it is not relevant that all goods are not delivered until the end of the three year period. Rather, the assessment would be made based on the delivery of each individual performance obligation as compared to the cash payment for the delivery of that performance obligation.

Onerous Performance Obligations (Question 4 in the ED)

We believe that the clarifications provided by the Boards in defining a contractual performance obligation and the implementation guidance provided to assist in determining whether the performance obligations are satisfied over time or as of a point in time preclude the application of the onerous test to typical energy commodity contracts. For typical energy commodity contracts, each of the performance obligations within the contract are distinct and are delivered to, and consumed by, the customer in small increments at various points in time. Accordingly, we believe that such energy commodity arrangements would not be subject to the onerous performance obligation requirements. For arrangements that are subject to these requirements, we believe the assessment should be performed at the contract level or higher so that the economics of the entire arrangement are considered. An entity may be willing to sell a good or service included in a bundled arrangement at a loss if the entire arrangement is profitable.

Contract Modifications

We appreciate the Boards developing specific criteria for distinguishing if a contract modification should be treated as a separate contract or as part of an existing contract. However, we respectfully request that the Boards provide further clarification on what they consider to be an 'appropriate adjustment' to an entity's standalone selling price for a good or a service, as discussed in paragraph 21(b), as different interpretations of
this term could result in inconsistent accounting treatment for the same contract modification.

In order to illustrate this point, we have considered the revised guidance for contract modifications contained within the ED, including paragraphs IG 61 and BC 55 through BC 61, and its application to the example below. This example relates to a 'blend-and-extend' modification which is a common type of contract modification in the energy industry. Blend-and-extend arrangements typically involve extending the existing term of a power purchase agreement (PPA) and blending the current contract price with the market price of the extended term. The rate for the extension term is based on the market price for such term; however the fixed price per unit of product (megawatt hour or MWh) for the quantities to be sold during the term of the modified contract blends the rate of the remaining term under the original contract with the market rate for the extended term. Consider the following example:

The Seller enters a PPA in 2000 to sell energy to the Buyer through 2023 at a price of $39 per MWh (considered a market price at the time the original contract was entered). In 2012, both parties to the contract wish to extend the contract for another 5 years through 2028. Additionally, the parties want to change the contract price for the remaining term through 2028. A fixed market price for the extension period would be $75/MWh at the date of modification. No cash will be exchanged upon restructuring. The modified pricing for the term 2012 through 2028 is a fixed price of $44 per MWh, representing a blend of $39 and the $75 rate. The net present value of the extended contract at $39 per MWh through 2023 and $75 per MWh for the period 2024-2028 is not significantly different from the extended contract at a flat rate of $44 per MWh. Such pricing is the economic equivalent of pricing the new volumes at market while retaining the original price for the remaining volumes under the original contract; blending the price is simply a convention to provide the customer with an overall fixed price for the remaining term.

In our evaluation of the accounting treatment for this example, and as discussed in the section above, we have assumed that the supply of energy consists of multiple performance obligations satisfied at points in time (e.g., on a MWh basis).

The Boards have suggested that an entity should only account for a contract modification as a separate new contract if it does not affect the amount or timing of revenue recognition for the existing contract. In order to determine this, the Boards proposed that a contract modification must meet the two criteria in paragraph 21 in order to be accounted for as a separate contract.

In applying these two criteria to the example above, we concluded the following:
a) As the supply of energy is considered to be multiple performance obligations satisfied at points in time, the additional energy to be delivered under the terms of the contract modification would be considered 'distinct', as defined by paragraphs 28 and 29.

b) The contract modification price of $44 per MWh represents a blend of the standalone selling price of the additional energy to be delivered under the contract modification ($75 per MWh) which has then been adjusted to reflect the contract price of the pre-modification remaining deliverables ($39 per MWh). We consider this adjustment to the standalone selling price to be 'appropriate' as it is necessary in order to reflect the economics governing 'blend-and-extend' contract modifications.

Based upon the above analysis, the contract modification would be accounted for as a separate new contract and the Seller would account for the effects of the contract modification on a prospective basis. This would faithfully depict the economics of the contract modification as the change in contract price is negotiated after the original contract and it is based upon new facts and circumstances and the future delivery of energy.

If the adjustment to the standalone selling price is not considered 'appropriate', the contract modification would not meet the criterion stipulated by paragraph 21 (b) and the Boards propose that we must next consider paragraph 22.

As the remaining deliverables at the point of the contract modification are considered to be 'distinct' from the Seller's performance to date, the guidance in the ED tells us to account for the contract modification as if effect a termination of the old contract and the creation of a new contract. While this treatment would result in the appropriate recognition of the blended rate on a prospective basis, accounting for the old contract as a contract termination could affect the accounting treatment of other items. If it is the intent of the Boards for the original contract to be accounted for as effectively being terminated, we respectfully ask the Boards to clarify the accounting treatment for items that would typically be recognized in earnings as a separate line item upon termination of a contract (e.g., cash payments made in relation to a contract modification, mark-to-market related to net settled contracts for which the normal purchases normal sales exception has been elected, and assets or liabilities recognized as a result of contracts acquired under business combinations related to a modified contract).

The analysis above illustrates how different interpretations of what is considered to be an 'appropriate adjustment' to standalone selling price could potentially result in different accounting treatments for the same contract modification. We respectively request that the Boards provide further clarification on the definition of an 'appropriate adjustment' to standalone selling price and its application to contract modifications together with implementation guidance and an example of how the guidance should be
applied to a contract involving continuous delivery of the same product in order to clarify this issue and ensure consistent application of the ED.

Identification of a Contract

We request clarification on the applicability of the ED to an arrangement between two parties that is governed by a third party and that can be terminated by the customer at any time. For example, our utility companies provide electricity to residential customers based on a regulated tariff. The customer determines the amount of electricity consumed on a real-time basis and can terminate the service at any time (e.g., relocation, switch to an alternative provider, etc.). However, typically the utility company can cancel only under certain circumstances (e.g., past due bills) due to state regulation. Revenue recognition is currently based primarily on the billing price, as established by the regulated tariff, multiplied by the amount of actual energy consumed on a monthly basis. We believe that revenue recognition under current GAAP is consistent with the ED’s core principle to recognize revenue “in an amount that reflects the consideration to which the entity expects to be entitled”.

Paragraph 13 of the ED provides that “contracts can be written, oral, or implied by an entity’s customary business practices.” In addition, paragraph 15 states that “a contract does not exist if each party to the contract has the unilateral enforceable right to terminate a wholly unperformed contract without compensating the other party.” There are divergent interpretations in our industry regarding the applicability of these provisions to the delivery of electricity to a residential customer, who pays tariff rates and decides at the point of sale how much, if any, electricity he wants to purchase. We would like clarification on whether this type of arrangement is a contract as defined in the ED.

The determination of whether the delivery of electricity to residential customers under tariff arrangements is within the scope of this ED may impact our accounting and disclosures. If the ED applies (i.e., a contract exists), potential implications may include additional disclosure requirements, assessment of the time value of money for payment plans with delinquent customers for past electricity consumption, and assessment of the contract modifications guidance for changes in pricing due to billing programs. A clarification or example would assist us in determining whether the delivery of electricity to certain residential customers is within the scope of this ED and, if so, whether the current revenue recognition treatment would still apply.

Multiple Product Contracts (Bundled Contracts)

While paragraph 11 of the ED provides guidance with respect to how to apply the revenue recognition guidance when a contract is partially within the scope of the proposed ED, we believe further clarification is necessary with respect to how to identify and account for separable units of account. We believe that there is diversity in
practice with respect to defining a hybrid instrument as defined in ASC 815, *Derivatives and Hedging*. For instance, if a physical commodity contract contains one element that meets the definition of a derivative and another element which does not, we believe there are alternative views on how to account for this contract. In other words, some may view the entire contract as a derivative simply because one of the elements meets the definition of a derivative while others may account for the derivative portion under ASC 815 and account for the non-derivative portion under the revenue recognition guidance. One potential solution would be to look to the revenue recognition guidance to define the unit of account and then look to other relevant guidance to the extent the element is not within the scope of the proposed ED. We would appreciate clarification on this topic.

**Disclosures (Question 5 in the ED)**

We support the proposed new disclosure requirements, with the exception of the proposal to disclose the aggregate amount of the transaction price allocated to remaining performance obligations and the expected timing of when an entity expects to recognize that amount as revenue as we do not believe that the potential benefits, if any, to financial statement users justify the cost to prepare this disclosure.

We are concerned because the disclosure would not contain reliable or complete amounts of future revenues expected in each period for existing contracts. The disclosed amount of future revenues related to existing performance obligations would be an estimate as preparers may need to make significant judgments about contingent revenue (e.g., estimates in pricing for index-priced contracts and estimates in volumes that will be required to be provided) and timing of the satisfaction of future performance obligations several years into the future. Therefore, the data presented may change significantly from period to period. In addition, the revenue information disclosed would be incomplete as much of our revenue is generated through contracts that are accounted for as leases or derivatives and therefore are not included within the scope of this ED. Since the actual amount of revenues earned in a future period would not equal the amount disclosed, we do not believe this disclosure would be meaningful to financial statement users.

Similarly, we are concerned that some users may interpret the amounts disclosed as the total revenues expected in future years, as opposed to expected revenues for existing contracts. The amount of expected revenues for contracts that currently exist is often a small piece of the total revenue expected to be earned in a future year (i.e., a contract does not yet exist for most of the projected future revenue); thereby, further supporting our position that this disclosure would not be meaningful to financial statement users. Management develops long-term revenue and earnings forecasts for the company that are based on expected revenues under existing and future contracts, and as such, the forecast information which is often provided to investors will not be
based on the same revenues as the disclosure. This difference may lead to confusion among our investors and other financial statement users. Also, this type of forward-looking information would typically be included in Management's Discussion and Analysis as it is expressly covered by the safe harbor rule for projections under Rule 175 of the Securities Act of 1933; therefore, the inclusion of forward-looking information in the footnotes, which are not covered by the safe harbor rule, will increase potential litigation risk to companies.

Although the ED indicates that this information may be disclosed quantitatively or qualitatively, we are not certain how the aggregate amount of the transaction price allocated to remaining performance obligations and the expected timing of when an entity expects to recognize that amount as revenue could be presented using qualitative information in a way that is useful to investors. Therefore, if this disclosure requirement remains in the final guidance, we request that the Boards provide an example of a qualitative disclosure.

Financial statement preparers may need to gather and maintain a significant amount of data solely to comply with this disclosure requirement. The amount of information required for the disclosure is more extensive than what is needed to understand the accounting under the proposed guidance.

As we believe that the cost to prepare the information required to comply with this disclosure may be burdensome and the resulting information may be easily misunderstood and not beneficial to financial statement users, we suggest eliminating the proposed requirement to disclose the transaction price allocated to remaining performance obligations and the expected timing of their recognition as revenue.

**Effective Date**

The ED indicates that it will not be effective sooner than for annual reporting periods beginning on or after January 1, 2015. If we will be required to allocate the standalone selling price to each performance obligation based on the forward curve, rather than the contract price, as discussed in Transaction Price Allocation section above, we recommend the Boards establish an effective date no sooner than January 1, 2016. In order to comply with retrospective application, we anticipate the need to keep two sets of GAAP books, in addition to our books for tax and regulatory reporting purposes. Recognizing revenue based on a forward curve would take a significant amount of time and resources to educate and train impacted functions within our organization; review and analyze a large volume of transactions; design and implement the necessary process and systems changes; reassess and update the relevant financial controls and Sarbanes Oxley documentation; and educate and socialize the changes with external stakeholders. Therefore, it would be challenging to complete these items prior to January 1, 2013 for retrospective application considering that the ED is not yet finalized.
We would be pleased to discuss our request in further detail and provide any additional information that you may find helpful in addressing these important issues.

Very truly yours,

Vincent Sorgi
Vice President & Controller

cc:  Mr. P.A. Farr
     Mr. M.A. Cunningham
     Mr. M.D. Woods