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REVISTA DE CONTABILIDADE E CONTROLADORIA

ACCOUNTING AND REGULATORY CHANGES IN BRAZILIAN
CORPORATE LAW: AN INVESTIGATION OF THE IMPLICATIONS FOR
THE REVISION OF THE TARIFF OF THE SANITATION SECTOR IN
PERNAMBUCO

***A CONTABILIDADE REGULATÓRIA E AS ALTERAÇÕES DA LEGISLAÇÃO
SOCIETÁRIA BRASILEIRA: UMA INVESTIGAÇÃO DAS IMPLICAÇÕES NA
REVISÃO TARIFÁRIA DO SETOR DE SANEAMENTO EM PERNAMBUCO***

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ABSTRACT

The research aimed to highlight the implications of reconciling accounting information for regulation with the information for the corporate the process of rates revision of the sanitation sector in Pernambuco. The data collected for this study were obtained in the Financial Statements, Notes, Balance Sheets, Reports and Technical Notes of tariff revision, relating to the period of 2009/2010. Interviews were conducted and surveys were applied on the Regulatory Agency of Pernambuco and on The Company of Sanitation of Pernambuco in order to clarify the details about the accounting and regulatory process to determine and validate the selection

of abnormal test results and the results obtained. These data were processed in spreadsheets, prepared with the intention of reconciling the financial statements for regulatory purposes with the information for corporate purposes. It was observed that the existing regulatory norms for the case studied did not fit to update the Brazilian corporate law, the present amendments to Law 6.404/76, the Pronouncements, Interpretations and Technical Guidance Statements. Thus, it not necessarily represent a barrier to corporate changes, lack of regulation or unsuitability or asymmetry could bring little clarity to the financial statements for regulatory purposes, and possible impacts on the values established for the review of the tariffs charged to society.

Keywords: Sanitation Sector. Accounting Process. Regulatory Accounting.

RESUMO

A pesquisa se propôs a evidenciar implicações das novas práticas contábeis no processo regulatório da revisão de tarifas dos serviços públicos, na regulação do setor de saneamento em Pernambuco. Os dados coletados para a pesquisa foram obtidos em Demonstrações Contábeis, Notas Explicativas, balancetes mensais, Relatórios e Notas Técnicas de Homologação da Revisão Tarifária, referentes ao período de 2009/2010. Foram realizadas entrevistas e aplicados questionários junto à Agência de Regulação de Pernambuco e à Companhia Pernambucana de Saneamento, a fim de esclarecer detalhes do processo contábil e regulatório, bem como para determinar e validar a seleção das alterações estudadas e os resultados obtidos. Esses dados foram tratados em planilhas eletrônicas, elaboradas com intuito de conciliar as informações contábeis para fins regulatórios com as informações para fins societários. Observou-se que as normas regulatórias existentes para o caso estudado não são adequados à atualização da legislação societária brasileira, as atuais alterações da Lei nº 6.404/76, os pronunciamentos, interpretações e as Demonstrações de orientação técnica. Assim, não representam necessariamente uma barreira para mudanças corporativas, a falta de regulamentação ou inadequação ou assimetria poderia trazer pouca clareza das demonstrações financeiras para fins regulatórios e possíveis impactos sobre os valores estabelecidos para a revisão das tarifas cobradas para a sociedade.

Palavras-Chave: Setor de Saneamento. Processo Contábil. Contabilidade Regulatória.

1 INTRODUCTION

The motivation of this research is the social and economic impact from changes in legal accounting practices. In one hand, there have been changes in the laws that guides accounting in corporations and large companies. Moreover, the implications of these changes, both in measurement and in disclosure of assets and income of an organization. These implications, inserted into the regulatory environment of public services, would hit a sensitive spot of regulatory activity, since the information sheet and operating results could be involved with new criteria for evaluation, measurement and recognition.

The regulatory activity is represented by the power consigned from the controlling bodies to intervene in the relationship between producers and consumers in a market. In general, the objectives of the regulation are geared toward to ensure a sustainable basis, protecting the interests of consumers in terms of prices and quality of service, and to ensure that companies, operate efficiently and can finance their activities and fulfill obligations as decided initially by the national or local policy.

In order to develop these activities and for the effective achievement of its objectives, the regulatory agencies need clear, objective and reliable information on various aspects of the utility company. This information should be able to guide the regulatory process and the ability to compensate for operation of agencies, often limited by the sheer size of the operational service.

Among other information used for regulation, the accounting should have an interface with these needs. It would allow communication between the regulator and the regulated operator, through disclosure of financial position, asset performance and activities of an organization, allowing the knowledge of the environment and decision making in the regulation. Thus, the accounting information directed by the regulatory agencies would have the purpose of aligning the accounting practices adopted by the provider needs adjustment, in order to strengthen the control and give more credibility to the information.

In this context, including the perspective of the process of tariff revisions, some regulators sought to establish guidelines for the establishment of accounting information geared to the interests of regulation. These guidelines imply the accounting practice of the operators as devices Normative Resolution of the National Electric Power No. 396 of February 23, 2010, and the Standard Model of the Brazilian Regulatory Agencies, released in 2008.

Was observed between the considerations of Resolution and Standard Reference, the need to disclose, to the society and the regulatory body, a set of information that represent the economic, financial and equity of public service operators, so that allow the analysis and demonstration of the tariff components, the effective return on investment, asset composition, and especially the confrontation of revenue and expenses in providing the service. Therefore, we introduced several elements guiding the conduct book, for example, the composition of a chart of accounts, the criteria for valuation of assets, liabilities and results and the adequacy of regulatory standards to Brazilian corporate law.

This point converges to the understanding that the criteria for regulatory accounting information must be aligned to the rules of the Brazilian corporate law, especially regarding changes and updates suffered this legal framework. According to the Standard Model and Resolution Energy Agency, would be for the regulator to determine the adoption and monitoring of changes in corporate law and convergence with international accounting standards, through the new wording given by the Federal Laws 11.638/07 and 11.941/09, which amended provisions of Federal Law No. 6.404 of December 15th, 1976, and FASB, issued for guidance and adoption of international accounting standards.

Discussions, guided by these regulations and deepened by this research relate to the adequacy of regulation to corporate law, transparency of information and regulatory policy adopted. For this, they determined that, in addition to other specific content, the notes should provide explanations and reconciliations of income and equity position for corporate purposes and for regulatory purposes. Such reconciliation would transpire possible differences and present the criteria for control made by regulatory agencies. These data, together with the supporting reasons, would be disclosed to the public, together with the other financial statements.

Thus, the research sought answers to the following question: What are the regulatory and accounting implications from the reconciliation of the information directed to regulatory activities

and the information used for corporate purposes? The present study sought to highlight, from the reconciliation of financial information to regulatory activities directed to the information used for corporate purposes, as changes to Brazilian corporate law, perceived the new accounting practices, could result in the review of tariffs in the sector sanitation in Pernambuco.

1.1 THE RELEVANCE OF THE RESEARCH.

The accounting topic directed to the regulation of infrastructure services is a relevant issue to be addressed in academic context. The discussion on corporate law accounting changes, the small number of studies on regulatory accounting and the nature of the social and economic public utility make timely research regarding the use of accounting information in corporate and regulatory environment, in their decision making processes and disclosure. The Basic Concept Statement owns to anticipate that openness and prescribes that governments, regulators or tax authorities may determine specific requirements to suit their own purposes.

Silva et al (2009) bring this discussion specifically for companies in the sanitation sector. The authors researched the difficulties in adopting new accounting policies and the likely impacts on the balance sheet and results of these companies. Through awareness of the accounting profession, highlighted that the lack of regulation by the competent bodies, such as regulatory agencies, could bring some barrier in the adoption of new accounting practices.

The workpaper of Ximenes and Galvão Junior (2008) found that, in the sanitation sector, 883 municipalities are regulated, that is, about 4,600 municipalities still operate without an administrative unit of independent regulation. This number represents only approximately 16% (sixteen percent) of all municipalities in the country have adopted the structure provided in Sanitation Law. On the other hand, according to these authors emphasize, not all 883 municipalities have standards laid down regulated according to the art. 23 of Law No. 11.445/07. In the 14 state and municipal agencies surveyed by Ximenes and Galvão Junior (2008), the authors noted that there are few rules relating to economic and financial aspects, such as tariffs and regulatory accounting. In turn, the choice of focusing on tariff revision was determined because the rate is the available formal instrument of trading to regulators. It represents an element of balance to guarantee return on investment for the utility and accessibility of public services to multiple users and should reflect some economic and social aspects of the place of service.

For convenience and to establish a direct relationship with the regulatory requirements of a particular locus by setting the numerous normative acts and technicians which consider the peculiarities and the regulatory process, a study was conducted in the regulatory environment in the sanitation sector in the State of Pernambuco.

1.2. DELIMITATION OF THE RESEARCH

The environment studied was defined by the intersection between the process of regulation and the use of accounting information for regulatory order, in order to understand how the production and the product of accounting information might result in the tariff review process. This environment is presented for the negotiation of fees and other points between a utility company and a regulator.

The implications were observed with a focus on revenue, the costs, expenses and assets comprising the tariff revision for the period June 1, 2009 until May 31, 2010. These data were compared with the values in the same period, taken from the financial statements of the operating company.

This focus narrows the search to the accounting aspects of tariff replacement, in which detailed studies are reported on the confrontation of revenue and costs to perform the public service. So, did not intend to discuss other economic variables, social or political for determining tariffs.

As Technical Pronouncement No. 13, the terminology "Accounting policies" adopted in Brazil, covering the Brazilian Corporate Law, the Pronouncements, Guidelines and Interpretations issued by the Accounting Pronouncements Committee, in view of the pronouncement Basic Conceptual Framework and according to the rules international accounting.

2 LITERATURE REVIEW

2.1 REGULATORY ENVIRONMENT AND THE TARIFF ADJUSTMENT PROCESS.

2.1.1 ENVIRONMENT AND OBJECTIVES SETTING

In recent decades, the infrastructure sector has undergone in a profound change. From 1970, several countries initiated a transformation in the form of state intervention in their economies. This transformation is mainly due to a period characterized by economic crisis and a political, social, cultural and legal environment conducive to change a "Producer State" for a "Regulatory State" in strategic economic and social sectors. Started in the United States and later the British privatizations, this transformation movement branched out to other countries , such as those in Latin America , Africa and Asia (Estache , Foster and Wodon, 2002; GOMES , 2006).

In Brazil, such a shift occurred from the '90s and drifts from similar conditions to those analyzed in other countries. The country was in an environment of crisis of the state. This crisis could be seen in four dimensions: fiscal, due to lack of credit and savings; mode of intervention, with the critical state model, policy, and finally, administrative, referring to the bureaucratic model of management. The crisis was addressed and used as justification for a solution through the comprehensive transformation of state enterprises responsible for producing goods and services, such as steel, mining, telecommunications, electricity, among others (Bresser-Pereira, 1999). The State transfers, thus the production of goods and services for the operation of several other participants, more flexible, therefore, the constitution of their capital and transferring activities to others involved.

The transformation is not, however, the absence of the state in the provision of services. Majone (1999) notes that some sectors of public utilities such as gas, electricity, water or telecommunications, are considered strategically important and therefore assumes state power to impose a planned structure, while protecting the public interests against private interests. For Gomes (2006), these services are essential, both for economic development, and for the fulfillment of public redistributive demands or welfare. The latter author states further that such conflicts of interest and failures of the market itself become essential to create institutions for the establishment of a balance of interests and mitigate these failures. Thus, even if not directly involved in the production of these goods and services, there would be the essential figure of the sector regulation, targeting the public interest and the proper functioning of the market itself.

Other authors bring a different perspective to the need for regulation. Due to heavy investment, high levels of fixed costs and economies of scale, characterized by industry infrastructure, the decision economically feasible or more efficient is the existence of a single provider of infrastructure services. In case, these researchers do not consider the question from the standpoint of processing, but rather demonstrate a concern with the existing monopoly in this sector (RODRIGUEZ PARDINA, RAPTI, GROOM, 2008; BROW, STERN and TENENBAUM, 2006).

Mankiw *apud* Aragão (2008), for example, discusses the unique monopoly characteristic of some segments that this sector confers, such as market power to the holder of its exploitation, which could potentially distort market prices and do not encourage investment and promote information asymmetry. Aragão (2008) corroborates the understanding, while commenting on the emergence of

regulatory agencies. For him, there is a necessarily relationship between the direct regulation model, through agencies, and privatization, both in Brazil and abroad.

A key element in that process is the division of government, regulatory agencies and providers of services with elements functions developed by different institutions (RODRIGUEZ PARDINA, RAPTI and GROOM, 2008; BROW, STERN and TENENBAUM, 2006). Thus, it would require the involvement of various entities, such as the service provider, the regulator, the State and users. For Aragão (2008), this means that regulation is necessary and integral part of this process.

Estache, Foster and Wodon (2002) reported that, on a broader level, the objectives of the regulation are to protect the interests of users in terms of prices and quality of service to ensure that companies, operating efficiently, can finance their activities, to promote efficiency, to meet obligations as decided initially by national policy and regulation to ensure that the scheme is sustainable.

From an economic standpoint, researchers attribute the regulatory activity of public services is to ensure four objectives: (1) sustainability, (2) allocative efficiency, (3) productive efficiency, and (4) efficiency or distributive fairness (RODRIGUEZ PARDINA, RAPTI and GROOM, 2008; Estache, Foster and Wodon, 2002).

The first goal, on the economic and financial sustainability implies that tariffs should generate sufficient revenues to allow an efficient cover to the economic costs of providing services. Economic costs represent the projected cost of services operated, including opportunity costs.

On the second goal, allocative efficiency requires that in an environment of scarce resources and alternative uses for the same services, the rates must be related to the production costs. Thus, the rates should establish a correspondence with the marginal costs of providing the service.

Next goal, the productive efficiency concerns the minimization of costs, a certain level of production, or the maximization of production, taking into account the amount of inputs. For a company to have incentives to minimize costs depend on the rules used to adjust rates in the future. There is, here, a negotiation between allocative efficiency and productive efficiency.

The efficiency of distributive eventually regards to accessibility. Regulatory regimes are designed to allow access to the service universally as a target medium or long term. For many essential services infrastructure, there is a need to relate the rates with the ability to pay all its consumers.

For Estache, Foster and Wodon (2002), the objective of promoting efficiency reveals tensions at the heart of regulation. For them, the difficulty in establishing the efficiency may be attributed to an asymmetry of information or due to the difficulty in understanding the possible improvements in performance and the best time for investment and level of operators. Thus, it would not be possible to establish tariffs and goals that reflect allocative efficiency, distributive and productive properly.

2.1.2. REGULATORY ACCOUNTING

In this context, in order to assist in controlling the activities delegated by the public and reduce the information asymmetry between the regulated and the regulator, the Regulatory Accounting arises.

According Rehbein, Engelmann and Gonçalves (2008) and Vass (2003), the Regulatory Accounting want to align the accounting practices adopted by the provider needs adjustment. This alignment attitude aims to enable and strengthen control and give more credibility to the accounting information. For the authors, this segment of accounting represents the connection between the financial information service from providers and objectives of regulation, thus allowing control and monitoring aspects of sustainability and efficiency of operators.

The National Electric Energy Agency (Aneel), for example, established guidelines for the establishment of accounting information geared to the interests of regulation, which resulted in the accounting practice of the operators as Normative Resolution No. 396 of February 23, 2010.

Among the considerations for drafting the resolution, we observed the need to disclose, to the society and the regulatory body, a set of information that represent the economic, financial and equity of public service operators, so that allowed analysis and demonstration of the tariff components, the effective return on investment and the composition of assets, the regulatory environment, particularly regarding the confrontation of revenue and expenses in providing the service.

Accounting directed to the regulatory agencies comprises a set of principles and rules for submitting information for regulated companies, to assist regulators to deal with the special situation of the market for public utilities and transport. These rules allow the allocation of costs, revenues, assets and liabilities of operators in a way that facilitates the control of the objectives of regulation (VASCONCELOS and SOUZA, 2008).

Most statutes or guidelines relating to the regulatory framework are represented by the following points: (a) monitoring the performance of the operators, in contrast to the assumptions of price controls, (b) detection of anti-competitive behavior, (c) monitoring the financial health of the operator, and (d) pricing.

Some authors write that , in this environment of negotiation between these goals, to prioritize one or the other, regulators should take into account the intrinsic characteristics of the regulatory environment, the degree of competition, the amount and type of investment needed, the local economy the social and political aspects to which the operators are inserted etc. For them, in network industries such as electricity or water, for example, the main focus is on monitoring performance, setting the price " fair and reasonable" in order to ensure that prices reflect costs in a context efficiency. Furthermore, accounting oriented to serve regulatory purposes to other purposes such as benchmarking compared with the competition, transparency of information and services and ensuring timely reports with consistent structure and needs (Estache, Foster and Wodon, 2002).

Regulators can determine their information needs in terms of scope of activities, the content of financial and non - financial, information format, such as classifications of accounts and accounting detail level of groupings of accounts, and the frequency of reporting.

As was noted earlier, the Sanitation Law, for example, in accordance with art. 23 delegates to the regulatory agencies the power to issue rules so that agencies would ensure the financial stability and economic development, low tariffs and the efficiency and effectiveness of service delivery. Among them, it is up to the agencies to issue rules regarding: (a) the measurement, billing and collection services, (b) the monitoring costs, and (c) the chart of accounts and reporting mechanisms, auditing and certification.

Therefore, the normative content of the accounting information geared to the regulatory framework is represented by the description of accounts and criteria through a chart of accounts, and non-financial information, for example, economic reports, environmental and quality of services.

The information generally obey the rules of attribution and measurement established by regulators. They are defined by general principles such as causality, objectivity, consistency and transparency (VASCONCELOS and SOUZA, 2008).

Regulatory Accounting is presented in various elements guiding the conduct book, as standard reference ABAR. Among them, it was observed: (1) control sheet, accounts receivable and loans and financing, and (2) the accounting information of revenue, costs and expenses for the purposes of regulation.

2.1.2.1 THE CONTROL SHEET IN THE REGULATORY ENVIRONMENT

Firstly, the study of the control of balance sheet accounts, the points can be classified under the control of assets, accounts receivable, loans and financing, amounting to some extent, the structure of investment and financing provider.

In this set, the control sheet, for example, is essential to ensure the valuation of assets, accumulated depreciation, the calculation of cost of capital and the physical movements of the operating assets. According to standard reference abar must differentiate Fixed Assets, Fixed Assets Technical and Administrative Work in progress. Thus, it is possible to evaluate the management of assets allocated to the activity provider and investments to improve the operations of the sector.

The control of accounts receivable, in turn, allows the monitoring of the management and financial condition of these titles, as well as the tariff policy. In the sanitation sector, the account must be categorized according to the class of consumption, which are distributed in residential, industrial, commercial and services and the public sector, and should be controlling the accounts receivables, accrued and allowance for loan doubtful. This control allows the knowledge of socially appropriate tariff policy, as well as allows you to follow the provisions of receivables from installment services.

The control of loans and financing allows the regulator to monitor the management of third-party funding sources, including funding through debt titles, confronting the financial sustainability and economic segment (VASS, 2003; REHBEIN, ENGELMANN and GONÇALVES, 2008).

2.1.2.2 THE ACCOUNTING INFORMATION OF REVENUE, COSTS AND EXPENSES FOR THE PURPOSES OF REGULATION

Second, we observed the guiding elements of the income statement and classified the points on revenues, costs, expenses and accounting information to the tariff policy.

Revenues represent economic resources resulting from the practice in service delivery and the resulting tariff policy adopted or required. In the sanitation sector, revenues are differentiated in relation to the direct or indirect application of service and depending on the tariff category. This control allows the monitoring of management tariff, from the benefits generated by the activity linked to the sector, to confrontation with the costs of services (REHBEIN, ENGELMANN and GONÇALVES, 2008).

However, under the regulation, the revenue should be able to cover the costs and expenses pertaining to the provision of public services, aiming to maintain a balance in the industry, with the cost of activities and the fair remuneration of the investment providers.

The relationship between an operator and the regulator depends to a large extent, the regulatory regime and the specific rules of each service. Accordingly, for Rodriguez Pardina, Rapti and Groom (2008), while the regulator has the duty to the economic and financial sustainability of the regulated company, operator charges represent an element to be taken into account for the determination of tariffs, control and monitoring of service delivery.

As mentioned in the discussion on the system efficiency, the accounting data provided to the regulator are not necessarily used in its entirety to determine the rate. According to some researchers, regulators not only have the right to audit the data and may exclude some items or approve only part of the costs (World Bank, 2006). A major function of the regulator is to ensure that companies have an incentive to operate efficiently. Thus, the costs of inefficient operator, previously established as control objects should not be recovered through tariffs targeted customer.

The sanction of “cost ineffective” even when completely deleted, can be part of the incentive scheme and has parallels with results in unregulated markets. These exclusions costs must adhere to clear rules, prior and must have a legal basis. The principles, the process and methodology used by the regulator to decide on the exclusion of some “inefficiency costs ” should be clearly established and made public before the operating license of the regulated company . Regulators want, thereby avoiding the risk that the expense of providers has a cost higher than market value (RODRIGUEZ PARDINA, RAPTI and GROOM, 2008).

The discussion on the partial exclusion of costs refers to the delicate question of “excesses”. In a competitive environment, a company that operates under inefficient management produces or provides goods or services at a cost that can put it out of business due to the presence of competitors that operate more efficiently. The purpose of regulation is then simulating the effects of a positive competitive environment, so that the efficiency benefits can be passed on to consumers through lower tariffs. Regulators may, for example, delete lines ex ante costs sponsorships, marketing expenses, donations, advertising or any costs that are not considered useful for the provision of regulated services (World Bank, 2006).

This goal is executed through the level of costs that will be allowed by the regulator to determine the rate. The regulator excludes all extra costs, such as capital expenditures excessive, excessive salaries, excessive energy costs or running water, and so on. The excess may arise through the inability to optimize the purchase contracts or through the use of more expensive products or services, regardless of cheaper alternatives. The excessive price is exogenous to the minimum cost for the regulated company. In this situation, the regulator would need help from other organizations (Exemple: other regulatory agencies) before deciding whether a cost is "reckless" (RODRIGUEZ PARDINA, RAPTI and GROOM, 2008).

2.1.3. ADJUSTMENT PROCESS AND TARIFF REVIEW

Similarly to what has been stated in the literature review, as amended by State Decree 33.354/09, treated the process of changing rates in two stages: (1) tariff adjustments and (2) tariff revisions.

The adjustments occur annually in order to recover the amount of fees before inflation adjustments. They are corrected by the application of official rates of price change, for example, the National Index of Consumer Price (IPCA). For the year 2010, for example, the average increase rate was 5.0%. It was obtained by weighing the cost of electricity, the impact of inflation was offset by the IGP –M (index), and personnel costs, outside services, materials, chemicals, and general tax, offset by the IPCA, details as observed in Arpe Resolution No. 04 / 10 and Technical Note Arpe / TC No. 06/ 10.

In turn, the tariff revisions, changes in the operating costs of sanitation services are observed and studied in more detail. These revisions are quadrennial reassessment and understand the conditions of the provision of services and tariffs, through the study of revenues and costs for the coming year, as well as for monitoring the targets of regulation.

Remember that, as described in Standard Reference abar tariff revision consists of the tariff adjustment and determination of tariffs and efficiency goals. In this research, the case was thorough repositioning; they are made studies on the conditions of economic and financial sustainability of the operator, with calculations and presentation of revenue, cost and fair return on investment. In general, the repositioning is the comparison between the required revenue to cover costs and investments and the income obtained by applying the rates prevailing market conditions estimated on an annual basis for the next tariff period.

According to the State Decrees 18.251/94, 33.354/09, 34.028/09 and 33.912/09, the tariff structure should represent the distribution of rates by age and consumption volume depleted, in order to get

rate middle and reconcile the economic to the social goals. The service costs are added those relating to remuneration of the investment provider. Costs should be the minimum amount necessary to provide adequate services for all systems operated and economic feasibility. The frame below summarizes the categories or accounts that make up the basic costs of sanitation services.

Frame 1 – Detailing of services costs

Services costs
I. Exploration Expenses
II. Depreciation and Provision for doubtful receivables
III. Investment Compensation
IV. Financial Losses

(Adapted from Technical Note In 003/DEF/2009)

The ordering of the decrees above operating expenses in item I are considered to be those necessary for the provision of sanitation services and cover the costs of operation, maintenance, commercial, administrative and fiscal. The Sole paragraph of art. 56, the State Decree 18.251/94, anticipates some exclusions from operating expenses, in order to establish a system of efficiency and restraint in spending, which should be disregarded: (1) payments of expenses related to fines or donations, (2) interest and monetary loans, (3) advertising expenses, except those required by law or public interest, and (4) other expenses incurred in providing services of any kind, not charged to customers.

According to art. 57, the above mentioned decree, item II of the table refers to the share of depreciation of assets related to fixed assets in operation, provision for doubtful accounts and the amortization of deferred expenses. To illustrate the service costs line, it was used the next frame with details of the account composition comprising the investment recognized by Arpe. This investment is remunerated on the basis of a rate of return on investment.

Frame 2 – Detailing the returns on investments

Accrual of Interest on Investment
I - Recognized Investment (a + b + c)
(a) Property Technical
(b) Deferred
(c) Capital Movement
(c.1) Available unlinked
(c.2) Accounts receivable
(c.3) stock supplies for Operation and Maintenance
II - Rate of Compensation
III - Return on Investment Recognized (I x II)

(Adapted from Technical Note In 003/DEF/2009)

The art. 59, the State Decree 18.251/94, prescribes, first, on the composition of investment recognized, which is formed by fixed techniques, the deferred and capital movement, and then on the conceptualization and assessment each element of the composition.

In case, the item (a) of fixed techniques, corresponds to the values of assets and facilities used, exclusively and permanently, the operation and maintenance of sanitation systems. Thus, the works in progress, other goods that are not already being economically operated in the provision of services, aid for works and, finally, accumulated depreciation not incorporate this value of fixed assets.

The item (b) of deferred, corresponds to the values on expenses that contribute to the formation of the result of more than one fiscal year. The item (c), capital movement, represents the available untied, credit accounts receivable and inventories for operation and maintenance. The first element, the available non-binding, is formed by the real currency and deposits free, limited to the equivalent of one and a half times the average monthly operating expenses. The second element is the value of accounts receivable and can not exceed two times the average monthly sales for the year. Finally, the third element is formed by inventories for operation and maintenance, and is limited to the average monthly balances for the year.

In the exercise of his powers, the Arpe can make possible adjustments to the accounts, with total or partial exclusion of particular value, as well as the implementation of efficiency targets. In the process, 2009, between the regulatory decisions of the Final Report Approval was applied to Meta Regulatory Reduction of Default. This goal, delinquency of receivables from customers should be reduced to lower levels. The agency noted that there is a tendency to reduce these values since 2003. According to the regulatory decision, the values of "Accounts Receivable" shall not exceed 1.05 (one and five hundredths) the average revenue for the same period.

Item III, table calculation refers to the return on investment. This compensation is the result of multiplying the rate of return (item II of the table above) by recognized investment. As the decree on the screen, the expected rate of return is the percentage return on investment and recognized is limited to the ceiling of 12 % (twelve percent) per year.

State Decree discusses potential financial losses, in item 01 of Table IV, and revenue service concessionaire, presented in the table below. By decree, can be considered in the process of tariff revision recovering any financial losses, which are related to the financial costs incurred in the billing process, when deadlines require between consumption survey and issuance of invoices and the dates of their maturity.

The recipes are divided into direct and indirect (Frame 03). Operating Revenues Direct Water represent revenues resulting from the provision of water supply. Revenues Direct Operating Sewage represent revenues resulting from the provision of sewage services. The Indirect Revenues are from the realization of specific services requested by the client or the imposition of penalties. As Proposal Compesa are considered income indirect rates cut, reconnections, measurements of water meters, specific services funded and fines for late payment of water and sewer. This indirect revenues will be used to reduce costs, as stated in the decree, before the analysis of the percentage adjustment.

Frame 3 – Detailing of Revenues Recipes

Recipes
Direct Revenue - Water
Recipes Direct - Sewage
(+/-) Adjustments - Revenue Direct
(=) Total Revenues Direct
Indirect revenues

(Adapted from Technical Note In 003/DEF/2009)

The line adjustments, as provided above, it is possible adjustments to the accounts, with total or partial exclusion of a certain amount of revenue. In 2009 procedure, one of the regulatory decisions concerning the Meta Regulatory Loss Reduction - MRRP. This goal was implemented in order to minimize losses to the volume of water produced. For clarification, as the report, only 56% (fifty-six percent) of the volume of water produced can be billed. Therefore, by decision of Arpe, the MRRP

added a percentage of 6% (six percent) per volume sold, constant measurement projected in the proposal Compesa.

The difference between the values established for the revenue and the cost of services is insufficient revenue. To obtain the value of percentage of tariff adjustments, the total cost of services revenue is subtracted indirect. This difference, in turn, is divided by the total direct revenues. This quotient is subtracted by one. Thus it has that:

$$\text{Tariff revision\%} = \{[(\text{Service Charges} - \text{Revenues Indirect}) / \text{Income Direct}] - 1\}$$

The following table sets out the amounts proposed and approved in the tariff revision for the year June 1, 2009 until May 31, 2010. The first column of figures shows the data of the report approval, the second column shows the adjustment to the expected flow of revenues and costs of the service and the last column shows the difference between the flow and the flow adjusted approved.

Table 1 – Flow tariff approved set - June/09 to May/10

Proposed Tariff (R\$ thousand)	Flow Revision Approved	Flow Revision Adjusted	Difference Flows
Revenue	735.041	790.225	55.184
Direct revenues	686.207	747.775	61.568
Indirect revenues	42.450	42.450	-
Adjustments - Revenue	6.384	-	(6.384)
Cost of services	790.225	790.225	-
Exploration expense	601.500	597.333	(4.167)
Depreciation and Provision / debtors	88.426	88.426	-
Compensation Recognized Investment	104.466	104.466	-
Adjustments - Expenses	(4.167)	-	4.167
Determination of value of Tariff			
(a) Total Cost - Indirect Revenues	747.775	747.775	-
(b) Direct Income	692.591	747.775	55.184
Difference (Insufficient Revenue)	55.184	-	(55.184)
Tariff Review [(a / b) - 1]%	7,97%	0,00%	

(Adapted from the Report of Final Approval of Tariff Review – 2009)

To adjust the flow of revenues and costs of the tariff revision proposal and approved, we considered some modifications in the predicted values. Despite not change the total value of the group of service costs, operating expenses were adjusted by Target Efficiency loss reduction proportionately to each one. This caused a reduction of £ 4.167 million in operating expenses and the cancellation of the adjustment costs. The other service costs are unchanged. The group revenue has undergone a change in its total value. Operating revenues were increased direct adjustment of R \$ 6.384 million and adjusted by the percentage of tariff revision (7.97%), so that total revenue is sufficient to cover the costs of services designed as column "Flow Adjusted revision" of the previous table. Indirect revenues did not change in their forecasts.

In a simplified view of the process, the service costs projected for next year are faced with tariff revenue service. However, revenues are based on the volume planned for next year and prices of existing tariffs (without the tariff adjustment). Projected costs are already based on estimates of future prices and quantities of resources required to perform the service. Thus, the composition and amount of the cost of service, revenue, based on values of existing tariffs, tend not to bear such costs. It is this focus of insufficiency of income that the measure of fit is established.

3 RESEARCH METHODOLOGY AND DATA ANALYSIS

The methodology used to carry out this research was guided by the work of Yin (2001) and Cesar Antunes and Vidal (2010). The research studied the particular case of the regulation and, especially, the tariff process practiced between Pernambuco Sanitation Company and the Regulatory Agency of Pernambuco.

This study observed the changes undergone by the tariff and regulatory process, resulting from the application of conciliation provided for in Resolution ANEEL and standard reference ABAR. Thus, the predicted values were observed in the rate review and amounts realized during the regulatory period. The former were obtained from the forecasts made in the reports of tariff revisions and approved by the regulator. The values obtained were carried out in the financial statements and other documents in order to allow comparing with the forecasts made in the tariff approval. Also, it was observed, through interviews, the perception of the professionals involved in this process tariff and accounting, both sanitation company as the regulatory agency.

3.1 REGULATORY ENVIRONMENT: ARPE VERSUS COMPESA

The research studied the particular context of the regulatory environment and accounting information relating to the sanitation sector in the State of Pernambuco. The regulation of this segment is related to the negotiations between the Regulatory Agency of Pernambuco (Arpe) and Pernambuco Sanitation Company (Compesa).

3.1.1 REGULATORY AGENCY OF PERNAMBUCO (ARPE)

The first participant was studied in this environment the Regulatory Agency of Pernambuco (Arpe). It is a special agency, linked to the Governor's Office, and is endowed with financial autonomy, budgetary, administrative and functional.

This special agency was created by Law N. 11.742, of January 14, 2000, for the purpose of providing conditions of regularity, continuity, safety, modernity, universality and reasonable rates. Among the objectives of the Agency are set, for example: (a) the promotion and zeal for technical efficiency and economy of public representatives, (b) the protection of users and operators dealers, possible market imbalances that can penalize either in order to establish a balance in the market sector, and (c) encouraging the expansion and modernization of public services delegates in order to seek its universalization and improvement of quality standards.

The powers of Arpe fixation, adjustment, revision, approval or referral to the delegated entity, tariffs, values and structures as well as the development and establishment of procedures for measuring the quality of services of the operators, conducting economic studies, accounting, financial and operating policies of any kind and, finally, the expedition resolutions, instructions and terms of conduct adjustment, including setting deadlines for the fulfillment of obligations and targets by the regulated entities. The power of regulating Arpe, in the sanitation sector, covering economic, financial, technical, operational and ombudsman.

3.2.1 COMPANHIA PERNAMBUCANA DE SANEAMENTO (COMPESA)

The second research participant was Pernambuco Sanitation Company (Compesa). It was established by State Law N. 6307, of July 29, 1971, and is a corporation, mixed, closed and authorized capital. The

majority shareholder of Compesa is the State of Pernambuco, with 99.76% of total shares. The remaining percentage is divided among other organs, such as: Sudene, Dipre, Municipality of Olinda, Town of Gravesend, Codevasf and others, totaling 0.24% of the shares.

According to information Compesa, it operates at 172 (one hundred seventy -two), a total of 184 (one hundred eighty -four) Municipalities and State District Fernando de Noronha. Currently, caters to all the municipal towns, with respect to water supply, covering more than one hundred (100) districts and villages and benefiting 6.1 million inhabitants (90.7% of the urban population of the state), with supply systems water, and 1.3 million inhabitants (19 % of the urban population of the state), with sewage systems.

Among other purposes, the Company prepares and implements plans, programs and projects for water supply and sanitation, promoting the implementation, expansion and completion of the systems in the area of their jurisdiction. For the development of its duties, the studies Compesa keeps current with respect to problems relating to water supply and sanitation, treats and controls the quality of drinking water and sewage effluents, and calculates operating costs and prepares studies, aimed at fixing or revision of tariffs for services of their competence, adapting them to the economic- social of State.

3.2 COLLECTION AND PROCESSING OF DATA

In this environment, the object of study was mainly established by the inter - relationship between the process of revision of tariffs and the use of accounting information demanded for this purpose, including the analysis of the changes brought about by new accounting practices.

Were collected various data and bibliographies that addressed the process of negotiation of fees and accounting standards between these entities, through laws, resolutions, ordinances, pronouncements, guidelines, etc. The calculation of the amounts proposed in the tariff review, amounts realized during the period and other financial data and non-financial to the application of new accounting practices were obtained from financial statements, notes, technical, public documents and electronic documents, available on the websites of the organizations surveyed. To supplement and clarify various points of the review process and accounting information were made semi-structured interviews and questionnaires with professionals involved in the regulation and accounting segment studied.

As highlighted in the work of Cesar Antunes and Vidal (2010), to avoid distortions and biases in the survey, were made some triangulation of data and results. For this, we used several evidences like documents, statements, interviews and questionnaires. Triangulations have also been made to: (a) validation of selection of items to be addressed in the survey, and (b) confirm the results obtained for the realized and simulated values, as the following topics.

Some aspects of regulation and use of accounting information were observed in the regulatory frameworks of this segment, the proposals Compesa (1st and 2nd Proposal), Technical Note No. 003 /2009, the Final Report of Approval 2009 (Office Arpe - DP No. 413/2009) and in the Minutes of the 1st Public Hearing Sanitation, of October 16, 2009, tariff studies for the period June 2009 to May 2010, between the Regulatory Agency and Compesa. These data were available electronically on the website of Arpe, or in some cases, were delivered by the agency itself. Likewise, we considered the Financial Statements for 2008 and 2009 Compesa, as well as the trial balances of May 2009 until May 2010, collected by the sanitation company.

The data in the Reports, Technical Notes and Proposed Tariff Review for the tariff periods 2009 and 2010, conducted by Arpe and the Compesa, were organized in spreadsheets. First, the data were established to reconcile the information gathered in the report for approval of tariff revision and the

values in the financial statements using the strand disclosure prescribed in ANEEL Resolution No. 396/00. Secondly, after the reconciliation between the information provided and performed, the data were compared with the changes in accounting policies resulting from Accounting Standards, in order to establish evidence of possible differences in the reconciliation of such data.

3.2.1 INTERVIEWS, QUESTIONNAIRES AND REGULATORY DOCUMENTS

The semi-structured interviews were conducted with the Management Accounting Compesa and Coordination Rates of Arpe, in order to understand the details of the process of tariff adjustments and the use of accounting information for regulation. In these interviews, conducted at the beginning and end of the study were discussed questions about the structure of the tariff process, the use and processing of accounting information directed to the regulation, the adoption of new accounting practices, after the change in legislation Brazilian social and possible impacts in the process of revision of tariffs.

3.2.2. MODEL FOR RECONCILIATION BETWEEN THE ACCOUNTING INFORMATION AND CORPORATE REGULATORY

According to ANEEL Resolution, accounting information, both for regulatory purposes, and for corporate purposes, must be confronted, reconciled and presented, in a note, even with appropriate explanations of differences. With this purpose, the data obtained for the amounts of revenues, costs and return on investment were treated in a spreadsheet to explain the differences between the projections made at the time of tariff revision and the actual values obtained in the trial balances, as the following table.

Table 2 - Flow Tariff (planned x actual) - 01/jun/09 up 31/mar/10

Regulatory Statement Result (R\$ thousand)	Estimate	Made	Difference
Revenue	790.225	790.964	739
Direct income	747.775	756.754	8.979
Indirect revenues	42.450	34.210	(8.240)
Cost of Services	790.225	833.482	43.257
Exploration expense	597.333	605.075	7.742
Personnel	175.399	160.312	(15.088)
Electricity	155.374	143.604	(11.770)
Outsourced services	143.350	143.550	200
Materials and Chemicals	57.568	53.269	(4.300)
Tax expenses	41.518	92.341	50.823
General Expenses	24.123	12.000	(12.123)
Depreciation and Provision f/ debtors	88.426	80.455	(7.971)
Compensation Recognized Investment	104.466	147.952	43.486
Financial losses	-	-	-
Regulatory outcome	-	(42.519)	(42.519)
Determination of value of Tariff Revision	Estimate	Made	Difference
(a) Total Cost - Indirect Revenues	747.775	799.272	51.497
(b) Direct Income	747.775	756.754	8.979
Difference (Insufficient Income)	-	42.519	42.519
Tariff Review [(a / b) - 1] %	0,00%	5,62%	

(Final Report Approval of Tariff Revision - 2009 and balance sheets Compesa)

In the column "Expected" values presented were proposed and approved in the tariff revision of 2009 that in the regulatory environment, are estimated financial data and non-financial to the interval from June 2009 to May 2010, according to the flow tariff revision set (Table 01).

In the column "Held", the values obtained are presented in the balance sheets of the same accounting period. For this, we used the balance sheets May 2009, December 2009 and May 2010. In this case, considering the balance of accounts December 31, 2009, the balances were excluded from early January to the end of May 2009 and the balance accrued from 01 January to 31 May 2010.

Some accounts of the column "Held" were adjusted. For determination of regulatory norm should be excluded expenses incurred through inefficiency or those not covered by the tariff review process, such as interest expense and penalties on late payment and income/expenses not related to the financial operations of the company.

In an interview with both parties, regulated and regulator were agreed deleting some accounts. Regarding the character of inefficiency, were excluded amounts related to Overtime (Personnel Expenses) Interest Expenditure and Late fees (Other Expenses) and the Compensation for Damage to Third Parties (Other Expenses). Regarding the character of no coverage or not permission rules, revenues/expenses not related to the service were excluded, as well as other operating income/expenses not covered by the legal regulatory framework, as income from Rents, Recovery of Expenses and Losses Several.

By the nature tariff, the expected value of revenue and service costs must be matched. Thus, all operating expenses, depreciation, allowance for doubtful accounts, and even the cost of investment return should be covered by the revenue service. Therefore, the column "Laid" result presents a tariff equal to zero, in which the flows of revenues and costs vanish. However, in the "Accomplished", the result tariff increase for the period showed a lack of revenue. This may indicate that even with the adjustment provided for in the tariff review, there was an underestimation of the rate revision. The last line of the table above shows the percentage of increase to direct revenues to effectively cover the costs of the service performed in the exercise tariff.

Among the costs of the service, stood out tax expenditures and the costs of investment return recognized. Unlike other operating expenses, which showed a decrease compared to the predicted value, tax expenses increased by R\$ 50,823 thousand, an increase in proportion of 122 % compared to the predicted value.

Only deductions the PIS / COFINS due billing in the period was R\$ 73,001 thousand. Other taxes, such as property tax, income tax and social, showed a value of R \$ 19,341 thousand. The sum of the total tax would be \$ 92.34 million, this tariff period. Despite the request Compesa R \$ 33 million, the Arpe increased this prediction to R \$ 41,808 thousand, as tariff revision 2009. In the Financial Statements 2008 and 2009 Compesa, deductions and tax expenses have totaled a value higher than anticipated for the tariff study. In 2008, for example, deductions from income, the PIS/COFINS, already had a value of £ 60.59 million and tax expenses, income tax and social contribution totaled R\$ 6,105 thousand. In 2009, deductions were £ 68,888,000 and expenses were totaled R\$ 20,033 thousand. Thus, tax expenditures were worth U.S. \$ 66.695 million in 2008 and R\$ 88,921 thousand in 2009.

Table 3 - Detailing of tax expenditure

Description	2008	2009
PIS/COFINS (deduction)	60.590	68.888
Tax expenses	4.544	8.305
Income tax/social contribution	1.561	11.728
Total (Tax Expenses)	66.695	88.921

(Balance Sheets of Compesa)

The return on investment was treated in a spreadsheet to illustrate the values recorded in the financial statements, as the following table.

Table 4 - Details of the return on investment – May/2010

Recognised Investment (R\$ thousand)	Estimate	Made	Difference
1 - Technical Fixed	1.194.592	1.589.210	394.618
2 - Accumulated depreciation	(408.303)	(442.712)	(34.409)
3 - Movement of Capital	142.294	168.633	26.339
Available	14.240	17.198	2.958
Accounts Receivable	117.966	131.827	13.861
Stock Materials for Op . and Maintenance	10.088	19.607	9.519
4 - Value of Investment Recognized (1+2+3)	928.583	1.315.131	386.548
5 - Rate of return on investment	11,25%	11,25%	-
Investment return recognized (4 x 5)	104.466	147.952	43.486

(Final Report Approval of Tariff Revision – 2009 and balance sheets Compesa)

Data from the investment recognized were obtained in trial balances Compesa and obeyed the limits prescribed in the regulatory normative . There was an increase of 42 % to the predicted value for the investment return recognized. The Technical Fixed Accumulated depreciation were taken and the values of assets in operation and Accumulated Depreciation balance sheet in May 2010 and varied between 33 % and 8 %, respectively. In relation to the predicted values were incorporated U.S. \$ 394.618 million to property Compesa. The capital movement was obtained by the sum of the Available, Accounts Receivable and Inventories. The available amount was withdrawn from accounts in Cash and Banks. The value of accounts receivable shown on the balance sheet was the only higher than the regulatory limit and, therefore, was restricted to twice the average monthly billing period. The value of stocks was taken from the average balance of the balance sheets of May 2009, December 2009 and May 2010.

The confrontation between the regulatory and corporate environments allowed in terms of absolute values, check the difference between the percentage of tariff revision requested and the percentage needed to cover the costs of the service actually occurred during the period.

The reconciliation between the predicted values (approved), and amounts realized during the tariff period could be presented as follows:

Table 5 - Reconciliation of Income and Corporate Regulatory

Reconciliation of Results – 01/jun/2010 until 31/mai/2010	
Service Revenues	R\$thousand
Expected revenues	790.225
(+)Increase in revenue realization Direct	8.979
(-)Decrease in revenue realization indirect	(8.240)
Service Revenue	790.964
Service costs	R\$ th
Expected costs	790.225
(+) Increase the achievement of operating expenses	7.742
(-) Decrease in carrying out depreciation and PDD	(7.971)
(+) Increase in assessing the return on investment	43.486

Service Cost Realized	833.482
Result Regulatory Service Held	(42.519)
Adjustments to other income / expenses not included in the regulatory basis	79.937
(-) Charges excluded by inefficiency (regulatory consideration)	(12.291)
(- / +) Income / Expenses excluded by regulatory impediment	(15.311)
(- / +) Expenses / income not dealt with in the regulatory	(40.413)
(+) Reversal of cost of investment return	147.952
Adjusted profit for the period (Corporate Base)	37.419

(Adapted from Technical Note 003/DEF/2009 Compesa and balance sheets)

Observing the regulatory basis, expected revenues ranged 0.09 % over the amount realized. During the period, despite the increase in direct revenues of US. \$ 8.979 million, a reduction of £ 8.24 million worth of indirect revenue. In addition, service costs have been underestimated. Despite the decrease in depreciation and allowance for doubtful accounts, were additions to operating costs and to pay the costs of the investment. Such events of revenues and costs of the service caused an outcome regulatory negative R \$ 42,519 thousand.

For reconciliation purposes the corporate basis, adjustments were made after the determination of income tariff. According to the regulatory standards, in determining the results were excluded from the cost of inefficiency character, as the cost of overtime, with interest and penalties and compensation for damages to third parties. Also included were the costs/revenues for financial regulatory impediment and other operating income / expenses not included (Recipes Rents, Recovery of expenses and losses other). Before the determination of net income for the period, the increase was related to the reversal of the cost of investment return recognized, since, in its essence, this cost is the opportunity cost and is not covered by corporate law.

Accounting information permeate the tariff review process to support the calculations projection service costs with historical data consumption (forecast operating expenditure) and mainly with the evaluation of balances of equity accounts (for measurement of recognized investment) as Technical Notes and Proposed Tariff Review 2009. The accounting information from the reconciliation, also allowed the observation of differences between projected amounts and the amounts actually incurred for the year tariff and allowed to proceed some comments on these differences, transpiring accounting information based on regulatory and corporate basis.

4 CONSLUSION

The research was motivated by the potential implications of disclosure under regulatory originated by the reconciliation of accounting information for regulatory purposes and for corporate purposes, based on the rate review process. This model allowed the observation of the differences between proposed and realized values.

By adopting the precepts of Technical Pronouncements, ANEEL Resolution No. 396/10 and Decree No. 18.251/94 State PE was possible to observe the convergences and divergences of criteria of accounting information for corporate purposes and for purposes of regulation. Under regulatory accounting information would serve to guide the proposed revision of tariffs and confront the values proposed with the regulatory outcome in the period. The study of corporate base allowed the understanding of the application of new accounting practices established in the technical pronouncements, and their implications for regulatory result held for the tariff period. The reconciliation of basic corporate and regulatory basis, showed differences in the assessment of revenues, expenses, assets and costs.

The normative regulatory studied did not spoke about the adequacy of the new accounting practices, included in Accounting Standards and the Corporate Laws 6.404/76 , 11.638/07 and 11.941/09 . Despite subsequent changes in regulatory norms, no upgrading, according to the new corporate law, for the composition of values and accounts that permeate the tariff review process.

It was observed that the lack of a normative framework of accounting regulation and the lack of alignment in knowledge about regulation and corporate law, by the professionals involved with the environment studied , does not necessarily represent a barrier to new accounting practices , but could bring asymmetry or lack of clarity between the accounting information for corporate purposes and for regulatory purposes , as well as possible impacts on the values established for the review of fees charged to the company.

The provisions in the Resolution ANEEL and the standard reference ABAR determined reconciling accounting information for corporate purposes and for regulatory purposes, including with respect to the disclosure of this reconciliation in the notes attached to the financial statements. This aspect allowed us to observe possible implications of compliance with new accounting standards and the need to segment studied to regulate such practices in order to ensure that the values adopted represent its economic essence, minimize the asymmetries of financial reporting and transparency to enable better tariff review process.

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