

# *Chapter 7*

## *Taxes/PILs*

### *7.1 Rules and Principles*

#### **7.1.1 General Principles Underlying the 2006 Tax Calculation**

The government introduced Bill 35 the Energy Competition Act 1998, which had many affects on LDCs including the introduction of PILs. The Energy Competition Act recognized that LDCs had an obligation to serve all customers regardless of location or circumstances. Therefore, one of the key guiding principles of the Act was to make LDCs free of risk.

PILs were designed to place LDCs on a level playing field with private companies and they were enacted into law October 2001. The initial PILs philosophy was that they be treated a pass through so that LDCs would remain risk free.

Smaller LDCs, like us, have continued to treat PILs as a pass through and have not engaged in tax strategies. Primarily, we do not have the where with all, the experience, budget or staff to deal with PILs. Plus our taxes are low, which minimizes the strategies and cost recovery mechanisms.

LDCs that have continued to treat PILs as a pass through do not have the costs of these tax specialists in their 2004 revenue requirement numbers. Therefore, should the Board decide to change from a pass through, these LDCs would need to have an adjustment to the revenue requirements to help offset these additional costs. Further, there is no conclusive proof that low PILs paying LDCs can effectively minimize taxes to affect customers' rates.

Larger LDCs have had the luxury to redeploy or hire additional staff to manage PILs, as we believe that they may more significantly take advantage of tax strategies to recover costs. As proof, we offer the detailed report that KPMG has provided on their behalf.

Therefore, we recommend that the Board keep PILs as a pass through. Should the Board decide to deviate from the intended purpose of Bill 35 and make LDCs assume the PILs burden, we believe that LDCs should retain 100% of the benefit or assume 100% of the loss.

We do not believe it to be fair for LDCs to assume 100% of the risk and customers benefit if our tax strategies are successful. Therefore, the only true fair way is to continue to treat PILs as a pass through and that the variance accounts should be trued up annually.

#### **7.1.2 Principles Applicable to Specific Components of the Calculation**

We agree that LDCs should not be able to double dip. However, if taxes are not treated as a pass through, we believe that any tax shield should remain solely with the LDCs for reasons as previously stated.

#### Disallowed Expenses

We believe that there should be no disallowed expenses except for any items stipulated in Section 6.

#### Eligible Capital Expenses

Currently, we believe that 100% of the savings is sitting in the PILS variance account and waiting to be pass through to the customer. This again is why we support the pass through methodology.

However, should the Board decide to make LDCs assume risk, we recommend that 100% of the savings be retained by the LDCs as they are now assuming all risks.

#### Charitable Donations

Historically, LDCs have always made charitable donations to the direct benefit of the customers by our support of community activities. Some examples are but not limited to the installation of community Christmas lights, sponsorships to local minor sports, Canada Day celebrations, local community sponsored Heritage events, hospitals and local economic and tourism activities. These activities promote a viable and healthy community required by all citizens to maintain the expected quality of life customers demand. This again is why we support the pass through methodology.

However, should the Board decide to make LDCs assume risk, we recommend that 100% of the savings be retained by the LDCs as they are now assuming all risks.

#### Capital Gains and Losses on Disposition of Assets

For reasons as previously state, LDCs were to have minimized risk. We reject the 50:50 sharing for reasons outlined in Section 4.7. This again is why we support the pass through methodology.

However, should the Board decide to make LDCs assume risk, we recommend that 100% of the risk or savings be managed by the LDCs as they are now assuming all risks.

#### Sharing of Tax Exemptions

We support the notion that the federal LCT tax should not be prorated between the LDC and its subsidiary corporations. We believe that this may place our subsidiary corporations at a tax disadvantaged that is enjoyed by their competitors.

### Loss Carry Forwards

In the PILs pass through methodology this becomes a non-issue. We believe that 100% of the savings is sitting in the PILS variance account and waiting to be pass through to the customer. This again is why we support the pass through methodology.

However, should the Board decide to make LDCs assume risk, we recommend that 100% of the savings be retained by the LDCs as they are now assuming all risks.

### Interest Deduction

We believe that the actual interest should be used. This again is why we support the pass through methodology.

### Estimated Taxable Capital

If the pass through methodology is used this issue is eliminated as the variance accounts track the differences.

### Property Taxes

The 2006 rate handbook suggests that LDCs can recover actual property taxes, which is the pass through methodology. We believe that this action is prudent and further adds to our claim that PILs should follow the same pass through methodology.

## ***7.2 Tax Payable Filings***

### **7.2.1 Minimum Information to be Provided with 2006 EDR Filings**

The filing of audited financial statements for the wires only company might place unnecessary risks on a subsidiary companies business. Therefore, any submission must be held in confidence and not disclosed to the general public unless the LDC has granted the expressed written consent. The audited statements should only be used by the OEB to assess compliance matters.

### **7.2.2 Future Tax Information Disclosure**

If the pass through methodology is used this issue is eliminated as the variance accounts track the differences. The variance accounts should be trued up annually so that the customers may benefit by lower rates. Conversely, the LDC should collect any differences in the following year to minimize its exposure.

### **7.2.3 Supporting Documentation**

Any submission must be held in confidence and not disclosed to the general public unless the LDC has granted the expressed written consent. The supporting documentation should only be used by the OEB to assess compliance matters.

## *Chapter 10*

# *Rates and Charges*

### *10.2 Unmetered Scattered Loads*

Unmetered scattered loads place an increased liability/burden on LDCs to monitor changes in their profiles. Many times these customers can arbitrarily make changes to their equipment and they do not notifying the LDC. The only method a LDC can use to verify changes is to conduct load calculations regularly. We find it difficult to accept the proposals as submitted. We feel that unmetered scattered loads should remain in their same rate class and invoiced on a per site basis. We can support however changing some unmetered scattered loads that have a steady load to a time of use rate, which should minimize their costs.

## *Chapter 14*

# *Comparators and Cohorts*

### *14.2 Filing Requirements*

A report recently prepared for Board staff by Robert Camfield of Laurits R. Christensen Associates, Inc. is recommending the development of a model utilizing regression analysis to highlight cost anomalies amongst LDC's that will assist Board staff in processing 2006 rates. Cohorts can be developed by 'statistical clustering'.

The model will breakdown costs into 4 main areas 1) distribution services, 2) settlement (billing/collecting), 3) customer service (new connections/terminations, advertising etc., 4) administration (management, finance, regulatory etc.). Common inputs will include description of service territory, mWh sales and peak, conductor composition (km, 1-phase, 3-phase, u/g, o/h), number and types of transformers, annual customer additions/deletions and will involve the statistical years of 2002 and 2003. Camfield has added that the current statistical data submitted for PBR is "incomplete and inconsistent" and it "should not be that burdensome to LDC's to submit" the new information.

While we generally support some form of comparison to ensure our cost structures are reasonable, unbundling our services into the 4 broad categories and gathering this

information for mid-year is burdensome considering we already have the filings for the 2005 rate application, regulatory assets and C & DM prior to the 2006 filing. In order to ensure that the required information gathered is specific and accurate, clear guidelines and definitions need to be developed. This procedure must recognize, for example, that a number of LDC's do not have an accurate means of determining some of the requested data for example 'conductor compositions'. This means that data may not be a true 'apples-to-apples' comparison. We believe that the OEB needs to issue guidelines to assist in cleansing the data and allow LDCs to collect any missing data first. Therefore, we recommend that comparators and cohorts be considered in perhaps the 2008 rates filing.

Should the OEB decide to move forward for the 2006 rate filing, then we suggest that the data only be available to OEB staff and the effected LDC. The affected LDC would only be told the quartile they are in for each comparator or cohort. In future years, we feel that the information could be released to all LDC to allow them to ascertain best practises. However, in the initial stages we remain concerned that data that is not 'apples-to-apples' can be misleading and allow others to draw conclusion, which may be incorrect.