

OUTLINE OF UNION ARGUMENT

A. The Issues

1. No base rate adjustment
2. No Z-factor treatment for tax changes

B. The Settlement Agreement

C. No Base Rate Adjustment

D. No Z Factor Treatment For Pervasive Tax Changes

1. The objectives of incentive regulation
2. Union's evidence on tax changes
3. Board Staff evidence
4. Intervenor evidence
5. Union's capital weights do not produce a disproportionate benefit
6. Lags should not form a basis for Z-factor treatment
7. Lags are pervasive:
 - (a) most cost changes are subject to lags;
 - (b) "regulatory" lag;
 - (c) the GDP deflator at any given point in time is the combination of some prior changes in the economy, some current changes in the economy and some prospective (anticipated) changes in the economy
 - (d) trying to account for all lead and lag effects in cost changes would be difficult to impossible and would seriously undermine the objectives of incentive regulation
8. If lags are to be a relevant factor in the Z factor analysis, they must be considered fairly and symmetrically:
 - (a) the question is whether the GDP deflator is exerting appropriate downward pressure on the rates during the IR period;
 - (b) the impact of all pervasive tax changes on the GDP deflator must be considered; and

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- (c) lags from prior tax changes, as well as anticipatory effects (if changes were pre-announced) must be considered.

E. Regulatory precedent supports denying Z-factor treatment for pervasive tax changes

F. Onus: Z factors are extraordinary adjustments - the onus lies on those who seek Z-factor treatment

G. Conclusion: No Z-factor treatment for tax changes