

CHAPTER 17 ASSESSMENTS

[Prior to 10/8/86, Commerce Commission[250]]

199—17.1(475A,476,546) Purpose. The purpose of this chapter is to describe the method the board uses to assess expenses incurred by the board on utilities and other parties pursuant to Iowa Code sections 476.10, 476.10A, and 476.95B and chapter 477C. The consumer advocate shall determine and certify the consumer advocate's direct and remainder assessments to the board pursuant to Iowa Code section 475A.6. In determining whether to directly assess a person, the consumer advocate may consider the factors under rule 199—17.4(476).

[ARC 4615C, IAB 8/14/19, effective 9/18/19]

199—17.2(475A,476) Definitions. The following definitions apply to the rules in this chapter.

17.2(1) A “direct assessment” is the charge to a person bringing a proceeding or matter before the board or to persons participating in proceedings or matters before the board and includes expenses incurred by the board attributable to the board's duties related to such proceeding or matter.

17.2(2) An “industry direct assessment” is the charge to the utilities in a specific industry for expenses associated with regulation of that specific industry that are not directly assessed. An industry direct assessment includes a direct assessment in a specific industry for which no person is directly assessed under rule 199—17.4(476). The industries assessed are as follows:

- a.* Electric utilities are assessed for expenses associated with electric service, including expenses associated with the board's participation in or consideration of regional and federal issues.
- b.* Natural gas utilities are assessed for expenses associated with natural gas service, including expenses associated with the board's participation in or consideration of regional and federal issues.
- c.* Water utilities are assessed for expenses associated with water service, including expenses associated with the board's participation in or consideration of regional and federal issues.
- d.* Sanitary sewer utilities are assessed for expenses associated with sanitary sewer services.
- e.* Storm water drainage utilities are assessed for expenses associated with storm water drainage services.
- f.* Telecommunications companies, including all companies providing local exchange service and interexchange service in Iowa whether by landline or voice over Internet protocol, are assessed for expenses associated with telecommunications service, including expenses associated with the board's participation in or consideration of regional and federal issues.

17.2(3) A “remainder assessment” is the charge to all persons providing service over which the board has jurisdiction for the total expenses incurred during each fiscal year in the performance of the board's duties under law after deducting the direct assessments, industry direct assessments, and other revenues.

17.2(4) “Overhead expenses” are all operating costs of the board not directly attributable to a proceeding or matter, or a specific industry, which are included in direct and industry direct assessments.

17.2(5) “Gross operating revenues from intrastate operations” include all revenues from Iowa intrastate utility operations during the last calendar year, except:

- a.* Uncollectible revenues,
- b.* Amounts included in the accounts for interdepartmental sales and rents, and
- c.* Gross receipts received by a cooperative corporation or association for wholesale transactions with members of the cooperative corporation or association, provided that the members are subject to assessment by the board based upon the members' gross operating revenues, or provided that such member is an association whose members are subject to assessment by the board based upon the members' gross operating revenues.

17.2(6) As used in this chapter, a reference to expenses of the board includes expenses of the entire utilities division.

17.2(7) A “person” includes individuals and legal entities as defined in Iowa Code section 4.1(20), except the definition does not include the consumer advocate.

17.2(8) An “individual” is a human being as distinguished from legal entities.

17.2(9) Industry direct assessments and remainder assessments for gas and electric utilities exempted from rate regulation by the board and for providers of telecommunications service required to register with the board pursuant to Iowa Code section 476.95A that are exempted from rate regulation under Iowa Code chapter 476 shall be computed at one-half of the rate used in computing industry direct assessments and remainder assessments for other persons.

[ARC 4615C, IAB 8/14/19, effective 9/18/19; ARC 6035C, IAB 11/17/21, effective 12/22/21]

199—17.3(476) Expenses to be included in direct assessments. Direct assessments include the following expenses:

17.3(1) Salaries of board employees and related costs borne by the state.

17.3(2) Travel expenses incurred in an investigation or in rendering services by the board or by others employed by the board. Travel expenses include costs of transportation, lodging, meals and other normal expenses attributable to traveling.

17.3(3) Costs of consultants, contractors, facilities, and equipment if directly related to a proceeding or matter.

17.3(4) Overhead expenses of the board.

[ARC 4615C, IAB 8/14/19, effective 9/18/19]

199—17.4(476) Direct assessments under Iowa Code section 476.10.

17.4(1) The following persons shall not be directly assessed for participating in a board proceeding or matter unless the board issues an order finding that the person may be directly assessed for that participation:

a. An individual who files a complaint against a public utility, so long as the individual's participation in the proceeding is in good faith.

b. An individual who files a protest or inquiry or intervenes in a proceeding involving a rate change by a public utility, so long as the individual's participation in the proceeding is in good faith.

c. Any person filing written or oral comments in a rule-making proceeding.

d. An intervenor in a board proceeding. However, the board may decide to directly assess a person who intervenes if the board determines that the person's intervention or participation is not in good faith, the board determines the intervention significantly expands the scope of the proceeding without contribution to the public interest, or the board determines there are unusual circumstances warranting assessment.

17.4(2) The board considers the following factors in deciding whether to directly assess a person as defined in subrule 17.2(7), and the amount to be directly assessed, pursuant to Iowa Code section 476.10.

a. Whether the person's intervention and participation in a board proceeding expanded the scope of the proceeding without contributing to the public interest.

b. Whether the person's intervention and participation in a board proceeding was in good faith.

c. The financial resources of the person.

d. The impact of assessment on participation by intervenors.

e. The nature of the proceeding or matter.

f. The contribution of the person's participation to the public interest.

g. Whether directly assessing costs would be fair and in the public interest.

h. Other factors deemed appropriate by the board in a particular case.

[ARC 4615C, IAB 8/14/19, effective 9/18/19]

199—17.5(476) Reporting of operating revenues. On or before April 1 of each year, every public utility shall file with the board a report that includes the utility's gross operating revenues from Iowa intrastate operations during the preceding calendar year. Such revenues are to be reported on the accrual basis or the cash basis consistent with the report filed with the board.

[ARC 4615C, IAB 8/14/19, effective 9/18/19]

199—17.6(475A,476) Compilation and billing of assessment.

17.6(1) The board shall determine its own expenses to be billed and shall add the certified expenses incurred by the consumer advocate. The board does not review the expenses certified to it by the consumer advocate.

17.6(2) Unless otherwise ordered by the board, bills must be paid within 30 days of receipt unless an objection is filed in writing pursuant to Iowa Code section 476.10. In the event an objection is filed under rule 199—17.10(475A,476), the portion of the bill not contested must be paid within 30 days of receipt. The board shall develop procedures for the collection of unpaid bills.

17.6(3) A person participating in a board proceeding or matter may file a request in that proceeding or matter for the board to determine how the expenses of that proceeding or matter will be assessed.
[ARC 4615C, IAB 8/14/19, effective 9/18/19]

199—17.7(476) Funding of Iowa energy center and center for global and regional environmental research. The board will send a bill to each gas and electric utility for funding the Iowa energy center and center for global and regional environmental research. Within 30 days of receipt of the bill, each gas and electric utility shall remit to the utilities division of the department of commerce a check made payable to the treasurer of state for one-tenth of one percent of the total gross operating revenue during the last calendar year derived from its intrastate public utility operations for the funding of the Iowa energy center and center for global and regional environmental research.
[ARC 4615C, IAB 8/14/19, effective 9/18/19]

199—17.8(476) Assessments under Iowa Code section 476.95B.

17.8(1) This rule applies to assessments under Iowa Code section 476.95B.

17.8(2) In making assessments under Iowa Code section 476.95B, the board will allocate costs and expenses to all parties and participants. The allocation will not necessarily be an equal allocation.

17.8(3) The specific method of allocation will be made on a case-by-case basis, and will be included in the final order in the docket, unless otherwise ordered by the board.

17.8(4) The factors the board will consider may include, but are not limited to, Iowa revenues, grouping of parties and participants on the basis of position on the issues, and the factors under rule 199—17.4(476). Joint participation by parties with similar positions on the issue will be encouraged by favorable allocations.

[ARC 4615C, IAB 8/14/19, effective 9/18/19]

199—17.9(477C) Assessments of expenses for dual party relay service program and equipment distribution program.

17.9(1) Wireless carriers and wireline local exchange carriers providing telecommunications services in Iowa shall comply with Iowa Code section 477C.7 for payment of assessments to fund the dual party relay service program and equipment distribution program. Those carriers shall pay assessments in the amount of three cents per month for each telecommunications service phone number. “Telecommunications service phone number” means a revenue-producing telephone number.

17.9(2) Wireless carriers and wireline local exchange carriers shall file the number of telecommunications service phone numbers with the payment required by Iowa Code section 477C.7. The number of telecommunications service phone numbers may be filed as confidential and may be withheld from public inspection pursuant to the procedures in 199—subrule 1.9(8).

17.9(3) The board shall periodically audit the payment of Iowa Code section 477C.7 assessments for any purpose the board deems necessary, including, but not limited to, examining whether wireless carriers and wireline local exchange carriers providing telecommunications services in Iowa are paying assessments in appropriate amounts.

[ARC 4615C, IAB 8/14/19, effective 9/18/19]

199—17.10(475A,476) Objection procedures.

17.10(1) A person subject to an assessment shall either pay the amount assessed or file an objection to the assessment as set forth in this rule within 30 days of the date the board provides notice of the amount due to the person.

17.10(2) An objection must be in writing and must set forth the specific grounds upon which the person claims the assessment is excessive, unreasonable, erroneous, unlawful, or invalid. The objection shall identify whether the person objects to the assessment of expenses certified by the board, to the assessment of expenses certified by the consumer advocate, or both. If the person wishes to orally present argument to the board, the request for oral argument must be included in the objection. Absent a request for oral argument, the board will consider the objection based solely on the submission of written evidence and argument. The person may include with the objection such evidence or information the person believes relevant to support the person's claim.

17.10(3) Upon receipt of an objection as described in subrule 17.10(2), the objection will be assigned a docket number in the board's electronic filing system, which shall include all filings pertaining to the objection. The consumer advocate shall receive notice of the objection through the board's electronic filing system.

17.10(4) This rule does not preclude the consumer advocate or board staff from directly resolving an objection concerning the assessment of expenses certified by the consumer advocate with the person raising the objection. In the event an objection is informally resolved, the fact that a resolution has occurred shall be filed in the docket.

17.10(5) If the objection concerns the assessment of expenses certified by the consumer advocate, within 30 days from the date of the objection, the consumer advocate may file responsive argument, evidence, and other information with the board. In the event the person filing an objection has not requested oral argument, the consumer advocate may request oral argument.

17.10(6) If oral argument is requested or if the objecting person or the consumer advocate requests additional opportunity to submit written argument and evidence, the board will issue a scheduling order. At the time and place for oral argument, the objecting person and the consumer advocate, if applicable, will be afforded the opportunity to present argument to the board.

17.10(7) Following the final submission of written material or oral argument, the board shall issue an order in accordance with its findings. In the event the board affirms the assessment, in whole or in part, the person shall pay the amount identified in the board's order within 30 days from the date of the order.

17.10(8) The objection procedures set forth in this rule may not be used by a person to challenge or revisit a direct assessment determination made in a final board order, including those issued under subrule 17.6(3). An objection to a direct assessment determination made in a final board order must be brought pursuant to Iowa Code section 476.12 or the judicial review procedures in Iowa Code chapter 17A.

17.10(9) Board expenses incurred in an objection proceeding shall be included in industry direct assessments.

[ARC 4615C, IAB 8/14/19, effective 9/18/19]

199—17.11(476,477C) Refunds. If a person makes a payment in excess of the assessed amount, the board may issue a refund to the person for the excess amount or credit the excess amount toward the person's next assessment. For overpayments of less than \$50, absent exigent circumstances, the board will not issue a refund and will hold the excess amount as a credit toward the person's next assessment through the fiscal year in which the overpayment occurred. If a credit remains at the end of the fiscal year in which the overpayment occurred, the board will issue a refund for any excess amount remaining.

[ARC 4615C, IAB 8/14/19, effective 9/18/19]

These rules are intended to implement Iowa Code chapters 17A, 475A, 476, 478, 479, 479A, 479B, and 546.

[Filed 9/14/65]

[Filed 8/13/82, Notice 6/23/82—published 9/1/82, effective 10/6/82]

[Filed 10/21/83, Notice 8/17/83—published 11/9/83, effective 12/14/83]

[Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]

[Filed 12/22/88, Notice 10/5/88—published 1/11/89, effective 4/1/89]

[Filed emergency 3/15/91 after Notice 1/23/91—published 4/3/91, effective 3/15/91]

[Filed emergency 4/12/91 after Notice 1/23/91—published 5/1/91, effective 4/12/91]

[Filed 7/31/02, Notices 1/9/02, 3/6/02—published 8/21/02, effective 9/25/02]

[Filed ARC 4615C (Notice ARC 4416C, IAB 5/8/19), IAB 8/14/19, effective 9/18/19]

[Filed ARC 6035C (Notice ARC 5813C, IAB 7/28/21), IAB 11/17/21, effective 12/22/21]