

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 and implement the method the board uses to assess expenses incurred by the board and the consumer advocate on utilities and other parties pursuant to Iowa Code Supplement section 476.10 and Iowa Code section 476.101(10). Rules in this chapter refer to the Iowa Code sections and rules that govern assessments under Iowa Code chapters 478, 479, 479A, and 479B. As used in this chapter, a reference to expenses of the board includes expenses of the entire utilities division.

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 before the board or to persons participating in matters before the board:

a. For expenses incurred by the board attributable to the board’s duties related to such proceeding or matter; and

b. For certified expenses incurred and directly chargeable by the consumer advocate in the performance of its duties related to such proceeding or matter.

The term “person” includes any legal entity. However, “person” does not include the consumer advocate.

17.2(2) 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 and the certified expenses of the consumer advocate after deducting the direct assessments. The remainder assessment may consist of two parts: expenses that can be identified with a specific type of utility service, and expenses that cannot be so identified.

17.2(3) “Overhead expenses” are all operating costs of the board and the consumer advocate excluding salaries and related benefit costs borne by the state.

17.2(4) “Gross operating revenues from intrastate operations” include all revenues from Iowa intrastate utility operations during the last calendar year, except uncollectible revenues, amounts included in the accounts for interdepartmental sales and rents, and 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.

199—17.3(476) Expenses to be included in direct assessments. In its direct assessments, the board does not bill more than costs assigned to a docket.

17.3(1) Salaries of board and consumer advocate employees are computed at an expertise level on an hourly rate obtained by dividing the individual’s merit class average annual salary and related benefit costs borne by the state by the appropriate number of standard working hours for the year.

The time of all board and consumer advocate employees engaged on the matter for which a direct assessment is to be made, whether on the property of a public utility, in the offices of the board, or elsewhere, including travel time, is included.

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

17.3(3) Costs of necessary consultants, facilities, or equipment are included.

17.3(4) Overhead expenses of the board and the consumer advocate reasonably attributable to activities of the board and consumer advocate that can be directly assessed under Iowa Code Supplement section 476.10 or Iowa Code section 476.101(10) are included. The following method is used to

calculate the overhead expense factor used to calculate the overhead expenses reasonably attributable to activities of the board and consumer advocate.

a. The overhead expense factor used in direct billing overhead expenses is recalculated and implemented with the July billing each year. The overhead expense factor is determined using the following formula:

$$\begin{array}{r} \text{20XX Fiscal Year} \\ \text{Overhead Expense} \\ \text{Factor} \end{array} = \frac{\begin{array}{r} \text{20XX Approved Budget} \\ \text{Fiscal Year Expenditures} \end{array}}{\begin{array}{r} \text{20XX Approved Budget} \\ \text{Fiscal Year Salaries} \end{array}}$$

b. The “Approved Budget Fiscal Year Expenditures” and “Approved Budget Fiscal Year Salaries” are for those of the board and the consumer advocate added together.

c. For each merit class salary, the overhead expense factor is multiplied by the salary computed pursuant to subrule 17.3(1) to produce the hourly rate to be charged in the direct assessment.

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

17.4(1) Applicability. This rule applies only to direct assessments under Iowa Code Supplement section 476.10.

17.4(2) The board will not directly assess an individual who files a complaint against a public utility, so long as the individual’s participation in the proceeding is in good faith. The board will not directly assess 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. The board will not directly assess any person for filing written or oral comments in a rule-making proceeding.

17.4(3) Ordinarily, the board will not directly assess a person who intervenes 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 intervention significantly expands the scope of the proceeding without contribution to the public interest, or the board determines there are unusual circumstances warranting assessment. If the board determines there are unusual circumstances warranting assessment, it will issue an order at the earliest reasonable opportunity.

17.4(4) The board considers the following factors in deciding whether to directly assess a person, and the amount to be directly assessed, pursuant to Iowa Code Supplement 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 participating 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.

17.4(5) The board may decide not to directly assess a person after considering the factors in subrule 17.4(4).

17.4(6) In determining the financial resources of the person in 17.4(4) “*c*” above, the board may use revenue information previously submitted by the person to the board. If the person has not previously provided revenue information to the board, or has submitted incomplete information, the board may request that the person submit revenue information and, if the person does not do so, may make assumptions regarding the person’s financial resources for purposes of the direct assessment.

17.4(7) Most Iowa Code section 476.97 proceedings are considered for direct assessment under Iowa Code Supplement section 476.10 and this rule. The only exception is a section 476.97 complaint brought under section 476.101(8), which is assessed under section 476.101(10).

199—17.5(476) Reporting of operating revenues. Each year, the board sends an annual report form to every public utility. On or before April 1 of each year, every public utility shall file with the board its annual report that includes a verified report, on forms prescribed by the board, showing its 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 annual report filed with the board.

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

17.6(1) Direct assessments. The board shall ascertain, and add to the direct assessment, certified expenses incurred by the consumer advocate directly chargeable to the person. The board does not review the expenses certified to it by the consumer advocate. The board may present a bill for the direct assessment to any person either at the conclusion of the proceeding or matter, or from time to time during its progress.

17.6(2) Remainder assessments.

a. The revenues for the remainder assessment shall be compiled by the board based on the report provided pursuant to rule 17.5(476).

b. The board shall ascertain the total of the division's expenses incurred during each fiscal year and add to it the certified expenses of the consumer advocate. Next, the board shall add together all amounts directly assessed, pipeline assessments, electric transmission line assessments, federal reimbursements, and miscellaneous reimbursements. This total shall be deducted from the total of the division's and consumer advocate's expenses. The remaining amount is the amount to be recovered through the remainder assessment. Subject to paragraphs 17.6(2) "c" and "d," the board may assess the remaining amount to all persons providing service over which the board has jurisdiction in proportion to the respective gross operating revenues of such persons from Iowa intrastate operations over which the board has jurisdiction during the last calendar year.

c. If any portion of the remainder can be identified with a specific type of utility service, the board shall assess those expenses only to the entities providing that type of service over which the board has jurisdiction.

d. The remainder assessments for gas and electric public utilities exempted from rate regulation pursuant to Iowa Code chapter 476 will be computed at one-half the rate used to compute the assessment for other persons.

e. The board may make the remainder assessments on a quarterly basis, based upon estimates of the expenditures for the fiscal year for the division and the consumer advocate. The board shall conform the amount of the estimated prior fiscal year's assessments to the actual fiscal year expenditures not more than 90 days following the close of the fiscal year.

f. If a utility has gross operating revenue of \$50,000 or less for the prior calendar year, the board may decide not to bill the utility for its share of the remainder assessment.

17.6(3) The bill or accompanying letter of transmittal to each utility shall indicate the assessable revenue for the utility, the rate at which the assessment was computed, and the assessment amount. Bills must be paid within 30 days of receipt unless an objection is filed in writing pursuant to Iowa Code Supplement section 476.10.

199—17.7(476) Funding of Iowa energy center and global warming center. The board will send a bill to each gas and electric utility for funding the Iowa energy center and global warming center. 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 global warming center. This remittance shall not be represented on customers' bills as a separate item.

199—17.8(476) Assessments under Iowa Code section 476.101(10).

17.8(1) Applicability. This rule applies to assessments under Iowa Code section 476.101(10).

17.8(2) In making assessments under Iowa Code section 476.101(10), 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 ordinarily will be included in the final order in the docket.

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 17.4(476). Joint participation by similarly oriented parties and participants will be encouraged by favorable allocations.

17.8(5) The most recent revenue reports filed pursuant to rule 17.5(476) will be used to determine assessments, if available. If the participant has not previously provided revenue information to the board, or has provided incomplete revenue information, the board may request that the participant submit revenue information. If the participant does not do so, the board may make assumptions regarding the participant's revenue for purposes of the assessment. The board may make adjustments to the revenue figures as appropriate for the particular type of case.

199—17.9(478,479,479A,479B) Assessments under Iowa Code chapters 478, 479, 479A, and 479B.

17.9(1) This rule applies to assessments in electric franchise and pipeline permitting proceedings under Iowa Code chapters 478, 479, and 479B, and to board and consumer advocate costs under chapter 479A.

17.9(2) Assessments in electric franchise proceedings conducted pursuant to Iowa Code chapter 478 shall be as provided in Iowa Code section 478.4.

17.9(3) Assessments in pipeline permit proceedings and construction inspections conducted pursuant to Iowa Code chapter 479 shall be as provided in Iowa Code section 479.13 and rule 199—10.10(479).

17.9(4) Assessments for construction inspections conducted pursuant to Iowa Code chapter 479A shall be as provided in Iowa Code section 479A.6 and rule 199—12.5(479A). The board will assess costs of reviewing a utility's land restoration plan under section 479A.14(9) as provided in Iowa Code Supplement section 476.10.

17.9(5) Assessments in hazardous liquid pipeline permit proceedings conducted pursuant to Iowa Code chapter 479B shall be as provided in Iowa Code section 479B.10 and rule 199—13.10(479B).

These rules are intended to implement Iowa Code chapters 17A, 475A, 476, 478, 479, 479A, 479B, and 546 and Iowa Code Supplement section 476.10.

[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]