

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).