

IOWA UTILITIES BOARD

IN RE: EXECUTIVE ORDER 10 — REVIEW OF ASSESSMENTS RULES [199 IOWA ADMINISTRATIVE CODE CHAPTER 17]	DOCKET NO. RMU-2023-0017
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ORDER OPENING DOCKET AND SETTING TECHNICAL CONFERENCE AND COMMENT DEADLINE

On January 10, 2023, Gov. Kim Reynolds issued Executive Order Number 10 (Executive Order), which put a moratorium on agency rule making and directed agencies, including the Utilities Board (Board), to engage in a comprehensive evaluation of existing rules. The goals of the Executive Order include increasing public input in the rule-making process, eliminating rules that do not provide substantial benefits to lowans, reducing the page and word count of the Iowa Administrative Code, and reducing restrictive rule language. As a part of the comprehensive review, agencies are required to repeal each rules chapter and evaluate whether the chapter, or a portion of the chapter, should be re-promulgated. To assist agencies in performing their comprehensive reviews, the Iowa Department of Management developed and published forms and processes. See <https://dom.iowa.gov/red-tape-review> (last accessed on August 22, 2023).

Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules, and the Board will open the above-captioned docket for purposes of conducting a comprehensive review of chapter 17, which contains the Board's Assessments rules. Attached to this order as Attachment A is the

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Board's retrospective analysis (Red Tape Review Rule Report) of chapter 17, which the Board will publish on the Board's website as required by section III.B of the Executive Order. Attached to this order as Attachment B is the Board's draft regulatory analysis of chapter 17, which the Board will submit in the legislative Rules Management System for publication in the Iowa Administrative Bulletin. The draft regulatory analysis published in the Iowa Administrative Bulletin may contain changes from the version attached to this order. Finally, attached to this order as Attachment C is a draft version of chapter 17 that the Board is evaluating whether to re-promulgate, which may contain minor changes from the version attached to this order.

The Board also will schedule a technical conference for October 31, 2023. The technical conference will be led by Board staff, and participation may occur in person or by webinar. The purpose of the technical conference is to receive comments regarding the draft regulatory analysis and the Board's proposed version of chapter 17 to be re-promulgated. Additionally, the Board will accept written comments through October 31, 2023, concerning the draft regulatory analysis and the proposed re-promulgated version of chapter 17. The Board will use the oral and written comments received to prepare a final version of the regulatory analysis, which will be uploaded in this docket and published on the Board's website.

IT IS THEREFORE ORDERED:

1. Docket No. RMU-2023-0017 is opened for purposes of conducting a comprehensive review of 199 Iowa Administrative Code chapter 17 pursuant to Executive Order Number 10.

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2. A technical conference is set for 9 a.m. October 31, 2023, in the Utilities Board hearing room, located at 1375 East Court Avenue, Des Moines, Iowa. Interested persons may appear in person or by webinar. Information for attending by webinar can be found on the Utilities Board's website on the Hearing and Meeting Calendar webpage.

3. Comments regarding the draft regulatory analysis or the proposed re-promulgated version of chapter 17 shall be filed by October 31, 2023.

UTILITIES BOARD

Erik M. Helland Date: 2023.09.05
21:20:38 -05'00'

ATTEST:

Keetah Horras 2023.09.06
10:04:25 -05'00'

Sarah Martz Date: 2023.09.05
21:13:43 -05'00'

Dated at Des Moines, Iowa, this 6th day of September, 2023.

Red Tape Review Rule Report (Due: September 1, 2025)

Department Name:	Iowa Utilities Board	Date:	August 10, 2023	Total Rule Count:	11 rules in Chapter 17
IAC #:	199	Chapter/ SubChapter/ Rule(s):	199 IAC chapter 17	Iowa Code Section Authorizing Rule:	Iowa Code chapters §§ 476.10, and 476.95B, and chapter 477C
Contact Name:	Matt Oetker	Email:	matt.oetker@iub.iowa.gov	Phone:	515-725-7349

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Chapter 17 describes the procedures used by the Iowa Utilities Board (IUB) to assess expenses incurred by the agency on utilities and other parties pursuant to the requirements contained in Iowa Code §§ 476.10, and 476.95B and chapter 477C. Chapter 17 provided needed and useful information to the stakeholders and the public in general regarding the IUB’s assessment process and assessment objection procedures.

Is the benefit being achieved? Please provide evidence.

The IUB believes chapter 17 benefits the public by describing its assessment process, refund, and objection procedures, and further believes this benefit is being achieved because the chapter accurately describes the assessment and objection procedures. Although not a regular occurrence, assessed parties do occasionally file objections to assessments per the provisions set forth in chapter 17, which supports the conclusion that the rules provide useful information to the public.

What are the costs incurred by the public to comply with the rule?

The agency incurs normal operating business costs to assess its and the Office of the Consumer Advocate’s (OCA) expenses and to collect and process such assessments. Pursuant to the terms of a 28E agreement, the OCA reimburses the IUB for its portion of those business costs.

Utilities and other persons bringing or participating in a proceeding before the IUB may be assessed costs incurred by the agency; however, the agency believes those costs are more directly attributable to the assessment authority provided in §§ 476.10, 476.10A, and 476.95B and chapter 477C as opposed to the chapter 17 rules.

What are the costs to the agency or any other agency to implement/enforce the rule?

Chapter 17 does not impose any additional costs to the agency beyond the salary of the employees who work on the computation, collection, and processing of assessments and assessment objections.

Do the costs justify the benefits achieved? Please explain.

Because chapter 17 accurately describes the IUB's assessment procedures and because assessments are authorized within the Iowa Code as opposed to the chapter, the benefits outweigh the costs.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

While rescinding chapter 17 is conceivably an option, the assessment of IUB's and OCA's expenses is a matter of significant interest to the utilities, other persons appearing in IUB proceedings, and the public in general. The IUB believes the different types of assessments, the mechanisms utilized in computing assessment amounts, and the procedures available to challenge assessments are matters that should be contained in the Iowa Administrative Code – to ensure ease of access and review by the public and to provide legislative (*e.g.*, the Iowa Administrative Rules Review Committee, etc.) and executive branch review.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Yes. The agency intends to remove unnecessary, outdated, duplicative, or restrictive language in current rules 17.1, 17.2, 17.4, 17.6, 17.8, 17.9, and 17.10. Further, the agency intends to rescind rule 17.7.

RULES PROPOSED FOR REPEAL (list rule number[s]):

Current rule 17.7.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

CHAPTER 17
ASSESSMENTS

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.

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, that 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 that register with the board pursuant to Iowa Code section 476.95A that are exempted from rate regulation under Iowa Code chapter 476 are computed at one-half of the rate used in computing industry direct assessments and remainder assessments for other persons.

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.

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

17.4(1) The following persons will 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) In deciding whether to directly assess a person and, if so, the amount to be directly assessed, the board may consider the factors contained in Iowa Code section 476.10 and other factors deemed appropriate by the board in that particular case.

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.

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

17.6(1) The board determines its own expenses to be billed and adds 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—17.9(475A,476), the portion of the bill not contested is to be paid within 30 days of receipt.

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.

199—17.7(476) Assessments under Iowa Code section 476.95B. In making assessments under Iowa Code section 476.95B, the board will allocate costs and expenses to all parties and participants, but such allocation will not necessarily be an equal allocation. The allocation will be made on a case-by-case basis and may be based on Iowa revenues, grouping of parties and participants on the basis of similarity of positions, and other factors deemed appropriate by the board in that particular case. The allocation will be included in the board's final order in the docket, unless otherwise ordered by the board.

199—17.8(477C) Assessments of expenses for dual party relay service program and equipment distribution program.

17.8(1) Iowa Code section 477C.7 governs the payment of assessments by wireless carriers and wireline local exchange carriers to fund the dual party relay service program and equipment distribution program. Those carriers 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.

17.8(2) Wireless carriers and wireline local exchange carriers are to file the number of telecommunications service phone numbers with the board. 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—chapter 1.

17.8(3) The board may 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.

199—17.9(475A,476) Objection procedures.

17.9(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.

17.9(2) A properly filed objection is in writing; sets forth the specific grounds upon which the person claims the assessment is excessive, unreasonable, erroneous, unlawful, or invalid; and identifies 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 should 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.

17.9(3) The consumer advocate or the board may informally resolve an objection. In the event an objection is informally resolved, the fact that a resolution has occurred will be filed in the docket.

17.9(4) 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.

17.9(5) 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.

17.9(6) Following the final submission of written material or oral argument, the board will 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 unless otherwise ordered by the board.

17.9(7) The objection procedures set forth in this rule do not apply to challenges to a direct assessment made in a final board order, including those issued under subrule 17.6(3). The judicial review procedures in Iowa Code chapter 17 and the rehearing provisions in Iowa Code section 476.12 are the exclusive methods for challenging a direct assessment determination made in a final board order.

17.9(8) Board expenses incurred in an objection proceeding will be included in industry direct assessments.

199—17.10(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.

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

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	1
Proposed word count reduction after repeal and/or re-promulgation	376
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	25

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No.

ATTACHMENT B

Draft Regulatory Analysis

TEXT BOXES WILL EXPAND AS YOU TYPE

Agency Name Iowa Utilities Board **Rule #** 199 IAC chapter 17

Iowa Code Section Authorizing Rule Iowa Code §§ 474.5, 476.2 and .10

State or Federal Law(s) Implemented by the Rule Iowa Code §§ 476.10, and 476.95B, and chapter 477C

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

Date/Time: October 31, 2023, at 9 a.m.

Location: Iowa Utilities Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa 50319

Any interested person may submit written comments concerning this regulatory analysis. Written comments in response to this regulatory analysis must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Contact Name

IT Support

Address

Iowa Utilities Board

Email and/or phone number

Phone: 515.725.7300 Email: ITsupport@iub.iowa.gov

Purpose and summary of proposed rule:

Chapter 17 describes the procedures used by the Iowa Utilities Board (IUB) to assess expenses incurred by the agency on utilities and other parties pursuant to the requirements contained in Iowa Code §§ 476.10, 476.10A, and 476.95B and chapter 477C. Chapter 17 provides needed and useful information to the stakeholders and the public in general regarding the IUB's assessment process and assessment objection procedures.

Analysis of Impact of Proposed Rule

1. Persons affected by the proposed rule

Draft Regulatory Analysis

- Classes of persons that will bear the costs of the proposed rule:

The Iowa Code, including chapters 476, 477C, 478, 479, 479A, permit, and in some cases, require, the IUB to assess utilities, other persons participating in IUB proceedings, and other entities. While the assessments will be paid by utilities, persons participating in IUB proceedings, and other specified entities, the agency believes those costs are more directly attributed to the statutory assessment provisions, as opposed to chapter 17.

- Classes of persons that will benefit from the proposed rule:

Persons who may receive an IUB-issued assessment, including utilities, persons participating in IUB proceedings, and the general public, will benefit from the information contained in chapter 17.

2. Impact of the proposed rule, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred

- Quantitative description of impact:

These rules are intended to assist the public, including those utilities, entities, and persons who may receive an IUB-issued assessment, by describing and detailing the different types of assessments, how such assessments are calculated, and the assessment objection and refund procedures. While utilities and other entities and persons who are assessed are required to pay the costs of the assessment, the IUB believes those costs are more directly attributed to the statutory assessment provisions, as opposed to chapter 17. With respect to the assessment objection and refund procedures contained in chapter 17, the agency sought to create processes that will minimize the time and expense to persons wishing to object to an assessment or who seek a refund.

- Qualitative description of impact:

Chapter 17 provides information to entities who receive an assessment, and the public at-large, regarding the IUB's assessment methodology and objection and refund procedures. This chapter ensures that the public, including rate-payers, understands the types of IUB assessments, and how such assessments are calculated. Additionally, for those entities and persons who are assessed, chapter 17 also provides information regarding the IUB's assessment objection and refund procedures.

3. Costs to the state

- Implementation and enforcement costs borne by the agency or any other agency:

Because chapter 17 merely provides the framework for IUB assessments and assessment objections and refunds, the rules are not viewed as directly causing costs to the agency; rather, the agency costs associated with IUB assessments are more directly caused by the nature of the assessments, which are authorized or required by different statutory provisions.

- Anticipated effect on state revenues:

Draft Regulatory Analysis

In order to carry out the duties imposed upon it by law, Iowa Code section 476.10(1)(a) permits the IUB to assess its incurred costs and the Office of the Consumer Advocate's (OCA) certified costs to the person bringing a proceeding before the IUB, to persons participating in matters before the IUB, and to persons subject to inspection by the IUB. Additionally, Iowa Code § 476.10(1)(b) permits the IUB to assess its and OCA's remaining expenses to different types of utilities and to other persons providing services over which the IUB has jurisdiction. Additionally, Iowa Code section 476.95B and other statutory provisions (e.g., chapters 479 and 479A) require the IUB to make certain other assessments. These assessments necessarily have an effect on state revenues; however, the agency believes the underlying statutes (as opposed to chapter 17) are the more direct cause of the assessments, and pursuant to section 476.10, those funds are required to be used for IUB and OCA expenses.

Further, Iowa Code section 477C.7 requires the IUB to impose assessments on wireless carriers and wire-line local exchange carriers, and to use the collected funds to plan, establish, administer, and promote the dual party relay service and the telecommunications equipment distribution program set forth in chapter 477C.

4. Comparison of the costs and benefits of the proposed rule to the costs and benefits of inaction

Because the legislature statutorily created the assessment process as the mechanism to cover IUB and OCA expenses, the agency does not believe chapter 17 directly causes those assessment costs. Further, because chapter 17 provides useful and necessary information for the public regarding the types of IUB assessments, the assessment calculation methodology, and the objection and refund procedures, the agency believes the benefits of publishing said information in chapter 17 far outweighs whatever benefits may exist through rescission of the chapter.

5. Determination if less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule

Because chapter 17 is intended to simply convey information to entities and persons who have received an IUB assessment, and to the public in general, the IUB believes the publication of the information regarding the types of IUB assessments, the assessment calculation methodology, and the objection and refund procedures in chapter 17 is beneficial and that there is a need for the chapter.

6. Alternative methods considered by the agency

- Description of any alternative methods that were seriously considered by the agency:

The IUB considered rescinding chapter 17.

- Reasons why they were rejected in favor of the proposed rule:

Draft Regulatory Analysis

As stated above, the IUB did not consider rescinding chapter 17 to be appropriate because there is value provided in providing the public with information regarding the types of IUB assessments, the assessment calculation methodology, and the objection and refund procedures.

Small Business Impact

If the rule will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rule on small business:

- Establish less stringent compliance or reporting requirements in the rule for small business.
- Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
- Consolidate or simplify the rule's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rule for small business.
- Exempt small business from any or all requirements of the rule.

If legal and feasible, how does the rule use a method discussed above to reduce the substantial impact on small business?

The IUB does not believe chapter 17 has an adverse impact on small businesses.

Text of Proposed Rule:

CHAPTER 17 ASSESSMENTS

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.

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

Draft Regulatory Analysis

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, that 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 that register with the board pursuant to Iowa Code section 476.95A that are exempted from rate regulation under Iowa Code chapter 476 are computed at one-half of the rate used in computing industry direct assessments and remainder assessments for other persons.

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.

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

17.4(1) The following persons will 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

Draft Regulatory Analysis

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) In deciding whether to directly assess a person and, if so, the amount to be directly assessed, the board may consider the factors contained in Iowa Code section 476.10 and other factors deemed appropriate by the board in that particular case.

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.

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

17.6(1) The board determines its own expenses to be billed and adds 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—17.9(475A,476), the portion of the bill not contested is to be paid within 30 days of receipt.

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.

199—17.7(476) Assessments under Iowa Code section 476.95B. In making assessments under Iowa Code section 476.95B, the board will allocate costs and expenses to all parties and participants, but such allocation will not necessarily be an equal allocation. The allocation will be made on a case-by-case basis and may be based on Iowa revenues, grouping of parties and participants on the basis of similarity of positions, and other factors deemed appropriate by the board in that particular case. The allocation will be included in the board's final order in the docket, unless otherwise ordered by the board.

199—17.8(477C) Assessments of expenses for dual party relay service program and equipment distribution program.

17.8(1) Iowa Code section 477C.7 governs the payment of assessments by wireless carriers and wireline local exchange carriers to fund the dual party relay service program and equipment distribution program. Those carriers 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.

17.8(2) Wireless carriers and wireline local exchange carriers are to file the number of telecommunications service phone numbers with the board. 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—chapter 1.

17.8(3) The board may 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.

199—17.9(475A,476) Objection procedures.

17.9(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.

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17.9(2) A properly filed objection is in writing; sets forth the specific grounds upon which the person claims the assessment is excessive, unreasonable, erroneous, unlawful, or invalid; and identifies 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 should 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.

17.9(3) The consumer advocate or the board may informally resolve an objection. In the event an objection is informally resolved, the fact that a resolution has occurred will be filed in the docket.

17.9(4) 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.

17.9(5) 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.

17.9(6) Following the final submission of written material or oral argument, the board will 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 unless otherwise ordered by the board.

17.9(7) The objection procedures set forth in this rule do not apply to challenges to a direct assessment made in a final board order, including those issued under subrule 17.6(3). The judicial review procedures in Iowa Code chapter 17 and the rehearing provisions in Iowa Code section 476.12 are the exclusive methods for challenging a direct assessment determination made in a final board order.

17.9(8) Board expenses incurred in an objection proceeding will be included in industry direct assessments.

199—17.10(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.

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

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CHAPTER 17
ASSESSMENTS

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.

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, that 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 that register with the board pursuant to Iowa Code section 476.95A that are exempted from rate regulation under

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Iowa Code chapter 476 are computed at one-half of the rate used in computing industry direct assessments and remainder assessments for other persons.

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.

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

17.4(1) The following persons will 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) In deciding whether to directly assess a person and, if so, the amount to be directly assessed, the board may consider the factors contained in Iowa Code section 476.10 and other factors deemed appropriate by the board in that particular case.

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.

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

17.6(1) The board determines its own expenses to be billed and adds 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—17.9(475A,476), the portion of the bill not contested is to be paid within 30 days of receipt.

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.

199—17.7(476) Assessments under Iowa Code section 476.95B. In making assessments under Iowa Code section 476.95B, the board will allocate costs and expenses to all parties and participants, but such allocation will not necessarily be an equal allocation. The allocation will be made on a case-by-case basis and may be based on Iowa revenues, grouping of parties and participants on the basis of similarity of positions, and other factors deemed appropriate by the board in that particular case. The allocation

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will be included in the board's final order in the docket, unless otherwise ordered by the board.

199—17.8(477C) Assessments of expenses for dual party relay service program and equipment distribution program.

17.8(1) Iowa Code section 477C.7 governs the payment of assessments by wireless carriers and wireline local exchange carriers to fund the dual party relay service program and equipment distribution program. Those carriers 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.

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17.8(3) The board may 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.

199—17.9(475A,476) Objection procedures.

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