

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVIEW OF ASSESSMENTS RULES [199 IAC CHAPTER 17]	DOCKET NO. RMU-2016-0025
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ORDER COMMENCING RULE MAKING

(Issued April 19, 2019)

On February 21, 2018, and in Docket No. RMU-2016-0025, the Utilities Board (Board) filed an “Order Requesting Stakeholder Comment on Potential Rule Changes” concerning proposed amendments to its rules at 199 IAC chapter 17, “Assessments.” The Board received comments from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Qwest Corporation d/b/a CenturyLink QC (CenturyLink); and the Iowa Communications Alliance (ICA). The Board also received joint comments from Interstate Power and Light Company (IPL) and MidAmerican Energy Company (MidAmerican), and the Iowa Association of Electric Cooperatives (IAEC) and the Iowa Association of Municipal Utilities (IAMU).

On May 17, 2018, the Governor signed into law an act which, in part, amended the dual party relay service funding provisions of Iowa Code § 477C.7. See 2018 Iowa Acts ch. 1160, § 23. The amendments became effective on July 1, 2018.

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On July 3, 2018, the Board issued an “Order Requiring Reporting and Assessment,” stating that the Board reviewed the assessment rules found in 199 IAC chapter 17 and, to provide clarity concerning the new Iowa Code § 477C.7 funding provisions, included new proposed language addressing the assessment for dual party relay service. The Board further stated it intended to issue a second order requesting stakeholder comment to allow stakeholders and the public an opportunity to submit comments regarding the new proposed dual party relay service assessment rule.

After further consideration, the Board determined that it will be more efficient to commence a formal rule making that addresses all of the proposed amendments to chapter 17, rather than separately addressing the specific changes to rule 17.9 regarding assessment of dual party relay service. Furthermore, through the rule-making process, the Board will accept additional written stakeholder comments and schedule an oral presentation.

PROPOSED AMENDMENTS TO CHAPTER 17

The amendments to chapter 17 that the Board proposes are discussed below and are shown on the attached “Notice of Intended Action” (NOIA), which is incorporated into the rule by reference and will be published in the Iowa Administrative Bulletin (IAB). The official version of the proposed amendments will be those published in the IAB, which may contain some editorial changes made by the Code Editor.

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A. Amend rule 17.1

In the February 21, 2018 order, the Board proposed the following amendments to rule 17.1:

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) sections 476.10, 476.10A, and 476.101(7), and Iowa Code chapter 477C. 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. The consumer advocate shall determine and certify the consumer advocate's direct and remainder assessments to the board. In determining whether to directly assess a person, the consumer advocate may consider the rule 17.4 factors. As used in this chapter, the term "person" does not include the consumer advocate.

ICA expressed general support for the proposed amendments but suggested the Board retain reasonable oversight over OCA's billings. ICA also questioned whether procedures are available if a utility wants to question or appeal an assessment by OCA.

OCA requested the Board add the following language to the proposed amendments: "The consumer advocate shall determine and certify the advocate's direct and remainder assessments to the board pursuant to Iowa Code section 475A.6." (proposed new language underlined). OCA points out that there is no rule that describes the method the Board uses to assess direct assessments, industry direct assessments, and remainder assessments.

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Iowa Code § 476.10(1)(a) provides that the Board may charge direct expenses to a person bringing a proceeding before the Board or to persons participating in matters before the Board. Direct expenses include company-specific expenses for which no specific docket exists at the time the expenses are incurred (*e.g.*, expenses attributed to a customer call about a specific utility for which no formal docket has been created). This statute also provides that the Board shall ascertain the certified expenses incurred and directly chargeable by OCA in the performance of the OCA's duties. In addition, Iowa Code § 476.10(1)(b) provides the Board shall ascertain the total Board expenses during each fiscal year and shall add to that total the certified expenses of the OCA as provided pursuant to Iowa Code § 475A.6. The Board shall then bill the direct expenses of the Board and OCA and any amount remaining shall be assessed to all persons "providing service over which the board has jurisdiction in proportion to the respective gross operating revenue." If any of the remainder can be identified with a specific utility industry, the Board shall assess those expenses on to the entities providing that type of service over which the Board has jurisdiction.

Iowa Code § 475A.6 provides that OCA shall determine its own expenses and shall certify those expenses to the Board for direct assessment and those expenses subject to remainder assessment. This statute provides that OCA is entitled to notice and opportunity to be heard if there is an objection to an assessment for the expenses certified by OCA.

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The amendments proposed by the Board reflect the above-described statutes which provide that OCA shall certify its expenses to the Board. While the Board may review those expenses, Iowa Code § 475A.6 states that OCA shall determine its expenses and provide those expenses to the Board. A challenge to OCA expenses would follow the same appeal procedures as a challenge to Board expenses.

In this formal rule making, the Board proposes the same amendments as described in the February 21, 2018 order, with two alterations. First, the Board proposes to include OCA's suggested language. Second, the Board proposes to delete the final sentence as being duplicative of the proposed definition of "person" in rule 17.2(7). The Board is not proposing to include the methodology that it uses to calculate assessments. The Board continues to improve its recordkeeping through electronic timekeeping and any rule that the Board may adopt to describe those procedures in detail may be outdated after its adoption. The rules proposed outline the Board's processes for determining what expenses are charged under each of the assessment methods.

B. Amend rule 17.2

In the February 21, 2018 order, the Board proposed to amend the definitions in rule 17.2 as follows:

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:

a. ~~For~~ and includes expenses incurred by the board

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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~~ An "industry direct remainder 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. The industries assessed are as follows:

a. Electric utilities are assessed for expenses associated with electric service, including expenses associated with regional and federal issues.

b. Natural gas utilities are assessed for expenses associated with natural gas service, including expenses associated with regional and federal issues.

c. Water utilities are assessed for expenses associated with water service, including 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. Telecommunication 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 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 and the certified expenses of the consumer advocate after deducting the direct assessments, industry direct assessments, and other revenues. 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)**~~ **17.2(4)** "Overhead expenses" are all operating costs of the board and the consumer advocate excluding salaries and related benefit costs borne by the state not directly attributable to a proceeding or matter, or a specific industry which are included in direct and industry direct assessments.

~~**17.2(4)**~~ **17.2(5)** "Gross operating revenues from intrastate

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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.

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

IPL and MidAmerican request clarification that the “industry direct assessment” will be billed quarterly with “direct assessments” rather than annually with “remainder assessments.”

IPL and MidAmerican point out that references to estimates in 17.6(2)(e) are proposed to be deleted and seek clarification that the Board intends to include two components in remainder assessments going forward, which include a forward-looking estimate for the upcoming fiscal year and a true-up for actual costs incurred in the prior year.

IPL and MidAmerican request clarification whether overhead expenses, which will be included in direct and industry direct assessments, would also be included in remainder assessments.

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IAEC and IAMU question whether the Board's proposed definitions of "industry direct assessment" and "remainder assessment" might not be clear and consistent with the statutory assessment for utilities exempted from rate regulation. IAEC and IAMU suggest the Board retain the language in the current rules in 17.6 or to add a new subrule 17.2(9) as follows:

The assessment pursuant to 17.2(2) and (3) for gas and electric utilities exempted from board rate regulation pursuant to chapter 476 will be computed at one half the rate used to compute the assessment for other persons.

In response to IPL and MidAmerican comments about quarterly billing of industry direct, the Board does not intend to bill industry direct quarterly. Industry direct assessments will be billed at the end of a fiscal year and will be determined after the Board calculates total expenses, direct assessments, and revenues. The Board's intention at this time is to only bill direct assessments quarterly. Overhead expenses will be billed using a billed rate for employees and that bill rate includes overhead expenses. The billed rate for employees is used to bill direct expenses and industry direct assessments.

The Board understands IAEC's and IAMU's comments and will include the statutory language from Iowa Code § 476.10(1)(b) as subrule 17.2(9) as follows:

"Industry direct assessments and remainder assessments for gas and electric public utilities exempted from rate regulation by the board shall be computed at one-half of the rate used in computing industry direct assessments and remainder assessments for other persons."

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The Board is also adding a sentence in 17.2(2) to clarify that direct assessments for which the Board declines to directly assess to any person under rule 17.4 will be included in industry direct assessments. The specific language reflecting these revisions are shown on the attached NOIA.

C. Amend rule 17.3

In the February 21, 2018 order, the Board proposed amendments to rule 17.3 as follows:

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. Direct assessments include the following expenses:~~

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 and related 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, contractors, facilities, or and equipment are included if directly related to a proceeding or matter.~~

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~~

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~~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:~~

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

~~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.~~

IPL and MidAmerican request clarification of the proposed amendment to subrule 17.3(3) regarding consultant costs to be recovered through direct assessments. IPL and MidAmerican ask whether the proposed amendments will result in new costs being included in direct assessments, or prior costs being removed from direct assessments.

The Board is proposing to amend the language regarding recovery of consultant costs through direct expenses to ensure that all expenses associated with a particular docket are recovered from the persons that the Board determines should be responsible for payment of the costs of that docket. Under most circumstances

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the proposed amendment should not include any costs not recovered through direct costs under the current rule; however, as the Board more closely scrutinizes those costs, there may be costs that are directly assessed that may not have been directly assessed in the past.

D. Amend rule 17.4

In the February 21, 2018 order, the Board proposed amendments to rule 17.4 as follows:

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. 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:~~

~~17.4(2) a.~~ The board will not directly assess an 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.~~ The board will not directly assess an 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.~~ The board will not directly assess any Any person for filing written or oral comments in a rule-making proceeding.

~~17.4(3) d.~~ Ordinarily, the board will not directly assess a person who intervenes 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 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)~~ **17.4(2)** The board considers the following factors in deciding whether to directly assess a person as defined in rule

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17.2(7), 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(2).~~

~~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).~~

CenturyLink suggests a change to the proposed amendments to subrule 17.4(1). CenturyLink states that this subrule lists four circumstances where persons appearing before the board will not be directly assessed for the expenses associated with the appearance by that person. CenturyLink states that the Board should also decline to assess persons that are named as a defendant in a formal proceeding by a

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complainant if the complainant withdraws the complaint prior to a Board resolution of the complaint. CenturyLink describes an instance where a complaint was filed against CenturyLink and then subsequently withdrawn. CenturyLink and the Board devoted resources to address the complaint before it was withdrawn and the complainant and CenturyLink were assessed one half of the direct expenses for the proceeding. CenturyLink suggests that in these circumstances the complainant should have been assessed all of the direct expenses for the proceeding.

CenturyLink proposes addition of the following language: “any person named as a defendant in a formal complaint proceeding in which the complainant withdraws its complaint prior to resolution of the complaint by the board.”

ICA suggests that the Board continue to retain the authority to apply equitable principles to reduce or eliminate a direct assessment to a person that is brought into an investigation or docket, if that person is not an indispensable party, and if the Board finds in the interest of fairness and justice that the person should otherwise not be assessed. ICA suggests that in some circumstances a remainder assessment is more appropriate than a direct assessment to a party. ICA describes a proceeding where local exchange carriers were brought into the proceeding to provide useful information. ICA states that in these types of proceedings those persons brought into the proceeding should not be directly assessed but it might be more appropriate to assess some portion of the expenses from this type of proceeding to industry direct assessment or to the entities that were the subject of the proceeding.

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The Board is not proposing to add the additional language suggested by CenturyLink or to address the suggestions made by ICA in this rule. When a person is part of a proceeding where there may be an issue regarding the assessment of costs, any party to that proceeding can file a request for a determination in that proceeding. The Board is proposing language in rule 17.6(3) to allow for an assessment determination. The Board may also include in an order a determination of how the expenses of a proceeding are to be charged, if the Board considers that determination to be necessary.

E. Amend rule 17.5

In the February 21, 2018 order the Board proposed to amend rule 17.5 as follows:

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 a report that includes a verified report, on forms prescribed by the board, showing it's 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 annual report filed with the board.~~

IPL and MidAmerican point out that the Board proposed the amendments to rule 17.5 to allow for the use of an electronic version of the report that may be filed separately from the annual report. IPL and MidAmerican suggest that it would be inefficient to create a separate form and reporting requirement apart from the requirements for rate-regulated utilities in 199 IAC 23.2(6), since that report provides

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the same information. IPL and MidAmerican request the Board add language to this rule to address this situation. The suggested language is underlined in the rule below:

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. Rate-regulated utilities that submit gross operating revenues on April 1 of each year in compliance with 199 IAC 23.2(6) are exempt from this requirement.

The Board used an electronic form for filing the assessment information for the annual report that was due April 1, 2018, and that process worked efficiently. The Board is also working on a portal where all persons can file reports, including the information needed for assessments and annual reports, electronically. Rather than proposing changes to the current procedures, the Board will wait until it has its electronic portal in place and then will determine if changes need to be made to the rules. The Board intends for the portal to address the concern raised by IPL and MidAmerican.

F. Amend rule 17.6

In the February 21, 2018 order the Board proposed amendments to rule 17.6 as follows:

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,~~ determine its own expenses to be billed and shall add the 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~~

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~~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~~ Unless otherwise ordered by the board, bills must be paid within 30

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days of receipt unless an objection is filed in writing pursuant to Iowa Code Supplement section 476.10. In the event an objection is filed, 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.

ICA urges the Board to exercise appropriate oversight to ensure that proper amounts are allocated to direct billings, industry direct, and remainder assessments. ICA requests the Board implement transparent and efficient procedures for utilities to inquire about assessments or to appeal assessments under subrule 17.6(2). ICA suggests the Board consider a filing fee for routine filings that do not require significant review or analysis. ICA suggests that some filings required by the Federal Communications Commission (FCC) might fall into this category of filings. An alternative would be to ensure that direct assessments reflect the actual staff time spent reviewing an individual filing, such as federal ETC filings, or automating the review of those types of filings.

ICA suggests that the Board batch assessment invoices for receiving required filings and distribute those billings quarterly or annually instead of on a monthly or per-transaction basis. Finally, ICA approves of the Board's monthly process of identifying those persons that have delinquent invoices; however, ICA objects to the Board including those unpaid amounts in assessments to the other utilities.

IAEC and IAMU request that the Board retain certain statutory computation and billing requirements in current rules at paragraph 17.6(2)(d). IAEC and IAMU suggest that the omission of computation and billing methodology in the rules could

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create uncertainty for gas and electric utilities not subject to rate regulation. IAEC and IAMU also suggest that deleting the language in current rule 17.6 could reduce overall transparency of the Board's assessment determinations. IAEC and IAMU suggest that the Board could enhance transparency by stating the intended assessment determinations at the outset of a proceeding or new matter before the Board consistent with Iowa Code § 476.10(2)(a). This would allow the parties in a proceeding or other matter to review and challenge the Board's funding determinations at the outset before any expenses are charged.

In reply comments, IPL and MidAmerican support the IAEC and IAMU suggestion to have the Board notify parties at the outset of a proceeding of how the Board will be charging the costs of that proceeding and the suggestion that Board staff provide information on the process for assessment timing and expense computation. IPL and MidAmerican also share ICA's concern about delinquent or unpaid assessments being redistributed to other utilities.

The Board proposes language in a new subrule 17.6(3) that allows a person who is a party to a proceeding to request a determination of the assessments that will be made for the expenses of that proceeding. The Board has in some proceedings indicated how costs will be assessed and it will continue to indicate that information considered to be a factor in the addressing issues in the proceeding. The Board does not consider a rule requiring a determination of assessments necessary in all proceedings.

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The Board has addressed IAEC's and IAMU's comments about the assessment computation by including the language from Iowa Code § 476.10(1)(b) as a new subrule 17.2(9). The Board does not consider it necessary to add additional language to this rule.

The Board understands that utilities that pay their assessments do not consider it reasonable to have the amounts not paid by other persons included as part of industry direct assessments. Ultimate collection of those costs may not be possible and by statute the Board is to recover all costs associated with regulation under Iowa Code chapter 476. To recover those costs through the industry direct assessment is the most reasonable method. The Board is considering whether to pursue collection efforts through litigation and other methods for delinquent accounts; however, the Board's collection efforts also result in additional Board expenses that will be assessed through the industry direct assessment. The Board must weigh whether the cost of collection should be incurred against the amounts left uncollected.

The Board intends to bill direct assessments quarterly and include all direct assessments from the quarter in that invoice. The Board does not intend to bill proceedings either monthly or on a transactional basis. The Board has considered a filing fee for those FCC filings that are required to be filed annually and that normally need limited review; however, the Board is not sure that it has the statutory authority to establish filing fees for these filings. The Board is working on making the filing and

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review process more efficient to ensure the direct bills match the time spent reviewing each filing. There are filings that are not accurate and for which the Board is required to contact the company and request additional or corrected information, which could result in costs above any filing fee.

G. Amend rule 17.7

In the February 21, 2018 order, the Board proposed amendments to rule 17.7 as follows:

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

No comments were filed regarding the proposed amendments to this rule. The Board will propose the same amendments in this rule making with a correction to the Center for Global and Regional Environmental Research name in the final remaining sentence.

H. Amend rule 17.8

In the February 21, 2018 order, the Board proposed to amend rule 17.8 as follows:

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199—17.8(476) Assessments under Iowa Code section ~~476.101(10)~~ 476.101(7).

17.8(1) Applicability. This rule applies to assessments under Iowa Code section ~~476.101(10)~~ 476.101(7).

17.8(2) In making assessments under Iowa Code section ~~476.101(10)~~ 476.101(7), 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, 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 17.4(476). Joint participation by ~~similarly oriented parties and participants~~ parties with similar positions on the issue 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.~~

No comments were filed regarding the proposed amendments to rule 17.8.

However, Iowa Code § 476.101 was repealed. See 2018 Iowa Acts ch. 1160, § 32.

The Board, therefore, corrected the citation to the Iowa Code.

I. Rescind rule 17.9 and propose a new rule

In the February 21, 2018 order, the Board proposed amendments to rescind current rule 17.9 and adopt a new rule as follows:

199—17.9(477C) Assessments of expenses for dual party relay service. The assessments for the relay service program and equipment distribution program to support the budget approved by

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the board shall comply with the Iowa Code chapter 477C funding provisions.

No comments were filed regarding the Board's proposed adoption of a new rule 17.9; however, given the changes to the dual party relay service funding provisions in 2018 Iowa Acts chapter 1160, § 23, the Board is proposing a new rule concerning the dual party relay service assessment, addressing the issue of confidential treatment of the number of telecommunications service phone numbers required to be filed by each company, and identifying that the Board may conduct periodic audits to ensure the proper payment of chapter 477C assessments. The proposed new rule is as follows:

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

17.9(1) Wireless carriers and wire-line local exchange carriers providing telecommunications services in Iowa shall comply with Iowa Code section 477C.7 for payment of assessments to fund the 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 wire-line 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—1.9(8) (22).

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 wire-line carriers providing telecommunications services in Iowa are paying assessments in appropriate amounts.

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J. Adopt new rule 17.10

In new rule 17.10, the Board proposes to adopt procedures for filing, processing, and considering objections to assessments. Pursuant to Iowa Code § 476.10(2), a person subject to an assessment may file an objection to that assessment within 30 days from the date in which the Board provides notice to the person of the assessment. Rule 17.10 identifies what must be included in the written objection and that, once filed, the objection will be assigned a docket number in the Board's electronic filing system. The rule further provides that the Board's consideration of the objection will be based on the written submissions unless the objecting person or OCA requests to be heard in person. Finally, the rule provides that the Board's expenses will be included in the industry direct assessment.

K. Adopt new rule 17.11

The Board proposes new rule 17.11 to address refunds. The rule provides that when a person overpays an assessment, the Board may issue a refund or hold the excess amount as a credit against future assessment. For refund amounts of less than \$50, the default will be for the amount to be held as a credit absent exigent circumstances. However, the Board will only hold a credit in the fiscal year in which the overpayment occurred and if the credit remains at the end of the fiscal year, the Board will issue a refund.

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ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. A rule-making proceeding identified as Docket No. RMU-2016-0025, 199 IAC chapter 17, "Assessments," is commenced as described in the attached "Notice of Intended Action" which is incorporated into this order by reference.
2. The "Notice of Intended Action" attached to this order shall be sent to the Administrative Rules Code Editor for review and publication in the Iowa Administrative Bulletin.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Nick Wagner

ATTEST:

/s/ Bradley Nielsen /s/ Richard W. Lozier Jr.

Dated at Des Moines, Iowa, this 19th day of April, 2019.

ITEM 1. Amend rule 199—17.1(475A,476,546) as follows:

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)~~ sections 476.10, 476.10A, and 476.95B, and Iowa Code chapter 477C. ~~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.~~ 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 rule 17.4 factors.

ITEM 2. Amend rule 199—17.2(475A,476) as follows:

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:

a. ~~For~~ and includes 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 An “industry direct ~~remainder~~ 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 direct assessments in a specific industry for which no person is directly assessed under rule 17.4. 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. Telecommunication 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 ~~and the certified expenses of the consumer advocate~~ after deducting the direct assessments, industry direct assessments, and other revenues. ~~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)~~17.2(4) “Overhead expenses” are all operating costs of the board and the consumer advocate ~~excluding salaries and related benefit costs borne by the state~~ not directly attributable to a proceeding or matter, or a specific industry which are included in direct and industry direct assessments.

~~17.2(4)~~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 shall be computed at one-half of the rate used in computing industry direct assessments and remainder assessments for other persons.

ITEM 3. Amend rule 199—17.3(476) as follows:

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.~~ Direct assessments include the following expenses:

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~~ and related 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, contractors, facilities, ~~or~~ and equipment are ~~included if directly related to a proceeding or matter.~~

~~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:~~

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

~~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.~~

ITEM 4. Amend rule 199—17.4(476) as follows:

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. 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:

~~17.4(2)~~ a. ~~The board will not directly assess an~~ 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. ~~The board will not directly assess an~~ 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. ~~The board will not directly assess any~~ Any person for filing written or oral comments in a rule-making proceeding.

~~17.4(3)~~ d. ~~Ordinarily, the board will not directly assess a person who intervenes~~ 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 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)~~ 17.4(2) The board considers the following factors in deciding whether to directly assess a person as defined in rule 17.2(7), 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).~~

ITEM 5. Amend rule 199—17.5(476) as follows:

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 a report that includes a verified report, on forms~~

~~prescribed by the board, showing it's~~ 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 annual report filed with the board.

ITEM 6. Amend rule 199—17.6(475A,476) as follows:

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,~~ determine its own expenses to be billed and shall add the 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~~ 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 Supplement section 476.10. In the event an objection is filed under rule 17.10, 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.

ITEM 7. Amend rule 199—17.7(476) as follows:

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

ITEM 8. Amend rule 199—17.8(476) as follows:

199—17.8(476) Assessments under Iowa Code section ~~476.101(10)~~ 476.95B.

17.8(1) ~~Applicability~~. This rule applies to assessments under Iowa Code section ~~476.101(10)~~ 476.95B.

17.8(2) In making assessments under Iowa Code section ~~476.101(10)~~ 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 ~~ordinarily~~ 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 17.4(476). Joint participation by ~~similarly oriented parties and participants~~ parties with similar positions on the issue 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.~~

ITEM 9. Rescind rule 199—17.9(478,479,479A,479B) and adopt the following new rule in lieu thereof:

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

17.9(1) Wireless carriers and wire-line 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 wire-line 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—1.9(8) (22).

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 wire-line local exchange carriers providing telecommunications services in Iowa are paying assessments in appropriate amounts.

ITEM 10. Adopt the following **new** rule 199—17.10(476,475A):

199—17.10(476) Objections 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 thirty days of the date the board provides notice to the person of the amount due.

17.10(2) An objection must be in writing and 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 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 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 thirty dates 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 request 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 thirty 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). Objections to direct assessment determinations 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.

ITEM 11. Adopt the following new rule 199—17.11(476,477C):

199—17.11(476) 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 excess amounts paid 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.