

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES DIVISION

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

Hearing Room
1375 East Court Avenue
Des Moines, Iowa
Thursday, June 13, 2019

Met, pursuant to notice, at 9:00 a.m.

BEFORE: THE IOWA UTILITIES BOARD

GERI D. HUSER, Chairperson (Presiding)
NICK WAGNER, Board Member
RICHARD W. LOZIER, JR., Board Member

EDIE SPRIGGS DANIELS - CERTIFIED SHORTHAND REPORTER

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1	APPEARANCES:	
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4	For Iowa Communications	JOHN C. PIETILA, ESQ.
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7		DAVE DUNCAN, CEO
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13	For IPL:	ANDREW D. CARDON, ESQ.
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16	For Windstream:	NICOLE WINTERS, ESQ.
17	(via webinar)	4001 N. Rodney Parham Road
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18	Board Staff:	MATT OETKER, ESQ.
19		TERESA McCONNELL
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1 P R O C E E D I N G S

2 CHAIRPERSON HUSER: The Iowa Utilities Board
3 is now in session.

4 My name is Geri Huser, and with me today are
5 Board Members Nick Wagner and Dick Lozier.

6 We're here for the oral presentation in
7 RMU-2016-0025, which is Chapter 17, "Assessments,"
8 for the Iowa Utilities Board.

9 It's 9 o'clock a.m. on June 13th, 2019.

10 The proposed amendments to Chapter 17 were
11 published in the Iowa Administrative Bulletin on
12 May 8th, 2019, as ARC 4416C.

13 Written comments have been filed. The oral
14 presentation today is intended to provide
15 participants an opportunity to make additional oral
16 comments and to allow the Board the opportunity to
17 ask questions regarding the written and oral
18 comments.

19 I will begin by taking appearances with
20 those that are in attendance in the Board room and
21 then move to those that are on the webinar. Please
22 raise your hand so that we know that you are ready to
23 take your appearance when we get to you.

24 Who appears for the Office of Consumer
25 Advocate?

1 MR. COOK: Jeff Cook on behalf of the Office
2 of Consumer Advocate.

3 CHAIRPERSON HUSER: Who appears for the
4 Iowa Communications Alliance?

5 MR. DUNCAN: Dave Duncan and our counsel,
6 John Pietila from the Davis Brown Law Firm.

7 CHAIRPERSON HUSER: Who appears for
8 MidAmerican Energy?

9 MS. LYNCH-BUTCHER: Katelyn Lynch-Butcher
10 appears for MidAmerican Energy.

11 CHAIRPERSON HUSER: For staff we have?

12 MR. OETKER: Madam Chair, my name is
13 Matt Oetker. I'm a Board attorney.

14 MS. McCONNELL: Teresa McConnell with the
15 accounting and assessment team.

16 CHAIRPERSON HUSER: Is there anyone else
17 present in the hearing room that wishes to
18 participate in the oral presentation?

19 (No response.)

20 CHAIRPERSON HUSER: Seeing no one, we have
21 on our webinar, Mr. Cardon?

22 MR. CARDON: Yes. Andrew Cardon appearing
23 on behalf of Interstate Power and Light Company.

24 CHAIRPERSON HUSER: Thank you, Mr. Cardon.
25 If you at any time wish to make a comment on one of

1 the rules, I would request that you use the webinar
2 raise your hand, and we will identify you at that
3 time.

4 MR. CARDON: Yes. Thank you.

5 CHAIRPERSON HUSER: Are there any other
6 preliminary matters to come before the Board?

7 (No response.)

8 CHAIRPERSON HUSER: We will go through each
9 rule, and if anyone has a question, please indicate
10 the same to me and I will call on you.

11 Does anyone wish to make an opening
12 statement?

13 (No response.)

14 CHAIRPERSON HUSER: Seeing no one, we'll
15 move to rule 17.1. I believe there are no comments
16 that have been made. Is there any additional
17 discussion?

18 (No response.)

19 CHAIRPERSON HUSER: Seeing none, rule 17.2.
20 Are there any comments regarding rule 17.2?

21 MR. DUNCAN: Madam Chair, the only comment I
22 would make on that on behalf of the Iowa Communications
23 Alliance is that throughout this proceeding in the
24 stakeholder phase, we appreciate the fact that the
25 Board is taking steps to increase transparency and

1 also to better allocate costs--whether it's through
2 direct assessments, industry direct assessments or
3 remainders, better allocate costs to kind of the cost
4 causers.

5 Thank you. We do support this rule.

6 CHAIRPERSON HUSER: Thank you.

7 Are there any additional comments on 17.2?

8 (No response.)

9 CHAIRPERSON HUSER: 17.3?

10 (No response.)

11 CHAIRPERSON HUSER: 17.4?

12 (No response.)

13 CHAIRPERSON HUSER: 17.5?

14 (No response.)

15 CHAIRPERSON HUSER: 17.6?

16 (No response.)

17 CHAIRPERSON HUSER: Mr. Oetker, may I
18 include in the record that it is the Board's intent
19 to--because I'm going to do it anyway--that it is the
20 Board's intent to make sure that stakeholders have
21 the opportunity to see the billing formulas that are
22 used in doing our billing rates, and we are going to
23 attempt to include that both in our Board meeting
24 and, if requested by any party, to have a technical
25 conference to review the numbers with everyone?

1 Mr. Duncan?

2 MR. DUNCAN: Pardon me, but I was looking at
3 my notes wrong. I did have just one comment on 17.2
4 because it was paragraph 9.

5 CHAIRPERSON HUSER: That's fine. I'm moving
6 quickly, so you may go back to that.

7 MR. DUNCAN: In our comments on 17.2(9) we
8 had noted that the Board proposes to have a
9 50 percent discount for gas and electric utilities
10 exempt from rate regulation, and we had suggested in
11 our comments that the same kind of a discount,
12 50 percent discount, be applied to telecommunications
13 service providers in the calculation of remainder
14 expenses, and it has come to our attention that the
15 Iowa Code specifically creates the exemption for gas
16 and electric companies and not for telecom service
17 providers, so I understand that the Board may not be
18 able to act on our request absent legislative change.

19 CHAIRPERSON HUSER: And, Mr. Duncan, one of
20 the reasons that I want to make sure that all the
21 parties have an opportunity to look at our formulas
22 is I believe that the 50 percent calculation had been
23 used for telecommunications in the past, and at least
24 one-and-a-half billing cycles while I was on the
25 Board. The formulas behind those numbers are what

1 need to be reviewed.

2 BOARD MEMBER LOZIER: Excuse me. I would
3 like to follow up on that point.

4 Is there somewhere else in the Code--and I
5 ask this of Mr. Duncan and Mr. Pietila--that would
6 give the Board the authority, you know, at its own
7 discretion to reduce the charge to remainder
8 assessments for telecom?

9 MR. DUNCAN: Pardon me, but I would have to
10 do a little research in the Code. I don't have that
11 at my disposal right now.

12 BOARD MEMBER LOZIER: Okay. Thank you.

13 BOARD MEMBER WAGNER: Mr. Lozier, I can give
14 you my opinion, if you would like it.

15 BOARD MEMBER LOZIER: Well, of course. I
16 think I'm going to get it anyway.

17 BOARD MEMBER WAGNER: I think the Code is
18 rather vague. When you read it it says the Board can
19 charge whatever it wants to capture costs that it
20 has. I think that sort of gives us the discretion if
21 we so choose. I mean we have the discretion to waive
22 if a company has a concern with their assessment.
23 We've reduced assessments in the past. So I think
24 when you read that section, there's quite a bit of
25 latitude the Board is given, at least in my nonlegal

1 engineer opinion.

2 BOARD MEMBER LOZIER: There are other rules
3 of statutory construction that come into play here,
4 one of which is that the specific controls the
5 general and that things omitted are omitted
6 intentionally.

7 BOARD MEMBER WAGNER: Yeah.

8 BOARD MEMBER LOZIER: And whether the broad
9 discretion given to the Board supersedes that is the
10 question that I think we need to consider. But I
11 appreciate your nonlegal opinion.

12 BOARD MEMBER WAGNER: Because I would be
13 interested in hearing from any of the other non-
14 telecommunications parties on their thoughts with
15 respect to the telecommunications industry being
16 assessed at 50 percent versus a hundred percent, or
17 even the OCA.

18 BOARD MEMBER LOZIER: Well, it's only the
19 remainder assessment that would be at 50 percent.

20 BOARD MEMBER WAGNER: Yes, but we
21 technically, by function, don't have remainder
22 anymore. It's either direct or industry.

23 BOARD MEMBER LOZIER: Right. So in
24 practice, it might be a moot point.

25 BOARD MEMBER WAGNER: Right.

1 CHAIRPERSON HUSER: Are there any questions
2 on 17.6 or 17.7?

3 (No response.)

4 CHAIRPERSON HUSER: 17.8?

5 (No response.)

6 CHAIRPERSON HUSER: 17.9?

7 (No response.)

8 CHAIRPERSON HUSER: 17.10?

9 (No response.)

10 CHAIRPERSON HUSER: The Board has made some
11 additional changes to the rules, as everyone knows,
12 and because there are no comments on it, are there
13 any concerns or issues with the assessment of
14 objection expenses as we've set out in proposed
15 rule 17.10?

16 Mr. Duncan?

17 MR. DUNCAN: The ICA has no objection to
18 that suggestion that you put in the rules.

19 CHAIRPERSON HUSER: 17.11?

20 (No response.)

21 CHAIRPERSON HUSER: Ms. Winters, could you
22 please state who you represent?

23 (No response.)

24 CHAIRPERSON HUSER: Let the record reflect
25 that we have a Nicole, N-i-c-o-l-e, Winters,

1 W-i-n-t-e-r-s, that's also participating via webinar.

2 MS. WINTERS: I'm sorry. I'm representing
3 Windstream.

4 CHAIRPERSON HUSER: Thank you.

5 MS. WINTERS: Uh-huh.

6 CHAIRPERSON HUSER: Does anyone have any
7 final comments?

8 Mr. Cook?

9 MR. COOK: Nothing from OCA.

10 CHAIRPERSON HUSER: Ms. Lynch-Butcher?

11 MS. LYNCH-BUTCHER: Nothing from
12 MidAmerican.

13 CHAIRPERSON HUSER: Mr. Duncan?

14 MR. DUNCAN: No, thank you.

15 CHAIRPERSON HUSER: Mr. Pietila?

16 MR. PIETILA: Nothing.

17 CHAIRPERSON HUSER: Mr. Oetker, does staff
18 have any questions related to the comments that have
19 been made?

20 MR. OETKER: No, Madam Chair.

21 CHAIRPERSON HUSER: Okay. Would you please
22 pull up the schedule?

23 Mr. Cardon?

24 (No response.)

25 CHAIRPERSON HUSER: Ms. Winters, do you have

1 any questions?

2 MS. WINTERS: I do not.

3 CHAIRPERSON HUSER: Thank you.

4 The invoicing calendar that you see we'll be
5 inputting onto our web site so that everyone knows
6 when those billings are projected to go out for all
7 of the different areas once these rules have been
8 finalized.

9 Seeing nothing further to come before the
10 Iowa Utilities Board, we are adjourned.

11 (Proceedings concluded at 9:15 a.m.)

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C E R T I F I C A T E

I, the undersigned, a Certified Shorthand Reporter of the State of Iowa, do hereby certify that I acted as the official court reporter at the hearing in the above-entitled matter at the time and place indicated;

That I took in shorthand all of the proceedings had at the said time and place and that said shorthand notes were reduced to typewriting under my direction and supervision, and that the foregoing typewritten pages are a full and complete transcript of the shorthand notes so taken.

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



CERTIFIED SHORTHAND REPORTER

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