

2013 SUMMER MEETING

RESOLUTIONS

PASSED BY THE

BOARD OF DIRECTORS

OF THE

**NATIONAL ASSOCIATION OF
REGULATORY UTILITY
COMMISSIONERS**

JULY 24, 2013

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[Passed 7/24/13] [Sponsor: White] The Resolution calls attention to FERC declaratory orders that override State interests and advises FERC to consider, inter alia, State action before suing on behalf of an industry stakeholder.

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[Passed 7/24/13] [Sponsor: White] This Resolution urges FERC to recognize the State's traditional role in planning and revise the cost allocation principles of Order 1000.

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[Passed 7/24/13] [Sponsor: White] The Resolution supports cleaning up decommissioning and decontamination sites, but indicates that neither utilities nor utility customers should pay for cleanup of DOD nuclear weapons/defense facilities..

IV. ERE (2)

ERE-1 (WA-1) Resolution Recognizing EPRI's Water Quality Trading Project **Page 28**

[Passed 7/24/13] [Sponsor: Fox and Powelson] The Resolution commends EPRI for instituting best practices in water quality trading, and encourages support for this and similar programs.

ERE-2 (CA-1) Resolution Recognizing the Importance of Educating Consumers on Portable Generator Safety **Page 4**

[Passed 7/24/13] [Sponsor: Wergin] The Resolution encourages Commissions to urge utilities to post the model generator safety information on their websites.

V. Gas (1)

GS-1 (CI-2) Resolution Encouraging Natural Gas Line Investment and the Expedited Replacement of High-Risk Distribution Mains and Service Lines **Page 16**

[Passed 7/24/13] [Sponsor: Commissioner Roberti] The Resolution encourages States to fully explore and implement alternative rate recovery rate mechanisms to accelerate the modernization, replacement and expansion of the nation's natural gas pipeline systems.

VI. Telecommunications (5)

TC-1 Resolution to Improve Lifeline Annual Recertification Process **Page 18**

[Passed 7/24/13][Sponsors: Jacobs, Boyle and Nelson] The Resolution commends the FCC efforts to eliminate waste, urges the agency to examine the recertification process to ensure legitimate participants continue to receive benefits, & supports a Federal-State collaboration to minimize waste.

TC-2 Resolution Urging the FCC to Take Action to Protect Consumers from Unfair Marketing Practices [Tabled at the Telecom Committee – not brought to the Board]

TC-3 Resolution Calling for the Development of National and State Policies to Ensure Reliable Wireline and Wireless Communications During Power Outages **Page 21**

[Passed 7/24/13] [Sponsor: Landis] The Resolution urges State and federal regulators to discuss ways to ensure reliable during commercial power outages.

TC-4 Resolution Concerning Numbering Trials for Voice over Internet Protocol and Other IP-Enabled Services **Page 23**

[Passed 7/24/13] [Sponsor: Kane] The Resolution affirms the FCC should apply numbering resource utilization and optimization rules and obligations equally to all

service providers, urges States and the FCC to work together to jointly ensure that interconnection of next generation communications network technologies is accomplished in a way that protects the public interest.

- TC-5 Resolution Urging the Federal Communications Commission to Act Transparently in Deploying Formal CAF-II Rules and to Direct Funding to Ensure Comparable Voice and Broadband Services to Customers in the Nation's Highest-Cost Areas** Page 25

[Passed 7/24/13] [Sponsors: Landis and Cawley] The Resolution asks the FCC to ensure the directives of Congress are met and universal service support is distributed in a process that allows States a meaningful opportunity to review and comment on all changes to the CAF-II USF model.

VII. UMA (1)

- UM-1 Resolution Encouraging Regulatory Utility Commissions to Participate in the Supplier Diversity Toolkit Project** [Tabled at UMA – not brought to the Board]]

VIII. Water (3)

- WA-1 (ERE-1) Resolution Recognizing EPRI's Water Quality Trading Project** Page 28

[Passed 7/24/13] [Sponsor: Powelson] The Resolution commends EPRI for instituting best practices in water quality trading, and encourages States support similar programs.

- WA-2 Resolution Supporting the Consideration of Regulatory Mechanisms and Policies Deemed “Best Practices” for the Regulation of Small Water Systems** Page 29

[Passed 7/24/13] [Sponsor: Burtenshaw] The Resolution supports outlined “best practices” and recommends regulators consider and adopt as many as appropriate.

- WA-3 Resolution Addressing Gap Between Authorized Versus Actual Returns on Equity in Regulation of Water and Wastewater Utilities** Page 31

[Passed 7/24/13] [Sponsor: Holden] The Resolution recommends economic regulators carefully consider and implement appropriate ratemaking measures needed to assure water and wastewater utilities have a reasonable opportunity to earn authorized returns.

CA-1 Resolution Recognizing the Importance of Educating Consumers on Portable Generator Carbon Monoxide Safety

WHEREAS, Utility consumers often use portable generators during a power outage; *and*

WHEREAS, Portable generator engines are often powered by fuel sources that result in the emission of air pollutants, and the operation of these generators are subject to environmental regulation in a number of States; *and*

WHEREAS, Portable generators used to restore power can be extremely hazardous and even life threatening when not properly operated; *and*

WHEREAS, Portable generators powered by small engines emit potentially harmful carbon monoxide gas. If carbon monoxide is not allowed to exhaust from the engine in a safe manner, harmful effects, even death can occur in a matter of minutes; *and*

WHEREAS, Carbon monoxide is especially dangerous because it is tasteless, colorless and odorless and people may be unaware they are being exposed; *and*

WHEREAS, State commissions and utilities should provide information to consumers on the safe operation of portable generators including operating them outside, far away from windows, doors and vents to reduce the risk of carbon monoxide gas from accumulating and potentially being drawn toward occupied spaces where it can quickly build up and linger for hours, even after the generator has shut off; *and*

WHEREAS, Portable generators should not be run inside homes, garages, basements, sheds, or other partially enclosed spaces even if using fans or opening doors and windows for ventilation and should be placed downwind with the engine exhaust pointed away from occupied spaces; *and*

WHEREAS, The Portable Generator Manufacturers Association (PGMA), working with the Staff Subcommittee on Consumer Affairs, has developed important model portable generator carbon monoxide safety information as part of a broader public awareness campaign and to supplement other available safety materials addressing this and other potential portable generator hazards; *and*

WHEREAS, This model information can be easily understood by consumers; and utility companies can help improve safety awareness of the public by posting information on their websites, distributing a bill insert or utilizing other methods to communicate and educate customers; *and*

WHEREAS, The information should be available in both English and Spanish to reach the maximum number of utility consumers; *and*

WHEREAS, During the tornado and hurricane seasons it is especially important that consumers use their portable generators in a safe manner; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Meetings in Denver, Colorado, urges utilities and other entities to post portable generator carbon monoxide safety information on their websites and make available this information to consumers; *and be it further*

RESOLVED, That recognizing the important role that State Public Utility Commissions have in providing educational information to consumers, NARUC urges all Commissions to make this important safety information available on their websites and available to consumers and urge operators of portable generators to understand the potential hazards, and environmental compliance measures related to portable generator operation.

*Sponsored by the Committee on Consumer Affairs
Adopted by the NARUC Board of Directors July 24, 2013*

CI-1 Resolution Regarding Cybersecurity Awareness and Initiatives

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC), its leadership, its Staff, and its member Commissions have been working to help address cybersecurity issues in the water, gas, electric, telecommunications, and pipeline sectors; *and*

WHEREAS, Our nation's critical utility infrastructure appears to be under increasing cyber-attacks from many different threat sources; *and*

WHEREAS, Threat of cyber-attacks against critical utility systems cannot be eliminated but actions can and ought to be undertaken to reduce the likelihood of successful attack and to mitigate the harmful consequences of an attack; *and*

WHEREAS, Additional efforts continue to be necessary to aid in the prevention of extended interruption to critical utility and pipeline infrastructure from all extraordinary events which could erode the reliable provisions provided by utility and pipeline services (in those jurisdictions having such authority) or compromise the underlying information infrastructure which could have cascading secondary impacts capable of causing significant harm to public health, public safety, and the economy; *and*

WHEREAS, NARUC and its members have undertaken a variety of initiatives to help recognize, communicate, and/or evaluate these threats, vulnerabilities, and potential mitigating actions, including:

- NARUC Cybersecurity State's Summit held July 24, 2013 in Denver, Colorado;
- Publication in February 2013 of "Cybersecurity for State Regulators 2.0 With Sample Questions for Regulators to Ask Utilities" and its predecessor document in June 2012;
- NARUC Forum on Cybersecurity and Critical Infrastructure held November 30-December 1, 2011 in Indianapolis, Indiana;
- NARUC Catastrophic Event Workshop held December 13, 2012 in New York City;
- NARUC Workshop: "Serving National Security: A Conversation with the Department of Homeland Security, Department of Defense and Other Stakeholders," held July 20, 2011 in Los Angeles, California;
- NARUC Committee on Critical Infrastructure workshop regarding the cybersecurity operations center concept held with Lockheed Martin and various electric utilities on February 5, 2013 in Rockville, Maryland;
- NARUC staff on-site trainings of 30 State regulatory commissions (Commissioners and Staff), resulting in the formation of State and multi-State task forces;
- Continued outreach and partnership on cybersecurity issues with: Executive Office of the President, U.S. Department of Energy (DOE), U.S. Department of Homeland Security (DHS), Federal Energy Regulatory Commission (FERC), Federal Communications Commission (FCC), U.S. Environmental Protection Agency (EPA), U.S. Department of Defense (DoD), National Institute of Standards and Technology (NIST), U.S. Dept. of Transportation (DOT), National Association of Water Companies (NAWC), North American Electric Reliability Corporation (NERC), Edison Electric Institute (EEI), American Gas Association (AGA), and others;
- NARUC Committee meetings and workshops including "Cybersecurity: Industry

Assessments & Capability Improvements,” February 3, 2013; “Cyber Security – The States’ Role,” July 24, 2012; “Cybersecurity Questions to Ask Your Utilities”, November 13, 2011; “The Good News: Getting Traction in Cybersecurity,” November 13, 2011; “Don’t Get Hacked! Cybersecurity Boot Camp,” February 13, 2011; and many others;

- Participation in monthly electricity sector threat briefings;
- Participation in monthly oil and gas sector threat briefings;
- Participation in classified briefings at the national, regional, and State levels;
- Twice-monthly conference calls often focused on cybersecurity threats, issues, and related matters;
- Commissioner and Staff applications for government clearance to access classified information; *and*

WHEREAS, NARUC members continue to become better educated in cybersecurity matters and to communicate with regulated utilities on these matters; *and*

WHEREAS, NARUC, its executive leadership, along with its Committee on Critical Infrastructure and other Committees, encourages continued education and edification of its member commissions; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Meetings in Denver, Colorado, acknowledges the need for enhanced vigilance against all cybersecurity threats to our nation’s critical utility infrastructure; *and be it further*

RESOLVED, That NARUC encourages member commissions to continue their efforts to give a high priority to monitoring and evaluating cybersecurity threats to utility systems in collaboration with those agencies and entities having cyber-threat management and mitigation expertise; *and be it further*

RESOLVED, That NARUC continues to encourage member commissions to become increasingly knowledgeable about cybersecurity threats to the relevant utility and pipeline sectors and to maintain an open dialogue with their regulated utilities to ensure adequate resources and expertise are being applied to deter, detect, and respond to cyber attacks; *and be it further*

RESOLVED, That NARUC encourages member commissions to continue in partnership with the relevant federal, regional, and State agencies and industry organizations to work together to enhance and strengthen the cybersecurity posture of our nation’s critical utility systems.

*Sponsored by the Committee on Critical Infrastructure
Adopted by the NARUC Board of Directors, July 24, 2013*

CI-2 (GS-1) Resolution Encouraging Natural Gas Line Investment and the Expedited Replacement of High-Risk Distribution Mains and Service Lines

WHEREAS, NARUC and its members have long focused on pipeline safety, led by the Committee on Gas, established in 1964, the Staff Subcommittee on Pipeline Safety, the Task Force on Pipeline Safety, and the newly created Subcommittee on Pipeline Safety; *and*

WHEREAS, NARUC enjoys a close working relationship with the National Association of Pipeline Safety Representatives (NAPSR), a national organization representing the State pipeline inspection workforce throughout the country; *and*

WHEREAS, NAPSR in November 2011 released an exhaustive compendium of State pipeline safety programs which exceed the minimum federal standards States must meet in order to receive funding from the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA); *and*

WHEREAS, NARUC and the Committee on Gas maintain a strong cooperative partnership with PHMSA, which is essential to ensure State and federal safety regulators work closely on pipeline safety; *and*

WHEREAS, More than two million miles of natural gas distribution pipelines crisscross the United States, connecting homes and businesses with one of America's most important energy resources. These pipelines are the safest, most reliable and cost-effective way to transport this essential fuel across the country; *and*

WHEREAS, By law, the utilities are charged with knowing the location, material, age and condition of their systems. Developing essential data to evaluate the integrity of the systems is the foundation for any determination over what regulators need to fund in rates, as well as what rate recovery methodology best suits a particular case; *and*

WHEREAS, Many States and distribution utilities are undergoing significant pipeline replacement programs to replace aging pipe; *and*

WHEREAS, Many distribution companies are being proactive about replacing their aging pipelines through a risk-based approach focusing on prioritizing safety, asset replacement, and rate impact; *and*

WHEREAS, Alternative rate-recovery mechanisms may help expedite the replacement and expansion of the pipeline systems by promoting more timely rate recovery for investments in infrastructure, safety and reliability; *and*

WHEREAS, Alternative rate recovery mechanisms may help eliminate near-term financial barriers of traditional ratemaking policies such as "regulatory lag" and promote access to lower-cost capital; *and*

WHEREAS, The adoption of alternative rate policies may be very effective for advancing critical safety and reliability infrastructure upgrades; *and*

WHEREAS, Notwithstanding the positive advances in innovative ratemaking and proactive remediation by many distribution companies, utility management bears ultimate responsibility for their respective systems and should seek to work, in ways permissible under their respective State rules and law, collaboratively with Commissioners and/or Commission staff to prioritize asset replacement based upon asset risk, available technology, public safety risk, rate impact; *and*

WHEREAS, Ensuring pipeline safety is about more than just replacement and cost recovery. It is also about effective communication, enforcement, risk sharing, and establishing a long range strategic plan that ensures a safe and reliable gas pipeline system; *and*

WHEREAS, As evidenced in the NAPSR 2011 Compendium, State commissions and inspectors are best suited to determine how best to finance system improvements because each State is different and the needs and financial circumstances of each utility system are unique; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at the 2013 Summer Committee Meetings, in Denver, Colorado, encourages regulators and industry to consider sensible programs aimed at replacing the most vulnerable pipelines as quickly as possible along with the adoption of rate recovery mechanisms that reflect the financial realities of the particular utility in question, *and be it further*

RESOLVED, That State commissions should explore, examine, and consider adopting alternative rate recovery rate mechanisms as necessary to accelerate the modernization, replacement and expansion of the nation's natural gas pipeline systems, *and be it further*

RESOLVED, That NARUC encourages its members to reach out to PHMSA, NAPSR, industry, State and local officials, and the general public about pipeline safety and replacement programs.

*Sponsored by the Committee on Critical Infrastructure
Adopted by the NARUC Board of Directors July 24, 2013*

EL-1 Resolution Regarding the Enforcement of PURPA Standards and Regulations

WHEREAS, The National Association of Regulatory Utility Commissioners is a national, non-profit organization representing State Commissions statutorily responsible for regulating utilities that provide energy services; *and*

WHEREAS, Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) requires electric utilities to purchase power at wholesale from “qualifying facilities” or “QFs” which include some co-generators and small power producers using renewable technologies; *and*

WHEREAS, A primary goal of PURPA is to encourage the use of renewable energy resources and cogeneration for wholesale power supply; *and*

WHEREAS, Section 210 authorizes the Federal Energy Regulatory Commission (FERC) to promulgate rules to implement this QF purchase requirement and also directs States to implement such rules within one year of FERC promulgation; *and*

WHEREAS, PURPA requires power from QFs to be sold to utilities at “avoided cost rates” that are just and reasonable to a utility’s ratepayers and in the public interest; *and*

WHEREAS, PURPA created a broad and flexible framework for the sale of QF power to utilities by leaving the details to be worked out by State commissions; *and*

WHEREAS, NARUC and its members have a long history of successfully implementing PURPA and encouraging renewable development that is consistent with FERC regulations and in the public interest; *and*

WHEREAS, Section 210 purports to provide FERC with authority to enforce its rules, including allowing the agency to directly sue a State commission in federal court; *and*

WHEREAS, Section 210 does not require FERC to sue and does not limit FERC from utilizing other enforcement mechanisms that more appropriately reflect the joint interests and comity between FERC and States to implement PURPA in a manner that best serves the public interest; *and*

WHEREAS, States implement Section 210 through routine rulemakings that ensure just and reasonable retail electricity rates through processes subject to State administrative and court appeal processes; *and*

WHEREAS, Until recently, FERC never sued a State commission under PURPA section 210(h); *and*

WHEREAS, Subsequent to FERC’s recent notice of its intent to file an enforcement action in federal district court against a State commission, there has been a significant increase in the number of PURPA complaints filed at FERC against State commissions; *and*

WHEREAS, FERC recently issued several orders finding some State commissions in violation of its PURPA regulations, apparently without giving weight to (i) whether the underlying applicant had exhausted other available State remedies, (ii) whether that applicant effectively “sat” on its concerns, allowing existing State appeal/rehearing options and often months, if not years, to lapse before seeking FERC enforcement action, (iii) the impact of related State contract law, and (iv) whether, as part of the required public interest determination under Section 210(b)(1), the subject action results in just and reasonable retail rates to the customers of the electric utility; *and*

WHEREAS, Some of these FERC decisions (i) undermine State PURPA procedures, and (ii) conflict with State contract law, State policies regarding management of renewable development, and federal law regarding the impact on retail rates to customers of the electric utility; *and*

WHEREAS, Congress reserved to States the authority to set avoided cost rates and order utilities to enter into obligations for the purchase of energy under PURPA, while implementing FERC regulations; *and*

WHEREAS, Several recent FERC PURPA decisions are inconsistent with that reservation of authority; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Committee Meeting in Denver, Colorado, urges FERC, when responding to future complaints, to also consider (i) whether the applicant exhausted other available State remedies, (ii) whether the applicant allowed existing State appeal/rehearing options to lapse unexercised before seeking FERC enforcement, (iii) the impact of contract and other pertinent State law, and (iv) whether, as part of the required Section 210(b)(1) public interest determination, the subject action results in just and reasonable retail rates; *and be it further*

RESOLVED, That FERC should proceed cautiously with any determination or action that overrides State public interest, contract, terms of service and other State policy determinations, and only after careful consideration of the public interest elements reflected, *supra*, should FERC exercise authority to directly sue State commissions on behalf of an industry stakeholder.

*Sponsored by the Committee on Electricity
Adopted by the NARUC Board of Directors, July 24, 2013*

EL-2 Resolution Regarding State Authority over Public Utility Resource Planning

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) is a national organization representing State Commissions statutorily responsible for regulating utilities that provide energy services; *and*

WHEREAS, In Section 201 of the Federal Power Act (FPA), Congress specifies that federal regulation under the FPA “extend[s] only to those matters which are not subject to regulation by the States;” *and*

WHEREAS, To the extent allowed by Section 201, FPA Section 217 requires FERC to merely *facilitate* planning and expansion of the transmission facilities to meet the reasonable needs of load-serving entities to serve their service obligations and does not otherwise expand FERC’s Section 201 jurisdiction; *and*

WHEREAS, For decades States have exercised jurisdiction over, *inter alia*, planning and siting of transmission lines and issuance of related certificates, as well as approved utility integrated resource plans, other resource adequacy determinations, interconnections to distribution facilities, retail rates, and determinations of the reasonable needs of load-serving entities to meet State service obligations; *and*

WHEREAS, NARUC previously resolved that the cost of upgrades and expansions necessary to support incremental new loads or demands on a transmission system should be borne by those requiring the upgraded service; *and*

WHEREAS, FERC’s *Order No. 1000* requires each jurisdictional utility that provides transmission service to participate in regional and interregional planning processes that must consider transmission needs driven by “public policy requirements” and include a *regional* cost allocation method for any new facilities; *and*

WHEREAS, *Order No. 1000* does not define the word “beneficiaries” and therefore FERC’s rulings on *Order No. 1000* compliance filings may result in transmission planning and cost allocations that conflict with State jurisdiction and policies; *and*

WHEREAS, NARUC has filed FERC pleadings raising the concern that *Order No. 1000* can be construed to interfere with States’ ability to fully execute their jurisdictional responsibilities, *and*

WHEREAS, In some regions of the country without organized wholesale markets, FERC-jurisdictional and non-FERC-jurisdictional utilities such as public power entities and federal power marketing agencies have cooperated extensively to pursue transmission planning and cost allocation approaches that are suitable to those regions, and States have engaged vigorously in those cooperative efforts; *and*

WHEREAS, The absence in *Order No. 1000* of proper recognition of the decisive role States and cooperative regional planning processes play could actually delay successful transmission planning and cost allocation; *and*

WHEREAS, *Order No. 1000-A* expressly disclaims any intent to undermine the States' role, stating: "nothing is intended to preempt or otherwise conflict with State authority over the siting, permitting, and construction of transmission facilities or over integrated resource planning and similar processes;" *and*

WHEREAS, In the course of reviewing *Order No. 1000* transmission compliance filings, FERC has taken, in certain regions, and may continue to take, action contrary to that statement; *and*

WHEREAS, States have demonstrable expertise and in-depth knowledge of local and regional conditions derived from decades as the primary overseer of utility resource planning, as well as associated transmission planning and expansion, and, like our federal counterparts, are adjudicators of the "public interest," *and*

WHEREAS, Because of that status and history, States should not be relegated to the status of a mere "stakeholder" on these crucial issues nor should FERC action on *Order No. 1000* compliance filings undermine or supersede State policies respecting transmission needs assessments, transmission siting, permitting and construction, integrated resource planning processes, reliability, and regional coordination of bulk electric systems; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Committee Meeting in Denver, Colorado, concludes that *Order No. 1000*, as implemented, inappropriately infringes on State authority reserved by Congress over integrated resource plans, generation and transmission decisions, assurance of resource adequacy and reliability, and authorization and construction of new facilities; *and be it further*

RESOLVED, That FERC, in future compliance orders, should properly recognize the crucial role of the States and their role in shaping regional transmission planning and cost allocation policies; *and be it further*

RESOLVED, That FERC should implement *Order No. 1000* in a more flexible manner, giving deference to cooperatively developed regional solutions for regional needs, as advocated by States.

*Sponsored by the Committee on Electricity
Adopted by the NARUC Board of Directors, July 24, 2013*

EL-3 Resolution Opposing a New Tax for the Decommissioning and Decontamination Fund

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) is a national, non-profit organization of the State Commissions responsible for economic regulation of electric utilities, including utilities that generate or purchase electric power from nuclear powered electric generating plants; *and*

WHEREAS, In the 1940s and 1950s, the federal government built three uranium enrichment plants for its nuclear weapons and national defense programs: The Oak Ridge plant in Tennessee was built in 1945 as part of the Manhattan Project; the Paducah, Kentucky, plant in 1952, and the Portsmouth, Ohio, plant in 1954. These plants operated for approximately 25 years as national defense installations, accumulating 25 years worth of contamination from their operation; *and*

WHEREAS, In 1969, the Atomic Energy Commission (AEC) determined that some of their capacity could be dedicated to production of low enriched uranium for commercial use. From 1969 through 1992, the Department of Energy (DOE) and predecessor agencies sold enrichment services to commercial customers including electric utilities under contracts that required utility customers to pay for the future cost of Decommissioning and Decontamination (D&D); *and*

WHEREAS, Electric utilities and their customers paid for future D&D costs as required by the contracts with AEC and DOE for commercial use of uranium, the federal government did not set those or any other funds aside for this work; *and*

WHEREAS, In 1992, the Energy Policy Act (1992 Act) created the D&D fund to finance cleanup at the same three government-owned enrichment plants. The legislation privatized the uranium enrichment enterprise, but the DOE retained ownership of the three enrichment plants and the obligation to clean them up. Pursuant to the 1992 Act, U.S. electric utilities were assessed up to \$150 million per year (adjusted for inflation) for 15 years, based on each company's past purchases of federal uranium enrichment services, to help finance cleanup of the facilities. The 1992 Act provided for termination of the assessment against electric utilities within 15 years after October 24, 1992, or alternatively upon the collection of \$2.25 billion, adjusted for inflation; *and*

WHEREAS, DOE collected \$2.6 billion of these D&D assessments as authorized by the 1992 Act. However, an independent audit found that the federal government used a portion of the funds for other purposes; *and*

WHEREAS, The President's fiscal year 2014 budget would again reinstate the D&D fund assessment for a third time, levying an additional \$2.4 billion 10-year tax on electric utilities and their customers for the very same program; *and*

WHEREAS, Electric utilities and their customers already have paid twice for Decommissioning and Decontamination, all as specified by the law; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Committee Meetings in Denver, Colorado,

supports environmental cleanup of these sites, but U.S. electric utilities and their customers should not be singled out yet again to pay for D&D of DOE facilities developed for nuclear weapons and national defense programs.

*Sponsored by the Committee on Electricity
Adopted by the NARUC Board of Directors, July 24, 2013*

GS-1 Resolution Encouraging Natural Gas Line Investment and the Expedited Replacement of High-Risk Distribution Mains and Service Lines

WHEREAS, NARUC and its members have long focused on pipeline safety, led by the Committee on Gas, established in 1964, the Staff Subcommittee on Pipeline Safety, the Task Force on Pipeline Safety, and the newly created Subcommittee on Pipeline Safety; *and*

WHEREAS, NARUC enjoys a close working relationship with the National Association of Pipeline Safety Representatives (NAPSR), a national organization representing the State pipeline inspection workforce throughout the country; *and*

WHEREAS, NAPSR in November 2011 released an exhaustive compendium of State pipeline safety programs which exceed the minimum federal standards States must meet in order to receive funding from the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA); *and*

WHEREAS, NARUC and the Committee on Gas maintain a strong cooperative partnership with PHMSA, which is essential to ensure State and federal safety regulators work closely on pipeline safety; *and*

WHEREAS, More than two million miles of natural gas distribution pipelines crisscross the United States, connecting homes and businesses with one of America's most important energy resources. These pipelines are the safest, most reliable and cost-effective way to transport this essential fuel across the country; *and*

WHEREAS, The safe and reliable delivery of natural gas to homes and businesses and its use in providing new products and services is vital to the U.S. and of paramount importance to members of NARUC; *and*

WHEREAS, By law, the utilities are charged with knowing the location, material, age and condition of their systems. Developing essential data to evaluate the integrity of the systems is the foundation for any determination over what regulators need to fund in rates, as well as what rate recovery methodology best suits a particular case; *and*

WHEREAS, Many States and distribution utilities are undergoing significant pipeline replacement programs to replace aging pipe; *and*

WHEREAS, Many distribution companies are being proactive about replacing their aging pipelines through a risk-based approach focusing on prioritizing safety, asset replacement, and rate impact; *and*

WHEREAS, Alternative rate-recovery mechanisms may help expedite the replacement and expansion of the pipeline systems by promoting more timely rate recovery for investments in infrastructure, safety and reliability; *and*

WHEREAS, Alternative rate recovery mechanisms may help eliminate near-term financial barriers of traditional ratemaking policies such as “regulatory lag” and promote access to lower-cost capital; *and*

WHEREAS, The adoption of alternative rate policies may be very effective for advancing critical safety and reliability infrastructure upgrades, *and*

WHEREAS, Notwithstanding the positive advances in innovative ratemaking and proactive remediation by many distribution companies, utility management bears ultimate responsibility for their respective systems and should seek to work, in ways permissible under their respective State rules and law, collaboratively with Commissioners and/or Commission staff to prioritize asset replacement based upon asset risk, available technology, public safety risk, rate impact, *and*

WHEREAS, Ensuring pipeline safety is about more than just replacement and cost recovery. It is also about effective communication, enforcement, risk sharing, and establishing a long range strategic plan that ensures a safe and reliable gas pipeline system; *and*

WHEREAS, As evidenced in the NAPSR 2011 Compendium, State commissions and inspectors are best suited to determine how best to finance system improvements because each State is different and the needs and financial circumstances of each utility system are unique; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at the 2013 Summer Committee Meetings, in Denver, Colorado, encourages regulators and industry to consider sensible programs aimed at replacing the most vulnerable pipelines as quickly as possible along with the adoption of rate recovery mechanisms that reflect the financial realities of the particular utility in question; *and be it further*

RESOLVED, That State commissions should explore, examine, and consider adopting alternative rate recovery rate mechanisms as necessary to accelerate the modernization, replacement and expansion of the nation’s natural gas pipeline systems, *and be it further*

RESOLVED, That NARUC encourages its members to reach out to PHMSA, NAPSR, industry, State and local officials, and the general public about pipeline safety and replacement programs.

*Sponsored by the Committee on Gas
Adopted by the NARUC Board of Directors July 24, 2013*

TC-1 Resolution to Improve Lifeline Annual Recertification Process

WHEREAS, On February 6, 2012, the Federal Communications Commission (FCC) released the Lifeline Reform Order which establishes various procedures to eliminate waste, fraud and abuse in the Lifeline program, (*Report and Order and a Further Notice of Proposed Rulemaking* (FCC 12-11 Lifeline Reform Order)); *and*

WHEREAS, Some Eligible Telecommunications Carriers (ETCs) are distributing free cellphones with Lifeline service activated before confirming the eligibility of a household, while some States require confirmation of customer eligibility before the customer can receive the Lifeline service; *and*

WHEREAS, Such a process has potential for waste, fraud, and abuse; *and*

WHEREAS, With any public program such as Lifeline, unscrupulous providers and customers will commit fraudulent acts and/or fail to comply with FCC rules; *and*

WHEREAS, The new FCC procedures require ETCs to annually recertify all Lifeline program subscribers; *and*

WHEREAS, The Lifeline Reform Order provides for the creation of two automated processes which would assist ETCs in their annual Lifeline recertification process of Lifeline subscribers; *and*

WHEREAS, The two processes are the *National Accountability Database*, used to determine whether a subscriber is receiving duplicative Lifeline support, and an eligibility database, used to determine Lifeline eligibility for the most common programs through which consumers qualify for Lifeline; *and*

WHEREAS, The FCC in its Lifeline Reform Order, asserts that the *National Accountability Database* will be operational within one year from the date of release of the Order and the eligibility database will be available as early as possible but no later than the end of December 2014; *and*

WHEREAS, Many ETCs were required to obtain signed certification forms from their Lifeline subscribers to recertify eligibility in 2012 without the assistance of the automated processes of the *National Accountability Database* or the eligibility database; *and*

WHEREAS, On January 31, 2013, all ETCs were required to file the results of their 2012 Lifeline subscriber recertification efforts as reported on the FCC's new Form 555; *and*

WHEREAS, The 2012 results from these filings show that many ETCs de-enrolled more than half of their Lifeline subscribers; *and*

WHEREAS, Recent media reports have claimed that the vast number of de-enrolled Lifeline subscribers is proof of continuing waste, fraud and abuse in both the Lifeline program as well as

the Federal Universal Service Fund, although the reasons for de-enrollment have not been thoroughly studied and the recertification process needs to be reviewed for effectiveness; *and*

WHEREAS, Based on the large number of de-enrolled Lifeline subscribers, Congress has expressed concern about the effectiveness of the program and held a hearing April 25, 2013; *and*

WHEREAS, A significant proportion of the customer de-enrollment may have occurred because eligible consumers failed to complete and return their forms or experienced difficulty completing the required forms completely and accurately; *and*

WHEREAS, States that have been granted waivers and opted-out of the FCC's recertification process and instead rely upon their own State databases to recertify consumers for the Lifeline program have generally seen lower de-enrollment rates or almost no change; *and*

WHEREAS, A recertification form that is simpler and easier for consumers to understand, to be used in the interim period before the automated eligibility process is implemented, may improve the accuracy of program participation; *and*

WHEREAS, While the National Association of Regulatory Utility Commissioners (NARUC) supports the annual recertification process as a necessary step in helping to eliminate waste, fraud and abuse, it believes that requiring ETCs to obtain signed recertification forms may not be the most efficient option for Lifeline subscribers or ETCs; *therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Committee Meetings in Denver, Colorado, commends the FCC on its efforts to eliminate waste, fraud and abuse in the Lifeline program; *and be it further*

RESOLVED, That NARUC urges the FCC to examine the recertification process to ensure that legitimate eligible consumers continue to receive the benefits provided by the Lifeline program; *and be it further*

RESOLVED, That the FCC promptly initiate a collaborative process with the States to develop and implement a mechanism for States and/or Universal Service Administrative Company (USAC) to efficiently administer determination of eligibility and recertification for consumers to participate in the Lifeline program in an effort to minimize waste, fraud and abuse, and to learn from State Lifeline enrollment and recertification processes, databases and systems; *and be it further*

RESOLVED, That the FCC should swiftly take strong enforcement action against Lifeline providers and customers engaging in fraudulent practices and/or failing to comply with FCC rules that ensure households that truly qualify receive assistance; *and be it further*

RESOLVED, That NARUC encourages the FCC to ensure that the *National Lifeline Accountability Database* and the eligibility database are available before the end of 2013 so that ETCs and States may use these databases in 2014.

*Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors July 24, 2013*

TC-3 Resolution Calling for National and State Collaboration to Ensure Reliable Wireline and Wireless Communications during Power Outages

WHEREAS, Pursuant to the Communications Act of 1934, it is the long standing policy of the United States to make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges for the purpose of promoting safety of life and property; *and*

WHEREAS, Historically, the “Public Switched Telephone Network” (PSTN) has been comprised of publicly available, interconnected, conventional wireline circuit-switched networks operated by telephone corporations and used to provide voice telephone service throughout the United States and internationally; *and*

WHEREAS, The switching nodes of conventional wireline circuit-switched networks are supported by robust independent back-up power supply resources (e.g., central office or CO standby diesel generators and battery banks), and can function during prolonged, and widespread commercial power outages; *and*

WHEREAS, The transmission and switching technology deployed in the PSTN has continuously evolved over time, and can be expected to further evolve as transmission and switching technology and associated communication protocols continue to change; *and*

WHEREAS, Incumbent Local Exchange Carriers (ILECs), cable telephone service providers (CATV), and Competitive Local Exchange Carriers (CLECs) are providing conventional telephone service and/or voice services over broadband access networks, including fiber optics, that rely on the commercial electric power grid; *and*

WHEREAS, For conventional telephone service and/or voice access services provided over broadband and fiber-based access networks, during a power outage additional back-up power at both the customer’s premises and at a telecommunications provider’s network is necessary to ensure that customers continue to have functioning conventional telephone and/or voice access service, including the ability to call 911 and E911; *and*

WHEREAS, Wireless cell phone service relies on the commercial electric power grid, and an adequate back-up power supply is essential for wireless networks to continue to operate during a power outage; *and*

WHEREAS, The nation’s two largest ILEC holding companies, AT&T and Verizon, have stated their intent to selectively migrate basic telephone service customers away from copper-based wireline distribution networks and over to either wireless or fiber-based access networks; *and*

WHEREAS, Verizon is migrating customers from wireline copper-based access distribution networks to fiber-based or wireless access network facilities in several States and has proposed to do so in other States; *and*

WHEREAS, There have been numerous instances in which telecommunications services, provided over wireline and wireless networks that rely on the electric power grid, have ceased to function during commercial power outages; *and*

WHEREAS, Residential end-users of wireline telecommunications services that are provided over retail broadband network access facilities depend on 2 to 8 hour reserve back-up battery packs at their premises. During commercial power outages lasting longer periods of time, especially in circumstances of inclement weather, the need for access to 911 and E911 substantially increases; *and*

WHEREAS, the FCC has an open proceeding examining the reliability of 911/E911 access networks as well as the reliability and the continuity of communications networks, including broadband technologies (*see generally, In re: Improving 9-1-1 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket Nos. 13-75 and 11-60, (FCC Rel. Mar. 20, 2013), Notice of Proposed Rulemaking, FCC 13-33 (the FCC Notice of Proposed Rulemaking focuses on the reliability and back-up power requirements of network nodes and does not address the issue of back-up power battery packs at the end-user customer premises)); *and*

WHEREAS, Both State and federal regulators are responsible for ensuring the continued widespread availability of reliable, affordable and high quality telecommunications services; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Meetings in Denver, Colorado, urges State and federal regulators to engage in meaningful dialogue with industry decision makers to develop policies and procedures that ensure telecommunications are maintained during power outages regardless of the technology and the communications protocols used to provide the services.

*Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors July 24, 2013*

***TC-4 Resolution Concerning Numbering and Technology Transition Trials for
Voice over Internet Protocol and Other IP-Enabled Services***

WHEREAS, NARUC previously adopted a resolution concerning access to numbering resources and adherence to numbering rules by Voice over Internet Protocol (VoIP) and Internet Protocol (IP)-enabled service providers at its February 2012 Winter Committee Meetings that noted that the numbering resource management authority delegated by the Federal Communications Commission (FCC) to the States has greatly contributed to the overall success in meeting number utilization and optimization goals, reducing area code exhaust, and facilitating the efficient and timely porting of numbers between service providers; *and*

WHEREAS, The 2012 resolution resolved “That NARUC specifically stresses the importance of requiring all service providers (licensed and unlicensed, certificated and non-certificated, over-the-top and embedded alike) to comply with numbering utilization and optimization requirements, as well as the obligation to comply with all industry guidelines and practices approved by the FCC and all numbering authority delegated by the FCC to the States.”; *and*

WHEREAS, On April 18, 2013, the FCC released a Notice of Proposed Rulemaking, Order and Notice of Inquiry (FCC 13-51) that granted Vonage Holdings Corporation (Vonage) and other VoIP service providers a limited, conditional waiver of the FCC’s rules and directed Vonage and other interested VoIP service providers to submit by May 20, 2013 to the FCC and each relevant State commission a proposal to conduct a limited technical trial to receive direct access to telephone numbers; *and*

WHEREAS, On June 17, 2013, the FCC approved the technical trial proposals for direct access to telephone numbers by Vonage and four other VoIP service providers to be conducted in nine States (Arizona, California, Colorado, Florida, Georgia, Massachusetts, New York, North Carolina and Texas) even though the State Coordination Group confirmed by a survey of these State commissions that only one State had received the VoIP service providers’ proposals by the FCC-mandated May 20, 2013 submittal deadline; *and*

WHEREAS, On May 10, 2013, the FCC Technology Transitions Policy Task Force released a Public Notice (DA 13-1016; WC Docket No. 13-5) that requested comments on five types of technology trials relating to the ongoing transitions from copper to fiber, from wireline to wireless, and from time-division multiplexing (TDM) to IP infrastructure and technologies, which would among other issues address “numbering and number portability,” and, potentially, a separate technology trial for assigning and porting telephone numbers in an all-IP environment; *and*

WHEREAS, The FCC Technology Transitions Policy Task Force’s Public Notice sought guidance on whether the NARUC Federalism Task Force, the FCC’s Intergovernmental Advisory Committee, or any other FCC advisory committee should be involved in the trials and the selection of applications or geographic areas; *and*

WHEREAS, The NARUC Federalism Task Force Report: “Cooperative Federalism Telecom in the 21st Century” (Draft, June 2013) concluded: “By returning to its earlier policy of actively

seeking input from the States via the Joint Boards, the FCC can ensure that its rules positively impact the States and their communications end users. To do this, the Task Force recommends that the FCC refer matters to the Joint Boards more regularly”; *and*

WHEREAS, The Federal-State Joint Board on Universal Service has the unique experience and collaborative and technical capabilities to advise the FCC on behalf of the States regarding the design, geographic application, selection of applicants and evaluation of telecommunications technology trials and any subsequent policy recommendations necessary to maintain and advance the statutorily protected universal service concept which entails the fundamental entitlement of end-user consumers to have affordable and reliable access to advanced voice telecommunications and broadband services; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Committee Meetings in Denver, Colorado, reaffirms its position that the FCC should apply numbering resource utilization and optimization rules and obligations equally to all service providers, whether they utilize copper or fiber, wireline or wireless, or TDM or IP infrastructure and technologies; *and be it further*

RESOLVED, That States and the FCC should work together to jointly examine the best way to accomplish the interconnection of next generation telecommunications network technologies in order to ensure that the public interest in the efficient and fair utilization of numbering resources will be protected; *and be it further*

RESOLVED, That States should play an integral role in the FCC’s proposed technology transition trials, in the interest of ensuring a positive outcome for all State consumers who will ultimately be subject to policies, regulations and laws informed by the technology trials; *and be it further*

RESOLVED, That the FCC should refer any proposed or future technology transition trials to an adequately funded Federal-State Joint Board on Universal Service for collaborative review with the State commissions and advice regarding the design, geographic application, selection of applicants and evaluation of the trials and any subsequent policy recommendations necessary to maintain and advance the statutorily protected universal service concept.

*Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors, July 24, 2013*

TC-5 Resolution Urging the Federal Communications Commission to Act Transparently in Deploying Formal CAF-II Rules and to Direct Funding to Ensure Comparable Voice and Broadband Services to Customers in the Nation's Highest-Cost Areas

WHEREAS, The Federal Communications Commission (FCC) has limited federal Universal Service Fund (USF) high-cost support to no more than \$1.8 billion annually in areas served by price cap carriers and \$2 billion in areas served by rate-of-return (ROR) carriers, even though it is widely understood that the cost of providing and maintaining comparable voice and broadband services to rural consumers in high-cost areas requires considerably more support; *and*

WHEREAS, The FCC's USF/ICC Transformation Order will also bring intercarrier compensation payments to the rural local exchange carriers (RLECs) for terminating traffic to a zero level through a series of reductions, resulting in "bill and keep" by July 1, 2020; *and*

WHEREAS, In their June 2013 "State USF White Paper: New Rural Investment Challenges," experts Michael Balhoff and Bradley Williams explain that by 2020 the cumulative reduction of support to price-cap carriers (excluding AT&T and Verizon) will be approximately \$6 billion and to small carriers (presumed to be ROR) will be \$5.2 billion; *and*

WHEREAS, Balhoff and Williams describe the risk of losing and/or limiting the availability of critical voice and broadband services in rural areas that require federal and State USF support to meet the reasonable and comparable access to service standards included in Section 254(b)(3) of the federal Communications Act as amended, 47 U.S.C. § 254(b)(3); *and*

WHEREAS, That increased risk of non-investment is supported by the projections from financial institutions showing the FCC's USF/ICC Transformation Order (FCC 11-161) has actually reduced broadband investment in areas served by ROR carriers that are the ostensible target of the FCC's stated CAF II broadband deployment and federal USF reform objectives; *and*

WHEREAS, The FCC is implementing the second phase of its Connect America Fund (CAF-II) to determine a methodology for distributing federal Universal Service Fund (USF) support in unserved and underserved rural areas served by price cap carriers; *and*

WHEREAS, The FCC's apparent objective of its CAF-II model exercise is to expand the availability of broadband services to customers in those areas; *and*

WHEREAS, Despite the comprehensive effort to develop an appropriate cost model for deriving the appropriate level of CAF II support for eligible price cap carriers, this cost model has not yet been finalized and there is no indication as to when the model might be completed, let alone released, made public and subject to independent transparent scrutiny, verification and replication; *and*

WHEREAS, The FCC has accorded a proprietary designation for both the CostQuest Connect America Cost Model (CACM) internal logic and its output results. Access to the model and the output results is generally limited to those who execute the requisite confidentiality agreements. According to the National Association of State Utility Consumer Advocates (NASUCA) this

FCC approach: (1) Unduly constrains national and public debate on issues that have a monetary impact on end-user consumers and involve broadband deployment and availability; (2) sharply contrasts with past FCC approaches where cost models associated with the derivation of federal USF high-cost support were open, transparent and replicable in the public domain; and, (3) is inconsistent with the FCC's own professed strategic goals to the U.S. Congress including "a commitment to transparent and responsive processes" (NASUCA May 9, 2013 Ex Parte to the FCC on CAF II Model Design and Data Inputs); *and*

WHEREAS, While the FCC has decided to use a cost model to distribute CAF-II USF support in areas served by price cap carriers, the FCC is also considering use of a model to distribute CAF USF support in rural areas that are served by smaller ROR carriers that typically face different economic and operational challenges and generally serve an even greater preponderance of high-cost customers than the largest ROR carriers, more akin to rural-focused price cap carriers; *and*

WHEREAS, The FCC has signaled only modest changes to the Quantile Regression Analysis (QRA) cost model it proposes to use, despite a comprehensive analysis that has indisputably demonstrated the model to be deeply, if not fundamentally, flawed, with 14 of the 16 variables used by the model found to be flawed in one or more of six ways, resulting in unpredictable results even for similarly situated ROR carriers; *and*

WHEREAS: As FCC Commissioner Ajit Pai indicated in his comments associated with the 6th Order on Reconsideration of the USF/ICC Transformation Order: "Unpredictability also undermines the stated purpose of the QRA benchmarks, which is to incentivize efficient and prudent decision-making by rate-of-return carriers. The High Cost Loop Support (HCLS) mechanism is a backward-looking mechanism within the Universal Service Fund, meaning that support received today is based on—and is payment for—historical, two-year-old expenditures. Yet a rural carrier cannot even guess its 2015 QRA benchmarks because they will be based on an entirely new model and may or may not (today's order leaves that to the Bureau's discretion) bear some relation to the 2014 benchmarks" (FCC 13-16, Feb. 27, 2013, slip op., at 30, emphasis added); *and*

WHEREAS, Former FCC Chairman Genachowski declined to refer the federal USF contribution base reform to the Federal-State Joint Board on Universal Service (Joint Board), purportedly due to fear of delaying the process that led to the adoption of the USF/ICC Transformation Order, yet it was the FCC that has caused a two-year delay in reforming the contribution base of the federal USF mechanism in the wake of a recommended solution originally proposed by the State members of the Joint Board in May 2011; *and*

WHEREAS, The FCC's Wireline Competition Bureau (WCB) purports to utilize a "virtual cost workshop" to elicit public input into the CAF-II modeling process with all submissions then placed in the record; *and*

WHEREAS, A review of "virtual cost workshop" posts indicates few parties are participating, and the submission of such posts and their impact on how the WCB may alter updated model

releases and relevant inputs is uncertain, thus creating questions regarding the transparency of this new procedure; *and*

WHEREAS, State commissions share responsibility for preserving universal service and enforcing carrier-of-last-resort obligations where such obligations exist, and will be the agencies to which rural customers turn for assistance when those customers are left without service; *and*

WHEREAS, State commissions that wish to play an active role through their own State-specific USF mechanisms, or through some other State-sponsored initiative to address the revenue gaps that are left for rural price cap and ROR ILECs because of reduced federal USF support and intercarrier compensation revenue, are hampered because of the existing unpredictability of the federal USF support levels generally, the lack of transparency and the availability of CAF II support in particular; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Meetings in Denver, Colorado, urges the FCC to ensure the directives of Congress are met and that universal service support is distributed so as to (i) assure reasonably priced, comparable and affordable voice and broadband services in the highest-cost rural areas and (ii) encourage investment in networks required to meet those objectives; *and be it further*

RESOLVED, That to meet the FCC's objectives of broadband deployment in unserved and underserved rural areas of the nation, the FCC must at a minimum ensure that: (1) any CAF-II USF model targets USF disbursements to higher-cost rural areas before lower-cost, relatively non-rural areas and (2) that rural customers have access to broadband services that are reasonably comparable to services customers receive in non-rural areas; *and be it further*

RESOLVED, That NARUC urges the FCC to implement a process that affords interested parties and State commissions a fully open, transparent and meaningful opportunity to review and comment on all changes to the CAF-II USF model and subsequent models which might be adopted for application to the smaller ROR carriers that will be recommended to the FCC prior to any such WCB recommendations; *and be it further*

RESOLVED, That the WCB Staff at a minimum should place in the public record both the existing and future CACM model run results consistent with the NASUCA request of May 9, 2013; *and be it further*

RESOLVED, That in recognition of the widely accepted economic and operational differences in maintaining and advancing universal service in the smaller rural ROR carrier service areas, in any action that the FCC may take with respect to CAF-II USF models applicable to price-cap carrier rural areas that the agency also make an explicit factual determination that such action will not impact nor prejudge any action that the FCC may take on federal USF high-cost support mechanisms for the areas served by ROR carriers.

*Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors July 24, 2013*

WA-1 Resolution Recognizing EPRI's Water Quality Trading Project

WHEREAS, Water Quality Trading is an innovative market-based approach to improving water quality through programs that allow point source discharges to purchase pollutant reductions from other point and nonpoint source dischargers; *and*

WHEREAS, A properly designed and deployed program has the potential to protect watersheds at lower overall costs; *and*

WHEREAS, The Electric Power Research Institute (EPRI) has initiated an Ohio River Basin Water Quality Trading project that encourages collaboration across State boundaries; *and*

WHEREAS, The trading plan was signed on August 9, 2012, by State representatives from permitting offices and agricultural agencies in Ohio, Indiana, and Kentucky; *and*

WHEREAS, The project holds the promise of providing ecological and social co-benefits, including reduced greenhouse gas emissions, pollinator habitat, and financial support for local agricultural offices and farmers; *and*

WHEREAS, The project encourages and facilitates broad stakeholder engagement to address a complex environmental challenge; *and*

WHEREAS, Several existing projects have demonstrated that water quality trading can be used to facilitate and expedite pollutant reductions for compliance purposes, as well as for overall water quality improvement; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Committee Meetings in Denver, Colorado, commends EPRI for working to develop best practices in water quality trading, and encourages State governments to consider similar programs in other States, given the importance of water quality to the nation.

*Sponsored by the Committee on Water
Adopted by the NARUC Board of Directors, July 24, 2013*

**WA-2 Resolution Supporting the Consideration of Regulatory Mechanisms and Policies
Deemed “Best Practices” for the Regulation of Small Water Systems**

WHEREAS, The United States Environmental Protection Agency estimates that more than eighty percent of the total water systems in the United States serve fewer than 3,300 people per system; *and*

WHEREAS, The NARUC Water Committee recognized that “small water company viability issues continue to be a challenge for regulators” in the *Resolution Supporting Consideration of Regulatory Best Policies Deemed as Best Practices* (2005); *and*

WHEREAS, It is acknowledged that the traditional cost-of-service regulatory model as applied to small water systems may result in regulatory costs that are disproportionately high on a per-customer basis, which ultimately impacts customers served by those systems; *and*

WHEREAS, A number of regulatory policies and mechanisms have been implemented by public utility commissions throughout the United States to specifically address the challenges of regulating small water systems; *and*

WHEREAS, In the regulation of small water systems, it is recognized that rate application processes and mechanisms that reduce or remove the need for use of outside counsel or consulting services, thus reducing rate application duration and costs, should be encouraged; *and*

WHEREAS, To meet the challenges of environmental compliance and continued capital investment required to deliver safe and reliable service to the customers served by regulated small water systems, the following practices have been identified as means to improve sustainable and continued investment in small water system infrastructure at cost-effective rates: a) simplified rate applications for small water systems; b) electronic filing procedures; c) use of the annual report provided by the utility to the public utility commission to provide a significant portion of the rate application; d) commission staff assisted rate cases including both direct commission staff involvement in the rate application process and site visits to reduce the need for formal discovery; f) simplified rate of return mechanisms that may include formulaic rate of return calculations or percentage increases in authorized returns indexed to recent water cases in the same jurisdiction; g) cost of living adjustments; h) rate mechanisms to facilitate emergency infrastructure funds; i) operating ratio rate mechanisms where there is very limited rate base; j) limiting the use of Contributions In Aid of Construction in situations where unsustainably low rates may be instituted as a result; and k) combining water and wastewater revenue requirements for purposes of rate cases, as appropriate, if the water and wastewater utilities are under the same ownership, which will reduce rate case expense and offer rate increase mitigation options driven by economies of scale that would be unavailable otherwise; *and*

WHEREAS, It is further recognized that there are regulatory policies and mechanisms that address the viability of newly operating small water systems, including: a) enforcing the technical, managerial, and financial requirements as defined by the United States Environmental Protection Agency; b) where applicable and beneficial to the customer, encouraging consolidation with a nearby water system; and c) in the case where the new system provides the

most benefit to the consumers, assuring adequate rates for infrastructure sustainability and emergency funding; *and*

WHEREAS, It is recommended that jurisdictions periodically evaluate classification criteria for defining which water systems qualify as small water systems; *now, therefore be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened in its 2013 Summer Meetings in Denver, Colorado, conceptually supports review and consideration of the innovative regulatory policies and practices identified herein as “best practices” in the regulation of small water systems; *and be it further*

RESOLVED, That NARUC recommends that economic regulators consider and adopt as many as appropriate of the regulatory mechanisms identified herein as best practices; *and be it further*

RESOLVED, That the Committee on Water stands ready to assist economic regulators with implementation of any of the best practices set forth within this Resolution.

Sponsored by the Committee on Water

Adopted by the NARUC Board of Directors, July 24, 2013

WA-3 Resolution Addressing Gap Between Authorized Versus Actual Returns on Equity in Regulation of Water and Wastewater Utilities

WHEREAS, There is both a constitutional basis and judicial precedent allowing investor owned public water and wastewater utilities the opportunity to earn a rate of return that is reasonably sufficient to assure confidence in the financial soundness of the utility and its ability to provide quality service; *and*

WHEREAS, Through the *Resolution Supporting Consideration of Regulatory Policies Deemed as “Best Practices”* (2005), the National Association of Regulatory Utility Commissioners has previously recognized the role of innovative regulatory policies and mechanisms in the ability for public water and wastewater utilities to address significant infrastructure investment challenges facing water and wastewater system operators; *and*

WHEREAS, Public utilities carry the responsibility to invest prudently, provide safe and reliable service, and take reasonable action to take precautionary measures to address business risk and economic forces, as necessary; *and*

WHEREAS, Recent analysis shows that as compared to other regulated utility sectors, significant and widespread discrepancies continue to be observed between commission authorized returns on equity and observed actual returns on equity among regulated water and wastewater utilities; *and*

WHEREAS, The extent of such discrepancies suggests the existence of challenges unique to the regulation of water and wastewater utilities; *and*

WHEREAS, Ratemaking that has worked reasonably well in the past for water and wastewater utilities no longer addresses the challenges of today and tomorrow. Revenue, driven by declining use per customer, is flat to decreasing while the nature of investment (rate base) has shifted largely from plant needed to serve new customers to non-revenue producing infrastructure replacement; *and*

WHEREAS, Deficient returns present a clear challenge to the ability of the water and wastewater industry to attract the capital necessary to address future infrastructure investment requirements necessary to provide safe and reliable service, which could exceed one trillion dollars over a 20-year period; *and*

WHEREAS, The NARUC Committee on Water recognizes the critical role of the implementation and the effective use of sound regulatory practice and the innovative regulatory policies identified in the *Resolution Supporting Consideration of Regulatory Policies Deemed as “Best Practices”* (2005); *and*

WHEREAS, It is recognized that State legislative bodies play a significant and important role in considering and addressing the challenges present in the regulation of water and wastewater utilities; therefore, it is critical that economic regulators strive to continue to foster an environment of cooperation and open communication between themselves, legislative bodies,

and other State agencies involved in the oversight of water and wastewater utilities such that implementation and effective use of sound regulatory practice and the innovative regulatory policies identified in the *Resolution Supporting Consideration of Regulatory Policies Deemed as "Best Practices"* (2005) is both possible and effective; *and*

WHEREAS, A number of issues have been identified that if addressed may assist in lessening the discrepancy between authorized and actual returns, including: a) reducing, where appropriate, the length of time between rate cases and/or the length of time to process rate cases for regulated water and wastewater utilities; b) reducing rate case expense relative to requested revenue increases through the encouragement of mediation and settlement as appropriate; and c) examining the rate of infrastructure replacement and system improvements among regulated water and wastewater utilities; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Summer Meeting in Denver, Colorado, identifies the implementation and effective use of sound regulatory practice and the innovative regulatory policies identified in the *Resolution Supporting Consideration of Regulatory Policies Deemed as "Best Practices"* (2005) as a critical component of a water and/or wastewater utility's reasonable ability to earn its authorized return; *and be it further*

RESOLVED, That NARUC recommends that economic regulators carefully consider and implement appropriate ratemaking measures as needed so that water and wastewater utilities have a reasonable opportunity to earn their authorized returns within their jurisdictions; *and be it further*

RESOLVED, That the Committee on Water stands ready to assist economic regulators with the execution of a sound regulatory environment for regulated water utilities, and will continue to monitor progress on this issue at future national committee meetings until satisfactorily improved.

Sponsored by the Committee on Water

Adopted by the NARUC Board of Directors, July 24, 2013