

Policy Resolutions

PASSED BY

the

Board of Directors

of the

**NATIONAL ASSOCIATION OF
REGULATORY UTILITY COMMISSIONERS**

Wednesday, July 20, 2011

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Resolution on Smart Grid Principles

WHEREAS, NARUC supports the adoption and implementation of smart grid technology because smart upgrades to, and modernization of, the transmission and distribution system can make the electric grid more efficient and offer benefits to consumers and society, especially when combined with advanced metering, efficient pricing, and consumer-focused technologies; *and*

WHEREAS, Since 2000, NARUC has expressed that support by adopting resolutions addressing important issues arising from advanced metering and smart grid deployments, including ratemaking, reliability, cyber security, consumer education, consumer protection and privacy;¹ *and*

WHEREAS, State commissions bear the ultimate responsibility for ensuring that smart grid investments funded wholly or in part by ratepayer dollars are just and reasonable and properly balance the needs of the consumer, the grid, and the utilities; *and*

WHEREAS, State commissions are in the best position to consider unique local situations, including market structures, infrastructure needs, consumer concerns, and policy priorities; *and*

WHEREAS, In order to advance the development and collective understanding of smart grid technologies and policy—and to help State commissions make the best possible decisions—NARUC members have participated in valuable dialogues with federal government agencies, including the National Science and Technology Council Committee on Technology Smart Grid Subcommittee, the Department of Energy, the Federal Energy Regulatory Commission, the United States Department of Agriculture’s Rural Utilities Service, the National Institute of Standards and Technology, and the Federal Communications Commission; *and*

WHEREAS, To the same ends, NARUC Commissioners have also participated in a series of valuable Critical Consumer Issues Forum (CCIF) meetings with consumer advocates and utility representatives. These meetings have been valuable in facilitating communications and a better understanding of the interests and concerns of the stakeholders; the CCIF collaboration should continue; *and*

WHEREAS, The NARUC Smart Grid Working Group was formed to consult with the White House during the preparation of its “Policy Framework for the 21st Century Grid: Enabling Our Secure Energy Future,” issued on June 13, 2011; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, while recognizing that grid modernization will evolve over time and additional principles may emerge, endorses the following foundational principles relating to advanced metering and smart

¹ See e.g., *Resolution on Smart Grid*, July 2010; *Resolution Regarding Cybersecurity*, February 2010; *Resolution Regarding Smart Grid*, July 2009; *Resolution Supporting the National Action Plan for Energy Efficiency VISION FOR 2025: Developing a Framework for Change*, February 2008; *Resolution to Remove Regulatory Barriers to the Broad Implementation of Advanced Metering Infrastructure*, February 2007; *Resolution Encouraging State commissions to Adopt Full and Open Access Rules for Distributed Generation Technologies and to Remove Regulatory Barriers and Promote "Best Practices" That Encourage Economic Deployment of Distributed Generation Technologies*, (July 2000); *Resolution Urging Adoption of General Privacy Principles For State Commission Use in Considering Privacy Implications of the Use of Utility Consumer Information*, (July 2000).

grid deployments for the purpose of educating NARUC members and identifying issues of concern and interest to State regulators, the federal government and others:

- *Potential of Smart Grid Investments.* State commissions should consider the potential for smart grid investments to improve reliability, provide for a more resilient power system, reduce peak demand, provide consumers with more detailed information regarding their energy usage, integrate renewable resources, reduce consumption of electricity, increase operational efficiencies to potentially offset or reduce the rate of increasing electricity costs, and enable economic growth and innovation.
- *Evaluating Smart Grid Investments.* When evaluating proposed smart grid investments, State commissions should require the quantification of the benefits and costs of proposed project(s) to the extent reasonably possible. Any qualitative benefits and costs used in the analysis and decision-making should be identified and articulated to the extent reasonably possible. State commissions should identify the risks and rewards of smart grid investment projects and allocate those risks and rewards appropriately to utility shareholders and consumers.
- *Cost recovery.* Cost recovery for smart grid investment should be predicated primarily on the cost of such investments and any economic, reliability, environmental, or other benefits and should consider aligning payments by consumers with benefits to consumers to the extent reasonably possible. State commissions should consider, to the extent possible, anticipated costs of future investments that would reasonably or necessarily follow from proposed investments.
- *Dynamic Rates, Usage Data and Controls.* State commissions should consider whether to encourage or require the use of tools and innovations that can help consumers understand their energy usage, empower them to make informed choices, and encourage consumers to shift their usage as appropriate. These tools may include dynamic rate structures, energy usage information and comparisons, in-home devices and Web-based portals.
- *Smart Devices.* State commissions should consider whether and how proposed smart grid projects will interact with and encourage smart appliances and other devices that can optimize electricity usage, implement consumer preferences, and provide opportunities to reduce power system costs without requiring significant changes in consumer behavior.
- *Consumer Engagement.* Consumer education and engagement are essential to a successful smart grid deployment. State commissions should require smart grid implementation plans to include comprehensive consumer education programs, appropriate funding for consumer education in the cost of the program, and involve utilities, consumer advocates, the commission, and third parties in the process of designing and implementing consumer education. Education proposals should address how the effectiveness of consumer education programs will be evaluated. Consumer behavior studies and well-structured experimental design may inform consumer education approaches, as may the emerging market demand for smart-home applications and services.
- *Consumer Protections.* When reviewing a smart grid deployment, State commissions should consider any potential impacts to vulnerable populations and ensure that sufficient protections are in place.

- *Data Access.* Consumers should have access to their own energy usage data. Such Consumer Energy Usage Data (CEUD) should continue to be available to the regulated utilities for the purpose of providing essential regulated utility service. Rules that govern data access must balance privacy with innovation. When considering rules to govern access to CEUD, State commissions should determine: how third party entities will receive authorization to obtain CEUD, which entities will be responsible for providing CEUD to authorized entities, in what form, and at what cost, if any; how to ensure that consumers have affordable and timely access to their own CEUD; what data should be made available, with consumers' informed consent and authorization, in a competitively neutral manner to utility affiliates and third parties; and how the data access rules will affect innovation. The NAESB Third Party Access to Smart Meter-based Information provides a good reference point when developing such rules.
- *Privacy Issues.* Consumer privacy is essential and should be protected. When considering or implementing smart grid investments, State commissions should review existing privacy policies, and, if necessary, adopt or update their policies to ensure that they properly address the privacy concerns created by smart meter data collection and transmission and track national privacy best practices. Commissions should require utilities and any relevant third parties to comply with those policies. NARUC is preparing a best practice guide to help State commissions craft policies for data access and privacy.²
- *Interoperability Standards.* When evaluating smart grid investments, State commissions should consider how certified smart grid interoperability standards may reduce the cost and improve the performance of smart grid projects and encourage participation in the Smart Grid Interoperability Panel, a public-private partnership that is coordinating and accelerating the development of interoperability standards for the smart grid.
- *Network Communications Needs.* When evaluating smart grid investments, State commissions should examine utility proposals to ensure that the communications networks selected for particular business applications are reliable, resilient, flexible, secure, standards-based, and scalable, have adequate coverage area, and provide continuity during emergency and non-emergency periods. Several communications platforms and solutions may be able to meet these requirements, including wireless, wireline, commercially available, and proprietary networks. Utilities should consider a range of alternatives, including existing communications infrastructures, to ensure that the communications infrastructure investments represent the best possible solutions.
- *Security Issues.* As a condition of approving smart grid investments, State commissions should hold utilities responsible for ensuring that smart grid technologies are deployed in a manner consistent with reasonable and effective cyber and physical security best practices. Smart grid systems should be designed to mitigate risks and enhance the resiliency of the power grid and preserve the accuracy, integrity, and privacy of data. State commissions

² There are many resources on privacy policies, that will guide NARUC's efforts, including the NIST Guidelines for Smart Grid Cyber Security (NISTIR 7628) Section on Privacy and the Smart Grid; the North American Energy Standards Board (NAESB) Recommended Standard for Third Party Access to Smart Meter-based Information, which surveyed the landscape of smart grid privacy documents, *available here:* http://www.naesb.org/data_privacy.asp; and the Fair Information Practices Principles, *see e.g.* <http://www.ftc.gov/reports/privacy3/fairinfo.shtm>.

should refer to the cyber security standards promulgated by NERC and the NIST cyber security guidelines and recognize that cyber security requires coordination, adaptability and resiliency that goes beyond standards compliance. State commissions should require utilities to employ cost-effective measures to protect the grid's critical systems, while recognizing that a determined adversary may be capable of infiltrating non-essential systems. Further, State commissions may want to assure that utilities have recovery plans in the event of a successful cyber or physical threat.

- *Lessons Learned.* When considering smart grid investments, commissions may benefit from the data, analysis, and lessons learned from early deployments including through information provided by our technical assistance partners.³ Utilities are expected to use best efforts to continuously monitor the results and data from smart grid deployments and to submit proposals that reflect best practices and lessons learned.
- *Third Party Deployments.* There may be opportunities for parties other than electric utilities to contribute to the development of the smart grid – particularly when third parties increase efficiency and enhance consumer opportunity. Third parties may be able to provide consumers new information, pricing and service options or to deploy microgrids, distributed generation and storage, energy management or other smart grid systems and technologies. Commissions should consider whether existing rules and practices impose undue barriers to beneficial competition and innovation and how to maintain appropriate regulatory oversight and consumer protections.
- *Work with Federal Partners.* NARUC welcomes and appreciates federal technical assistance that member commissions receive from DOE and other federal initiatives, including the NSTC Smart Grid Subcommittee, as well as the constructive dialogue of the FERC-NARUC Smart Response Collaborative, insofar as these discussions support commissions' sound decision-making processes. Federal policies should not interfere with State jurisdiction or programs but help ensure that consumers can receive the full benefits of smart grid deployments.

Sponsored by the Committees on Consumer Affairs, Critical Infrastructure, Electricity, Energy Resources and the Environment, Gas, and Telecommunications
Adopted by the NARUC Board of Directors July 20, 2011

³

Smartgrid.gov is a good clearinghouse of information on ARRA funded smart grid projects.

***Resolution Supporting Fair Expenditure of Energy Efficiency
Funds in All Customer Sectors***

WHEREAS, Natural gas and electric companies, along with other energy efficiency program administrators, expended more than \$5 billion on energy efficiency programs in 2009, as estimated by the Consortium for Energy Efficiency; *and*

WHEREAS, Some States, in cooperation with their utilities, have already committed to substantially increasing their energy efficiency expenditures, with some States planning to double or triple those expenditures in the near future; *and*

WHEREAS, Energy efficiency programs for owners of, or tenants living in, multifamily affordable housing have in the past not always been well-designed for easy access; *and*

WHEREAS, It is important for all consumers to benefit from energy efficiency programs including low-income households, the elderly, those living on fixed incomes, and owners and tenants in multifamily affordable housing; *and*

WHEREAS, Multifamily affordable housing, including housing assisted by the federal Department of Housing and Urban Development and state housing finance agencies, or receiving assistance via the Low-Income Housing Tax Credit, provides critically needed housing for some of the poorest families in America; *and*

WHEREAS, This same multifamily affordable housing stock is, on average, older than the entire U.S. housing stock; contains older appliances; and is generally less energy efficient than other housing; *and*

WHEREAS, Energy efficiency programs result in more affordable utility services for low-income consumers in multifamily buildings and, therefore, reduce the number of customers disconnected for non-payment; *and*

WHEREAS, Utility companies could achieve significant cost-effective energy savings by investing more of their energy efficiency programs funds in affordable multifamily housing, while also helping to preserve that energy costs are as affordable for the tenants; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, finds that utilities and other program administrators which expend energy efficiency funds collected via utility bills should consider spending a fair share of those funds in each of the customer sectors served, including, but not limited to, the affordable, multifamily housing sector; *and be it further*

RESOLVED, That utilities and other energy efficiency program administrators that deliver energy efficiency programs to affordable multifamily buildings should consider ensuring that such programs improve awareness of energy costs and the importance of energy efficiency

among tenants and owners in rental properties, reasonably meet the needs of those owners and tenants, and offer the opportunity for “one-stop shopping” --- that is, offer the owner of multifamily housing a simple, single point of entry to apply for utility-funded energy efficiency services, even if the owner’s property includes a mix of individual (tenant-paid) meters and master meters, and/or a mix of building size and types (e.g., low-rise, high-rise, duplex, townhouse); *and be it further*

RESOLVED, That public utility commissions, in proceedings in which utility expenditures on energy efficiency are being raised, should use their discretion when appropriate to investigate the extent to which the company’s energy efficiency programs are fairly serving all customer sectors, including but not limited to the affordable multifamily sector.

*Sponsored by the Committees on Energy Resources and the Environment
and Consumer Affairs*

Adopted by the NARUC Board of Directors July 20, 2011

***Resolution Supporting Protection of Utility Infrastructure
Against Electromagnetic Pulse Effects***

WHEREAS, In a report issued last year, the Oak Ridge National Laboratory on behalf of the Federal Energy Regulatory Commission in joint sponsorship with the Department of Energy and the Department of Homeland Security developed a series of studies⁴ that concluded:

- The nation’s power grid is vulnerable to the effects of an electromagnetic pulse (EMP), a sudden burst of electromagnetic radiation resulting from a natural or man-made event; *and*
- EMP events occur with little or no warning and can have catastrophic effects, including causing outages to major portions of the U.S. power grid possibly lasting for months or longer; *and*
- Naturally occurring EMPs are produced as part of the normal cyclical activity of the sun while man-made EMPs, including Intentional Electromagnetic Interference (IEMI) devices and High Altitude electromagnetic Pulse (HEMP), are produced by devices designed specifically to disrupt or destroy electronic equipment or by the detonation of a nuclear device high above the earth’s atmosphere; *and*
- EMP threats have the potential to cause wide-scale, long-term losses with economic costs to the United States that vary with the magnitude of the event but the cost of damage from the most extreme solar event has been estimated at \$1 to \$2 trillion with a recovery time of four to 10 years, while the average yearly cost of installing equipment to mitigate an EMP event is estimated at less than 20 cents per year for the average residential customer; *and*

WHEREAS, Numerous public agencies over the past two decades have issued similar warnings, including, but not limited to:

- NERC, which issued an Executive Brief on Electromagnetic Pulse & Geomagnetic Storm Events⁵ on August 24, 2009, that warned of EMP and severe geomagnetic storm events; *and*
- The U.S. Congressional Commission on the Strategic Posture of the United States, which found in its report “America’s Strategic Posture,”⁶ issued in 2009, that the United States has done little to reduce its vulnerability to attack by EMP weapons and recommends that current investment in modernizing the national power grid take account of this risk; *and*
- The Committee on the Societal and Economic Impacts of Severe Space Weather Events

⁴ http://www.ornl.gov/sci/ees/etsd/pes/ferc_emp_gic.shtml

⁵ <http://www.nerc.com/fileUploads/File/CIP/EMP-Geomagnetic-Exec-Brief%281%29.pdf>

⁶ http://www.usip.org/files/America's_Strategic_Posture_Auth_Ed.pdf

Workshop, which published a report⁷ by the National Research Council of the National Academies, issued in 2008, recognizing that strong auroral currents can disrupt and damage modern electric power grids; *and*

WHEREAS, Actions taken to mitigate the impacts of EMP may also serve to mitigate the impacts of severe space weather and vice versa; *and*

WHEREAS, A number of members of NARUC have the jurisdiction and responsibility to approve construction and siting of transmission and generation facilities; *and*

WHEREAS, A number of NARUC members regulating vertically integrated utilities have the jurisdiction and responsibility for approving cost-recovery for prudent investment in generation and transmission; *and*

WHEREAS, NARUC members in jurisdictions served by regional transmission organizations have an important and collaborative role in determining prudent transmission investment; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, recognizes the necessity for the electric grid to be highly resilient to severe space weather and EMP as defined by the twin goals of non-catastrophic failure and rapid recovery.

- Non-catastrophic failure: During a severe space weather or EMP event, grid components will not suffer damage that will lead to long-term, wide-area blackouts; *and*
- Rapid recovery: In the wake of a severe space weather or EMP event, grid operation will be restored in most areas in times comparable to those experienced in recent wide area blackouts; *and be it further*

RESOLVED, That NARUC will recommend that member States open dialogues with the utilities that they regulate and with regional transmission organizations that serve their jurisdictions to understand the measures currently undertaken to address this threat; *and be it further*

RESOLVED, That NARUC member States will pursue efforts to advance our collective knowledge and understanding of both a realistic risk assessment of threats posed by severe space weather and EMP and best practices for regulatory commission oversight of efforts to address those threats; *and be it further*

RESOLVED, That NARUC member States recognize and consider the need for prudent investment in generation and transmission that may include design features rendering

⁷ http://books.nap.edu/catalog.php?record_id=12507

infrastructure less susceptible to the threat of damage from severe space weather and EMP; *and be it further*

RESOLVED, That NARUC will advocate for sensible federal investment in research to ascertain the extent to which infrastructure affecting bulk power and the transmission of electric power in interstate commerce should be hardened against the impacts of severe space weather and EMP, including an estimate of the costs and benefits of such investments.

*Sponsored by the Committee on Critical Infrastructure
Adopted by the NARUC Board of Directors July 20, 2011*

Resolution on Carbon Capture and Enhanced Oil Recovery

WHEREAS, The NARUC Board of Directors adopted a resolution on July 22, 2009, strongly urging the Congress and the Administration to support State efforts to store or find beneficial uses for carbon dioxide emissions by providing adequate funding and incentives for research into carbon capture and storage technologies and underground storage capacities; *and*

WHEREAS, The budget of the U.S. Department of Energy has been substantially reduced in the area of carbon capture technology development and commercialization; *and*

WHEREAS, The President recently highlighted the need for increased domestic oil production and the White House released a Blue Print for Secure Energy Future on March 30, 2011, with a major easily accessible domestic resource omitted. In this document there was no mention of the potential for Enhanced Oil Recovery using carbon dioxide to increase oil production and there was no mention of the importance of the infrastructure system to provide economic supplies of carbon dioxide from anthropogenic sources to oil fields; *and*

WHEREAS, The use of carbon dioxide injection increases the recovery of original oil in place from specific oil fields by 5% to 20% over primary and secondary recovery methods alone with potential of as much as 60%; *and*

WHEREAS, Three tons of CO₂ injected into an oil reserve will recover one barrel of crude oil. Current approximations from the Energy Information Administration are that CO₂ injection could translate into an additional 1.2 million barrels a day of oil that is not currently being recovered with potential for doubling the Enhanced Oil Recovery (EOR) capability; *and*

WHEREAS, Taxes collected from this additional oil would amount to an additional \$28 million per day as reported by Advanced Resources International; *and*

WHEREAS, Enhanced oil recovery with carbon dioxide helps support State economies and creates jobs; *and*

WHEREAS, It is beneficial that Congress and the Administration act in close partnership with State governments, recognizing that carbon dioxide can be a useful commodity, *and*

WHEREAS, The current supply of carbon dioxide is naturally occurring, is anticipated to decrease and is currently being used as a valuable resource for Enhanced Oil Recovery; *and*

WHEREAS, Electricity generated from plants burning coal and natural gas emit carbon dioxide that could be captured and used to further the goals of energy independence and reduction of greenhouse gases; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, supports each State and groups of States developing financial and other policies that encourage the use of carbon dioxide from power plants in petroleum recovery operations; *and be it further*

RESOLVED, That NARUC urges Congress and the Administration to restore and increase funding as quickly as possible, and eliminate regulatory impediments including, but not limited to 100% grants, to qualified applicants for developing carbon capture technologies at power plants with a sufficient number of demonstration projects at commercial scale to yield economical carbon dioxide for use by the oil and gas industry and to establish tax incentives for capturing and using anthropogenic CO₂ to accelerate the deployment of CO₂ capture technology and to accelerate the production of oil via CO₂-EOR; *and be it further*

RESOLVED, That NARUC strongly urges Congress and the Administration to strongly and rapidly act on this resolution to increase the energy security of our nation so States are less dependent on unstable foreign oil sources, and to create high quality jobs.

*Sponsored by the Subcommittee on Clean Coal and Carbon Sequestration
and the Committees on Electricity and Energy Resources and the Environment
Adopted by the NARUC Board of Directors July 20, 2011*

Resolution on Increased Flexibility for the Implementation of EPA Rulemakings

WHEREAS, The Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC) adopted a resolution on the *Role of State Regulatory Policies in the Development of Federal Environmental Regulations* on February 16, 2011; including the following statements:

- **WHEREAS**, NARUC at this time takes no position regarding the merits of these EPA rulemakings; *and*
- **WHEREAS**, Such regulations under consideration by EPA could pose significant challenges for the electric power sector and the State Regulatory Commissions with respect to the economic burden, the feasibility of implementation by the contemplated deadlines and the maintenance of system reliability; *and*

WHEREAS, NARUC wishes to continue to advance the policies set forth in the resolution as it relates to the proposed EPA rulemakings concerning the interstate transport of sulfur dioxide and nitrogen oxides, cooling water intake, emissions of hazardous air pollutants and greenhouse gases, release of toxic and thermal pollution into waterways, and management of coal combustion solids; *and*

WHEREAS, NARUC recognizes that a reliable energy supply is vital to support the nation's future economic growth, security, and quality of life; *and*

WHEREAS, There are many strategies available to States and utilities to comply with EPA regulations, including retrofits and installation of pollution control equipment, construction of new power plants and transmission upgrades to provide resource adequacy and system security where needed when power plants retire, purchases of power from wholesale markets, demand response, energy efficiency, and renewable energy policies – the collection of which can be implemented at different time frames by different interested parties and may constitute lower-cost options that provide benefits to ratepayers; *and*

WHEREAS, A retrofit timeline for multimillion dollar projects may take up to five-plus years, considering that the retrofit projects will need to be designed to address compliance with multiple regulatory requirements at the same time and requiring several steps that may include, but are not limited to: utility regulatory commission approval, front-end engineering, environmental permitting, detailed engineering, construction and startup; *and*

WHEREAS, Timelines may also be lengthened by the large number of multimillion dollar projects that will be in competition for the same skilled labor and resources; *and*

WHEREAS, NARUC recognizes that flexibility with the implementation of EPA regulations can lessen generation cost increases because of improved planning, selection of correct design for the resolution of multiple requirements, greater use of energy efficiency and demand-side resources, and orderly decision-making; *and*

WHEREAS, Some generators that will be impacted by the new EPA rulemakings are located in constrained areas or supply constrained areas and will need time to allow for transmission or new generation studies to resolve reliability issues; *and*

WHEREAS, The North American Electric Reliability Corporation (NERC) and regional RTOs will need time to study reliability issues associated with shutdown or repowering of generation; *and*

WHEREAS, NARUC recognizes that flexibility will allow time for these needed studies, *and*

WHEREAS, The Federal Energy Regulatory Commission (FERC), through its oversight of NERC, has authority over electric system reliability, and is in a position to require generators to provide sufficient notice to FERC, system operators, and State regulators of expected effects of forthcoming health and environmental regulations on operating plants to allow an opportunity for meaningful assessment and response to reliability claims; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, supports efforts to promote State and federal environmental and energy policies that will enhance the reliability of the nation's energy supply and minimize cost impacts to consumers by:

- Allowing utilities to coordinate the closure and/or retrofitting of existing electric generating units in an orderly manner that will ensure the continued supply of electricity and that will allow power generators to upgrade their facilities in the most cost effective way, while at the same time achieving attainable efficiency gains and environmental compliance; *and*
- Allowing regulatory options for units that are necessary for grid reliability that commit to retire or repower; *and*
- Allowing an EPA-directed phasing-in of the regulation requirements; *and*
- Establishing interim progress standards that ensure generation units meet EPA regulations in an orderly, cost-effective manner; *and be it further*

RESOLVED, That commissions should encourage utilities to plan for EPA regulations, and explore all options for complying with such regulations, in order to minimize costs to ratepayers; *and be it further*

RESOLVED, That FERC should work with the EPA to develop a process that requires generators to provide notice to FERC, system operators, and State regulators of expected effects of forthcoming EPA regulations on operating plants to allow an opportunity for meaningful assessment and response to reliability issues; *and be it further*

RESOLVED, That NARUC and its members should actively coordinate with their environmental regulatory counterparts, FERC, and the electric power sector ensuring electric system reliability and encourage the use of all available tools that provide flexibility in EPA regulation requirements reflecting the timeline and cost efficiency concerns embodied in this

resolution to ensure continuing emission reduction progress while minimizing capital costs, rate increases and other economic impacts while meeting public health and environmental goals.

*Sponsored by the Subcommittee on Clean Coal and Carbon Sequestration and the Committees on Electricity and Energy Resources and the Environment
Adopted by the NARUC Board of Directors July 20, 2011*

***Resolution on Maintaining State Authority to
Ensure Reliable Electric Service at Reasonable Rates***

WHEREAS, State commissions are charged with ensuring retail ratepayers receive safe, reliable electric service at just and reasonable rates; *and*

WHEREAS, State commissions have a statutory obligation to ensure that the electric utilities operate and maintain the entire electric system in a reliable manner; *and*

WHEREAS, Electric utilities regulated by State commissions operate the bulk power and local distribution electric systems; *and*

WHEREAS, When there is a failure of facilities or operations, at either the bulk power or local distribution level, service to retail ratepayers can be interrupted; *and*

WHEREAS, State regulatory commissioners must balance the needs of ratepayers, utilities, and the electric system operations, planning, and maintenance; *and*

WHEREAS, Costs associated with reliability standards (both investments and compliance) are ultimately borne by retail ratepayers; *and*

WHEREAS, The North American Electric Reliability Corporation (NERC) and the Federal Energy Regulatory Commission (FERC) authority to set and enforce standards for reliable operation of the bulk power system is defined by Federal Power Act (FPA) Section 215, which explicitly exempts “facilities used in the local distribution of electric energy” from the bulk power system and limits NERC authority to develop standards to the bulk power system; *and*

WHEREAS, While recognizing that the electric system is a contiguous set of facilities, the facilities comprising the electric system must be designated as either part of the bulk power system or local distribution system for statutory administration consistent with the FPA; *and*

WHEREAS, The design of the bulk systems and design of the local distribution systems are both complicated and varied and, as such, standards designed for the bulk system applied to the local distribution system can be inappropriate and overly costly and can undermine the reliability of the entire system; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, urges NERC and FERC to respect the statutory limits of their authority under FPA 215 and not attempt to overreach into State jurisdictional local distribution facilities when defining the bulk system or setting reliability standards; *and be it further*

RESOLVED, That new and revised NERC standards should demonstratively provide reliability benefits to consumers that justify their costs; *and be it further*

RESOLVED, That NARUC and State commissions should be vigilant in monitoring NERC and FERC activities to ensure new and revised standards are consistent with FPA 215, enhance reliability, and benefit ratepayers.

Sponsored by the Committee on Electricity

Adopted by the NARUC Board of Directors July 20, 2011

Resolution on Alternative Fuel Vehicle Development and Deployment

WHEREAS, The United States continues to import an increasing amount of oil, primarily for transportation; alternative vehicles powered by electricity or natural gas from domestic sources can help our country reduce its dependence on oil from unstable foreign sources; *and*

WHEREAS, Studies (including an Electric Power Research Institute/National Resources Defense Council study and a Massachusetts Institute of Technology Energy Institute study) show that widespread adoption of both plug-in electric vehicles (PEVs) and natural gas vehicles (NGVs) could significantly reduce oil consumption from unstable foreign sources by millions of barrels of oil per day; *and*

WHEREAS, By reducing the need to import oil from unstable regions, alternative fuel vehicles, such as plug-in electric vehicles and natural gas vehicles, are a key element in ensuring long-term United States energy security; *and*

WHEREAS, Alternative fuel vehicles use less or no gasoline and they release fewer emissions; *and*

WHEREAS, Alternative fuel vehicles provide energy security and environmental benefits; issues concerning affordability, deployment, infrastructure, and technology need to be addressed; *and*

WHEREAS, State and federal laws and policies can help facilitate the widespread adoption of alternative vehicles; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at in 2011 Summer Committee Meetings in Los Angeles, California, recognizes that alternative vehicles can provide national energy security and reduce emissions; *and be it further*

RESOLVED, That NARUC urges State and federal policymakers to give due consideration to the potential value of developing and deploying alternative fuel vehicles and to work together to address issues that impede development and deployment.

*Sponsored by the Committees on Gas, Electricity, and Energy Resources and the Environment
Adopted by the NARUC Board of Directors July 20, 2011*

Resolution on Access to Whole-Building Energy Data and Automated Benchmarking

WHEREAS, Commercial and industrial building owners spend \$200 billion each year on facility energy consumption;⁸ *and*

WHEREAS, Whole-building energy benchmarking is an important tool that enables commercial building owners and managers to identify energy performance issues in buildings, undertake energy management actions and cost-effective improvements in buildings, track energy performance over time, and set energy performance goals; *and*

WHEREAS, Several utilities⁹ are utilizing the U.S. Environmental Protection Agency's ENERGY STAR automated benchmarking services, a measure that protects customer data privacy and increases benchmarking data accuracy; *and*

WHEREAS, Demand reductions motivated by data access and benchmarking allow utility programs to drive greater energy efficiency results per program dollar, increasing the cost-effectiveness of overall portfolios; *and*

WHEREAS, Demand reductions motivated by benchmarking can result in direct cost savings to customers and peak load reductions that benefit all ratepayers; *and*

WHEREAS, More than 80,000 buildings were benchmarked in 2010 using performance assessment software from the EPA's ENERGY STAR program, the nation's most widely used benchmarking program;¹⁰ *and*

WHEREAS, The Building Owners and Managers Association (BOMA) International and the Real Estate Roundtable, the nation's largest commercial property associations representing more than 10 billion square feet of floor space, support voluntary ENERGY STAR whole-building benchmarking and measures that promote whole-building benchmarking; *and*

WHEREAS, The U.S. Green Building Council's LEED Green Building Rating System, the nation's most widely used green building rating system, utilizes ENERGY STAR benchmarking to document performance in the Energy and Atmosphere category of LEED for Existing Buildings: Operations and Maintenance; *and*

WHEREAS, New regulations in local jurisdictions, including the states of California and Washington, and the cities of New York, Seattle, Austin, and Washington, DC, require the benchmarking of privately owned commercial facilities¹¹; *and*

⁸ National Action Plan for Energy Efficiency (2008). *Utility Best Practices Guidance for Providing Business Customers with Energy Use and Cost Data*. ICF International. Available at http://www.epa.gov/cleanenergy/documents/suca/utility_data_guidance.pdf.

⁹ Utilities include Commonwealth Edison Co. (ComEd), Pacific Gas and Electric Co. (PG&E), Southern California Edison (SCE) and the Sacramento Municipal Utility District (SMUD).

¹⁰ Estimate based on partial-year 2010 data from EPA ENERGY STAR Fall Snapshot (2010). *Measuring Progress in the Commercial and Industrial Sectors*. U.S. EPA ENERGY STAR. Available at http://www.energystar.gov/ia/business/downloads/Fall_2010_ENERGY_STAR_Snapshot.pdf.

WHEREAS, The Energy Independence and Security Act of 2007¹² requires benchmarking as a prerequisite for commercial leases signed by the Federal government, which leases more than 300 million square feet of commercial space nationally; *and*

WHEREAS, Access to aggregated building energy usage data by commercial building owners may be difficult to obtain and may be a significant barrier to whole building benchmarking because the data resides in multiple utility accounts with multiple tenants and may require the consent of each tenant customer to release or even aggregate the data; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, acknowledges the need for commercial building owners and managers to access whole-building energy consumption data to support energy-efficient building operations; *and be it further*

RESOLVED, That NARUC encourages State public utility commissions seeking to capture cost-effective energy savings from commercial buildings to consider a comprehensive benchmarking policy that includes:

- Use of EPA ENERGY STAR automated benchmarking services and other benchmarking services, such as the Commercial Building Consumption Survey;
- Adopting methodologies to consistently and accurately credit program impact to benchmarking-driven energy efficiency programs; and
- Taking all reasonable measures to facilitate convenient, electronic access to utility energy usage data for building owners, including aggregated building data that does not reveal customer-specific data to protect individual customer privacy, as well as the sharing of customer-specific data to the extent provided for under State law and regulations.

*Sponsored by the Committee on Energy Resources and the Environment
Adopted by the NARUC Board of Directors July 20, 2011*

¹¹ See <http://www.imt.org/rating> for information on benchmarking regulations in cities and states.

¹² U.S. Public Law No. 110-140.

Resolution on Ensuring Stable Natural Gas Markets

WHEREAS, Following a year-long effort, a very broad task force representing all major natural gas stakeholders issued in March 2011 the Bipartisan Policy Center's and the American Clean Skies Foundation's report of the *Task Force on Ensuring Stable Natural Gas Markets*; *and*

WHEREAS, The purpose of the Task Force was to review the conditions for creating a more certain U.S. market for using and producing natural gas and to develop recommendations for government policymakers, federal regulators, State utility commissions, producers and major consumers; *and*

WHEREAS, The Task Force's participants included representatives from natural gas producers, pipelines, distributors, industrial customers, electricity generators, consumer advocates, NARUC, the Natural Resources Defense Council, and other industry experts; *and*

WHEREAS, The report and recommendations of the Task Force were unanimous; *and*

WHEREAS, The report brings good news that the newly understood ample natural gas resource will likely be among the most important factors in stabilizing natural gas prices. Fundamental changes in the domestic supply-and-demand balance for natural gas, including an unprecedented level of available storage and import capacity, should allow markets to function more efficiently and fluidly in the future; *and*

WHEREAS, The report emphasizes the importance by regulators and private market participants to ensure that these positive trends materialize as quickly and fully as possible; *and*

WHEREAS, NARUC previously adopted a *Resolution on Long-Term Contracting* at the NARUC Board of Directors meeting on November 16, 2005, which urged State regulators to consider long term contracting as a potentially appropriate ingredient in a gas utility's portfolio strategy, not discourage long-term transportation and storage contracts when a specific record merits encouragement, and consider pre-approval of long-term contracts, *and*

WHEREAS, The unanimous Key Task Force Findings and Recommendations are as follows:

1. Recent developments allowing for the economic extraction of natural gas from shale formations reduce the susceptibility of gas markets to price instability and provide an opportunity to expand the efficient use of natural gas in the United States; *and*
2. Government policy at the federal, State and municipal level should encourage and facilitate the development of domestic natural gas resources, subject to appropriate environmental safeguards. Balanced fiscal and regulatory policies will enable an increased supply of natural gas to be brought to market at more stable prices. Conversely, policies that discourage the development of domestic natural gas resources, that discourage the demand, or that drive or mandate inelastic demand will, disrupt the supply-demand balance, with adverse effects on the stability of natural gas prices and investment decisions by energy-intensive manufacturers; *and*

3. The efficient use of natural gas has the potential to reduce harmful air emissions, improve energy security, and increase operating rates and levels of capital investment in energy intensive industries; *and*
4. Public and private policy makers should remove barriers to using a diverse portfolio of natural gas contracting structures and hedging options. Long-term contracts and hedging programs are valuable tools to manage natural gas price risk. Policies, including tax measures and accounting rules that unnecessarily restrict the use or raise the costs of these risk management tools should be avoided; *and*
5. The National Association of Regulatory Utility Commissioners should consider the merits of diversified natural gas portfolios, including hedging and longer-term natural gas contracts, building on its 2005 resolution. Specifically, NARUC should examine:
 - a. Whether the current focus on shorter-term contracts, first-of-the-month pricing provisions and spot market prices supports the goal of enhancing price stability for end users; *and*
 - b. The pros and cons of long-term contracts for regulators, regulated utilities and their customers; *and*
 - c. The regulatory risk issues associated with long-term contracts and the issues of utility commission pre-approval of long term contracts and the look-back risk for regulated entities; *and*
 - d. State practices that limit or encourage long-term contracting; *and*
6. As the Commodity Futures Trading Commission (CFTC) implements financial reform legislation, including specifically Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111-203), the CFTC should preserve the ability of natural gas end users to cost effectively utilize the derivatives markets to manage their commercial risk exposure. In addition, the CFTC should consider the potential impact of any new rulemaking on liquidity in the natural gas derivatives market, as reduced liquidity could have an adverse affect on natural gas price stability; *and*
7. Policymakers should recognize the important role of natural gas pipeline and storage infrastructure and existing import infrastructure in promoting stable gas prices. Policies to support the development of a fully functional and safe gas transmission and storage infrastructure both now and in the future, including streamlined regulatory approval and options for market-based rates for new storage in the United States, should be continued; *and*
8. Finally, regulators should be mindful of the lead time required for markets and market participants to adjust to new policies; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, upon recommendation of the Committee on Gas, commends the *Task Force on Ensuring Stable Natural Gas Markets* for its report, supports the efficient use of natural gas, encourages broad distribution of the report, and urges State regulators to give serious consideration to the Task Force's recommendations.

Sponsored by the Committee on Gas

Adopted by the NARUC Board of Directors July 20, 2011

Resolution Strongly Supporting the Proposals Submitted on Universal Service Reform by the State Members of the Federal State Joint Board on Universal Service

WHEREAS, Congress, in enacting the Telecommunications Act of 1996 (the Act), specifically created and tasked the Federal-State Joint Board on Universal Service (the Joint Board), with a key role in recommending the regulatory changes necessary to implement the central universal service provisions of the Act by, *inter alia*, in Section 254, tasking the Joint Board with explicit authority to recommend, “from time to time,” modifications of the definition of supported services, and among other duties, the responsibility to ensure that federal universal service policies are based on a list of articulated principles; *and*

WHEREAS, In early 2009, at section 6001(k) of the American Recovery and Reinvestment Act, Congress directed the Federal Communications Commission (FCC) to develop a National Broadband Plan (NBP or Plan) to ensure every American has “access to broadband capability,” in response to which the FCC created and released the *Connecting America: The National Broadband Plan*, March 16, 2010; *and*

WHEREAS, In building on the NBP, the FCC issued a Notice of Inquiry (NOI) and Notice of Proposed Rulemaking (NPRM) Regarding the Connect America Fund (CAF) – A National Broadband Plan for our Future (the CAF NPRM), through which the FCC sought comment on the use of a model to determine universal service support levels, on the best way to accelerate targeting of funding toward unserved areas, and on specific reforms to cap growth and cut inefficient funding in the legacy high-cost support mechanisms; *and*

WHEREAS, The FCC issued a NPRM (the Mobility Fund NPRM) on October 14, 2010, concerning the development of a Mobility Fund, and sought comment on using Universal Service Fund (USF) “reserves” to improve mobile voice coverage and wireless broadband access to the Internet in un- and underserved areas, and to do so by supporting private investment through a reverse auction process; *and*

WHEREAS, The FCC adopted on February 8, 2011 (the 15th Anniversary of the Act), and released February 9, 2011, an NPRM with proposed reforms of both the Federal Universal Service Fund and Intercarrier Compensation (the USF/ICC NPRM), through which the FCC sought comment on the overhaul of intercarrier compensation schemes, the transition of the USF in a manner to “accelerate the transition from circuit-switched to IP networks, with voice ultimately one of many applications running over fixed and mobile networks” to the CAF, on reducing fraud and waste in the USF, and the use of market-driven policies to maximize use of scarce resources; *and*

WHEREAS, The Joint Board’s *2007 Recommended Decision* laid the groundwork for much of what is contained in the USF/ICC NPRM, as well as in the NBP, including and certainly not limited to adding “mobility” to the list of supported services; *and*

WHEREAS, On February 10, 2011, President Obama announced his plan to “Win the Future Through Wireless Innovation and Infrastructure Initiative” (the WIN Initiative, subsequently found in OMB Budget for Fiscal Year 2012, pp. 39-40), to double the spectrum available for

mobile broadband, to provide access to 4-G mobile broadband to 98% of Americans, to develop a Wireless Innovation Fund with specified purposes, and to develop and deploy a nationwide, interoperable wireless network for public safety; *and*

WHEREAS, At the invitation of the FCC, the State Members of the Federal State Joint Board on Universal Service – which constitute a majority of the Joint Board - expended significant resources developing a comprehensive USF/ICC reform proposal (State Members’ Comments) filed with the FCC; *and*

WHEREAS, The State Members, upon establishing that federal preemption proposals are unlawful and undesirable, propose three new mechanisms to support broadband and mobility through a Provider of Last Resort (POLR) Fund, a Mobility Fund, and a Wireline Broadband Fund, recommend changes to reduce fraud and waste through specific proposals for the POLR Fund, recommend expansion of the contribution base of the federal USF by those using the national Public Communications Network, present compelling evidence that a nationally uniform ICC rate will be detrimental and recommend that Voice over the Internet Protocol (VoIP) services be classified and/or treated as telecommunications services for ICC purposes; *and*

WHEREAS, A House Energy and Commerce Committee, Subcommittee on Telecommunications and the Internet authored “Federal Communications Commission Process Reform Act of 2011” discussion draft, released in June 2011, memorializes the frequent criticism by academic legal experts of the FCC’s heavy reliance on ex parte submissions by proposing “the Commission may not rely, in any order, decision, report, or action, on . . . an ex parte communication or any filing with the Commission, unless the public has been afforded adequate notice of and opportunity to respond to such communication or filing;” *and*

WHEREAS, A group of carriers is expected to file an industry supported “settlement” in the USF/ICC NPRM proceeding purporting to provide a reasonable solution to the FCC-identified issues; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, recognizing the critical role specifically assigned to States by Congress in the Act, including in part through the mechanism of the Joint Board, and upon review and consideration of the State Members’ comments and recommendations, commends the State Members and their staff for the thoughtful and thorough evaluation of the USF/ICC NPRM, and specifically endorses the State Members’ plan, subject always to the doctrine of federalism and the privilege of States to take exception to selected provisions thereof; *and be it further*

RESOLVED, That should an industry supported “settlement” proposal be filed in the USF/ICC NPRM and subsequently released by the FCC for public comment, that the FCC is urged to jointly offer the State members’ plan for comment simultaneously and include a request to contrast the two plans; *and, be it further*

RESOLVED, That the FCC should always take advantage of the expertise and insight of State commissioners on key issues, acknowledge and give appropriate weight and deference to the carefully considered and record-based State Members' comments, and refuse to place undue reliance on the *ex parte* process or disregard the formal notice-and-comment procedure to the extent such practice would marginalize either the opportunity for meaningful participation in any reform efforts by the States or effective deliberation on the part of the commissioners therein.

Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors July 20, 2011

Resolution on Federal/State Joint Efforts to Address and Resolve Call Termination Issues

WHEREAS, The Public Switched Telephone Network (PSTN) is a series of interconnected networks operated by multiple providers; *and*

WHEREAS, The value of the PSTN requires the ability of end users to make and receive calls regardless of their location; *and*

WHEREAS, The Federal Communications Commission (FCC) has unequivocally stated in its Declaratory Ruling and Order, WC Docket No. 07-135, DA 07-2863, released June 28, 2007 at paragraph 6, “that no carriers, including interexchange carriers, may block, choke, reduce or restrict traffic in any way”; *and*.

WHEREAS, The FCC has also acknowledged in footnote 20 of the Call Blocking Declaratory Order that exceptions to its no-blocking and no-call choking policy are permitted only under “rare and limited circumstances;” *and*

WHEREAS, The FCC has in recent years taken prompt steps to address perceived or actual blocking of calls and other problems associated with the routing and transmittal of traffic across a wide variety of networks, including Voice over Internet Protocol calls and Internet access; *and*

WHEREAS, The failure to complete calls is having a significant negative impact on consumers and interstate commerce throughout the country; *and*

WHEREAS, A recent letter sent by various Rural Trade Associations to the FCC’s Investigations and Hearings Division of the Enforcement Bureau outlines recent and continuing call completion issues and notes that from prior to 2008 to mid-April 2011, over 10,000 consumer call completion complaints have been reported to the Rural Trade Association members with the number of complaints increasing over 2,000% during the April 2010 to March 2011 time frame; *and*

WHEREAS, A growing number of State commissions have begun their own investigations of the call termination issues that have been raised in each of their States; *and*

WHEREAS, One Hundred and Seventy Six rural incumbent local exchange companies in 35 States have reported having call termination issues for both voice calls and faxes; *and*

WHEREAS, The call termination issues manifest themselves in several ways such as, but not limited to, the calling party hears ringing but the called party hears nothing, the called party’s phone rings but hears dead air when the call is answered, the calling party hears a fast busy, where there are unusually long call set-up times or there is the use of a call intercept messages, or the called party receives a display of incorrect Caller ID information; *and*

WHEREAS, Suspected causes of the reported call completion issues include, but are not necessarily limited to, originating carriers failing to ensure transiting providers they route traffic to for termination comply with industry standards and guidelines, the improper use of least cost

routing arrangements where routing tables are not updated and/or where certain entities specifically decline to terminate traffic to generally higher cost rural areas; *and*

WHEREAS, To date, there has been no demonstration by providers or other entities that the call termination issues fit within the “rare and limited” exceptions to the FCC’s no-call blocking and no-call choking policies enunciated in the Call Blocking Declaratory Order; *and*

WHEREAS, Call termination issues create negative public interest by adversely impacting State and interstate commerce, reducing State and federal tax revenues, degrading the quality of the PSTN, and adding risks to public health and safety; *and*

WHEREAS, Call termination issues are antithetical to the public interest by creating confusion, isolation and frustration on the part of called parties and calling parties; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, encourages the FCC to reaffirm its decision in its Call Blocking Declaratory Order, “that no carriers, including interexchange carriers, may block, choke, reduce or restrict traffic in any way”; *and be it further*

RESOLVED, That the FCC expand its earlier finding that all providers comply with industry standards and best practices when routing traffic thereby not interfering with the quality of the transmission; *and be it further*

RESOLVED, That the FCC and State commissions take all appropriate actions to protect consumers by immediately addressing the call terminating issues that exist.

Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors July 20, 2011

Resolution Supporting a Low-Income Broadband Service Adoption Program

WHEREAS, The Federal Communications Commission’s (FCC) 2010 Broadband Consumer Survey found that about one-third of Americans do not use broadband Internet access service at home; and that a variety of factors drive non-adoption, including initial costs of equipment, monthly service costs, digital literacy, and relevance; *and*

WHEREAS, As stated in the FCC’s Notice of Proposed Rulemaking on Lifeline and Link-Up Reform and Modernization (Released: March 4, 2011; FCC 11-32; “Lifeline NPRM”), the Pew Internet Research Center’s “Home Broadband 2010 Report” found that the rate of broadband service adoption has slowed dramatically; *and*

WHEREAS, The Lifeline NPRM proposes to launch multiple Lifeline/Link-Up Broadband Service Pilot Program projects supported by the \$1.2 billion federal Universal Service Fund’s Low-Income Program, and suggests that these pilot program projects may be able to play an important, if limited role, in enabling public-private partnerships to help address the national broadband service adoption challenge; *and*

WHEREAS, The Lifeline/Link-Up Broadband Service Pilot Program participants may incur additional costs or otherwise be penalized if required to obtain local telephone service from the Pilot Program-eligible broadband service providers; *and*

WHEREAS, The FCC sought comment in a Notice of Inquiry (Released: March 4, 2011; FCC 11-30; “Native Nations Broadband Fund NOI”) about whether the FCC, pursuant to existing statutory authority, should implement a recommendation (#8.18) from the 2010 National Broadband Plan that called on Congress to establish a Tribal Broadband Fund to be used for a variety of purposes, including “to provide small, targeted grants on an expedited basis for Internet access and adoption programs;” *and*

WHEREAS, The FCC did not propose in the Native Nations Broadband Fund NOI a means to finance the Native Nations Broadband Fund, however, some NOI commenters have assumed that the FCC intends to draw financial support for the new Fund from the federal Universal Service Fund; *and*

WHEREAS, The Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2009 Winter Committee Meetings in Washington, D.C., adopted a Resolution that fully supports increasing broadband service adoption among low-income consumers through “the establishment of a three-year federal Lifeline and Link-Up Pilot Program for broadband Internet access services and enabling access devices;” *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, urges the FCC, on behalf of the Native Nations, and the States to work within the existing federal Universal Service Fund’s budget in order to improve broadband service adoption in urban and rural areas and for Native Nations communities located on Tribal lands through coordinated Lifeline and Link-Up Broadband Service Pilot Program projects; *and be it further*

RESOLVED, That the FCC should require that Lifeline/Link-Up Broadband Service Pilot Program participants are not required to change local telephone service providers, purchase bundled broadband and voice services or otherwise are penalized in order to obtain Lifeline and Link-Up broadband services and enabling access devices; *and be it further*

RESOLVED, That the FCC, on behalf of the Native Nations, and the States jointly establish at least one Lifeline/Link-Up Broadband Service Pilot Program project in each of the five NARUC affiliated regulatory conference regions that will include digital literacy and outreach components and that will defray a meaningful amount of the program participants' average cost for the installation/activation and monthly charges for broadband service and acquisition of enabling access devices; *and be it further*

RESOLVED, That the Lifeline/Link-Up Broadband Service Pilot Program will distribute Universal Service Fund financial support to service providers in a similar manner to the distribution procedures of the current Lifeline/Link-Up Program for local telephone service, recognizing that such approach should be technologically neutral and provide similar consumer protections as those provided currently to participants in the Lifeline/Link-Up Program for local telephone service.

*Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors July 20, 2011*

***Resolution Supporting Supplier Diversity in Financial Services within
Investor-Owned Utilities***

WHEREAS, Historically, financial services institutions have played a critical role in the regulatory framework and market participation of investor-owned utilities including but not limited to cost of capital, debt and preferred equity issuance of securities, investment management of employee pensions, nuclear decommissioning trust funds, mergers and acquisitions, futures markets and other critical components of utility operations; *and*

WHEREAS, Historically, disabled veterans, women, and minorities (or “diverse and emerging financial services firms”) have been underrepresented in the financial services industries relationships with investor-owned utilities, which has limited the ability of such firms to achieve their economic potential, to spur job growth in underserved communities, that may bring lower cost advantages by way of increased competition to ratepayers; *and*

WHEREAS, Supporting supplier diversity for the diverse and emerging financial services firms is an essential business need, because it brings enhanced benefits to society by supporting increased competition, and helps to sustain the overall health of America’s economy including underrepresented communities while creating jobs; *and*

WHEREAS, It is necessary to increase the participation of diverse and emerging firms in the investor-owned utilities in order to utilize their unique talents and resources which can broaden the number of investors seeking to purchase utilities’ financial instruments, both of which may lower utilities’ cost of capital due to expanding markets for common and preferred stock as well as long-term debt, leading to lower costs to ratepayers; *and; and*

WHEREAS, It is beneficial to increase the participation of diverse and emerging firms in utility employee pension, Nuclear Decommissioning Trust Funds (NDTF), and investment management to better shape the governance of the trust funds improve returns and/or lowering risks through the diversification of ideas and investments that these firms offer; *and*

WHEREAS, It is necessary to increase the participation of diverse and emerging firms in the investor-owned utilities in order to provide additional competition to the large money center banks and thereby providing opportunities for lower financial costs; *and*

WHEREAS, Since access to capital is the lifeline of small, diverse, and emerging community banks in the United States, it is necessary for investor-owned utilities to increase the compensatory deposit amounts maintained with these banks to facilitate a more liquid and diverse capital market for loans and community development investments; *and*

WHEREAS, It is beneficial to increase the participation of diverse and emerging firms in the competitive and/or negotiated bidding rules for the utilities to provide additional opportunities to strengthen emerging firms, which may be to the ultimate benefit of the utilities’ ratepayers and shareholders; *and*

WHEREAS, To the extent that mergers and acquisition are important in shaping how communities are served by investor-owned utilities, it is recommended that the ideas and expertise of diverse and emerging firms be utilized as part of the advisory team for the benefit of the ratepayers and the communities in which they live; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2011 Summer Committee Meetings in Los Angeles, California, supports enhanced efforts to support supplier diversity within investor-owned utilities.

*Sponsored by the Subcommittee on Utility Marketplace Access
Adopted by the NARUC Board of Directors July 20, 2011*