

Resolution Supporting Federal Legislation to Clarify that Water and Wastewater Service Laterals Are Included in the Definition of Contributions in Aid of Construction for Federal Income Tax Purposes

WHEREAS, Contributions in Aid of Construction (CIAC) finance substantial amounts of the capital costs for water and wastewater utilities; *and*

WHEREAS, State Regulatory Commissions do not allow CIAC to be included in the investment base upon which the utility is allowed the opportunity to earn a return; *and*

WHEREAS, State Regulatory Commissions authorize the collection of CIAC to reduce the utility's investment which serves to keep rates lower than they otherwise would be; *and*

WHEREAS, A utility has not been allowed to depreciate CIAC property on its tax return; *and*

WHEREAS, The Small Business Job Protection Act of 1996 restored the historic exclusion of CIAC from gross income for income tax purposes; *and*

WHEREAS, Service laterals are traditionally and under most state laws considered a part of CIAC; *and*

WHEREAS, The U.S. Department of Treasury has issued regulations that consider service laterals as a part of taxable service fees, and not a part of non-taxable CIAC; *and*

WHEREAS, The Board of Directors of the National Association of Regulatory Utility Commissioners on March 8, 2000, adopted a resolution that requested that the U.S. Treasury amend its proposed regulation so that service laterals would be considered tax exempt CIAC; *and*

WHEREAS, The position taken in this resolution is consistent with all prior NARUC resolutions on this subject; *and*

WHEREAS, Language that clarifies the definition of Contributions in Aid of Construction to include service laterals is contained in a larger corporate tax bill, S. 1637, the Jumpstart Our Business Strength (JOBS) Act which was passed by the U.S. Senate on May 11, 2004; *now therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 2004 Summer Meetings in Salt Lake City, Utah, supports and encourages passage of legislation, such as the language in S. 1637, as passed by the Senate, that would clarify that water and wastewater service laterals are included in the definition of tax exempt CIAC.

Sponsored by the Committee on Water

Adopted by the NARUC Board of Directors July 14, 2004