

***Resolution Urging that the IRS Classify Developer Deposits for Customer Service
Laterals as Non-Taxable Contributions-in-Aid-of-Construction***

WHEREAS, Since a legislative intent of the 1996 tax law was to exclude contributions-in-aid-of-construction from taxable income, including deposits or construction advances paid by developers and customers that are used to finance water service laterals, and appurtenances associated therewith, hereinafter collectively referred to as service laterals; *and*

WHEREAS, Since deposits or construction advances for water service laterals, to the extent used in constructing water facilities, are not fees charged to customers to start or stop service, but are indeed contributions-in-aid-of-construction; *and*

WHEREAS, Since the passage of the 1996 tax law, the Internal Revenue Service and Treasury Department are planning to issue proposed tax regulations concerning the taxability of utility services; *and*

WHEREAS, Since one option under consideration is to classify developer deposits for customer service laterals as taxable income; *and*

WHEREAS, Since this option would fail to comport with the legislative history of the tax treatment of contributions-in-aid-of-construction, a term which always has included customer service laterals unless expressly excepted; *and*

WHEREAS, Under current tax policy, water service laterals, deposits or construction advances provided to municipal water companies and government water districts incur no taxes; *and*

WHEREAS, If such an option were adopted, either utility customers subject to cost of service/rate-of-return regulation or homebuyers would pay these taxes; *and*

WHEREAS, If such an option were to be adopted, an inequity would thereby result by which citizens served by private companies would pay more for service than citizens served by governmental organizations purely as a result of this tax ruling; *now, therefore, be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened at its 110th Annual Convention in Orlando, Florida, declares that the Internal Revenue Service should rule that extensions of distribution mains and service laterals up to one or more customer property lines, which are received by a water utility from a developer or customer in the form of either refundable advances or non-refundable contributions after June 12, 1996 will constitute a contribution to the capital of the taxpayer and will be excluded from the taxpayer's gross income.

*Sponsored by the Committee on Water
Adopted in Convention November 11, 1998*