

NARUC'S FEBRUARY 27, 1991 COMPUTER III RESOLUTION

Resolution Concerning the FCC's Notice of Proposed Rulemaking and Order in CC Docket 90-623 Concerning the Remand of Computer III Issues

WHEREAS, The Federal Communications Commission ("FCC") has issued a Notice of Proposed Rulemaking and Order ("NPRM") in CC Docket No. 90-623 regarding the remand of Computer III issues by the Ninth Circuit Court of Appeals, and

WHEREAS, The FCC has requested comments on proposals to: 1) strengthen non-structural safeguards involved in the provision of unregulated enhanced services by regulated telephone companies, 2) reevaluate safeguards on Customer Proprietary Network Information ("CPNI"), and 3) preempt State regulations differing from Federal safeguards that would thwart or impede Federal policy, and

WHEREAS, Comments to the FCC's NPRM are due on March 8, with Reply Comments due by April 8, 1991, and

WHEREAS, Many State regulatory agencies have serious concerns about the ability to control cross-subsidization of enhanced services through the use of non-structural safeguards, and

WHEREAS, Evidence exists that some regulated telephone utilities have acted in abuse of existing non-structural safeguards designed to prevent cross-subsidization between regulated and unregulated portions of the industry, and

WHEREAS, Some State regulators have seen evidence of abuse by utilities when confronted with the question of prior written notification and approval, which has implications for the provision of CPNI, and

WHEREAS, State regulators have significant and critical concerns about the FCC's proposal to preempt State policies which necessarily thwart and impede Federal policies relating to the provision of enhanced services; now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened at its Winter Committee Meeting in Washington, D.C., directs its General Counsel to file comments in response to the FCC's NPRM, and be it further

RESOLVED, That such comments support the concept of individual State discretion with respect to the adoption of structural safeguards for the provision of intrastate enhanced services by regulated utilities, and be it further

RESOLVED, That such comments encourage States and the FCC to

adopt procedures for obtaining prior written authorization from all customers prior to release of CPNI by regulated utilities, and be it further

RESOLVED, That such comments support the concept of cooperation among State and Federal regulators on the issue of Open Network Architecture and the provision of enhanced services, and that the preemption of State policies be rejected as contrary to law and good public policy for the provision of enhanced services; and be it further

RESOLVED, That independent of the FCC's decision to adopt structural safeguards versus non-structural safeguards, the FCC should, in its final order within its lawful authority, impose conditions that will assure that State regulatory agencies have full access to all books and records of all companies affiliated with the local exchange companies for the purpose of reviewing transactions dealing with enhanced services.

Sponsored by the Committee on Communications.

Adopted by the Executive Committee on February 27, 1991.

NARUC Bulletin No. 9-1991 at page 12 (March 4, 1991).