

***Resolution Concerning Customer Notifications for Internet Protocol-Technology Service-Based Experiments***

**WHEREAS**, The National Association of Regulatory Utility Commissioners (“NARUC”) previously adopted a “Resolution Concerning Numbering and Technology Transition Trials for Voice over Internet Protocol (“VoIP”) and Other Internet Protocol (“IP”)-Enabled Services” at its July 24, 2013 Summer Committee Meetings that “Resolved, That States should play an integral role in the Federal Communications Commission’s (“FCC”) 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 transition trials;” *and*

**WHEREAS**, On November 20, 2013, at its Annual Meeting NARUC adopted a *Resolution on Federalism* that “Resolved, That changes to the underlying structure of the network or the technology used to carry information do not change the need for reliable, robust, affordable, and ubiquitous communications services that are universally available and reasonably comparable regardless of location;” *and*

**WHEREAS**, On January 30, 2014, the FCC adopted a *Report and Order, Further Notice of Proposed Rulemaking and Proposal for Ongoing Data Initiative (Order)*, FCC 14-5; GN Docket No. 13-5, GN Docket No. 12-353, WC Docket No. 1090, CG Docket No. 10-51, CG Docket No. 03-123, and WC Docket No. 13-97, which is intended to "kickstart the process for a diverse set of experiments and data collection initiatives that will allow the Commission and the public to evaluate how customers are affected by the historic technology transitions that are transforming our nation's voice communications services" (at ¶ 1); *and*

**WHEREAS**, The *Order* "emphasizes the importance of [customer] notice requirements in the context of service-based experiments" (at Appendix B, ¶ 45) and will "require applicants to demonstrate that they will provide notice of: the nature of any existing network changes; whether customers may opt in or opt out of the experiment after it has begun; the timing of any changes; what features of the providers' existing technology will no longer be available on the new technology and how that may impact third-party devices and services the customer uses (e.g. medical monitoring services); how the provider's services will change including any differences in prices, terms and conditions; where a customer may go for more information; and any other details regarding the experiment that likely will be of relevance to customers" (at Appendix B, ¶ 46); *and*

**WHEREAS**, The customer notifications required by the FCC do not include information about how the customer may submit complaints regarding the service-based experiment to the State regulatory commission, other appropriate State agency or, where the State regulatory commission does not have jurisdiction regarding IP-enabled services, directly to the FCC; *and*

**WHEREAS**, The FCC has committed “to working with the States, localities and Tribal Nations to exchange consumer feedback as part of any experiment, [and they] expect to work collaboratively with all these entities in [their] affirmative efforts to gather consumer complaint and inquiry data” (at ¶ 180); *and*

**WHEREAS**, "The *Order* contains a condition that a provider [of the service-based experiment] will not require existing customers to participate in the experiment unless they choose to do so (although the provider may propose an experiment in which new customers will not be offered the legacy service [*e.g.* basic local exchange services] but only the experimental service)" (at ¶ 6); *and*

**WHEREAS**, The FCC set forth in the *Order* "mandatory conditions to ensure that all experiments preserve consumer protection values" including compliance with existing FCC rules: to protect customer privacy; to ensure truth-in-billing, which addresses both anti-slamming and cramming; to facilitate local number portability; to "ensure that routing and call delivery processes are in place so calls are successfully completed" (at ¶¶ 65-69); *and*

**WHEREAS**, The *Order* provides that "applicants may request that the Commission waive a mandatory condition in an experiment" (at ¶ 37 and fn. 50), however, the FCC does not require the applicant to provide notification and an opportunity for comment to the applicable State regulatory commission and the applicant's existing and prospective customers of such a request to waive mandatory conditions to:

- Limit experiments to voluntary participation by existing customers (at Appendix B, ¶ 6);
- Preserve consumer protection values;
- Continue to make Lifeline service available to all qualifying customers (at ¶ 32);
- Certify annually whether they have sufficient, reliable backup power in any central office that directly serves a PSAP to maintain full service functionality, including network monitoring capabilities, for at least 24 hours at full office load" (at ¶ 44 and fn. 62)); *and*
- Ensure access for persons with disabilities (at ¶ 29); *now, therefore be it*

**RESOLVED**, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 2014 Winter Committee Meetings in Washington, DC, urges the FCC to require applicants for an IP-technology service-based experiment to include in the notification(s) to customers regarding the experiment prominent information about how the customer may contact or submit complaints to the relevant State regulatory commission, other appropriate State agency or, where the State regulatory commission or other State agency does not have jurisdiction regarding IP-enabled services, directly to the FCC; *and, be it further*

**RESOLVED**, That NARUC urges the FCC to require as a condition for approving any application for an IP-technology service-based experiment that whenever the service provider requests the FCC to waive a mandatory condition in the experiment, as required by FCC order or rules, that the applicant be required to provide notice of such request to the relevant State regulatory commission(s) and to its affected customers and that the FCC provide an adequate opportunity for public comment on such waiver request.

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*Sponsored by the Committee on Telecommunications*

*Adopted by the NARUC Board of Directors, February 14, 2014*