

### ***Resolution to Bring Balance to the Broadband Deployment Advisory Committee Membership***

*Whereas* in a Resolution adopted at its 2016 Winter Committee Meetings in Washington, DC, the National Association of Regulatory Utility Commissioners (“NARUC”) stated that: “The timely deployment of broadband-capable facilities is in the public interest and is a stated policy goal of federal and State policymakers”;

*Whereas* in the aforementioned Resolution, NARUC advocated for “the creation of a process for collaboration among the agencies at the federal, State, United States Territories, local, and tribal governments, as well as in consultation with private industry, to work together to identify existing barriers and develop best practices for granting such access [to rights-of-way, pole attachments and easements on federal lands] at all levels to improve broadband deployment and access across the nation”;

*Whereas* on October 8, 1999, the Federal Communications Commission (“FCC”) adopted an Order (CC Docket No. 99-294) that convened a Federal-State Joint Conference on Advanced Telecommunications Services (“706 Joint Conference”), in accordance with Section 706 of the Telecommunications Act of 1996, comprised of the five FCC Commissioners and five State Commissioners recommended by NARUC, based on a belief that “a Joint Conference is an appropriate vehicle for federal, state, and local cooperation with regard to the rapid and widespread deployment of advanced services. A Joint Conference provides a flexible forum in which to conduct an open dialogue, collect and exchange information, and consider initiatives that will encourage deployment”;

*Whereas* on October 23, 2001, then-FCC Chairman Michael Powell prescribed that the 706 Joint Conference would be “a partnership that can be used to assess data collection experiences, develop federal-state cooperative solutions and address local issues such as rights-of-way challenges”;

*Whereas* since the designation in January 2017 of FCC Commissioner Ajit Pai as the new FCC Chairman, the FCC has not reconvened a meeting of the 706 Joint Conference or given any directive on issues or tasks to be addressed by the federal and State 706 Joint Conference members;

*Whereas* on January 31, 2017, FCC Chairman Pai announced the formation of a new federal advisory committee, the Broadband Deployment Advisory Committee (“BDAC”), which will provide advice and recommendations to the FCC on how to accelerate the deployment of high-speed broadband Internet access services (“BIAS”);

*Whereas* NARUC, in comments, complimented FCC Chairman Pai on the charge of the BDAC but, expecting a smaller and more balanced committee membership, only submitted the name of one NARUC commissioner to the FCC to serve on behalf of the NARUC membership;

*Whereas* as stated in the BDAC’s Charter, the Objective and Scope of Activities: “may include, but are not limited to, drafting for the Commission’s consideration a model code covering local franchising, zoning, permitting, and rights-of-ways regulations; recommending further reforms of the Commission’s pole attachment rules; identifying unreasonable regulatory barriers to broadband deployment; and recommending further reform within the scope of the Commission’s authority (to include, but not limited to, sections 253 and 332(c)(7) of the Communications Act and section 6409 of the Spectrum Act)”;

*Whereas* FCC Chairman Pai has appointed 30 members of the BDAC, including 21 members that represent various BIAS industries or industry associations, while only two BDAC members represent State entities (including NARUC’s representative, Massachusetts Department of Telecommunications and Cable Commissioner Karen Charles Peterson), two members represent city governments, one member represents a tribal government, and four members represent academic and nonprofit nongovernmental organizations;

*Whereas* FCC Chairman Pai has established five working groups, composed of 58 members including one NARUC representative and five local government representatives, that will assist the BDAC in carrying out its work:

- *Model Code for Municipalities* — Douglas Dimitroff, New York State Wireless Association, Chair, and Sam Liccardo, Mayor, San Jose, California, Vice Chair;
- *Model Code for States* — Kelly McGriff, Southern Light, Chair, and Commissioner Karen Charles Peterson, Vice Chair;
- *Competitive Access to Broadband Infrastructure* — Ken Simon, Crown Castle, Chair, and Brent Skorup, Mercatus Center at George Mason University, Vice Chair;
- *Removing State and Local Regulatory Barriers* — Robert DeBroux, TDS Telecom, Chair, and Kim Keenan, Multicultural Media, Telecom and Internet Council, Vice Chair; and
- *Streamlining Federal Siting* — Jonathan Adelstein, Wireless Infrastructure Association, Chair, and Valerie Fast Horse, Coeur d’Alene Tribe, Vice Chair.

*Whereas* although Commissioner Charles Peterson has made a significant commitment of her time and effort, in addition to that of the staff of the Massachusetts Department of Telecommunications and Cable, to the work of the BDAC, the Model Code for States Working Group and its subcommittees, it is self-evident that the recommendations of the BDAC’s working groups and the BDAC will be determined based on a majority vote of the BIAS industry representatives;

*Whereas* on May 16, 2017, representatives of the National League of Cities (“NLC”) met with FCC Chairman Pai to “urge the Commission to increase the number and diversity of local officials on the BDAC to a level comparable with the number and diversity of industry officials” (*see* Letter

to FCC regarding *ex parte* meeting; Angelina Panettieri, Principal Associate, Technology and Communications National League of Cities; dated: May 18, 2017);

*Whereas* on June 27, 2017, apparently in response to the request of the NLC, FCC Chairman Pai appointed City Councilman Andy Huckaba from the City of Lenexa, Kansas as a member of the BDAC;

*Whereas* it is evident that the BDAC's recommendations will have a significant effect on the course the FCC selects to promote broadband infrastructure deployment and public access to BIAS across the nation;

*Whereas* States and local governments have a progressive history of, and will continue to have a major role in, promoting and implementing BIAS deployment and access policies, programs, and projects across the country;

*Whereas* the BDAC is a potentially beneficial asset to the FCC, however, it should be recognized by the FCC that the composition of any federal advisory committee will necessarily impact the validity of its recommendations; *and*

*Whereas* it is preferable that the BDAC provide more balanced and better recommendations that reflect the views of a greater number of State and local governments, which is best facilitated by an increased number of State and local government entities represented on the BDAC; *now, therefore be it*

*Resolved*, that the Board of Directors of the National Association of Regulatory Utility Commissioners ("NARUC"), convened at its 2017 Summer Policy Summit in San Diego, California, urges the FCC to rekindle its partnership with the States through the work of the 706 Joint Conference to develop federal-State cooperative solutions that promote broadband infrastructure deployment and public access to BIAS across the nation, including addressing State/local issues such as access to rights-of-way, pole attachments, easements, and eminent domain authority; *and be it further*

*Resolved*, that NARUC urges the FCC to work cooperatively together with the States and local governments to identify existing federal and State regulatory and legal barriers to improve broadband infrastructure deployment and public access to BIAS across the nation and to effectuate this objective by increasing the membership of State and local government representatives on the Broadband Deployment Advisory Committee and its working groups to an amount that equitably balances with membership by BIAS industry representatives.

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*Sponsored by the Committee on Telecommunications on July 18, 2017*

*Adopted by the NARUC Board of Directors on July 19, 2017*