

Resolution Regarding Access to Poles, Ducts, Conduits, and Rights-of-Way

WHEREAS, Section 224 of the Communications Act of 1934, *as amended*, 47 U.S.C. Section 224 ("the Pole Attachment Act"), requires utilities to provide telecommunications carriers with non-discriminatory access to poles, ducts, conduits, and rights-of-way; *and*

WHEREAS, Prompt, nondiscriminatory access to poles, ducts, conduits and rights-of-way at reasonable rates, terms, and conditions is essential to the development of facilities-based competition, the deployment of state-of-the-art telecommunications services to the public and the implementation of facilities-based/broadband network redundancy to safeguard against network outages; *and*

WHEREAS, Carriers seeking to offer new facilities-based/broadband and other telecommunications services have reported an inability to obtain prompt, non-discriminatory access at reasonable rates and on reasonable terms and conditions from some utilities; *and*

WHEREAS, The failure of a utility to provide prompt, non-discriminatory access might be an insurmountable barrier to entry to new carriers offering innovative facilities-based/broadband and other services; *and*

WHEREAS, Pursuant to the Pole Attachment Act, the Federal Communications Commission (FCC) has jurisdiction to ensure that the rates, terms, and conditions governing access to poles, ducts, conduits and rights-of-way are just and reasonable and

to hear complaints regarding the same, unless a state chooses to regulate such rates, terms, and conditions; *and*

WHEREAS, State commissions have been at the forefront of implementing and enforcing open market requirements to ensure that all consumers have access to broadband communications services; *and*

WHEREAS, State commissions have regulatory authority over utilities and the expertise to address the inability to receive non-discriminatory access to their poles, ducts, conduits and rights of way; *now therefore be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners (NARUC), assembled in its November 2000 112th Annual Convention in San Diego, California, supports and recommends State Commissions consider asserting jurisdiction over the rates, terms and conditions governing access to poles, ducts, conduits, and rights-of-way; *and be it further*

RESOLVED, That NARUC establish an ad hoc committee to investigate the policies, practices and procedures of utilities, including those owned by a cooperative or by a state, county, municipality or other governmental or quasi-governmental body, regarding the provision of access to their poles, ducts, conduits, and rights-of-way and to submit its recommendations at the NARUC Winter Meeting 2001 regarding rules, regulations, policies and incentives that State Commissions should adopt to further the goal of prompt, non-discriminatory access at reasonable rates; *and be it further*

RESOLVED, That NARUC urges State Commissions, to the maximum extent possible, to take all actions necessary to ensure that prompt, non-discriminatory access is provided to requesting carriers at reasonable rates and terms to guarantee access to facilities-based/broadband communications to all consumers.

Sponsored by the Committee on Telecommunications

Recommended by the Board of Directors.

Accepted in Convention November 15, 2000.