

## ***Resolution on Access to Public Rights-of-Way and Public Lands***

**WHEREAS**, Federal, State, and local governmental entities have a legitimate and important role in managing their rights-of-way and public lands; *and*

**WHEREAS**, Local government efforts to promote deployment of advanced services have been exceedingly valuable; *and*

**WHEREAS**, The rights-of-way practices of certain of these entities have emerged as a significant barrier to the deployment of advanced telecommunications and broadband networks since passage of the 1996 Act; *and*

**WHEREAS**, Prompt, nondiscriminatory access to public rights-of-way and public lands 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**, Most States do not have pro-access laws, and ambiguities in the laws of some of those states that do have such laws have undermined compliance; *and*

**WHEREAS**, Existing federal, State, and local laws have not prevented certain governmental entities from imposing unreasonable compensation and other concessions that have increased the cost, delayed, or prevented deployment of these critically needed facilities; *and*

**WHEREAS**, The failure of a governmental unit to provide prompt, non-discriminatory access to public rights-of-ways and public lands – free of unreasonable compensation or conditions, might pose an insurmountable barrier to entry to new carriers offering innovative facilities-based/broadband and other services; *now, therefore, be it*

**RESOLVED**, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 2002 Winter Meetings in Washington, D.C., encourages all governmental entities to act on applications for access to public rights-of-way in a reasonable and fixed period of time, to treat all providers uniformly and in a competitively neutral manner consistent with applicable federal and State law, to ensure that their control over access to public rights-of-way and public lands is used to facilitate, and not to create an unnecessary burden to, the deployment of telecommunications facilities in the form of increased costs or delays, and to consider the impact of setting compensation above actual and direct costs on the deployment of advanced telecommunications and broadband networks; *and be it further*

**RESOLVED**, That NARUC encourages municipalities and managers of public lands to provide prompt, non-discriminatory access to requesting carriers at reasonable rates and terms, consistent with environmental stewardship and other management responsibilities; *and be it further*

**RESOLVED**, That NARUC supports the vigorous enforcement of existing access laws by local governments, State Commissions, the FCC and other federal agencies, as well as the adoption of right-of-way access laws where none exist, and the review or reform of existing local, State and federal measures to ensure that rights-of-way access is eliminated as an actual or potential barrier to deployment; *and be it further*

**RESOLVED**, That NARUC create a Study Committee on Public Rights of Way, to consist of members of the NARUC Telecommunications Committee, and the Telecommunications Staff Subcommittee and the Staff Subcommittee on Accounting and Finance; *and be it further*

**RESOLVED**, That the study committee is charged to develop recommendations for reducing the extent to which rights-of-way access serves as a barrier to the deployment of advanced telecommunications and broadband networks; *and be it further*

**RESOLVED**, That the committee shall invite participation by the industry and by groups representing agencies and governments that own public lands or offer public rights of way and other organizations representing governmental interests; *and be it further*

**RESOLVED**, That the committee shall report recommendations at the NARUC Summer Meetings in 2002 at Portland, Oregon, for adoption by NARUC.

---

*Sponsored by the Committee on Telecommunications  
Adopted by the Board of Directors February 13, 2002*