

***Resolution on Accountability for FCC Imposed Merger Public Interest Commitments to Deploy Broadband Infrastructure and Adoption Programs***

**WHEREAS**, The National Association of Regulatory Utilities Commissioners (NARUC) has previously expressed its commitment through several resolutions in past years to advancing the deployment of broadband Internet access infrastructure and to promoting the adoption and usage of broadband services in communities across the United States; *and*

**WHEREAS**, Sections 214(a) and 310(d) of the Communications Act of 1934, as amended, and sections 34 through 39 of the Cable Landing License Act require the Federal Communications Commission (FCC) to determine whether a proposed transfer of control and of licenses held and controlled by a carrier regulated by the FCC will serve the public interest, convenience, and necessity; *and*

**WHEREAS**, The FCC can, and has, imposed merger obligations in support of this finding of public interest, including the applicants' express reliance on private investment to deploy broadband infrastructure or to implement broadband adoption and usage programs without reliance on federal Universal Service Fund (USF) financial support; *and*

**WHEREAS**, The FCC has approved a number of mergers (and has others pending) that included specific commitments to expand broadband facilities to additional households or businesses within specified timeframes and in some cases to provide reports on the progress of these expansion efforts; *and*

**WHEREAS**, Concerns have been identified that some commitments to deploy additional broadband infrastructure made to secure merger approvals are not being fully met; *and*

**WHEREAS**, Some carriers have made voluntary public interest commitments to deploy broadband infrastructure on the basis that USF financial support would enable them to satisfy the FCC approved merger obligation and the FCC has approved those commitments; *now, therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners, convened at its 2011 Annual Meeting in St. Louis, Missouri, respectfully requests that the Federal Communications Commission undertake a public inquiry to assess the extent to which public interest broadband deployment and adoption obligations imposed on previously approved merger applicants are being met; *and be it further*

**RESOLVED**, That, regarding all applicants making merger application public interest commitments or having public interest obligations imposed on them by the FCC, the FCC consider how to enhance and make more publicly accessible implementation progress reports that demonstrate applicants' compliance with such commitments and obligations; *and be it further*

**RESOLVED**, That the FCC consider establishing expedited timelines for assessment and enforcement of prior and future merger application public interest obligations that have been

made by any entity required to obtain FCC approval of a merger where an applicant has agreed to or is required to deploy broadband infrastructure and to implement broadband adoption and usage programs; *and be it further*

**RESOLVED**, That the FCC consider on a case-by-case basis whether to approve the use of federal financial support from the Connect America Fund or the Mobility Fund for expenses related to supplementing an applicant's public interest obligations in the FCC order approving such applicants' merger to deploy broadband infrastructure and/or to implement broadband adoption and usage programs.

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*Sponsored by the Committee on Telecommunications*

*Recommended by the NARUC Board of Directors November 15, 2011*

*Adopted by the NARUC Committee of the Whole November 16, 2011*