

TC-2 Resolution Seeking Joint Board Referrals

WHEREAS, On November 18, 2011, the Federal Communications Commission (FCC) released the *USF/ICC Transformation Order*, in which it adopted a framework for providing ongoing Universal Service Fund support to areas served by price cap carriers known as “Connect America Phase II,” and specifically stated that it will provide ongoing support to these areas through “a combination of a forward-looking cost model and competitive bidding;”*and*

WHEREAS, Section 254(b) of the Communications Act provides that matters regarding the establishment of policies for the preservation and advancement of universal service shall be considered by a Federal-State Joint Board and shall be based on principles set forth in Section 254(b) of the Act; *and*

WHEREAS, The determination of federal universal service support on the basis of a forward-looking cost model and competitive bidding will impact the level of the total costs of a carrier incurred to provide both interstate and intrastate services that are allocated to and recovered from the interstate jurisdiction; *and*

WHEREAS, The Supreme Court noted in *Louisiana Public Service Commission v. Federal Communications Commission, et al*, that “[t]he Communications Act not only establishes dual State and federal regulation of telephone service; it also recognizes that jurisdictional tensions may arise as a result of the fact that interstate and intrastate service are provided by a single integrated system. Thus, the Act itself establishes a process designed to resolve what is known as “jurisdictional separations” matters, by which process it may be determined what portion of an asset is employed to produce or deliver interstate as opposed to intrastate service. 47 U.S.C. §§ 221(c), 410(c);” *and*

WHEREAS, In a public notice dated June 8, 2012, the FCC’s Wireline Competition Bureau sought comments from the public regarding the development of a model to implement Connect America Phase II, and subsequently held a cost model workshop on September 13, 2012, but the FCC and its Staff have not formally sought the input of State regulators or consulted on this matter with the Federal-State Joint Boards; *now, therefore be it*

RESOLVED, The National Association of Regulatory Utility Commissioners (NARUC), convened at its 2012 Annual Committee Meetings in Baltimore, Maryland and requests that the FCC refer to the USF Joint Board the consideration of the development of a cost model to determine Connect America Fund Phase II support; *and be it further*

RESOLVED, That consistent with Resolution TC-3 adopted by the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2012 Summer Committee Meetings in Portland, Oregon, NARUC urges that the FCC should commit to USF support that is predictable and methodologically sound; *and be it further*

RESOLVED, That subsequent to the transmission of recommendations from the Universal Service Joint Board on the development of a cost model to be used to determine Connect America Fund Phase II support, and prior to the adoption of any such model, NARUC requests that the FCC refer the proposed model to the Separations Joint Board to determine whether the adoption of the model would effectively result in jurisdictional cost allocation changes and, if so, to provide the recommendations of the Separations Joint Board in accordance with the requirements of Section 410(c) of the Communications Act.

Sponsored by the Committee on Telecommunications

Adopted by the NARUC Board of Directors, November 13, 2012

Adopted by the NARUC Committee of the Whole, November 14, 2012