Resolution Calling for, at a Minimum, Disclosure of Provider Actions Facilitating Governmental Surveillance and Retention of Private and Personal Communications via Traditional (PSTN), Wireless and/or Internet Protocol (IP) Networks

WHEREAS, The Fourth Amendment to the Constitution provides that, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized;" *and*

WHEREAS, Many consumers have expectations that privacy protections apply to emails, phone calls, and other communications information; *and*

WHEREAS, These expectations are reinforced by Section 222 of the Communications Act under which telecommunications carriers have an obligation to protect Customer Proprietary Network Information (CPNI); *and*

WHEREAS, It has been reported that, notwithstanding such protections, the National Security Agency (NSA) has been obtaining extensive data on communications of individual citizens; *and*

WHEREAS, The National Security Agency's digital data collection apparently extends to the contact lists of individual users, culled in part from people's online email address books, instant messaging 'buddy lists,' as well as information in Facebook accounts ["Here's everything you should know about NSA address book spying in one FAQ," *Washington Post*, October 14, 2013; "NSA Harvests Personal Contact Lists, Too," *InformationWeek*, October 15, 2013]; *and*

WHEREAS, It appears that telecommunications carriers subject to regulation by the Federal Communications Commission (FCC) have been compensated for providing such information and have provided the NSA with communications metadata (including data that is classified as CPNI) without challenging the legality of the NSA's requests. [The Washington Post, "*U.S. phone companies never once challenged NSA Data requests,*" September 18, 2013]; *and*

WHEREAS, It is now apparent that these practices are not consistent with public expectations of privacy and confidentiality, such as those embedded in the FCC's CPNI rules; *now, therefore, be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened at its 125th Annual Meeting in Orlando, Florida, recommends that the FCC investigate whether the telecommunications carriers subject to its jurisdiction which have supplied data, call and/or text records, Internet data, voice communications, correspondence and materials to the NSA acted in compliance with their obligations under Section 222 of the Act (concerning CPNI) and the FCC's CPNI rules; *and be it further*

RESOLVED, That, as part of its inquiry, the FCC investigates whether such telecommunications carriers acted reasonably in providing data to the NSA, apparently without challenge; *and be it further*

RESOLVED, That in light of the fact that telecommunications carriers may be providing CPNI data to the NSA, the FCC should reexamine its CPNI rules and other rules related to privacy of consumer data, including consideration of whether carriers should be obligated to regularly (at least annually) notify consumers that CPNI data call and/or text records, Internet data, voice communications, correspondence and materials maintained by those providers may be released.

_____

Sponsored by the Committee on Telecommunications
Recommended by the NARUC Board of Directors November 19, 2013
Adopted by the NARUC Committee of the Whole November 20, 2013.