

Resolution Concerning Carrier Access to Multiple Tenant Environments

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**WHEREAS**, On October 25, 2000, the Federal Communications Commission (FCC) released a non-unanimous Report and Order and Further Notice of Proposed Rulemaking (FNPRM) concerning Consumer Choice in Multiple Tenant Environments (MTEs); *and*

**WHEREAS**, The Report and Order took several steps to enhance the ability of competing telecommunications providers to provide services to customers in residential and commercial buildings or other MTEs, including:

- an exclusive access rule prohibiting carriers from entering into contracts that restrict owners and managers of commercial MTEs from permitting access by other carriers,
- clarifying existing FCC rules governing control of in-building wiring and the location of demarcation points in wiring,
- ruling that local exchange carriers must provide access to conduits or rights-of-way that are owned or controlled by that carrier within MTEs, and
- ruling that parties with a direct or indirect ownership or leasehold interest in property, including tenants in MTEs, have the ability to place antennas one meter or less in diameter used to receive or transmit any fixed wireless service in areas within their exclusive use or control, and prohibiting most restrictions on their ability to do so; *and*

**WHEREAS**, The FCC also issued a FNPRM because it remains concerned that the ability of MTE owners to unilaterally and unreasonably discriminate among competing telecommunications service providers remains an obstacle to competition and consumer choice; *and*

**WHEREAS**, In the FNPRM the FCC indicated that where an MTE owner unreasonably prevents competing carriers from gaining access to potential customers in the MTE, the FCC

might in the future prohibit local exchange carriers from providing service to that MTE; *and*

**WHEREAS**, The FNPRM indicated that the FCC seeks comment on other possible actions, including:

- extending the exclusive access prohibition on carriers that is now applicable to commercial MTEs so as to apply also to residential MTEs,
  - prohibiting carriers from enforcing exclusive access provisions in existing contracts in either commercial or residential MTEs,
  - prohibiting carriers from entering into contracts that grant them other preferences, such as exclusive marketing or landlord bonuses to tenants that use their services, in some or all situations,
  - apply existing inside wiring rules, that now apply to cable television providers, to telecommunications service providers;
- and*

**WHEREAS**, in 1998 NARUC resolved:

- to urge state and territory regulators to closely evaluate building access issues within their jurisdictions, and
- to support legislative and regulatory policies that allow customers to have a choice of access to properly certificated telecommunications carriers and that allow all telecommunications carriers access to public and private property at fair, nondiscriminatory and reasonable terms; *and*

**WHEREAS**, Utility commissions in some states have limited or no authority under state law over carrier access to MTEs, but might be able to implement delegated federal authority, *now therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners (NARUC) assembled in its November 2000 112<sup>th</sup> Annual Convention in San Diego, California commends the FCC for its actions to enhance competitive access in multiple tenant environments, *and be it further*

**RESOLVED**, That the 1998 resolution on building access is

affirmed, *and be it further*

**RESOLVED**, That if the FCC sees the need to act further concerning access to multiple tenant environments, it should first consider a delegation of authority to state commissions, *and be it further*

**RESOLVED**, That NARUC General Counsel is directed to file comments with the FCC in accordance with this resolution.

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Sponsored by the Committee on Telecommunications

Recommended by the Board of Directors.

Accepted in Convention November 15, 2000.