

Resolution Supporting the Need for Uniform Mine Subsidence Protection

WHEREAS, The use of the earth's surface and the removal of minerals beneath the surface presents an age-old conflict between parties with interest at or near the surface and those mining underneath; *and*

WHEREAS, In order to provide a uniform administration of mining regulation, the United States Congress enacted the Surface Mining Control and Reclamation Act (SMCRA), P.L. 95-87, enacted August 3, 1977, cited as U.S.C. Section 1201-1328; *and*

WHEREAS, SMCRA requires the operators of underground mining facilities to pay for surface damage caused by mine subsidence while the mining operations is active but does not require any mitigation or prevention that could avoid surface damage; *and*

WHEREAS, Public utility operators must, both as a matter of operations prudence and in order to fulfill their public service obligations, protect their facilities from potential subsidence damages, and cannot allow them to sustain avoidable damage; *and*

WHEREAS, SMCRA, as presently interpreted and implemented, particularly at the State level, has led to a lack of protection against mine subsidence for utilities, including pipelines transporting all forms of liquid and gas, and has failed to alleviate the risk both to public safety and secure the reliability of public service, this risk is national in scope but has disparate local remedies; *and*

WHEREAS, The lack of adequate protection, in the near-term (during mining activity) and the long-term (after mine closure), for surface structures and related subsurface structures including pipelines endangers the public safety as well as the reliability of energy supply and utility service; *and*

WHEREAS, Protective measures are being taken by the pipeline industry, but presently those costs are unrecoverable under SMCRA and increase the cost of service to utility customers; *and*

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) believes that this conflict should be resolved so as to protect the reliability of the public and private energy transportation infrastructure in a manner that fairly apportions protection costs while producing the least chance of disruption to energy transportation and energy supply; *now, therefore, be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners ("NARUC"), convened at its 1998 Winter Meetings in Washington, D.C., urges Congress to resolve this conflict by amending SMCRA so as to protect the public safety and reliability of energy supplies delivered by pipelines.

*Sponsored by the Committee on Gas
Adopted March 4, 1998*