



N A R U C  
National Association of Regulatory Utility Commissioners

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## **NARUC Appeals FCC's Lifeline Reform Order** *Agency's Ruling Undermines Authority of State Regulators*

WASHINGTON—The National Association of Regulatory Utility Commissioners today filed an appeal of the Federal Communications Commission's March 31, 2016, Lifeline Reform Order with the U.S. Court of Appeals for the District of Columbia. The petition asks the court to vacate only limited portions of the order that undermine the federal-state partnership envisioned by Congress in the Telecommunications Act of 1996.

In the Act, as the order acknowledges, Congress expects state commissions to play a crucial role with respect to universal service, including the provision of Lifeline service and the promotion of advanced services, such as broadband. States manage complementary subsidy matching Lifeline programs. They police service quality for Lifeline consumers. In particular, Congress specified that, in the first instance, States investigate and approve so-called "eligible telecommunications carriers" before they can participate in any federal Lifeline program.

The FCC's order claims to "preempt" this requirement. This action is inconsistent with federal law. In March, a letter from 96 commissioners from 37 NARUC member states outlined the negative consequences of eliminating the state role in designating carriers.

"Removing the Congressionally designated state 'cops' off the beat for broadband Lifeline can only increase fraud and abuse in the program. It cannot be good policy to allow recipients of federal subsidies to choose the regulatory body which will oversee them, which is what the FCC's order does," said NARUC President Travis Kavulla of Montana.

"We continue to work closely with the agency and appreciate their outreach across the board on Lifeline issues. But states have statutory duties to maintain effective oversight of the evolution of the federal Lifeline subsidy programs to cover broadband. We are seriously concerned about the effect of this decision on complementary state programs in the long term, and the FCC's interesting claim that it can preempt Congress certainly deserves judicial scrutiny," said Commissioner Chris Nelson of South Dakota, who chairs NARUC's Committee on Telecommunications.

NARUC represents the interests of the state utility commissions that are directly affected by the FCC's order. The association is recognized by Congress and courts as the proper entity to represent the collective interests of state utility commissions.

NARUC petition requests that portions of the order be vacated, set aside, modified, and/or enjoined. The FCC's order, *In the Matter(s) of Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, & 10-90, can be found at <http://1.usa.gov/1UBhZsd>.

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*NARUC is a non-profit organization founded in 1889 whose members include the governmental agencies that are engaged in the regulation of utilities and carriers in the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands. NARUC's member agencies regulate telecommunications, energy, and water utilities. NARUC represents the interests of State public utility commissions before the three branches of the Federal government.*