

## ***TC-4 Resolution Opposing Proposed Expansion of the IP CTS Contribution Base***

*Whereas* in 2004, Congress directed the Federal Communications Commission (“FCC”) to regulate Telecommunications Relay Service (“TRS”) by jurisdictional separation of the associated costs, which shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction;

*Whereas* in 2007, the FCC approved Internet Protocol Captioned Telephone Service (“IP CTS”) as a type of TRS eligible for compensation on an interim basis from the federal TRS Fund through contributions from carriers’ based on annually reported interstate revenues, consistent with the treatment of VRS and IP relay calls;

*Whereas* from 2011 to 2017, annual IP CTS minutes of use have grown from approximately 29 million minutes to 363 million minutes while most other forms of TRS (TTY-based, TRS, state-based CTS, IP Relay) have either declined in demand or demand is relatively flat;

*Whereas* the dramatic growth in IP CTS call volume appears to result, in part, from provider practices that promote over-use of IP CTS, including by people with hearing loss who may be able to achieve functionally equivalent telephone service using other forms of technologies;

*Whereas* on June 8, 2018, the FCC released a “Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking (“NPRM”), and Notice of Inquiry” addressing sustainability of IP CTS wherein the FCC adopted per-minute compensation rates for two years to correlate to actual reasonable costs for the service and prohibits providing service to users who do not need it;

*Whereas* in the NPRM, the FCC proposes to expand the contribution base to support IP CTS by including a percentage of annual intrastate revenues from telecommunications carriers, including VoIP service providers;

*Whereas* the FCC suggests that expanding the TRS funding base can be implemented in multiple ways, including a single contributor factor for IP CTS on all interstate and intrastate end-user revenues or an alternative plan that would establish jurisdictional allocation factors between the separate jurisdictions;

*Whereas* the FCC is seeking comment to update the records on whether States would have an interest in voluntarily administering IP CTS operations and “opt-out” of having intrastate revenues contribute to the federal TRS fund, or if States continue to have concerns with user eligibility, IP CTS growth from misuse, standards of service that should be addressed at the federal level before assuming administrative functions with respect to IP CTS; *and*

*Whereas* pursuant to 47 U.S.C. § 410(c) the FCC is directed to refer any proceeding regarding jurisdictional separations of common carrier property and expenses between interstate and intrastate operations to the Federal-State Board on Jurisdictional Separations; *now, therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners (“NARUC”) convened at its 2018 Summer Policy Summit in Scottsdale, Arizona, commends the FCC for seeking comments in its June 8, 2018 “Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking and Notice of Inquiry,” FCC 18-79A1, on ways to ensure that IP CTS remains sustainable for

each of our states' vulnerable individuals who rely on these services to communicate effectively in our society; *and be it further*

*Resolved* that NARUC urges the FCC to continue to cooperate with the states and engage state expertise, skills and experience in the TRS program decisions including, but not limited to, the option for state IP-CTS administration with funding authority; *and be it further*

*Resolved* that NARUC does not support redirecting more money into the current federal TRS fund at this time through a single combined interstate and intrastate contributions factor for IP-CTS, as these modifications do nothing to minimize the inefficient and/or inappropriate use of the program, and would therefore be premature; *and be it further*

*Resolved* that NARUC commends the FCC for recognizing and adopting certain rules for providers whose practices promote the overuse of IP CTS when there may be alternative technologies that could be more practical and cost effective for consumers; *and be it further*

*Resolved* that the FCC continue to refine its rules to further minimize inefficient and/or inappropriate use of the program by adopting additional requirements, including but not limited to, user eligibility assessments that are sufficiently thorough and not biased toward the use of IP CTS technology and standards of service; *and be it further*

*Resolved* that NARUC supports the FCC in restructuring the IP CTS Provider compensation rate methodology to align with a cost-based rate for IP CTS providers to discourage unethical sales practices; *and be it further*

*Resolved* that any necessary contributions restructure for IP CTS occur only after measures to minimize inefficient and/or inappropriate use of the program are implemented and appropriate costs are determined; *and be it further*

*Resolved* that the FCC must engage the Federal-State Board on Jurisdictional Separations in any TRS contributions restructure for IP CTS because the interstate and intrastate costs and minutes are severable, and the current separations rules do not accurately separate costs between the interstate and intrastate jurisdictions.

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*Sponsored by the Committee on Telecommunications.*

*Adopted by the NARUC Board of Directors on July 18, 2018.*