

RESOLUTIONS

ADOPTED BY NARUC'S

BOARD OF DIRECTORS

AT THE

2020 ANNUAL MEETING AND EDUCATION CONFERENCE

OF THE

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

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NOTE – Honorary Resolutions are in a separate packet.

Important caveat: The descriptions in the Table of Contents are truncated. If you are interested in the topic, you should read the entire resolution to get a better idea of what is being proposed.

(Questions? Contact Brad Ramsay at 202.898.2207 or jramsay@naruc.org)

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III. Committee on Telecommunications

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Resolution draws attention to the ability of State legislatures and commissions to move to assure that inmate calls are cost-based. [Passed Board 11/11]

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IV. Subcommittee on Supplier and Workforce Diversity

- SWD-1 Resolution Encouraging Review of Diversity Owned Certification Requirements by Investor Owned Utilities to Reduce Barriers and Ease Burdens Faced by Diverse Suppliers Wishing to do Business with Investor Owned Utilities** **Page 9**
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Resolution supports enhanced efforts to encourage investor owned utilities to review their diversity certification requirements to reduce barriers and ease burdens faced by diverse businesses wishing to provide services and supplies to investor owned utilities. [Passed Board 11/11]

EL-1 Resolution on Carbon Capture, Utilization, and Storage

Whereas the Board of Directors of the National Association of Regulatory Utility Commissioners (“NARUC”) adopted a resolution on February 17, 2016, urging Congress and the Administration to support legislation and budget measures that provide assistance to the development and deployment of cost-effective carbon capture technology;

Whereas electricity generated from power plants burning coal, natural gas, and biomass, and numerous industrial activities, including hard-to-abate sectors such as steel, cement, and chemicals manufacturing; natural gas processing; production of ethanol, fertilizer, and hydrogen; and refining, emit carbon dioxide (“CO₂”) and, in some cases, its precursor carbon monoxide (“CO”);

Whereas emitted CO₂ and CO could be captured, geologically stored, or put to beneficial use to further the goals of reducing carbon emissions significantly by midcentury, fostering energy independence, and sustaining domestic industrial production and manufacturing and associated high-wage jobs;

Whereas there are currently over 5,000 miles of CO₂ transport infrastructure in the U.S., which enable the capture, transport, and geologic storage of roughly 25 million tons of anthropogenic or manmade CO₂ each year from 13 commercial-scale facilities spanning a range of industries;

Whereas the first pilot commercial direct air capture facilities are under development that will separate CO₂ from ambient air to reduce atmospheric concentrations of CO₂, large-scale deployment of which will be needed by midcentury;

Whereas projects to retrofit industrial facilities and power plants for carbon capture, construct CO₂ transport infrastructure, and deploy direct air capture facilities have the potential to support dozens to thousands of construction jobs and tens to hundreds of operational jobs in industries that pay above local prevailing wages, and additional well-paying, highly-skilled jobs are created in manufacturing carbon capture system components; installing carbon capture technology; managing ongoing CO₂ injections; and monitoring long-term CO₂ storage as well as production of the many emerging products manufactured from captured carbon;

Whereas carbon capture technologies provide the means to decarbonize existing industrial production, manufacturing, and power generation, while sustaining high-wage jobs and tax revenues from those sectors and the local communities and economies that depend upon them;

Whereas in February 2018, Congress passed legislation to reform and enhance the Section 45Q tax credit available for carbon capture and utilization projects;

Whereas the passage of this tax credit reform has spurred the development of over 30 publicly-announced carbon capture and geologic storage projects across many industries and much of the country;

Whereas project developers and investors waited over two years for the U.S. Treasury Department and Internal Revenue Service to issue guidance and a proposed rule on the 45Q tax credit reform implementation, which has hampered further project development and sidelined billions of dollars in private investment;

Whereas the COVID-19 pandemic creates both the need and opportunity for incentives and investments in carbon capture, transport, utilization, removal, and storage projects to help restore economic activity and create jobs lost to the economic crisis in the near term;

Whereas further gains may be made with passage of additional federal legislation, as well as complementary policies in the States that help provide investment certainty, technology deployment and cost reductions, project finance and feasibility, and infrastructure deployment;

Whereas a number of pieces of bipartisan legislation have been introduced, some of which have passed either the full House or Senate, to complement the recent 45Q tax credit changes, including longer-term extension and direct pay for the 45Q tax credit to expand private investment, improvements to the existing 48A tax credit to support carbon capture retrofits of existing coal power plants, use of master limited partnerships and tax-exempt private activity bonds to lower the cost of capital for carbon capture projects, low-cost federal financing of CO₂ transport infrastructure, and significantly expanded federal research, development, and demonstration funding for carbon capture, utilization, removal, and geologic storage;

Whereas it is beneficial for Congress and the Administration to act in close partnership with State governments, recognizing the opportunities to reduce carbon emissions and, thanks to ongoing innovation, to transform captured carbon into a useful commodity for making low- and zero-carbon fuels, chemicals, advanced materials, building products, and other useful items of economic value;

Whereas there are a number of State policies that could complement federal incentives;

Whereas North Dakota and Wyoming have received primary enforcement authority, or primacy, from the U.S. Environmental Protection Agency (“EPA”), a number of additional States are seeking to obtain primacy in the permitting of Class VI wells for injection of CO₂, and where States do not seek primacy, States are seeking U.S. EPA to allocate additional resources to Class VI well permitting, all of which would allow for carbon capture projects to proceed more expeditiously; and

Whereas development of clusters of industrial and power plant sources of CO₂ sharing common transport infrastructure to enable the large-scale storage and beneficial utilization of that captured carbon will require legislative assistance from States and the federal government in a number of areas, including but not limited to low-interest federal loans and grants to finance additional pipeline capacity and realize economies of scale, as well as federally- and State-supported, long-distance CO₂ trunk lines; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Annual Meeting and Education Conference, urges Congress and the Administration to support legislation, budget measures, and regulations that provide assistance to the development and deployment of cost-effective carbon capture and direct air capture technology, CO₂ transport infrastructure, and geologic storage sites; *and be it further*

Resolved that NARUC urges Congress and the Administration to work in concert with the States to help develop regional carbon hubs, to capture larger amounts of CO₂, and to transport that CO₂ for safe and permanent geologic storage or beneficial utilization that reduces emissions; *and be it further*

Resolved that NARUC strongly urges Congress and the Administration to robustly and rapidly act on this resolution to support domestic energy production, industry, and manufacturing; and create economic and job opportunities at this time of great national need.

Passed by the Committee on Electricity November 10, 2020.

Adopted by the NARUC Board of Directors, November 11, 2020

ERE-1 Resolution on Offshore Wind Transmission

Whereas the Federal Energy Regulatory Commission (“FERC”) is conducting a technical conference regarding offshore wind (“OSW”) integration in regional transmission organizations (“RTOs”) and independent system operators (“ISOs”) in Docket No. AD20-18-000;

Whereas FERC is examining whether the Commission’s existing transmission, interconnection, and merchant transmission frameworks in RTOs/ISOs are capable of the anticipated growth of OSW;

Whereas at least six States have established OSW targets over 28 gigawatts (“GWs”) by 2035 according to the American Wind Energy Association;¹

Whereas these States have already awarded, through resource solicitations, 6.3 GWs of OSW projects;²

Whereas FERC is examining its open access transmission principles and possible changes or improvements to the current frameworks to accommodate anticipated OSW growth;

Whereas a planned and coordinated approach to OSW transmission may reduce the miles of marine cabling thereby reducing impacts on marine environments and fisheries;³

Whereas some studies suggest that a planned offshore network could cost less in capital outlays and reduce power losses, and could produce other grid savings;⁴

Whereas existing grid capacity is finite and once hosting capacity is used up at specific interconnection points then extensive upgrades may be required;⁵ and

Whereas networked OSW transmission could enhance grid reliability by facilitating the rerouting of power when helpful; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners convened at its 2020 Annual Meeting and Education Conference, urges FERC to consider as it reviews its open access transmission principles that a well-planned OSW grid may result in enhanced transmission efficiency and reliability compared to unplanned OSW tie-line interconnections; *and be it further*

Resolved that NARUC respectfully recommends that FERC consider that a well-planned networked offshore transmission grid may reduce the impacts of OSW development on the marine environment and fishery; *and be it further*

Resolved that NARUC recommends a clear path for both traditional utility and non-traditional competitive

¹ <https://www.awea.org/Awea/media/Resources/Fact%20Sheets/Offshore-Fact-Sheet.pdf>

² <https://www.awea.org/Awea/media/Resources/Fact%20Sheets/Offshore-Fact-Sheet.pdf>

³ https://brattlefiles.blob.core.windows.net/files/18939_offshore_transmission_in_new_england_the_benefits_of_a_better-planned_grid_brattle.pdf

⁴ https://brattlefiles.blob.core.windows.net/files/18939_offshore_transmission_in_new_england_the_benefits_of_a_better-planned_grid_brattle.pdf; <https://www.offshorewindus.org/wp-content/uploads/2020/10/Business-Network-OSW-Transmission-White-Paper-Final.pdf>

⁵ <https://www.offshorewindus.org/wp-content/uploads/2020/10/Business-Network-OSW-Transmission-White-Paper-Final.pdf>

merchant transmission development, including stand-alone OSW transmission proposals, be established in the relevant RTOs/ISOs by action of the RTOs/ISOs and FERC as necessary to achieve an optimal balance of low-cost transmission and OSW development and avoidance of environmental and fishery impacts through appropriate planning and processes to coordinate state OSW goals with RTOs/ISOs processes.

Passed by the Committee on Energy Resources and the Environment November 10, 2020

Adopted by the Board of Directors, November 11, 2020

TC-1 Resolution Drawing the Attention of State Legislatures and Commissions to Consider Action to Ensure Cost Based Telephone Rates from Correctional and Detention Facilities

Whereas inmate telephone service contracts are exclusive agreements between detention facilities and telephone companies that provide specialized functionality to enable monitoring of inmate telephone calls;

Whereas although costly specialized equipment and monitoring services are provided, the contracts for inmate telephone systems often include high connection fees and per minute rate charges which are unrelated to the cost of providing the service;

Whereas things have improved since the National Association of Regulatory Utility Commissioners first raised this issue in a 2012 resolution as the Federal Communications Commission (“FCC”) has capped the cost of interstate calls at 14 to 17 cents a minute and restrained the imposition of other fees, and most state prison systems have lowered their rates well below the FCC’s caps for in-state calls;

Whereas the problems that remain reside predominately in county and city run jails;

Whereas local and county jails are very different from state prisons because the vast majority of people in custody have not been convicted and are being held pretrial;

Whereas on average, phone calls from jail cost three times more than phone calls from State prisons;

Whereas charging pretrial defendants non-cost based prices for phone calls punishes people who are legally presumed innocent, drives up costs for appointed counsel, and makes it harder for them to contact family members and others who might help them post bail or build their defense. It also puts them at risk of losing their jobs, housing, and custody of their children while they are in jail awaiting trial;

Whereas even with convicted felons, phone calls are the most common way those behind bars and their families stay connected and studies show that communication between families and their incarcerated loved ones is tied to reducing recidivism; and

Whereas State legislatures are best positioned to address this issue by allocating additional authority to their State commissions to investigate and assure cost-based fees; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Annual Meeting and Education Conference, draws attention to the ability of State legislatures and commissions to consider possible legislation and rulemakings so that State commissions can assure that inmate calls are cost-based.

Passed by the Committee on Telecommunications November 10, 2020
Adopted by the Board of Directors, November 11, 2020

TC-2 Resolution on State Access to the Network Outage Reporting System and Disaster Information Reporting System Filings

Whereas the California Public Utilities Commission (“CPUC”) petitioned the Federal Communications Commission (“FCC”) requesting direct access to the FCC’s Network Outage Reporting System (“NORS”) on November 12, 2009 [Petition of the California Public Utilities Commission And The People of the State of California for Rulemaking on States’ Access to the NORS Database and a Ruling Granting California Access to NORS, ET Docket No. 04-35 (Nov. 12, 2009)];

Whereas the National Association of Regulatory Utility Commissioners (“NARUC”) has filed extensive comments in this proceeding based on a February 15, 2015, *NARUC Resolution on State Access to the NORS Database*;

Whereas while California filed the Petition on its own behalf, and some States may receive certain types of outage information from carriers, States share the need for immediate, secure and confidential access to NORS data for their individual states to carry out their regulatory responsibilities;

Whereas many States filed in support of California’s Petition: *See* Comments of the National Association of State Utility Consumer Advocates, ET Docket No. 04-35 (filed Mar. 4, 2010); Comments of the City of New York, ET Docket No. 04-35 (filed Mar. 4, 2010); Comments of Massachusetts Department of Telecommunications and Cable, ET Docket No. 04-35 (filed Mar. 4, 2010); Comments of the Public Service Commission of the District of Columbia, ET Docket No. 04-35 (filed Mar. 4, 2010); Comments of the Missouri Public Service Commission, ET Docket No. 04-35 (filed Mar. 26, 2010); and Comments on behalf of the New York Public Service Commission, ET Docket No. 04-35 (filed Mar. 4, 2010); *see also* Comments of California Association of Competitive Telecommunications Companies, ET Docket No. 04-35 (filed Mar. 8, 2010); Comments of the Alliance for Telecommunications Industry Solutions, ET Docket No. 04-35 (filed Mar. 4, 2010) at 1 (“ATIS recognizes the legitimate needs of states to have access to outage reporting data...”); and Comments of The United States Telecom Association, ET Docket No. 04-35 (filed Mar. 4, 2010) at 1 (“US Telecom’s members recognize the legitimate interest that CPUC has in obtaining federally-collected outage reports for its jurisdiction.”);

Whereas the FCC did not respond directly to this Petition;

Whereas the CPUC withdrew this Petition [Motion of the California Public Utilities Commission and the People of the State of California to Withdraw California’s Request for a Ruling Granting California Access to the NORS Database] in 2018;

Whereas the CPUC addressed the need for access to NORS data through the development of their own outage database;

Whereas the U.S. Department of Homeland Security (“DHS”) recommended to the FCC that it consider providing State and federal agencies, and Tribal nations direct access to the FCC’s NORS and Disaster Information Reporting System (“DIRS”) filings; “in order to assure that State authorities have the ... data they need to support their homeland security and emergency response functions...” [*In the Matter of New Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd. 16830, ¶ 25, at 16845 (2004)];

Whereas the FCC disseminated a Notice of Proposed Rulemaking on March 2, 2020, further acknowledging “the crucial role state and local authorities can play in the successful restoration of disrupted

communications” with appropriate outage data access [Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications Second Further Notice of Proposed Rulemaking - PS Docket Nos. 15-80 and RM No. 11588 (terminated)];

Whereas many States filed comments in support of the proposed Rulemaking; *See* Comments of the California Public Utilities Commission, PS Docket No. 15-80 (filed April 30, 2020); Comments of the Colorado Public Utilities Commission, PS Docket No. 15-80 (filed Apr 30, 2020); Comments of Massachusetts Department of Telecommunications and Cable, PS Docket No. 15-80 (filed April 29, 2020); Comments of the Michigan Public Service Commission, PS Docket No. 15-80 (filed April 30, 2020); Comments of the New York State Public Service Commission, PS Docket No. 15-80 (filed April 30, 2020); and Comments of the Pennsylvania Public Utility Commission, PS Docket No. 15-80 (filed April 30, 2020); see also Comments of the Washington APCO-NENA Chapter, PS Docket No. 15-80 (filed April 29, 2020); Comments of the Satellite Industry Association, PS Docket No. 15-80 (filed June 2, 2020); and Comments of The National Association of State 911 Administrators, PS Docket No. 15-80 (filed July 20, 2020);

Whereas the Commonwealth of Puerto Rico issued support to the Rulemaking, citing previous instances of disaster recovery in which, “timely access to network information during a disaster is literally a matter of life and death;”

Whereas NARUC has filed comments to support the proposal of providing States and other federal agencies access to the FCC’s NORS and DIRS filings, and in general support of the commenting state commissions;

Whereas the FCC released a Report of the Public Safety and Homeland Security Bureau on the June 15, 2020 T-Mobile Network Outage (October 22, 2020), lasting over 12 hours and resulting in 911 outages and disrupted service for customers across the country;

Whereas the FCC released a Report of the Public Safety and Homeland Security Bureau regarding the 37 hour December 27, 2018, CenturyLink Network Outage (August 19, 2020), detailing that the outage affected as many as 22 million consumers across 39 states, 29 of which experienced 911 outages;

Whereas the FCC has announced an investigation of the August 30, 2020 CenturyLink network outage;

Whereas State agencies, including State utility commissions and State Offices of Emergency Services, are responsible for maintaining public services, including (tele)communications services, before, during and after emergencies;

Whereas State commissions have a responsibility to ensure access to 911/E911 service, and many States have obligations to ensure call completion;

Whereas utilities and public safety officials, including emergency responders, depend on safe, reliable and secure delivery of communications services before, during, and after emergencies;

Whereas States and local jurisdictions may need more granular or different outage information to fulfill their public safety mandates and the FCC should not preempt those efforts;

Whereas State commissions have a responsibility to ensure the stability and resiliency of State communications infrastructure, including telephone and public communications networks;

Whereas public telecommunications networks are the basis for the operation of advanced services that are also now widely needed before, during, and after emergencies;

Whereas public telecommunications network outages pose a significant risk to health and safety of the public and “greatly inconvenience the public and cause significant economic disruption” [NASUCA Comments, ET Docket No. 04-35 (filed Mar. 4, 2010 at 4-5)];

Whereas granting States secure access to NORS data is consistent with a history of the FCC sharing confidential information with State commissions when a vital need is shown and the information is properly safeguarded [See McDonough Telephone Cooperative Comments, ET Docket 04-35 (filed Mar. 4, 2010) at 5-6 (describing the finding by the Commission that certain confidential information, such as North American Number Plan and Form 477 data, should be shared with State commissions for the welfare of the public)];

Whereas protecting the security, integrity and confidentiality of NORS data is paramount, and the States are well-situated to understand the level of monitoring necessary to maintain the reliability and security of the communications infrastructures within their jurisdictions; and

Whereas secure access to the NORS database will ensure the rapid and effective coordination of efforts to maintain or restore communications services at the local, state, and federal levels; *now, therefore be it*

Resolved the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Annual Meeting and Education Conference, urges the FCC to approve expeditiously the Notice of Proposed Rulemaking, PS Docket No. 15-80, for State public utility commissions and/or other State-identified State agencies to have direct and immediate secure access to State-specific NORS and DIRS filings, subject to appropriate safeguards between the FCC and the PUCs regarding confidential information, and take the necessary steps to effectuate that access.

Passed by the Committee on Telecommunications November 10, 2020

Adopted by the Board of Directors, November 11, 2020

SWD-1 Resolution Encouraging Review of Diversity Owned Certification Requirements by Investor Owned Utilities to Reduce Barriers and Ease Burdens Faced by Diverse Suppliers Wishing to do Business with Investor Owned Utilities

Whereas the Subcommittee on Supplier & Workforce Diversity (“SSWD”) of the National Association of Regulatory Utility Commissioners works to highlight areas of opportunity to encourage economic growth and inclusion among regulated utilities;

Whereas many State, federal, and third-party agencies have programs that are used to certify diverse suppliers under a formal review process designed to ensure that only businesses that meet minimum eligibility criteria are awarded certification;

Whereas once the business successfully completes the certification process, it is awarded a certificate to prove it is diversity owned;

Whereas these programs help level the playing field for diverse businesses in government and corporate buying processes;

Whereas many government agencies and most corporate purchasing activities require spending a certain percentage of their purchasing dollars with diverse suppliers;

Whereas in many cases, prime contractors are required to follow the same process to help their customers meet diversity spend goals;

Whereas some investor-owned utilities have diversity spend goals;

Whereas many small businesses face obstacles and barriers when seeking required diversity certification including but not limited to:

1. Annual renewal fees which may affect small businesses depending on size, revenue and resources creating an obstacle to budget for this expense;
2. The complexity of the requirements which lends itself to certain business owners not fully understanding the business documents and policies required to complete the process with a favorable result and instead are rejected because financial documents are lacking or they do not understand the rules regarding assets, capital, investors, governance documents as they pertain to the product/services provided;
3. Incurred expense of hiring attorneys and third-party consulting firms to complete this complex process for diversity certification applications; and
4. Lack of understanding of all the certifying bodies available to pursue certification;

Whereas not all small businesses seeking to certify require the same level of engagement depending on the type of services/product that the business provides. For example, perhaps a municipal certifying body is best instead of federal certification;

Whereas diverse suppliers may need more exposure and education about the types of certifying bodies that best suit their needs and expectations;

Whereas many corporations are currently asking whether a universal standard with a streamlined and transparent process is possible while at the same time recognizing that rigorous certification processes are needed to avoid fraud in diverse supplier procurement and contracting; and

Whereas the SSWD, through its members and leaders, Chairman, Illinois Commerce Commission Commissioner Sadzi M. Oliva and Vice-Chairman, District of Columbia Public Service Commission Chairman Willie Phillips, wishes to remind, recommend, and encourage the review by investor-owned utilities of diversity certification requirements to reduce barriers and ease burdens faced by diverse suppliers wishing to do business with investor owned utilities; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Annual Meeting and Education Conference supports enhanced efforts to encourage investor-owned utilities to review their diversity certification requirements to reduce barriers and ease burdens faced by diverse businesses wishing to provide services and supplies to investor-owned utilities.

Passed by the Subcommittee on Supplier and Workforce Diversity November 6, 2020
Adopted by the Board of Directors on November 11, 2020