

# **RESOLUTIONS**

**PASSED BY NARUC**

**BOARD OF DIRECTORS**

**2020 WINTER POLICY SUMMIT**

**OF THE**

**NATIONAL ASSOCIATION OF  
REGULATORY UTILITY COMMISSIONERS**

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*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.*

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*Resolution recommends State commissions, consistent with the practices and procedures of that State, convene proceedings that engage stakeholders soon; utilize existing research and experience and make evidence-based decisions to adopt the current IEEE 1547; and align implementation of the standard with the availability of certified equipment.*

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*Resolution encourages its members to participate in EPA's "Fix-a-Leak Week" by using any materials EPA provides and issuing an appropriate press release noting the EPA initiative and its support for it.*

*\* Subject to provisions of Title I, Sec.18 (1) of the Policies and Procedures of the National Association of Regulatory Utility Commissioners.*

***Resolution Recommending State Commissions Act to Adopt and Implement Distributed Energy Resource Standard IEEE 1547-2018***

*Whereas* State commissions have statutory responsibility for regulating utilities that provide energy services;

*Whereas* State commissions have a statutory obligation to ensure that the electric utilities they regulate provide safe and reliable service at just and reasonable rates;

*Whereas* many States are experiencing the installation and interconnection of distributed energy resources (“DERs”), as sources of electric power that are connected to, operate in parallel with, and are capable of exporting power to local distribution systems, including, but not limited to, distributed solar photovoltaic generation and distributed energy storage;

*Whereas* many States recognize that DER, if interconnected and operated in a safe and reliable manner with uniform standards across multiple jurisdictions, can offer economic, reliability, resilience, and environmental benefits to consumers, communities and utilities;

*Whereas* all States benefit from timely adoption of rigorous, clear, up-to-date standards for safe and reliable interconnection, integration and parallel operation of DERs;

*Whereas* in April 2018, the Institute for Electrical and Electronics Engineers (“IEEE”) published a significantly updated *IEEE Standard 1547<sup>TM</sup> --2018 for Interconnection and Interoperability of DERs and Associated Electric Power Systems Interfaces* (“IEEE 1547-2018”), which is a voluntary, nationally applicable standard that will transform how DERs interact with and function on the electric distribution system;

*Whereas* IEEE 1547-2018 is technology neutral and specifies the performance and functional technical capability requirements needed to ensure technically sound interconnections, as well as a number of necessary improvements for distribution and bulk power system reliability;

*Whereas* IEEE 1547-2018 requires DER to be capable of performing specific grid support functions related to voltage, frequency, communications, and controls to ensure that increasing levels of DERs are reliable at both the distribution and bulk power system levels, and can be visible to grid operators;

*Whereas* DER equipment compliant with IEEE 1547-2018 is anticipated to be available in the 2021 timeframe; reliable deployment of this equipment requires consideration and coordination by State regulators and utilities as outlined in the standard;

*Whereas* IEEE 1547-2018 highlights responsibilities, including determination of performance categories, of State regulators and other authorities governing interconnection requirements;

*Whereas* delaying implementation of IEEE 1547-2018 could result in new DERs being connected to the grid using legacy technical requirements and standards that could prevail for the duration of the DER’s lifetime;

*Whereas* significant logistical and legal barriers exist to modifying DER interconnection requirements post-installation, such that it is preferable to apply the desired DER configuration at the time of initial DER installation;

*Whereas* the North American Electric Reliability Corporation (“NERC”), in the draft Reliability Guideline, “Bulk Power System Reliability Perspectives on the Adoption of IEEE 1547-2018” encourages State regulators to “support early implementation of IEEE 1547-2018 and begin engaging with necessary stakeholders;”

*Whereas* adoption and implementation of IEEE 1547-2018 requires action by State regulators and utilities to integrate the standard into interconnection tariffs, such as addressing issues related to technology, location, settings of utility-owned protective elements, among other factors;

*Whereas* successful State implementation of the updated IEEE 1547-2018 will benefit from stakeholder engagement, including electric distribution system operators, DER customers and developers, and bulk power system operators, and identifying and engaging such subject matter experts may take significant lead-time;

*Whereas* NARUC, IEEE, Electric Power Research Institute, National Renewable Energy Laboratory, Regulatory Assistance Project, Interstate Renewable Energy Council, NERC, National Rural Electric Cooperative Association and others have compiled excellent resources to support State commissions on IEEE 1547-2018 implementation based on evidence and research;

*Whereas* IEEE and nationally recognized testing laboratories are working on testing procedures (IEEE 1547.1) and certification (UL 1741) based on IEEE 1547-2018 with the anticipation of widespread availability of certified equipment in 2021; *now, therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Winter Policy Summit in Washington, DC, recommend State commissions, consistent with the practices and procedures of that State, convene proceedings that engage stakeholders soon; utilize existing research and experience and make evidence-based decisions to adopt the current IEEE 1547; and align implementation of the standard with the availability of certified equipment.

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*Sponsored by the Committee on Electricity*

*Adopted by the Board of Directors, on February 12, 2020*

## ***Resolution Supporting Federal Legislation to Fully Refund Interstate Pipeline Customers***

*Whereas* the Natural Gas Act (“NGA”), 15 U.S.C. §§ 717-717w establishes the Federal Energy Regulatory Commission’s (“FERC”) authority to regulate the rates, terms, and conditions for the transport of natural gas interstate commerce;

*Whereas* Sections 4 and 5 of the NGA describe the regulatory power FERC has over rates;

*Whereas* specifically, Section 4 of the NGA (15 U.S.C. § 717c) addresses requests by natural gas companies (i.e., those engaged in the transportation of natural gas in interstate commerce or the sale in interstate commerce of such gas for resale) for new or revised rates;

*Whereas* FERC’s authority to order rate refunds is covered in part by subsection 717c(e), which gives FERC the authority to hold hearings concerning new rate schedules filed by a natural gas company;

*Whereas* importantly, subsection (e) appears to limit FERC’s authority to order a refund to filings for *increased rates* that took effect after a five-month suspension period pending Commission review. That is, if a rate increase goes into effect because FERC did not complete its review within five months of the proposed effective date, and if the rate is subsequently found to be unlawful, a refund can be ordered. In the case where FERC finds that even the *pre-existing* rate is unlawful (or higher than just and reasonable), it can order a refund, but the refund is limited to the difference between the proposed rate and the pre-existing rate;

*Whereas* one must look to Section 5 to address this situation. Section 5 of the NGA (15 U.S.C. §717d) addresses rate investigations on existing pipeline rates initiated by FERC and pipeline complaints filed with FERC by interested parties. Under Section 5, FERC can order a decrease in rates if existing rates are unjust, unduly discriminatory, etc., but cannot order refunds of overcharges accumulated up until the time FERC establishes the new, lower rate. Rather, the new, lower rate takes effect on a prospective basis even if the existing rate has been deemed unjust and unreasonable and even though the pipeline had notice that FERC was investigating the continuing justness and reasonableness of the existing rate;

*Whereas* as it stands now, the NGA may not give FERC appropriate discretionary authority to allow sufficient legal recourse for full refunds when FERC determines that interstate pipelines have overcharged for service;

*Whereas* currently, pipeline consumers (e.g., direct consumers, natural gas shippers, and State utilities), as well as State commissions, do petition FERC to change rates if they believe they are “unjust and unreasonable”;

*Whereas* concerns have arisen about both the inability for FERC under Section 5 of the NGA when appropriate to order pipelines to refund to customers the full amount they were overcharged during the period of FERC’s review, and the often-protracted Section 5 review process;

*Whereas* even where a customer or State commission bears the burden of challenging an existing rate through a Section 5 complain, pipelines can effectively terminate a Section 5 investigation at any time prior to decision by seeking a rate increase under Section 4, establishing the challenged pre-existing rates as the “refund floor” and rendering moot the Section 5 rate review. Thus, the current law in practice often discourages customers from incurring the expense of petitioning FERC to change rates;

*Whereas* the NGA appears not to incentivize interstate pipelines to more fairly and expeditiously resolve these FERC rate proceedings since as long as the FERC proceedings continue, the existing rate (even if excessive) continues. Therefore, the bargaining power balance in any settlement may not be on the side of the consumers;

*Whereas* this NGA rate disparity does not appear to be similarly occurring in the electricity sector. Congress amended the Federal Power Act in 1988 and 2005 to “fix” for consumers of electricity similar consumer rights and refund issues. Thus, a legislative “fix” may be helpful under the NGA so there is rate parity for consumers of natural gas and electricity;

*Whereas* any “fix” obtained must not harm consumers, and that can include shippers and utility companies that then have to pass costs on to individual customers;

*Whereas* it is important to allow FERC such flexible discretionary authority under the NGA to determine the appropriate rate refund relief that is fair to all;

*Whereas* specifically, FERC should have more flexibility in its authority under NGA to, if proper and after due diligence review, allow for appropriate retroactive refund rates when these rates have been determined to be higher than just and reasonable. This would align with FERC’s authority under the Federal Power Act, which permits FERC to order retroactive refunds to electric transmission customers in similar cases;

*Whereas* such changes ensure flexibility to get customers the best refund possible and to showcase strong support in fairly protecting consumers’ interest; *now, therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Winter Policy Summit in Washington, DC, supports federal legislation to, reform the procedural and substantive provisions of the Natural Gas Act to allow for meaningful and timely opportunities to achieve appropriate relief from unjust and unreasonable rates and to allow FERC the discretionary authority to order, when appropriate, full and complete refunds of unjust and unreasonable compensation, and to do so in a way that fairly benefits consumers.

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*Sponsored by the Committee on Gas*

*Adopted by the Board of Directors on February 12, 2020*

## ***Resolution on the 5G Fund***

*Whereas* in 2011 the Federal Communications Commission (“FCC”) in the Universal Service and Intercarrier Compensation Transformation Order outlined possible mechanisms for supporting improved mobile wireless coverage;

*Whereas* in 2017 the FCC approved the Mobility Fund Phase II Order creating the structure for making \$4.53 billion available over a ten-year period to support improved mobile-wireless coverage;

*Whereas* the Mobility Fund Phase II Order required mobile wireless providers to produce coverage maps using an FCC prescribed methodology, and to file their coverage maps with the FCC so that the FCC could identify those areas lacking wireless data coverage with a minimum of 5/1 mbps;

*Whereas* the Mobility Fund Phase II Order provided a mechanism for challenging those coverage maps to identify additional areas lacking mobile wireless data coverage with a minimum of 5/1mbps. Public utility commissions, local governments, private companies, and non-profit organizations expended millions of dollars and thousands of hours of time to compile and file 20.8 million challenges from 37 states. Approximately 36% of those challenges were found by the FCC to be presumptively successful challenges;

*Whereas* the FCC’s staff made a determination in 2019 based on these challenges and their own testing that the maps provided by mobile wireless carriers were not sufficiently reliable or accurate for carrying out the purposes of the Mobility Fund Phase II. The FCC simultaneously ended the Mobility Fund Phase II program without providing any dollars for improving mobile wireless coverage;

*Whereas* FCC Chairman Ajit Pai subsequently announced that the Mobility Fund Phase II would be replaced with a 5G Fund to provide \$9 billion in universal service fund assistance in building 5G infrastructure in rural America with \$1 billion of that targeted at improving access for precision agriculture;

*Whereas* because the FCC has not yet released a Notice of Proposed Rulemaking on the 5G Fund, there has been no indication regarding what areas the 5G Fund would target. There is concern that without current and accurate mapping these dollars may end up exacerbating the digital divide rather than solving the mobile wireless access problems that currently exist in rural America; now, therefore be it

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Winter Policy Summit in Washington, DC, advocates for the FCC to require current and accurate mobile wireless data coverage mapping prior to awarding any dollars from the 5G Fund and that 5G Fund dollars be prioritized for areas that do not have mobile wireless data coverage meeting a 5/1 mbps threshold.

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*Sponsored by the Committee on Telecommunications*

*Adopted by the NARUC Board of Directors on February 12, 2020*

***Resolution Supporting EPA's WaterSense "Fix-a-Leak Week" in March 2020***

*Whereas* the U.S. Environmental Protection Agency ("EPA") launched the WaterSense initiative to make it easy for American consumers and businesses to save water and protect the environment by establishing water efficiency standards;

*Whereas* the National Association of Regulatory Utility Commissioners ("NARUC") passed a resolution in July 2008 directing NARUC to join EPA's WaterSense partnership and support appropriate EPA and Congressional efforts to encourage water efficiency;

*Whereas* State commissions are uniquely positioned to encourage the adoption of programs and offering of products that will promote water efficiency and reduce the amount of electricity used by water treatment facilities;

*Whereas* EPA's WaterSense program announced its eleventh annual water efficiency initiative, "Fix-a-Leak Week," for March 16-22, 2020;

*Whereas* EPA encourages NARUC as a WaterSense partner, to use this week to remind Americans to check their household fixtures and irrigation systems for leaks;

*Whereas* during each of the 2009 through 2019 Winter Committee Meetings, NARUC adopted a resolution that urged its members to participate in the program by using the online resources to raise consumer awareness about water conservation practices; *now therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners ("NARUC"), convened at its 2020 Winter Policy Summit in Washington, D.C., encourages its members to participate in EPA's "Fix-a-Leak Week" by using any materials EPA provides and issuing an appropriate press release noting the EPA initiative and its support for it; *and be it further*

*Resolved* that NARUC will send a letter to the chairs of State commissions encouraging their participation in this initiative.

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*Sponsored by the Committee on Water*

*Adopted by the Board of Directors on February 12, 2020*