

***TC-3 Resolution Regarding the Use of Communications Equipment Produced by Firms  
Posing a National Security Risk***

*Whereas* our communications networks play a critical role in our nation’s security, economy, and have a direct impact on the integrity of other interdependent critical infrastructure systems including vital emergency services;

*Whereas*, as such, these networks are vulnerable to malicious attacks, disruptions, and cybersecurity intrusions;

*Whereas*, cybersecurity incidents and the potential exploitation of critical infrastructure, financial institutions, and internet of things (“IoT”) devices pose significant risks to our governmental, business, and consumer users;

*Whereas* in 2019, President Donald Trump issued an executive order that declared a national emergency and prohibited United States companies from using telecommunications equipment produced by firms posing a national security risk;

*Whereas* in 2022, President Joe Biden extended the executive order due to the continued threat to national security, foreign policy, and the economy of the United States;

*Whereas* Congress has enacted several laws aimed at protecting national security and promoting secure communications networks including the National Defense Authorization Act for Fiscal Year 2018 and 2019 (“2018 NDAA and 2019 NDAA”), which included provisions specifically barring the Department of Defense from using telecommunications equipment or services produced or provided by certain companies identified as posing a national security threat, and the Secure Equipment Act 2021, which required the Federal Communications Commission (“FCC”) to enact rules prohibiting the authorization of “covered” equipment and services (“Covered List”) in its rules and procedures associated with the FCC’s equipment authorization program;

*Whereas* Section 5 of the Secure and Trusted Communications Networks Act of 2019 also directed the FCC to require providers of advanced communications service to report and certify annually whether the provider has purchased, rented, leased, or otherwise obtained any covered communications equipment or service on the Covered List;

*Whereas* in 2019, in WC Docket No. 18-89, the FCC adopted rules prohibiting federal universal service support to be used to purchase or obtain any equipment or services produced or provided by a covered company posing a national security threat to the integrity of the communications networks;

*Whereas* on February 15, 2023, the National Association of Regulatory Utility Commissioners (“NARUC”) passed a resolution urging Congress to extend the FCC’s spectrum authority beyond March 2023 and to specify that a portion of future spectrum auction proceeds should be used to fund the Section 5 so-called “Rip and Replace” program to remove covered equipment from networks;

*Whereas* federal rules, at 2 C.F.R. § 200.2016, also prohibit the use of federal loan or grant funds to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

*Whereas* on December 27, 2020, in the Consolidated Appropriations Act, Congress appropriated \$1.9 billion to the FCC for the Secure and Trusted Communications Networks Reimbursement Program;

*Whereas* according to FCC estimates, were the FCC to fund all reasonable and supported cost estimates in the approved applications, the Reimbursement Program would require approximately \$4.98 billion, reflecting a \$3.08 billion shortfall in the appropriation for the Reimbursement Program;

*Whereas* notwithstanding the efforts to rip out and replace equipment and services from the Covered List to safeguard our communications networks, according to the FCC's March 1, 2023, Public Notice in WC Docket No. 18-89, approximately 79 communications providers are reported to have covered equipment in their existing networks, which in turn, continues to pose an unacceptable risk to national security;

*Whereas* the FCC, in ET Docket No. 21-232 and EA Docket No. 21-233, *Report and Order, Order, and Further Notice of Proposed Rulemaking*, adopted revisions to its equipment authorization program to prohibit authorization of equipment that has been identified on the List of Equipment and Services Covered by Section 2 of the Secure Networks Act, and has sought comments on additional measures to eliminate potential risks in the supply chain of communication equipment; *and*

*Whereas* state and federal partners need to work together to determine where communications providers are using equipment and services from the Covered List in their networks and assess the extent of the security risk to other critical infrastructure, state and local governmental entities, businesses, and to consumers; *now therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2023 Summer Policy Summit in Austin, Texas, encourages the FCC to work with the Department of Commerce and federal national security agencies responsible for identifying equipment and services produced by firms posing a national security risk in communications networks so that state commissions and broadband offices are informed and updated on changes so they can be better-positioned to understand which communications providers may have equipment in their network that poses a national security risk; *and be it further*

*Resolved* that NARUC recommends that federal, state, or local governmental bodies providing universal service support, broadband deployment support, or any other form of grant funding consider including evaluation criteria that disincentivizes participating carriers that may utilize in its network equipment on the FCC's Covered List; *and be it further*

*Resolved* that NARUC recommends that no federal, state, or local governmental body providing universal service support, broadband deployment support, or any other form of grant funding administer such funding without full information and due consideration to any restrictions that prohibit the use of equipment or services a communications company may utilize in its network, including, where applicable, equipment on the FCC's Covered List.

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*Passed by the Committee on Telecommunications on July 18, 2023*

*Passed by the NARUC Board of Directors on July 19, 2023*