

***TC-1 Resolution Encouraging the Federal Communications Commission To Act To Ensure That Federal Support Provided to Successful Bidders in the Rural Digital Opportunity Fund Auction 904 Is Retained For Support In Any Jurisdiction Where A Successful Bidder Is Disqualified by the Federal Communications Commission.***

*Whereas* the States and the Federal government in general and the Federal Communications Commission (FCC) in particular have engaged in multiple efforts over the decades to encourage investment in networks by providers of telecommunications and broadband services in order to modernize the nation's telecommunications infrastructure and to close the broadband Digital Divide;

*Whereas* the FCC in particular has utilized the Federal Universal Service Fund (FUSF) to support its efforts and programs aimed at modernizing the nation's telecommunications infrastructure and to close the Digital Divide;

*Whereas* the FCC announced a further effort to modernize the nation's telecommunications infrastructure and to close the Digital Divide on February 7, 2020 in FCC Docket Nos. 19-126 and 10-90 in the *Rural Digital Opportunity Fund* and *Connect America Fund* proceedings (*RDOF Notice*);

*Whereas* the FCC's *RDOF Notice* announced an intention to conduct an auction (*Auction 904*) to allocate scarce FUSF support to bidders in *Auction 904* who submitted proposals to obtain support in exchange for a commitment to deploy broadband on the terms and conditions set forth in the *RDOF Notice* and *Auction 904*;

*Whereas* on December 7, 2020, the FCC issued a public announcement on the results of its *RDOF Notice* and *Auction 904* stating that the FCC would be distributing \$9.2 Billion to Expand Broadband to over 10 Million Rural Americans to Close the Digital Divide in 49 States and the Commonwealth of the Northern Mariana Islands (the *Auction 904 Notice*);

*Whereas* Attachment A of the *Auction 904 Notice* identified the successful bidders by Bidder, State, Assigned Support over 10 Years, and Number of Locations Served;

*Whereas* Attachment A listed LTD Broadband LLC (*LTD*) and Space Exploration Technologies Corporation (*Starlink*) as successful bidders in *Auction 904*;

*Whereas* Attachment A in the *Auction 904 Notice* stated that *LTD* was to receive support to modernize the telecommunication infrastructure and close the Digital Divide in California (\$187M), Colorado (\$69M), Illinois (\$103M), Indiana (\$54M), Iowa (\$23M), Kansas (\$3M), Minnesota (\$311M), Missouri (\$158M), Nebraska (\$33M), North Dakota (\$8M), Ohio (\$8M), Oklahoma (\$81M), South Dakota (\$46M), Texas (\$42M), and Wisconsin (\$189M);

*Whereas* Attachment A in the *Auction 904 Notice* stated that *Starlink* was to receive support to modernize the telecommunications infrastructure and close the Digital Divide in Alabama (\$54M), Arkansas (\$12M), California (\$5M), Colorado (\$39M), Connecticut (\$3M), Florida (\$33M), Georgia (\$27M), Hawaii (\$427K), Idaho (\$54M), Illinois (\$8M), Kentucky (\$8M), Louisiana (\$26M), Maine (\$34M), Maryland (\$4M), Massachusetts (\$10M), Michigan (\$9M), Minnesota (\$8M), Mississippi (\$44M), Montana (\$72M), Nevada (\$3M), New Hampshire (\$8M), New Jersey

(\$10M), New Mexico (\$25M), New York (\$20M), North Carolina (\$17M), Oregon (\$57M), Pennsylvania (\$63M), South Carolina (\$6M), Tennessee (\$12M), Utah (\$20M) Vermont (\$3M), Virginia (\$62M), Washington (\$80M), West Virginia (\$13M), and Wyoming (\$16M);

*Whereas* the funding source for the *Auction 904* consisted of former High Cost Funding that had been previously provided to identified carriers in the FUSF as part of the FCC effort to support network infrastructure costs and that this support would now be transitioned to the successful bidders in *Auction 904*;

*Whereas Auction 904* recognized that the identified areas proposed to be served by a successful bidders needed federal support to modernize the nation’s telecommunication infrastructure and close the Digital Divide in those areas;

*Whereas* on August 10, 2022, the FCC’s Wireline Competition Bureau issued a Notice (*RDOF Rejection Notice*) announcing rejection of the Applications of *LTD* and *Starlink* for *RDOF* subsidies;

*Whereas* the *RDOF Rejection Notice* totalled \$1,320,920,716.60 for *LTD* in those jurisdictions where *LTD* had been a successful bidder;

*Whereas* the *RDOF Rejection Notice* totalled \$885,509,638.40 in those jurisdictions where *Starlink* had been a successful bidder;

*Whereas*, on September 8, 2022, *LTD* filed an Application For Review of the FCC’s Wireline Competition Bureau decision denying *LTD*’s long-form application (“long-form”) to obtain support for its winning bids in *Auction 904*;

*Whereas*, on September 9, 2022, *Starlink* filed an Application for Review of the FCC’s Wireline Competition Bureau decision denying *Starlink*’s long-form application (“Long Form”) to obtain support for its winning bids in *Auction 904*;

*Whereas*, other successful bidders in *Auction 904* have also had a long-form application (“long-form”) denied in whole or in part by the FCC;

*Whereas*, the underlying need for support to modernize the nation’s telecommunications infrastructure and close the Digital Divide in those jurisdictions identified as eligible for the *Auction 904* support will remain notwithstanding any final order of the FCC and the courts rejecting any bidder application; *now therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 2023 Winter Policy Summit in Washington, D.C., urges the FCC to Act to Ensure that the specific Federal Support provided to Successful Bidders whose Applications for *RDOF* support are rejected in a jurisdiction be specifically retained for future use in those Jurisdictions where a Successful Bidder’s Application for *RDOF* support is rejected by final order of the FCC and the courts; *and be it*

*Further Resolved* that NARUC encourages the FCC to refer this matter to the Federal-State Joint Board on Universal Service for a recommendation on the procedures and requirements that should

apply to the RDOF support retained in those jurisdictions where a Successful Bidder's Application for RDOF Support is rejected by final order of the FCC and the courts;

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*Passed by the Committee on Telecommunications on February 13, 2023.*

*Adopted by the NARUC Board of Directors on February 15, 2023*