

# **Substantive Resolutions Passed By the NARUC Board of Directors**

at the

## **February 12-15, 2023 NARUC Winter Policy Summit In Washington, DC**

*If you are interested in a particular resolution, you should read the entire resolution and not rely on the truncated description in the Table Contents.*

If you have any questions, call or email Brad Ramsay – NARUC GC at 202.257.0568 or [jramsay@naruc.org](mailto:jramsay@naruc.org)

**At this meeting, there are only two substantive resolutions – both from the Committee on Telecommunications.**

***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.***

***TC-2 Resolution to support further extension of the Federal Communication Commission’s (FCC) Spectrum Auction authority with a portion of auction proceeds to fund both the FCC “Rip and Replace” Program and accelerate deployment of Next-Generation (NG) 911 Systems***

# TABLE OF CONTENTS

## I. Committee on Telecommunications

Page 3

- 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 FCC.* Page 3

*Sponsored by PA PUC Chairman Gladys Brown Dutrieuille & NE PSC Commissioner Tim Schram*

*Resolution addresses the disposition of RDOF proceeds arising from the FCC’s rejection of a bidder’s long-form application in the RDOF Auction. Resolution states that proceeds won by a bidder for a jurisdiction should remain in that jurisdiction following any FCC decision to reject that bidder’s application. The FCC’s determination that states’ need federal assistance to get coverage in specific parts of that state does not change just because the bidding carrier can’t deliver. Indeed, the fact that carriers did not deliver in the past is precisely why the RDOF action was created. The resolution references Starlink’s currently “rejected” application, but takes no position on whether the application should have been rejected in the first instance.*

- TC-2** *Resolution to support extension of the Federal Communication Commission’s (FCC) Spectrum Auction authority with a portion of auction proceeds to fund both the FCC “Rip and Replace” Program and accelerate deployment of State Jurisdictional Next-Generation (NG) 911 Systems* Page 5

*Sponsored by NE PSC Commissioner Tim Schram.*

*Resolution slightly modifies a 2015 resolution that passed NARUC unanimously. The 2015 resolution endorsed the use of FCC spectrum auction proceeds for state grants to advanced NG911 systems. The FCC’s current auction authority runs out this March and Congress is expected to act to extend it this year. The resolution supports extending that auction authority, diverting some auction proceeds to state grants for NG 911 programs and also supports diverting auction funds to support the FCC’s “rip and replace” program. Under that program, all carriers that receive federal subsidies must remove equipment from several Chinese vendors that pose a security risk. The carriers can apply for reimbursement for the mandated removal from the FCC. However, the current program does not have sufficient funds to cover the required removals.*

***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;

---

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

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

***TC-2 Resolution to support further extension of the Federal Communication Commission’s (FCC) Spectrum Auction authority with a portion of auction proceeds to fund both the FCC “Rip and Replace” Program and accelerate deployment of State Jurisdictional Next-Generation (NG 911) 911 Systems***

*Whereas* on July 27, 2022, the United States House of Representatives passed the Spectrum Innovation Act of 2022 (H.R.7624), which would authorize a new federal grant program for NG911 and use proceeds from future spectrum auctions to fund both (i) accelerated NG911 implementation nationwide; and (ii) the Secure and Trusted Communications Networks Act fund, aka the Huawei instigated “rip & replace” program;

*Whereas* the United States Senate considered, but failed to pass prior to adjournment of the 117th Congress, legislation that would have used future spectrum auction proceeds to fund a federal NG911 grant program; and the rip and replace program;

*Whereas* instead, Congress passed an omnibus government funding bill that extended the FCC’s auction authority to March 2023;

*Whereas* the Secure Networks Act was enacted March 12, 2020, with the aim of purging equipment and services that pose national security risks emerging from U.S. communications networks that receive subsidies from the Federal Communications Commission’s universal service programs;

*Whereas* that Act included a prohibition on use of FCC subsidy funds to purchase, rent, lease, otherwise obtain, or maintain communications equipment or services enumerated in a [Covered List](#) developed by the FCC and created a Reimbursement Program to assist eligible providers of "advanced communications services" (ACS providers) in recovering the costs of removing, replacing, and destroying ("rip-and-replace") items on the Covered List;

*Whereas* in July 2022, the FCC announced 126 applications filed by 85 entities seeking \$4.64 billion in funding to remove the suspect equipment, but Congress only appropriated \$1.9 billion to fund it, leading to the current shortfall of more than \$3 billion;

*Whereas* the FCC implemented a prioritization scheme to keep the ball rolling, but the allocation meant it could only pay initial reimbursements at about 39.5% of the total amounts;

*Whereas* on January 10, the FCC filed a report with Congress pointing out that roughly half of respondents indicated to the agency that a lack of funding is a challenge and that about 2% indicated they cannot start work on their removal and replacement projects unless they receive additional funding;

*Whereas* the FCC Task Force on Optimal PSAP Architecture (TFOPA) to examine the transition from legacy 911 to Internet Protocol enabled 911 systems, i.e., so-called Next-Generation 911, or NG911, released a final report January 29, 2016 that (i) recommends that the transition to NG911 be accelerated and (ii) also concludes that current 911 funding mechanisms are not sufficient to support the required investments in NG911 technology;

*Whereas*, even though funding of and jurisdiction over 911 systems remains fundamentally an issue for local and State governments, even NARUC has recognized the need for additional Congressional leadership to facilitating the rollout of the NG911 transition by targeting federal NG911 grants to State and local governments;

*Whereas* in 2015, NARUC, by resolution, specifically endorsed a proposal by then Chairman Wheeler to seek congressional approval to “utilize future spectrum proceeds to provide funding to States, local governments and/or PSAPS – to accelerate the transition to Next-Generation 911 networks

*Whereas* last February, FCC Chairwoman Jessica Rosenworcel proposed a similar plan to dedicate proceeds from upcoming spectrum auctions toward a nationwide investment in digital, NG911 services; *now, therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners convened at its Winter meetings in Washington DC endorses the funding recommendations of FCC Chairman Wheeler and FCC Chairwoman Rosenworcel and urges Congress to extend the FCC’s spectrum authority beyond March 2023 and specify that the FCC may use a portion of future spectrum proceeds to fund Advanced Next-Generation 911 (NG 911) state networks and to cover shortfalls in the “rip and replace” program.

---

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

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