

# **RESOLUTIONS**

**PASSED**

**BY THE**

**BOARD OF DIRECTORS**

**AT THE**

**2019 SUMMER POLICY SUMMIT**

**OF THE**

**NATIONAL ASSOCIATION OF  
REGULATORY UTILITY COMMISSIONERS**

**Revised 7/24/2019 1:57 p.m.**

**NOTE – TC-1 and TC-3 were combined by the sponsors into one resolution – TC-1. TC-2 was never moved for discussion.**

*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 the resolution does.*

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## **I. Committee on Telecommunications**

- TC-1**            **Resolution to Maintain Full Voice Support in the Lifeline Program and Freezing the December 2018 Lifeline Broadband Minimum Standards**            **Page 1**  
*Sponsors: Commissioners Rhoades, Hofmann, & Clendenin [7/23 3:56 from Cullen]*

*Resolution urges the Federal Communications Commission to (i) work quickly and collaboratively with service providers and other stakeholders to fix the National Verifier before use of it is required in any state by (a) implementing service provider APIs, and (b) securing access to federal/state SNAP and Medicaid databases, to ensure that the National Verifier achieves its stated goals and works as intended so that eligible low-income consumers can reasonably and efficiently retain or sign up for Lifeline without undue burdens or delays; (ii) only continue to “soft launch” the National Verifier in states and to temporarily suspend “hard launch” of the National Verifier in states until either December 31, 2019 or until service provider APIs are established, and electronic access to state databases, such as SNAP or SSI, and federal/state Medicaid databases are available to confirm subscriber eligibility, whichever is later; (iii) to maintain the full \$9.25 in Lifeline support for voice services at the December 1, 2018 service levels and not phase-down or eliminate support for voice services as it has proposed for 2019 to 2021; and (iv) freeze the broadband minimum service standards for Lifeline at the December 2018 levels – 2 GB per month/household at \$9.25 – until the FCC concludes its 2021 Lifeline Study and determines an appropriate standard based on usage data available at that time.*

## **II. Committee on Water**

- WC-1**            **Resolution on Contributions in Aid of Construction for Water and Wastewater Systems**            **Page 5**  
*Sponsors: Commissioners Betkoski and Holden [7/3 9:16 version from Cathy Pedemonti]*

*Resolution supports the exemption of Contributions in Aid of Construction funds received by regulated water and wastewater utilities from income tax liability; and supports an amendment to the Tax Cut and Jobs Act, which would exempt CIAC from income taxes for regulated water and wastewater utilities.*

## **III. Subcommittee on Supplier & Workforce Diversity**

- SWD-1**            **Resolution Encouraging Inclusion of Minority-Serving Institutions in the Development of Long-Term Strategic Partnerships to Address Pending Retirements of Utility Professionals**            **Page 7**  
*Sponsor: Commissioner Oliva [7/22 12:05 version from Janel Haretoun]*

*Resolution supports enhanced efforts to include Minority Serving Institutions, Hispanic-Serving Institutions, Tribal Colleges and Universities, Asian American and Native American Pacific Islander-Serving Institutions, and women- and veteran-serving institutions within the development of long-term utility workforce plans to cultivate new talented and diverse professionals for the utility industry, including utility regulatory agencies.*

- SWD-2**            **Resolution Supporting Diversity in Financial & Professional Services for Investor-Owned Utilities**            **Page 9**  
*Sponsor: Commissioner Oliva [7/22 12:05 version from Janel Haretoun]*

*Resolution supports enhanced efforts to support supplier diversity within investor-owned utilities.*

## ***Resolution on the Lifeline National Verifier Launch and Minimum Service Standards***

*Whereas* in 1985, the Lifeline program was created to provide a discount on essential communications services for qualifying low-income consumers to ensure that all Americans have the opportunities and security that such service brings, including being able to connect to jobs, family, healthcare, and emergency services;

*Whereas* in 2012, the Federal Communications Commission (“FCC”) approved extending Lifeline support to include both voice and broadband internet service;

*Whereas* Section 254(b) of the federal Communications Act establishes the universal service principle that “[c]onsumers in all regions of the Nation, including low-income consumers . . . should have access to telecommunications and information services” at reasonable and affordable rates;

*Whereas* in 2016, the FCC issued the *Third Report and Order, Further Report and Order, and Order on Reconsideration*, 31 FCC Rcd 3962 (2016) (“*Lifeline Modernization Order*”) which created a national verification program (“National Verifier”) with three goals: (1) reducing waste, fraud and abuse by eliminating the Lifeline providers’ role in determining subscriber eligibility; (2) reducing costs to Lifeline providers by removing the responsibility of determining eligibility and providing a central point of verification; and (3) facilitating consumer choice and improving the enrollment process to help subscribers obtain service;

*Whereas* in describing the National Verifier, the *Lifeline Modernization Order* established the expectation that “the National Verifier will be able to accommodate and utilize many of the varying state databases available” and that the resulting “electronic certification process will produce at least near real-time results;”

*Whereas* in 2018, the National Verifier implementation commenced with a systematic two-phase, soft-to-hard launch rollout of states continuing throughout 2019 with full nationwide rollout scheduled for completion in December 2019;

*Whereas* the FCC’s goals and expectations for the National Verifier have not been fulfilled as the two-phase soft-to-hard launch rollout of the National Verifier has been completed in numerous states without resolving deficiencies ranging from structural to minor technical issues;

*Whereas* the structural deficiencies include the National Verifier’s often limited or non-existent access to state databases such as the Supplemental Nutrition Assistance Program (“SNAP”) and Supplemental Security Income (“SSI”) and federal/state Medicaid databases needed to electronically confirm subscriber eligibility, and the failure to include an application program interface (“API”) between providers and the National Verifier program which would enable providers in real-time to efficiently communicate with the National Verifier program and assist a prospective or existing subscriber in verifying eligibility and maintaining enrollment or getting newly enrolled;

*Whereas* neither the FCC nor the Universal Service Administrative Company (“USAC”) has made available complete data showing the National Verifier’s impact on the ability of existing and prospective subscribers to retain or obtain Lifeline service, but available data indicates that many potentially and apparently eligible Lifeline subscribers have not been re-verified and some have been de-enrolled from the program, and new enrollments have dropped substantially in states where the National Verifier has been hard launched;

*Whereas* these problems will necessarily continue in each hard launch state until needed improvements to the National Verifier are implemented;

*Whereas* in July 2018, the National Association of Regulatory Utility Commissioners (“NARUC”) passed a resolution urging the FCC to order USAC to incorporate service provider APIs into the National Verifier and thereafter, in February 2019, NARUC passed an additional resolution urging USAC to ensure critical state/federal databases for eligibility programs such as SNAP and Medicaid are utilized in states where the National Verifier has been or is being launched;

*Whereas* in the *Lifeline Modernization Order*, the FCC established minimum service standards for the Lifeline program, including a policy to phase-out voice support and to support only broadband;

*Whereas* the current FCC minimum service standard beginning in December 1, 2018 permits full support of \$9.25 per month/household for either (a) 1000 mobile voice minutes, (b) 2 GB of mobile broadband data, or (c) a voice/data bundle that meets either of the minimum service standards for voice or data;

*Whereas* on December 1, 2019, the support for voice will be reduced to \$7.25 for 1000 voice minutes per month/household or bundled voice/data services that meet the voice minimum, and the minimum standard for mobile broadband will be 9.75 GB per month/household, and by December 1, 2021, Lifeline support for voice is set to be eliminated;

*Whereas* the *Lifeline Modernization Order* mandated implementation of mobile broadband minimum service standards including a minimum data allowance but also created a 12-month port freeze to encourage subscribers to stay with a Lifeline provider to help offset the expense of the data and speed mandates, to increase program stability and to help root out waste, fraud and abuse. However, in 2017, the FCC issued an Order on Reconsideration, 32 FCC Rcd 10475 (2017), eliminating the 12-month port freeze without changing the mandated data allowance standards;

*Whereas* the mobile broadband marketplace has changed significantly following the *Lifeline Modernization Order*. In its 2017 *Mobile Wireless Competition Report*, the FCC noted that “[o]ne significant trend that has developed recently is the return of ‘unlimited’ data plans,” 32 FCC Rcd 8968, 9004 ¶51 (2017). In the 2018 consolidated *Communications Marketplace Report*, FCC Rcd 12558, 12570 ¶15 (2018), the FCC recognized that, “[i]n 2017, service providers continued the trend of offering unlimited data plans,” and observed that unlimited plans were also spreading rapidly into the prepaid marketplace. In the *Lifeline Modernization Order*, the FCC contemplated a gradual increase in consumer data usage and did not anticipate that the transition from the initial data allowance levels using the 2016 formula would result in a leap to a substantially higher and more costly data requirement;

*Whereas* today, wireless providers typically retail 10 GB data plans for \$40 per month or higher. If the FCC allows the December 2019 broadband minimum standards to go into effect, the new standards will effectively impose a \$30 per month price increase on Lifeline subscribers – an increase that low-income subscribers cannot afford;

*Whereas* Lifeline subscribers can choose to obtain additional mobile broadband data above the current 2GB allowance by choosing to purchase more data allotments from a service provider;

*Whereas* according to USAC’s 2018 Annual Report, approximately 53% of Lifeline disbursements go to support either a voice-only or bundled voice services (bundles of voice and broadband that meet the voice

minimum service standard) for low-income consumers. Consequently, if the FCC eliminates Lifeline voice support, it will significantly and negatively impact low-income households making it more difficult for them to stay connected using the essential communications services that best suit their needs and circumstances;

*Whereas*, NARUC, the National Association of State Utility Consumer Advocates (“NASUCA”), the AARP (formerly known as the American Association of Retired Persons), the National Association for the Advancement of Colored People (“NAACP”), the Leadership Conference on Human Rights (“LCHR”), and many others have filed comments at the FCC advocating for full voice support in the Lifeline program;

*Whereas* the *Lifeline Modernization Order* directed the FCC to prepare a *State of the Lifeline Marketplace Report* (the “*Report*”) by June 30, 2021. The FCC specifically anticipated that the *Report* would evaluate the appropriateness of the transition in the minimum service standards for broadband data usage;

*Whereas* various stakeholders have alleged that a reduction of support to \$7.25 for 1000 voice minutes per month/household or bundled voice/data services that meet the voice minimum, and a mandated increase over the current 2 GB data requirement will adversely impact service providers’ ability to continue to participate in Lifeline and consumers’ ability to afford Lifeline supported services, including veterans, seniors and those living in rural areas;

*Whereas* on June 27, CTIA, National Consumer Law Center, National Hispanic Media Coalition, OCA – Asian Pacific American Advocates, and United Church of Christ Office of Communications Inc., filed a Joint Petition to Pause Implementation of the December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study;

*Whereas* on June 20, NASUCA passed *Resolution 2019-02, Urging the FCC to Preserve Lifeline Support for Voice Service and to Stay and Study the Scheduled Changes in Lifeline Minimum Services, now therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2019 Summer Policy Summit in Indianapolis, Indiana, requests that the FCC and USAC work quickly and collaboratively with service providers and other stakeholders to fix the National Verifier *before* use of it is required in any state by (a) implementing service provider APIs, and (b) securing access to federal/state SNAP and Medicaid databases, to ensure that the National Verifier achieves its stated goals and works as intended so that eligible low-income consumers can reasonably and efficiently retain or sign up for Lifeline without undue burdens or delays; *and be it further*

*Resolved* that NARUC urges the FCC to only continue to “soft launch” the National Verifier in states and to temporarily suspend “hard launch” of the National Verifier in states until *either* December 31, 2019 *or* until service provider APIs are established, and electronic access to state databases, such as SNAP or SSI, and federal/state Medicaid databases are available to confirm subscriber eligibility, *whichever is later*; *and be it further*

*Resolved* that the NARUC urges the FCC to maintain the full \$9.25 in Lifeline support for voice services at the December 1, 2018 service levels. Moreover, the FCC should not phase-down or eliminate support for voice services as it has proposed for 2019 to 2021. Many consumers, including seniors and families with children, rely on voice services to contact first responders in time of emergency, reach social service agencies, access healthcare, and keep connected to other essential services; *and be it further*

*Resolved* that NARUC also urges the FCC to freeze the broadband minimum service standards for Lifeline at the December 2018 levels – 2 GB per month/household at \$9.25 – until the FCC concludes its 2021 Lifeline Study and determines an appropriate standard based on usage data available at that time.

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*Sponsored by the NARUC Committee on Telecommunications*

*Adopted by the NARUC Board of Directors, July 24, 2019*

## ***WC-1 Resolution on Contributions in Aid of Construction for Water and Wastewater Systems***

*Whereas* Contributions in Aid of Construction (“CIAC”) represent the amount of money or property advanced or contributed to a utility by a developer to provide for the expansion, improvement or replacement of the utility’s water or wastewater facilities;

*Whereas* CIAC finances a substantial amount of the capital costs of water and wastewater utilities and has the effect of ensuring that the expansion of water or wastewater service to new customers or new locations does not unfairly burden a utility’s existing customers;

*Whereas* the Tax Cuts and Jobs Act (“TCJA”) of 2017 made changes to federal tax law so that CIAC is now federal taxable income to the water and wastewater utilities that receive them;

*Whereas* prior to the TCJA, the tax code treated CIAC as nontaxable contributions to capital;

*Whereas* as a tradeoff for these amounts being nontaxable, prior law prohibited water and wastewater utilities from including system expansion property funded by CIAC in the rate base upon which the utility is allowed the opportunity to earn a return;

*Whereas* prior law also prohibited utilities from taking any depreciation deductions with respect to CIAC property;

*Whereas* water and wastewater utilities are severely impacted by the increased taxation because of the capital-intensive nature of water infrastructure and the resulting large amounts of CIAC funds they receive;

*Whereas* for water and wastewater utilities, the loss of tax-free CIAC will increase the cost of providing water and wastewater utility service to the public and result in higher rates for customers for waterline extensions or other expenditures funded by CIAC;

*Whereas* the TCJA also allows most businesses to deduct 100 percent of the cost of water infrastructure in the first year, but does not make that deduction available to regulated utilities;

*Whereas* the first-year deduction will enable non-utilities that receive CIAC to offset the tax on the CIAC and thus avoid adding a tax charge to the CIAC;

*Whereas* the discrepancy in the availability of the first-year deduction thus creates a tax incentive for developers to shift investment in water infrastructure away from regulated water utilities to non-utility companies that may lack the expertise and experience to ensure safe and reliable water and wastewater services for consumers;

*Whereas* no action has been taken by Congress to amend the TCJA and exempt CIAC from taxable income for water and wastewater utilities;

*Whereas* it has been a longstanding position of the National Association of Regulatory Utility Commissioners (“NARUC”) to support the exemption of CIAC from taxable income, as the membership has passed two resolutions on the subject with respect to prior tax laws;

*Whereas* the first of these resolutions, which the NARUC Executive Committee adopted on March 1, 1995, encouraged and supported an amendment to the Tax Reform Act of 1986, which, similar to the TCJA, eliminated capital-contribution treatment for CIAC;

*Whereas* in 1996, Congress amended the Tax Reform Act of 1986 and restored capital-contribution treatment for CIAC received by water utilities, thereby making CIAC for investments in water and wastewater systems again tax exempt;

*Whereas* the TCJA has reversed that change and has once again made CIAC taxable income to the detriment of water and wastewater utilities and water consumers across the nation; *now, therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2019 Summer Policy Summit in Indianapolis, Indiana supports the exemption of CIAC funds received by regulated water and wastewater utilities from income tax liability and encourages and supports an amendment to the TCJA which would exempt CIAC from income taxes for regulated water and wastewater utilities.

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*Sponsored by the Committee on Water*

*Adopted by the NARUC Board of Directors on July 24, 2019*



***SWD-1 Resolution Encouraging Inclusion of Minority-Serving Institutions in the  
Development of Long-Term Strategic Partnerships to Address Pending Retirements of Utility  
Professionals***

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

*Whereas* according to the United States Bureau of Labor and Statistics, as of 2018, about 52 percent of the utilities industry workforce is age 45 or older;

*Whereas* many of these workers will retire or prepare to retire within the next ten years and will need to be replaced with new skilled utility professionals;

*Whereas* on-the-job training is very intensive in many utilities industry occupations, and preparing a new workforce will be one of the industry’s highest priorities during the next decade;

*Whereas* the imminent loss of such a large number of highly skilled utility professionals over the next ten to fifteen years, whose considerable training and expertise is extremely valuable to both utility performance and safety, represents a growing dilemma within the utility industry;

*Whereas* it is critical that utilities, the State commissions that regulate them, and interested stakeholders work collaboratively to establish long-term strategic partnerships to develop continuing educational programs and partnerships with private industry and universities to cultivate the next generation’s utility professionals<sup>1</sup>;

*Whereas* the Hispanic Association of Colleges and Universities (“HACU”) and Hispanics In Energy have formed a collaborative to prepare engineering and occupational trade students to address America’s need for engineering, information technology, clean tech, and other solutions;

*Whereas* America’s more than 523 Hispanic-Serving Institutions are represented by HACU and successfully educate, train and prepare the largest numbers of Hispanic, African American, American Indian, and Asian American college students and are a viable network of higher education institutions successfully serving America’s diverse population;

*Whereas* the Board of Directors of the National Association of Regulatory Utility Commissioners convened at its 2012 Winter Committee Meetings in Washington, D.C. and through the initiative and leadership of Utility Marketplace Access (“UMA”) Subcommittee Chairman Commissioner Harold D. Williams and Commissioner Timothy Alan Simon adopted a Resolution Encouraging Inclusion of Historically Black

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<sup>1</sup> In 2017, the Illinois legislature passed the Future Energy Jobs Act (“FEJA”), which mandates job training programs across Illinois to provide the citizens of Illinois the opportunity to participate in employment and economic growth happening in the solar and energy efficiency markets. FEJA provides funding for programs in solar training, craft apprenticeship, and multi-cultural jobs. These job training programs are administered by local community organizations and trade associations, and overseen by ComEd, which is one of the Illinois regulated utilities. Additionally, the Illinois legislature amended Section 5-117 of the Public Utilities Act [220 ILCS 5/5-117](#), to require all gas, electric, and water companies with at least 100,000 customers under its authority, as well as suppliers of wind energy, solar energy, hydroelectricity, nuclear energy, and any other supplier of energy within this State, to submit an annual report by April 15<sup>th</sup> of every year, of all procurement goals and actual spending for female-owned, minority-owned, veteran-owned, and small business enterprises in the previous calendar year, and the utilities’ plan for implementing and realizing their goals for the following year.

Colleges and Universities in the Development of Long-Term Strategic Partnerships to Address Pending Retirements of Utility Professionals to develop and cultivate new talented and diverse professionals for the utility industry, including utility regulatory agencies;

*Whereas* this Resolution expands and does not supersede said 2012 Resolution;

*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 interested parties to include and engage America’s Minority-Serving Institutions (“MSIs”), including Historically Black Colleges and Universities (“HBCUs”), Hispanic-Serving Institutions (“HSIs”), Tribal Colleges and Universities (“TCUs”), Asian American and Native American Pacific Islander-Serving Institutions (“AANAPISIs”), and institutions serving women and veterans in their workforce strategic development plans when establishing partnerships and initiatives to address impending retirements of utility professionals; *now, therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2019 Summer Committee Meetings in Indianapolis, Indiana, supports enhanced efforts to include MSIs, HBCUs, HSIs, TCUs, AANAPISIs, and women- and veteran-serving institutions within the development of long-term utility workforce plans to cultivate new talented and diverse professionals for the utility industry, including utility regulatory agencies.

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*Sponsored by the Subcommittee on Supplier & Workforce Diversity  
Adopted by the NARUC Board of Directors July 24, 2019*

***SWD-2 Resolution Supporting Diversity in Financial & Professional Services for Investor-Owned Utilities***

*Whereas* historically, financial services institutions have played a critical role in the regulatory framework and market participation of investor-owned utilities, including but not limited to cost of capital, debt and preferred equity issuance of securities, investment management of employee pensions, nuclear decommissioning trust funds, mergers and acquisitions, futures markets, and other critical components of utility operations;

*Whereas* professional services institutions, including law firms, information technology firms, advertising and marketing firms, business consulting firms, banking firms, engineering and technical consulting firms, and human resources services, also play a critical role in the regulatory framework of investor-owned utilities by providing ancillary services in the operation of the institution from licensing and certifications to rate cases;

*Whereas* historically, veterans, women, and minorities, including African-Americans, Hispanics, Asians and Pacific Islanders, and Native Americans, have been underrepresented in the financial and professional services industries relationships with investor-owned utilities, which has limited the ability of such firms to achieve their economic potential and to spur job growth in underserved communities, which may bring lower cost advantages by way of increased competition to ratepayers;

*Whereas* supporting supplier diversity for the diverse financial and professional services firms is an essential business need, because it brings enhanced benefits to society by supporting increased competition, and helps to sustain the overall health of America's economy, including underrepresented communities, while creating jobs;

*Whereas* it is desirable to increase the participation of diverse firms in the investor-owned utilities to utilize their unique talents and resources, which can broaden the number of investors seeking to purchase utilities' financial instruments, both of which may lower utilities' cost of capital due to expanding markets for common and preferred stock, as well as long-term debt, leading to lower costs to ratepayers;

*Whereas* it is beneficial to increase the participation of diverse firms in the management and servicing of utility employee pension funds, Nuclear Decommissioning Trust Funds ("NDTF"), and investment management services to better shape the governance of the trust funds to improve returns and/or lowering ratepayer risks through the diversification of ideas and investments that these firms offer;

*Whereas* it is desirable to increase the participation of diverse firms to provide additional competition among financial and professional suppliers to investor-owned utilities, thereby providing opportunities for lower financial costs;

*Whereas* it is beneficial to increase the participation of diverse firms in the competitive and/or negotiated bidding rules for the utilities to provide additional opportunities to strengthen diverse firms, which may be to the ultimate benefit of the utilities' ratepayers and shareholders;

*Whereas* procurement decisions are made by the utility parent company leadership, including the chief financial officer, treasurer, general counsel, and other executive leaders, and we hope that these entities and executives take the importance of supplier diversity in both the financial and professional services into consideration when making procurement determinations within their utilities;

*Whereas* the Board of Directors of the National Association of Regulatory Utility Commissioners convened at its 2011 Summer Committee Meetings in Los Angeles, California and through the initiative and leadership of the Subcommittee on Utility Marketplace Access Chairman Commissioner Harold D. Williams and Vice Chairman Commissioner Timothy Alan Simon adopted a Resolution Supporting Supplier Diversity in Financial Services within Investor-Owned Utilities to develop and cultivate diverse professionals in financial services institutions;

*Whereas* this Resolution expands and does not supersede said 2011 Resolution;

*Whereas* to the extent that mergers and acquisition are important in shaping how communities are served by investor-owned utilities, it is recommended that the ideas and expertise of diverse firms be utilized as part of the financial advisory team for the benefit of the ratepayers and the communities in which they live;  
*now, therefore be it*

*Resolved* that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2019 Summer Committee Meetings in Indianapolis, Indiana supports enhanced efforts to support supplier diversity within investor-owned utilities.

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*Sponsored by the Subcommittee on Supplier & Workforce Diversity  
Adopted by the NARUC Board of Directors on July 24, 2019*