

RESOLUTIONS

PROPOSED FOR CONSIDERATION AT THE

2019 ANNUAL MEETING AND EDUCATION CONFERENCE

OF THE

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

Revised 11/5/2019 2:45 p.m.

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.

Also note, these are only drafts and could change during Committee or Board of Director deliberations.

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TABLE OF CONTENTS

I. Committee on Consumers and the Public Interest

- CPI-1 Resolution on Best Practices in Data Collection and Reporting for Utility Services Delinquencies in Payments and Disconnections of Service** **Page 1**
Sponsors: Commissioner Coleman
[11/1 12:14 p.m. version from Charlene Ketchum]

Resolution recommends that states should consider requiring utilities to (1) collect monthly data that tracks uncollectibles, number of payment arrangements, number of payment arrangement defaults, number of revised payment arrangements, disconnections, reconnections, disconnections and reconnections of heating customers, and other relevant data points; (2) make the data publicly available on a monthly basis, delineated by general residential customers and low-income customers, and (3) file the data with state public utility commissions to be published on the public utility commission's website so that policy makers might have access to sufficient, objective and granular data for forming public policy aimed at protecting the public health, safety and welfare.

II. Committee on Critical Infrastructure

- CI-1/TC-1/WC-1 Resolution on FCC Proposal to Allow Unlicensed Operations in the 6 GHz Spectrum Band** **Page 5**
Sponsors: Commissioners Pickett, Freeman and Holden
[11/4 2:25 p.m. version from David Alexander]

Resolution, in recognizing the criticality of utility and other CII communications in the 6 GHz spectrum band, recommends the Federal Communications Commission modify its proposal to not allow unlicensed operations in the 6 GHz band unless and until such time that it has tested and proven that its Automatic Frequency Coordination ("AFC") system works as intended to protect utility and other CII systems, and that the FCC require AFC for all unlicensed operations.

III. Committee on Telecommunications

- CI-1/TC-1/WC-1 Resolution on FCC Proposal to Allow Unlicensed Operations in the 6 GHz Spectrum Band** **Page 5**
Sponsors: Commissioners Pickett, Freeman and Holden
[11/4 2:25 p.m. version from David Alexander]

Resolution, in recognizing the criticality of utility and other CII communications in the 6 GHz spectrum band, recommends the Federal Communications Commission modify its proposal to not allow unlicensed operations in the 6 GHz band unless and until such time that it has tested and proven that its Automatic Frequency Coordination ("AFC") system works as intended to protect utility and other CII systems, and that the FCC require AFC for all unlicensed operations.

TC-2 **Resolution to Regarding the Introduction of Automated Speech Recognition (“ASR”) – Only IP CTS** **Page 8**
Sponsor: Commissioner Schram
[11/1 4:20 p.m. version from Cullen Robbins]

Resolution urges the FCC to (i) ensure that providers receiving compensation from the TRS fund deliver services that enable “functionally equivalent” communications by telephone (ii) adopt service quality standards for all IP CTS providers before a transition to ASR-only services; (iii) assure that ASR-only IP CTS providers be required to demonstrate that their services can perform in 911 and other emergency and public safety scenarios by, for example, ensuring that a CA can help with the call until ASR-only services have a proven track record to handle emergency, life-threatening situations; and (iv) assure that user’s privacy and confidentiality should be protected by an ASR-only IP CTS provider as well as its third-party ASR partners or underlying providers.

IV. Committee on Water

CI-1/TC-1/WC-1 Resolution on FCC Proposal to Allow Unlicensed Operations **Page 5**
in the 6 GHz Spectrum Band
Sponsors: Commissioners Pickett, Freeman and Holden
[11/4 2:25 p.m. version from David Alexander]

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***CPI-1 Resolution on Best Practices in Data Collection and Reporting for Utility Services
Delinquencies in Payments and Disconnections of Service***

Whereas services from public utility companies including providers of electricity, heating fuels, water and wastewater are vital and necessary to modern life;

Whereas many utility customers have chronic difficulties paying their utility bills in full, which can result in disconnection of service by the utility for nonpayment;

Whereas these difficulties have been of concern for state regulatory agencies and other interested parties for at least 50 years;

Whereas these difficulties have persisted or are worsening despite protracted and ongoing efforts to provide direct financial support from federal and state tax dollars, and customer donations, plus financial assistance and programming provided by social services agencies, religious institutions, and other community-based organizations;

Whereas disconnection during either cold or hot temperature extremes in weather can prove dangerous and potentially life-threatening;

Whereas many electric customer rely on continuous service to power medical care devices that are essential for their health, the disconnection of which can be life-threatening;

Whereas almost half of all residential energy consumption is devoted to heating and cooling of homes, with these services being essential to maintaining health, safety and welfare of ratepayer households;

Whereas the large number of disconnections of utility service jeopardizes the health and safety of many households and the safety of many communities and leaves vulnerable households subject to risk of harm;

Whereas households with seniors and infants and very young children are particularly at risk if utility services are disconnected as all are more susceptible to hypothermia if there is no heat and heat stress when there is no air conditioning;

Whereas seniors on fixed incomes, in particular, may face challenges in not only affording service but also in accessing assistance for paying utility bills, due to mobility limitations or other age-related disabilities;

Whereas households with annual incomes at or below \$30,000, have “energy burdens” two to four times as large as households that make in excess of \$30,000 (with “energy burden” defined as the percent of income spent on energy costs);

Whereas funding to assist lower-income households pay their energy bills is insufficient to meet the need, with funding available from the federal Low Income Home Energy Assistance Program (“LIHEAP”) able

to assist only about 6.1 million or about one-fifth of eligible households, with an average annual grant of \$458, during federal fiscal year 2018;

Whereas low-income households often postpone other important purchases, even in some cases going without food, or foregoing medical or dental care, in order to pay utility bills, or suffer illness in an effort to lower those bills by reducing their usage of heating and cooling energy to what can be unhealthy levels;

Whereas states vary widely in the protections against disconnection available to customers and to households with persons who have a serious illness or who are otherwise vulnerable, including additional procedural delays, or disconnection stays of limited or unlimited duration, with some states having no protections;

Whereas both NARUC and NASUCA have revisited related concerns about low-income utility services in recent years;

Whereas NARUC passed 2008, 2010, 2011 Resolutions and NASUCA passed 2008 and 2017 resolutions in support of maintaining the federally funded LIHEAP;

Whereas NARUC passed a 2007 Resolution and NASUCA passed 2009 and 2017 resolutions supporting adequate funding for the federal Weatherization Program;

Whereas NARUC passed a resolution in 2010 in Support of a Study on Identifying Best Practices for Energy Assistance Programs, <https://pubs.naruc.org/pub/53986440-2354-D714-517A-44C5CEAE0ABC>;

Whereas NARUC passed in 2007 a Resolution Supporting the Gathering of Data for Electric and Natural Gas Distribution Companies by Individual State Utility Commissions or Energy Offices <https://pubs.naruc.org/pub/539F01F5-2354-D714-51CF-769F1AF36D16>;

Whereas NASUCA passed Resolution 2011-01 encouraging state legislatures and state public utility commissions to institute programs to reduce the incidence of disconnection of residential gas and electric service based on nonpayment;

Whereas NASUCA passed Resolution 2018-03 urging adoption of protections against termination of utility service for low-income, senior, and other at-risk households in which a seriously or chronically ill or disabled person resides;

Whereas NASUCA passed Resolution 2018-04 urging states to direct natural gas and electric utilities to collect and post on the public utility commission website uniform time series statistical data on residential billings, collections, arrearages and disconnections for nonpayment;

Whereas NARUC and NASUCA recognize the value of evidence-based policy making to improve outcomes for both utilities and customers;

Whereas data collection and sharing plays an integral role in providing information for developing evidence-based policies; *now therefore be it*

Resolved that the National Association of Regulatory Utility Commissioners, convened at its annual meeting in San Antonio, TX calls on all interested parties to study and implement best practices to help reduce the incidence of and minimize the negative impacts on utility services payment delinquencies and disconnections;

- work to standardize the terms used to discuss delinquencies and disconnections and definitions of those terms including, at a minimum, the terms -- disconnection, reconnection, displacement (meaning a customer once disconnected who does not ever reconnect to service at the same address), vulnerable customers and critical medical needs customers;
- work to standardize the data collected, insofar as that is practicable, in order to facilitate state comparisons and track progress towards reducing these problems;
- describe and implement best practices related to data collection regarding delinquencies and disconnections;
- regularly seek input from consumers, and the agencies and organizations that work with consumers, so that utility companies and regulators continue to be apprised of evolving customer needs and preferences;
- consider implementing quality audits and data-governance practices to ensure the information collected and reported is valid and reliable;
- to the extent permissible under federal and state laws, collect and share anonymous data for research purposes, while ensuring privacy of personally identifiable information;
- work to identify and share best practices that demonstrate promise to reduce delinquencies and disconnections, with the explicit goal of increasing customers capabilities to pay utility bills over time including best practices that identify and highlight access to helpful programs and services, including bill affordability programs such as discount rates or percentage of income payment plans, energy efficiency programs and services, weatherization, consumer education, expanding existing shutoff protections, custom payment plans that reflect the ability of the customer to successfully complete the payment plan, and flexible bill due dates;
- train employees of utilities and service agencies to assess and work with customers on sustainable solutions to avoid arrearages and maintain utility services;
- work with all stakeholders, including utility companies, to collect and share data on arrearages and disconnections;
- share information about best practices with all interested parties; and
- work on continuous improvements in policies and programs designed to help reduce delinquencies and disconnections; *and be it further*

Resolved that states should consider requiring utilities to (1) collect monthly data that tracks uncollectibles, number of payment arrangements, number of payment arrangement defaults, number of revised payment arrangements, disconnections, reconnections, disconnections and reconnections of heating customers, and other relevant data points; (2) make the data publicly available on a monthly basis, delineated by general residential customers and low-income customers, and (3) file the data with state public utility commissions to be published on the public utility commission's website so that policy makers might have access to

sufficient, objective and granular data for forming public policy aimed at protecting the public health, safety and welfare.

*Sponsored by the NARUC Committees on Consumers and the Public Interest
Adopted by the NARUC Board of Directors, November __, 2019*

CI-1/TC-1/WC-1 Resolution on FCC Proposal to Allow Unlicensed Operations in the 6 GHz Spectrum Band

Whereas electric, gas, and water utilities under State commission regulation rely on extensive communications networks to underpin the delivery of these essential services to the public; those communications networks are for the most part built, owned, and maintained by the utilities themselves, with a few relying on third-party telecommunications, wireless, Internet, or broadband providers for specific portions of their networks;

Whereas these communications networks (independent of ownership) rely on both wireless and wireline technologies in order to bolster the resilience of these networks—and, therefore, electricity, water, and gas infrastructure — against natural disasters, cyber and physical attacks, and other hazards;

Whereas these communications networks (when owned or operated by electric utilities) play a vital role in integrating new distributed energy resources into the grid which assists utilities in meeting federal and State reliability, efficiency and emissions standards; when owned by the telecommunications, wireless, Internet, or broadband providers, the communications networks are used both to facilitate the provision of broadband, Wi-Fi, VoIP, and other communications services, and to support the internal communications needs of the electric, gas, and water utilities;

Whereas utilities and other critical-infrastructure industries (“CII”) use wireless communications technologies that are reliant on radiofrequency spectrum, a naturally occurring phenomenon required for any wireless transmission; electric, gas, and water utilities need access to adequate interference-free radiofrequency spectrum to underpin the delivery of the essential services these entities provide;

Whereas telecommunications, wireless, Internet, or broadband providers, use wireless communications technologies that rely on radiofrequency spectrum, to provide telecommunications, wireless, broadband, and Internet services, which are also considered extremely high priorities, both during times of natural disasters or terrorist incidents, as well as other times;

Whereas companies operating in the DHS “Communications” and “Information Technology” critical infrastructure sectors are also considered critical infrastructure entities by the U.S. Dept. of Homeland Security and, by implication, under Presidential Policy Directive PPD-21 (“Critical Infrastructure and Resilience”);

Whereas the 5.925-7.125 GHz spectrum band is used by many different types of entities – including, but not necessarily limited to, utilities, transportation systems, pipeline companies, long distance telephone service providers, commercial wireless service providers, satellite service providers, and public safety enterprises to support mission-critical voice and data communications to remotely and automatically monitor and control systems that are essential for safe, secure and reliable operations and to talk with personnel during system maintenance and service restoration;

Whereas electric utilities, for example, use the 6 GHz band for teleprotection, a relay system on transmission and distribution grids which acts to prevent against faults from escalating and possibly damaging other elements on the system or causing power outages. Teleprotection systems must operate in milliseconds to execute their functions properly;

Whereas radiofrequency interference to these mission-critical communications systems in the 6 GHz band risks causing interruptions of the delivery of essential energy and water services as well as the loss of communications with railroad positive train control systems and police, fire and rescue operations that protect the safety of life, health and property;

Whereas in 2018, Congress addressed the critical need for additional mobile and fixed wireless broadband spectrum by directing the Federal Communications Commission (“FCC”) and the National Telecommunications and Information Administration to specifically identify at least 255 megahertz (MHz) of federal and non-federal spectrum for mobile and fixed broadband use – including, but not limited to, at least 100 MHz below the 8000 megahertz frequency for unlicensed uses and at least 55 MHz below the 8000 frequency “for use on either a licensed or unlicensed basis, or a combination of licensed and unlicensed”;

Whereas the FCC initiated a rulemaking proceeding in October 2018 to allow unlicensed operations in the 6 GHz band, which raised widespread concerns about the potential for interference to utility and other CII-licensed systems in the band. The FCC’s proposal represents one way to implement the congressional directive to increase the amount of spectrum available for wireless broadband, but to implement the proposal without robust and rigorous testing of the incidence and significance of interference that may be caused by such authorization, and without assurance that interference to utility and CII-licensed systems can be prevented, is premature if not irresponsible;

Whereas the FCC has proposed to use automated frequency coordination (“AFC”) to mitigate potential interference by outdoor unlicensed operations; however, it proposed to allow indoor unlicensed operations without any use of AFC to mitigate potential interference to licensed systems in the band, despite engineering studies submitted on the record in the rulemaking concluding that there is a significant risk of interference to licensed systems from the deployment of unlicensed devices in the 6 GHz band, including some studies which have demonstrated that indoor use is just as problematic as outdoor use;

Whereas the U.S. Department of Energy, in a September 2019 letter, has urged the FCC to use the U.S. national laboratories to test the AFC system before proceeding with its proposal;

Whereas the FCC relocated utilities in the early 1990s from the 2 GHz band to the 6 GHz band. As a result of this relocation, utilities have invested considerable ratepayer money into developing systems suitable to the 6 GHz band;

Whereas the 6 GHz band satisfies the unique needs of utilities due to its ability to transmit data quickly over long distances. If forced out of the band, utilities and other CII licensees have few, if any, reasonable alternatives. Meanwhile, there are other spectrum bands that are currently available or that could be made available that would more efficiently serve the needs for unlicensed operations and more efficiently than the 6 GHz;

Whereas State regulators have a direct and tangible interest in the safety, reliability and security of electric, gas, and water utilities and other CII, and they have authorized utilities to invest billions of dollars (including funds derived from federal grants from the U.S. Department of Energy) in SCADA and smart grid systems in order to promote, among other public interest objectives, the safety, reliability and security of utilities and other CII, many of which were authorized pursuant to State statutory mandates and deadlines;

Whereas many State regulators, legislators, and other government officials also have an interest in promoting the deployment of broadband infrastructure – including, but not limited to, mobile and fixed broadband wireless infrastructure, for both public safety and other purposes;

Whereas NARUC in previous resolutions has acknowledged the need for utilities to have access to spectrum to promote public safety, and smart grid systems needed for protecting the safe, reliable and secure delivery of essential public services including energy, water, communications, transportation, and public safety;
now, therefore be it

Resolved that the National Association of Regulatory Utility Commissioners, gathered at its Annual Meeting in San Antonio, in recognizing the criticality of utility and other CII communications in the 6 GHz spectrum band, recommends the Federal Communications Commission modify its proposal to not allow unlicensed operations in the 6 GHz band unless and until such time that it has tested and proven that its AFC system works as intended to protect utility and other CII systems, and that the FCC require AFC for all unlicensed operations.

*Sponsored by the NARUC Committees on Critical Infrastructure, Telecommunications and Water
Adopted by the NARUC Board of Directors, November __, 2019*

TC-2 Resolution to Regarding the Introduction of Automated Speech Recognition (“ASR”) – Only IP CTS

Whereas in 1990, Congress enacted the Americans with Disabilities Act, which, among other things, directed the Federal Communications Commission (“FCC”) to ensure that telecommunications relay services (“TRS”) are available to enable “functionally equivalent” communications by telephone for individuals with hearing and speech disabilities;

Whereas in 2007, the FCC approved Internet Protocol Captioned Telephone Service (“IP CTS”) as a type of TRS eligible for compensation from the federal TRS Fund;

Whereas IP CTS helps an individual with hearing loss communicate on the telephone in a manner that is functionally equivalent to the ability of persons without disabilities, which can be essential, especially in 911 and other emergency or public safety scenarios;

Whereas the FCC’s “mandatory minimum standards” for IP CTS do not include substantive service quality standards but do include rules ensuring that human communications assistants (“CAs”) preserve the privacy and confidentiality of CA-based IP CTS calls;

Whereas in June 2018, the FCC issued a *Declaratory Ruling* determining that IP CTS that relies exclusively on automated speech recognition (“ASR”) technology is a form of TRS eligible for compensation from the federal TRS Fund;

Whereas in June 2018, the FCC simultaneously issued a *Notice of Inquiry* to establish quantitative and objective service quality standards for providers of IP CTS;

Whereas since June 2018, the FCC has not certified any provider to deliver ASR-only IP CTS for compensation from the federal TRS Fund, nor has it adopted service quality definitions and standards;

Whereas several applications for certification to provide ASR-only IP CTS for compensation from the federal TRS fund are currently pending before the FCC;

Whereas the FCC’s Disability Advisory Council (“DAC”) has recommended that before a shift in IP CTS technology takes place, service quality standards should be adopted for all IP CTS, regardless of the platform or technology used to deliver captions; and further recommended that the FCC define standards based on current performance by CA-based IP CTS providers;

Whereas certain technology companies have trained their ASR platforms by recording human speech and by having human employees or contractors listen to the speech to evaluate and correct ASR interpretations; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners (“NARUC”) supports technological innovation, including and especially in the delivery of assistive technologies to individuals with disabilities; *and be it further*

Resolved consistent with the statute, the primary objective of the FCC’s TRS program must be to ensure that providers receiving compensation from the TRS fund deliver services that enable “functionally equivalent” communications by telephone; *and be it further*

Resolved that the FCC should adopt service quality standards for all IP CTS providers before a transition to ASR-only services; *and be it further*

Resolved that NARUC recommends that ASR-only IP CTS providers be required to demonstrate that their services can perform in 911 and other emergency and public safety scenarios by, for example, ensuring that a CA can help with the call until ASR-only services have a proven track record to handle emergency, life-threatening situations; *and be it further*

Resolved that NARUC views the privacy and confidentiality of calls as an essential component of “functional equivalence” delivered by CA-based IP CTS providers and concludes that a user’s privacy and confidentiality should be protected by an ASR-only IP CTS provider as well as its third-party ASR partners or underlying providers.

Sponsored by the Committee on Telecommunications

Recommended by the NARUC Board of Directors on November , 2019