RESOLUTIONS

PROPOSED FOR CONSIDERATION OF THE

NARUC BOARD OF DIRECTORS

AT THE

2020 SUMMER POLICY SUMMIT

OF THE

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

(UPDATED: JULY 21, 2020)

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 the Committee deliberations.

(Questions? Contact Brad Ramsay at 202.898.2207 or jramsay@naruc.org)

I. Committee on Electricity (1)

EL-1 Resolution on the Importance of Beyond Visual Line of Sight for Drone Operations in Maintaining the Safety and Security of Utility Operations ***Page 1***
Sponsor: Commissioner Raper (July 20, 4:50 pm revision from Kendra White)

Resolution supports FAA's authority to approve Beyond Visual Line of Sight ("BVLOS") waivers for utility drone use and encourages electric utility knowledge sharing and development of industry best practices concerning BVLOS activities, including support for the development of a common utility BVLOS waiver.

II. Committee on Telecommunications (a)

TC-1 Resolution to Ensure that Recipients of Universal Service Fund Support Continue to Be Held to a High Standard and to Prevent Waste, Fraud, and Abuse ***Page 3***
Sponsor: Commissioner Karen Charles Peterson (July 7, 4:29 pm revision from sponsor)

Resolution urges Congress to decline to pass a House bill that eliminates the State eligible telecommunications carrier ("ETC") designation role. An ETC designation is a prerequisite for a carrier to gain access to federal universal service subsidies. It also is a prerequisite for such carriers to have either the obligation or the right to provide federal lifeline services. The process allows states to condition the designation and provide oversight of expenditures. The resolution also (i) asks Congress to amend H.R. 7302, which proposes a broadband lifeline fund, to require that providers also be designated as ETCs and (ii) urges the FCC to continue to cooperate with the States and acknowledge States' significant role in closing the digital divide.

III. Committee on Water

WC-1 Resolution Recommending Lifting the Private Activity Bonds' Volume Cap for Water and Wastewater Projects ***Page 5***
Sponsor: Commissioner Holden (July 6, 6:03 pm version from Cmr. Bocanegra)

Resolution supports elimination of the federal volume cap on Private Activity Bonds for their use on water infrastructure projects.

WC-2 Resolution Recommending Federal Rate Relief Remedies for Low Income Water and Wastewater Customers Resulting from the COVID-19 Health Emergency ***Page 6***
Sponsor: Commissioner Holden (July 20, 11:13 am version from sponsor)

Resolution supports expansion of the Low Income Heating Energy Assistance Program, and its renaming, to include all utilities, particularly water/wastewater systems to provide stability and affordability to customers.

WC-3 Resolution on PFAS Chemicals Calling For Federal Guidance and State Planning to Address Potential Contamination ***Page 7***
Sponsor: Commissioner Bocanegra (July 20, 6:11 pm version from sponsor)

Resolution (i) urges the U.S. Environmental Protection Agency ("EPA") to expedite establishing a Maximum Contaminant Level ("MCL") for per and polyfluoroalkyl substances ("PFAS"); (ii) resolves that, in the absence of an EPA standard, States and their respective regulatory agencies should consider establishing PFAS Task Forces; (iii) urges regulators and the water and waste-water utilities, in coordination with other implicated agencies, to work to establish similar provisions that would "urge" reporting of industrial discharge of PFAS; formalize guidance on the destruction and disposal of PFAS wastes; standardize metrics for testing and subsequent reporting to regulators; (iv) encourages water utilities to actively address the eminent risk of PFAS and establish internal standards, including but not limited to an MCL, testing and reporting PFAS contaminant levels to their public utility commission; and (v) urges States and their regulatory agencies to work in conjunction with the regulated water utilities to plan for a holistic cost recovery effort including but not limited to testing and reporting for PFAS contaminants and treatment of PFAS contamination in the water supply.

Honorary Resolutions

Honorary Resolution for Commissioner Emeritus Greer J. Gillis (7/14 version) **Page 10**

EL-1 Resolution on the Importance of Beyond Visual Line of Sight for Drone Operations in Maintaining the Safety and Security of America's Utilities

Whereas utilities are responsible for inspecting, protecting, and maintaining the critical infrastructure of the provision of electric, gas, water and telecommunications;

Whereas utilities invest significant resources in protecting the nation's public and private utilities through ground and aerial inspections, including the use of drones or unmanned aerial vehicles ("UAVs");

Whereas many state regulatory authorities oversee siting approval and safety enforcement and inspection of energy infrastructure constructed within their jurisdiction;

Whereas UAVs can improve the efficiency of state regulatory oversight leading to expedited consideration of permits and approvals necessary to ensure a safe and modern energy infrastructure, as well as improved safety inspections necessary to promote public safety;

Whereas UAVs can provide operational benefits to utilities and their customers, including but not limited to: greater efficiency through lower-cost facilities inspections; improved safety for utility field workers, and other personnel, and customers resulting from the ability of UAVs to reach remote areas and be deployed in poor weather conditions, as well as during and after storms when ground crews may have limited mobility; and enhanced data-gathering capabilities that can serve multiple purposes, including performing utility system assessments and inspections, geographical and topographical mapping and monitoring, and environmental compliance, among other uses;

Whereas the majority of utilities using UAVs are limited to line-of-sight operations, in which the UAV pilot must be able to see the aircraft without additional visual aids, such as binoculars;

Whereas using UAVs under outdoor visual line-of-sight operations or specifically authorized beyond the visual line-of sight operations would greatly improve operational efficiency, reduce safety hazards for utility employees and contractors, and ultimately lower costs to customers;

Whereas persons or companies seeking permission to fly UAVs in so-called Beyond Visual Line of Sight ("BVLOS") conditions must submit a waiver application to the Federal Aviation Administration ("FAA");

Whereas the FAA has jurisdiction and controls BVLOS UAV flight and, as of late 2019, has received more than 1,200 BVLOS waiver applications and has denied approval for an overwhelming majority of waiver applicants;

Whereas electric utilities (through representatives of the Edison Electric Institute) and the FAA have begun exploring a pathway to a framework for BVLOS activities that would increase transparency of what is needed for a waiver application without sacrificing the FAA's safety responsibilities. This collaboration should allow owners of linear infrastructure to prepare applications that have a greater likelihood for approval of BVLOS waivers;

Whereas many utilities and state regulatory authorities have expertise with manned and unmanned aerial systems, demonstrating that these entities' use of BVLOS flights can be done while protecting the safety and security of FAA air space; *and*

Whereas state regulatory commissioners have the authority to approve utility activities or investments that are safe, secure, and improve efficiency; *now, therefore be it*

Resolved that the National Association of Regulatory Utility Commissioners, convened at its 2020 Summer Policy Summit conducted virtually, supports the FAA's authority to approve BVLOS waivers and encourages utility and utility regulators knowledge sharing and development of industry best practices concerning BVLOS activities, including support for the development of a common utility BVLOS waiver.

Sponsored by the Committee on Electricity
Adopted by the NARUC Board of Directors on July XX, 2020

TC-1 Resolution to Ensure that Recipients of Universal Service Fund Support Continue to Be Held to a High Standard and to Prevent Waste, Fraud, and Abuse

Whereas on June 11, 2020, North Carolina Congressman G. K. Butterfield introduced H.R. 7160, which would eliminate the statutory requirement that a recipient of Universal Service Fund ("USF") support for the provision of broadband service must be designated as an Eligible Telecommunications Carrier ("ETC") in order to receive such funding;

Whereas on June 24, 2020, House Majority Whip James E. Clyburn introduced H.R. 7302, the Accessible, Affordable Internet for All Act, which seeks to establish a $100 billion investment into broadband infrastructure for unserved and underserved communities and to ensure that the resulting internet service is affordable:

Whereas H.R. 7302 contains provisions which allow for providers to receive USF support without being designated ETCs in order to receive such funding;

Whereas a Federal Communications Commissioner has made misleading remarks about the role of State Public Utility Commissions in designating and overseeing ETCs in connection with his advocacy to eliminate the ETC designation requirement;

Whereas since 1996 the Federal Communications Commission ("FCC") and State Public Utility Commissions, by Congressional design, have partnered in administering USF programs, including designating and monitoring ETCs;

Whereas States have a critical interest in assuring that all households and businesses gain access to affordable, reliable broadband and consequently a critical interest in ensuring compliance with program requirements and rooting out waste, fraud, and abuse in USF-supported projects to build out broadband networks;

Whereas States have played and continue to play an essential role in identifying waste, fraud, and abuse in USF programs, through their oversight of ETCs and general jurisdiction over telecommunications service, as the FCC has acknowledged time and again; *and*

Whereas eliminating the ETC designation requirement for broadband service providers would strip States of their authority to review the fitness and public service bona fides of potential USF support recipients, substituting for that review only a cursory demonstration of creditworthiness, and would hamper States' ability to ensure compliance with program requirements and to identify and curb waste, fraud, and abuse; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners ("NARUC"), convened at its 2020 Summer Policy Summit conducted virtually, urges Congress and the FCC to maintain the role of State Public Utility Commissions in the designation of ETCs for all Universal Service Fund programs; *and be it further*

Resolved that NARUC urges the FCC to adopt the position of Chairman Pai, who said in response to a 2016 proposal to eliminate the States' role in designating ETCs: "We need more cops on the

beat, not fewer. And the state commissions thus far have the best track record. . . . States are still the best cops on the beat;" *and be it further*

Resolved that NARUC urges the FCC to continue to cooperate with the States and acknowledge States' significant role in closing the digital divide and in all Universal Service Fund programs.

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Sponsored by the Committee on Telecommunications
Adopted by the NARUC Board of Directors on July XX, 2020

WC-1 Resolution Recommending Lifting the Private Activity Bonds' Volume Cap for Water and Wastewater Projects

Whereas National Association of Regulatory Utility Commissioner ("NARUC") members realize that communities nationwide face serious investment gaps to replace critical water, wastewater and storm-water infrastructure as aging systems can threaten public health and economic vitality;

Whereas private activity bonds ("PABs") are an effective option for the federal government to support long-term, capital-intensive infrastructure projects;

Whereas PABs are a form of tax-exempt financing for state and municipal governments that want to collaborate in financing a project with a private entity to meet a public need;

Whereas Congress has already eliminated the volume cap on PABs issued to build airports, high-speed rail, ports, or solid-waste disposal sites;

Whereas NARUC recognizes that water and wastewater projects are similarly multi-year efforts;

Whereas NARUC recognizes that a PAB partnership approach can make infrastructure repair and construction more affordable for municipalities and ultimately for users or customers, and would provide significant benefit to water sector investments were the state volume cap to be lifted and the defeasance penalty eliminated; *and*

Whereas NARUC understands the Government Accounting Office has forecast a $500 billion shortfall in investment over the next forty years, and that local ratepayers currently provide more than 90% of water and wastewater funding for these projects; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Summer Policy Summit conducted virtually, joins the National Association of Water Companies; the American Water Works Association; the Association of Regional Water Organizations; the Water and Wastewater Equipment Manufacturers' Association; the Water Environment Foundation; the Water Reuse Association; McWane, Inc.; and Earth and Water Law, in supporting the elimination of the volume cap on PABs for their use on water infrastructure projects, unleashing an effective tool for state and local governments to increase needed investment in water, wastewater and storm-water infrastructure.

Sponsored by the Committee on Water
Adopted by the NARUC Board of Directors on July XX, 2020

WC-2 Resolution Recommending Federal Rate Relief Remedies for Low Income Water and Wastewater Customers Resulting from the COVID-19 Health Emergency

Whereas National Association of Regulatory Utility Commissioner ("NARUC") members are keenly aware of the financial hardships and public health issues of assuring consistent and continued supply of clean water and proper treatment of wastewater as life-dependent, essential services;

Whereas NARUC recognizes that many utility customers are already falling behind on their utility bills and will need uniform programmatic assistance and financial help to get back on their feet following the current pandemic;

Whereas NARUC appreciates and supports efforts to not only increase the Low Income Heating Energy Assistance Program ("LIHEAP") afforded to electric and gas customers, but to create a LIHEAP-like program for water and wastewater low-income customers;

Whereas during this crisis, if customers are unable to pay their electric and/or natural gas bill they are unlikely to be able to pay their water and wastewater bill;

Whereas NARUC recognizes there is no such equivalent assistance program for water and wastewater. The membership seeks the creation of a LIHEAP-like water and wastewater funding assistance program, recognizing that water and wastewater services are essential for public health and safety; *and*

Whereas NARUC, with exception, wholly does not regulate municipal nor municipal utility authority water and their wastewater systems, it acknowledges that Congress should expand funding and access to funding with consideration to all of the tens of thousands of water and wastewater systems nationwide, whether investor-owned or municipal systems; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Summer Policy Summit conducted virtually, supports the creation of a federal LIHEAP-like program for water and wastewater systems to provide stability and affordability of these essential-to-life services for low-income customers.

Sponsored by the Committee on Water
Adopted by the NARUC Board of Directors on July XX, 2020

WC-3 Resolution on PFAS Chemicals Calling For Federal Guidance and State Planning to Address Potential Contamination

Whereas per- and polyfluoroalkyl substances ("PFAS") are a large group of man-made chemicals used in consumer products and industrial processes. In use since the 1940s, PFAS are resistant to heat, oils, stains, grease, and water — the chemical bond and makeup of which contributes to their persistence in the environment.[1] PFAS have been found to adversely affect the health of humans manifesting as developmental issues, cancer, liver damage, immune system disruption, resistance to vaccines, thyroid disease, impaired fertility and high cholesterol;

Whereas to provide Americans with a margin of protection from lifetime of exposure to two types of PFAS contaminants, per-fluorooctanoic acid ("PFOA") and per-fluorooctanesulfonic acid ("PFOS") from drinking water, the Environmental Protection Agency ("EPA") has established the health advisory levels at 70 parts per trillion;[2]

Whereas between 2000 and 2002, PFOS was voluntarily phased out of production in the U.S. by its primary manufacturer, 3M;[3][4]

Whereas the EPA has been aware of and studying the potential health effects of PFOA/PFOS, since its priority review was initiated in 2002;

Whereas Congress, under the 1996 Amendments to the Safe Drinking Water Act, provided the EPA Administrator with broad, singular subjective discretion to decide whether to regulate PFAS;[5]

Whereas Congress recently has taken steps to address PFAS contamination originating on military bases;

Whereas at least 12 states, frustrated with the lack of progress by Congress and the EPA, have adopted or proposed health guidelines or Maximum Contaminant Levels ("MCLs") for PFAS in their state;

Whereas on September 25, 2019, EPA issued advanced notice of proposed rulemaking that would allow the public to provide input on adding PFAS to the Toxics Release Inventory ("TRI") toxic chemical list[6] and on February 20, 2020, the EPA released an updated list of 172 PFAS chemicals subject to TRI reporting as required by the National Defense Authorization Act;[7]

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1 https://www.epa.gov/newsreleases/epa-announces-proposed-decision-regulate-pfoa-and-pfos-drinking-water

2 https://www.epa.gov/ground-water-and-drinking-water/drinking-water-health-advisories-pfoa-and-pfos

3 https://www.epa.gov/sites/production/files/2016-06/documents/drinkingwaterhealthadvisories_pfoa_pfos_updated_5.31.16.pdf

4 PFOS is a specific compound of the PFAS class of contaminants

5 *NRDC v. EPA*, 16 F.3d 1395, 1401 (4th Cir. 1993) (the court realizes that it must give due weight to EPA's interpretation and administration of this highly complex statute, particularly when its determination appears to be reasonable and is supported by substantial evidence in the administrative record)

6 https://www.epa.gov/newsreleases/epa-announces-proposed-decision-regulate-pfoa-and-pfos-drinking-water

7 https://www.epa.gov/newsreleases/epa-announces-proposed-decision-regulate-pfoa-and-pfos-drinking-water

Whereas on December 19, 2019, EPA issued *Interim Recommendations for Addressing Groundwater Contaminated with PFOA and PFOS,* which provides guidance for federal cleanup programs that will be helpful to states and tribes;[8]

Whereas on February 20, 2020, the EPA issued a supplemental proposal to ensure that new uses of certain persistent long-chain PFAS chemicals in surface coatings cannot be manufactured or imported into the United States without notification and review under the Toxic Substances Control Act;[9]

Whereas on February 20, 2020, the EPA announced implementation of its PFAS Action Plan by proposing regulatory determinations for PFOS and PFOA in drinking water;[10] a*nd*

Whereas on March 10, 2020, the EPA published a notice in the Federal Register of its Preliminary Regulatory Determinations for Contaminants on the Fourth Drinking Water Contaminant Candidate List, announcing preliminary determination to regulate PFOA and PFOS under the Safe Drinking Water Act[11] and is taking public comments in the Federal Register via https://www.regulations.gov in Docket No. EPA-HQ-OW-2019-0583;[12] *now, therefore be it*

Resolved, that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2020 Summer Policy Summit conducted virtually, urges the EPA to expedite establishing a MCL for PFOS and PFOA based on risk to the public's health where the EPA is within its statutory authority to expeditiously move forward with a process to determine an MCL for PFOS and PFOA to allow individual agencies and the respective utilities within their jurisdiction to assess and address the current contamination risks; *and be it further*

Resolved that, in the absence of an EPA standard, states and their respective regulatory agencies should consider establishing PFAS Task Forces to echo the ongoing effort of the Department of Defense and Congressional PFAS Task Force that is developing mitigation plans for PFAS contaminations at military installations.[13] Regulators and the water and waste-water utilities, in coordination with other implicated agencies, should work to establish similar provisions that would urge the development of the following:

(1) Required reporting of industrial discharge of PFAS;
(2) Formalized guidance on the destruction and disposal of PFAS wastes;
(3) Standardized metrics for testing and subsequent reporting to regulators; and
(4) Continued urgency for PFAS's contaminant designation by the EPA and the establishment of a federal MCL; *and be it further*

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[8] https://www.epa.gov/newsreleases/epa-announces-proposed-decision-regulate-pfoa-and-pfos-drinking-water

[9] https://www.epa.gov/newsreleases/epa-announces-proposed-decision-regulate-pfoa-and-pfos-drinking-water

[10] https://www.epa.gov/newsreleases/epa-announces-proposed-decision-regulate-pfoa-and-pfos-drinking-water

[11] https://www.federalregister.gov/documents/2020/03/10/2020-04145/announcement-of-preliminary-regulatory-determinations-for-contaminants-on-the-fourth-drinking-water

[12] https://www.epa.gov/ccl/regulatory-determination-4

[13] These efforts were authorized under the National Defense Authorization Act for Fiscal Year 2020. H.R.2500 and S.1790.

Resolved that regulated water utilities, as well as non-regulated private and/or municipal water utilities, are encouraged to actively address the eminent risk of PFAS by establishing internal standards, testing, and reporting PFAS contaminant levels in their service territories to the appropriate state agencies. This effort should work in tandem with the aforementioned Task Force and include all stakeholders necessary to efficiently and equitably manage potential PFAS disposal; *and be it further*

Resolved that states and their regulatory agencies, in coordination with all other appropriate state agencies, should work in conjunction with the regulated water utilities to plan for a holistic effort for recovery of costs, including but not limited to testing and reporting for PFAS contaminants and treatment of PFAS contamination in the water supply. Non-regulated and/or municipal water utilities are strongly encouraged to utilize state funding sources to address these considerations. Non-regulated and/or municipal water utilities should consider developing conditional funding for activities encompassing PFAS identification, management, treatment, and other types of activity related to PFAS mitigation. Planning for cost recovery efforts may also include implementation of specific standards to address PFAS contamination including but not limited to an MCL.

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Sponsored by the Committee on Water
Adopted by the NARUC Board of Directors on July XX, 2020

Honorary Resolution for Commissioner Emeritus Greer J. Gillis

Whereas Greer J. Gillis served on the District of Columbia Public Service Commission as a Commissioner from December 2018 through April 2020;

Whereas prior to this appointment, Greer J. Gillis served with honor as Director of the District of Columbia Department of General Services ("DGS");

Whereas in this role at DGS, Greer J. Gillis oversaw the agency responsible for managing capital improvement and construction programs for a variety of District government agencies, including DC Public Schools, as well as sustainability initiatives across the agency's efforts specifically championing building energy performance standards for the government portfolio and implemented agreements to reduce greenhouse gases through efforts on installing green roofs and solar installations across government buildings;

Whereas prior to her role at DGS, Greer J. Gillis served as Deputy Director of the District of Columbia Department of Transportation ("DDOT"); Deputy Chief Engineer of the DDOT; and Area Manager, WSP USA (formerly Parsons Brinckerhoff, Inc.);

Whereas in her role at DDOT, Greer J. Gillis oversaw infrastructure projects pertaining to the Anacostia Waterfront Initiative program, Stormwater Management Branch, Safety Standards and Quality Control Division, ITS Division, and Citywide Special Projects;

Whereas Greer J. Gillis is a certified Professional Engineer in both Washington, DC and Virginia and is a certified Lean Six Sigma Black Belt;

Whereas Greer J. Gillis, while a Commissioner, was an active member of the National Association of Regulatory Utility Commissioners ("NARUC"), serving with distinction;

Whereas Greer J. Gillis was appointed as Co-Vice Chair of the NARUC Committee on Gas in December 2019;

Whereas Greer J. Gillis also served as a member on the NARUC Committee on International Relations and Staff Subcommittee on Supplier & Workforce Diversity;

Whereas Greer J. Gillis ably represented the District of Columbia Public Service Commission on the Board of the Directors for the Organization of PJM States Inc. and serving as a member of the Governance Committee;

Whereas Greer J. Gillis, upon joining the District of Columbia Public Service Commission, served as a dedicated Commissioner strongly focused on prudent utility infrastructure improvements and innovative upgrade initiatives;

Whereas Greer J. Gillis was recognized by then-President Barack Obama and then-United States. Secretary of Transportation Anthony Foxx as a *White House Champion of Change: Transportation*

Ladders of Opportunity for her tireless efforts in diversity and inclusion, including mentoring and championing the participation of women and minorities in the engineering industry;

Whereas Greer J. Gillis, with her thoughtful policy and technical expertise, became known as a committed leader within the energy infrastructure;

Whereas Greer J. Gillis is deeply missed on a personal level; her intellect, kindness and champion of diversity and inclusion were truly appreciated; *and*

Whereas Commissioner Emeritus Greer J. Gillis's impact will be long-standing both at District of Columbia and on a national level; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Commissioners, convened at its 2020 Summer Policy Summit conducted virtually, congratulates Commissioner Emeritus Greer J. Gillis on her tenure at the Public Service Commission of the District of Columbia and offers heartfelt gratitude for her strong dedication to public service, and expresses its best wishes for her future endeavors.

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Sponsored by the Committee on Gas
Adopted by the NARUC Board of Directors on July 22, 2020