

RESOLUTIONS

PASSED BY

BOARD OF DIRECTORS

AT THE

2019 WINTER POLICY SUMMIT

OF THE

**NATIONAL ASSOCIATION OF
REGULATORY UTILITY COMMISSIONERS**

2/13/2019 1:30 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 advocated.

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Resolution supports further discussion relating to the setting of standby rates for partial requirements customers that affect market entry and continued competitiveness of distributed generation; encourages regulators to consider whether the cost of standby rates discourages further deployment of combined heat and power (“CHP”) and waste heat to power (“WHP”), and could harm CHP and WHP facility competitiveness; and encourages Commissioners to assure that standby rates for partial requirements customers acknowledge that: (a) effectively coordinating CHP and WHP with grid system operations reduces demand and costs; and (b) CHP and WHP have the potential to improve system reliability and resiliency.

II. Committee on Telecommunications

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Resolution urges the Federal Communications Commission and Universal Service Administrative Company SAC to work with the States to properly launch the National Verifier so that eligible low-income consumers can reasonably and efficiently sign up for the federal Lifeline program without undue burdens or delays.

III. Committee on Water

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Resolution encourages the National Association of Regulatory Utility Commissioner members to participate in the Environmental Protection Agency’s (“EPA”) “Fix-a-Leak Week” by using any materials EPA provides and issuing an appropriate press release noting the EPA initiative and its support for it.

Resolution on Standby Rates for Partial Requirements Customers

Whereas the National Association of Regulatory Utility Commissioners (“NARUC”) and its members have long focused on energy efficiency, electric system reliability and resiliency, and reduction of greenhouse gas emissions;

Whereas combined heat and power (“CHP”) can be a cost-effective way to produce two or more forms of useful energy from a single fuel source, often including both thermal energy and electricity;

Whereas waste heat to power (“WHP”) is the process of capturing heat discarded by an existing process and using that heat to generate power with no additional fuel, combustion or emissions;

Whereas CHP and WHP are forms of distributed generation that can provide benefits for consumers and to U.S. businesses in the form of reduced energy costs, reduced risk of electric grid disruption and enhanced energy reliability, stability, and resilience in the face of uncertain electricity prices and major disruptive events;

Whereas CHP and WHP can provide benefits for the nation by lowering the need for other, less efficient sources of new electric generation capacity, avoiding transmission and distribution costs, creating markets for domestic energy sources, developing and maintaining employment opportunities for skilled labor, optimizing the use of our nation’s abundant supply of natural gas, and reducing emissions;

Whereas CHP can provide services in a microgrid in ways that can help enable better use of other clean energy sources;

Whereas federal law recognizes these benefits by affording Qualifying Facility status to CHP and WHP systems and the executive branch in 2012 established a national goal of increasing CHP deployment by approximately 50% by 2020;

Whereas in 2008 NARUC passed a resolution explicitly urging commissions to “consider the adoption of regulatory policies that protect consumers while addressing barriers to increased use of CHP related to standby rate design;”

Whereas in 2012 NARUC passed a resolution encouraging State public service commissions to evaluate opportunities for CHP, encourage cost effective investment in CHP, and evaluate regulatory mechanisms to best deploy these technologies;

Whereas in 2013 NARUC passed a resolution supporting the inclusion of WHP technologies in State and federal clean energy policies and programs;

Whereas despite these resolutions and the widespread recognition of these benefits, the technical and economic potential for CHP and WHP far exceeds their deployment;

Whereas many utility companies have “standby” rates for customers taking “partial-requirements service” that may be confusing, might not be based on cost-of-service principles, and may fail to account for the benefits that these systems offer to the grid;

Whereas the NARUC Distributed Energy Resources Rate Design and Compensation manual provides that standby rates should reflect actual system costs and clarifies that charges should not discourage investment in CHP by potential customers;

Whereas encouraging or requiring CHP or WHP hosts to schedule maintenance during off-peak times and distinguishing between scheduled and unscheduled outages can reduce utility system demand and costs;

Whereas the rates for partial requirements service should be as simple, transparent, and consistent as practical; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2019 Winter Meeting in Washington, D.C., supports further discussion relating to the setting of standby rates for partial requirements customers that affect market entry and continued competitiveness of distributed generation; encourages regulators to consider whether the cost of standby rates discourages further deployment of CHP and WHP, and could harm CHP and WHP facility competitiveness; and encourages Commissioners to assure that standby rates for partial requirements customers acknowledge that: (a) effectively coordinating CHP and WHP with grid system operations reduces demand and costs; and (b) CHP and WHP have the potential to improve system reliability and resiliency.

*Sponsored by the Committee on Energy Resources and the Environment
Adopted by the NARUC Board of Directors on February 13, 2019*

Resolution to ensure the National Verifier is Properly Launched so that Low-Income Consumers can Access the Federal Lifeline Program

Whereas since 1985, the federal Lifeline program has provided eligible low-income households with affordable access to telecommunications services so that low-income households can be connected to jobs, healthcare, education, family, and friends;

Whereas currently, approximately 9 million households participate in the Lifeline program, receiving \$9.25 per month in Lifeline benefits from the Universal Service Fund;

Whereas in the Third Report and Order, *In the Matter of Lifeline and Link Up Reform and Modernization*, 31 F.C.C. Rcd. 3962 ¶¶ 5, 7, 126-166 (2016), the Federal Communications Commission (“FCC”) modernized the federal Lifeline program by expanding Lifeline to include broadband service and by establishing the Lifeline National Eligibility Verifier (“National Verifier”) to address “waste, fraud, and abuse;”

Whereas the FCC’s objectives for the National Verifier were threefold: to (1) protect against and reduce waste, fraud, and abuse; (2) lower costs to the federal Universal Service Fund and Lifeline providers through administrative efficiencies; and (3) improve service to beneficiaries by facilitating choice and improving the enrollment experience;

Whereas following a brief, five-month soft launch, on November 2, 2018, the Universal Service Administrative Company (“USAC”) implemented the National Verifier hard launch in six states: Colorado, Mississippi, Montana, New Mexico, Utah, and Wyoming; and on January 15, 2019, USAC implemented the National Verifier hard launch in six additional states and territories: Guam, Hawaii, Idaho, New Hampshire, North Dakota, and South Dakota. On December 4, 2018, USAC implemented the National Verifier soft launch in North Carolina, Tennessee, Missouri, and Pennsylvania and is slated to meet the FCC’s mandate of launching in all 50 states by the end of 2019;

Whereas consumer groups, public utilities commissions, and Lifeline providers have identified significant shortcomings that undermine the three FCC objectives for the National Verifier as illustrated in comments filed in WC Docket Nos. 17-287, 11-42, 09-197, by, *e.g.*, the National Lifeline Association (December 18, 2018), Nebraska Commissioner Crystal Rhoades (December 17, 2018), the National Association of Regulatory Utility Commissioners (“NARUC”) (August 10, 2018), New America’s Open Technology Institute, Access Humboldt, Benton Foundation, Center for Rural Strategies, Common Cause, Consumers Union, Electronic Frontier Foundation, Free Press, National Association for the Advancement of Colored People, National Consumers League, National Digital Inclusion Alliance, National Hispanic Media Coalition, Native Public Media, Public Knowledge, Greenlining Institute, and United Church of Christ (August 10, 2018), as well as the July 5, 2018 Emergency Petition filed by Q Link Wireless;

Whereas in July 2018, NARUC already passed a resolution urging the FCC to order USAC to incorporate application programming interfaces (“APIs”), into its National Verifier implementation;

Whereas the issues that have been raised include: (1) new eligibility documentation requirements that prevent the use of the Supplemental Nutrition Assistance Program (“SNAP”), Electronic Benefits Transfer (“EBT”) card or the Medicaid enrollment card as acceptable proofs of Lifeline eligibility; (2) lengthy and complex paper application forms that include an “initialing” requirement pursuant to 47 C.F.R. § 54.410(d)(3) to indicate acknowledgement and consent; and (3) the lack of adequate state or federal qualifying program databases for the National Verifier to perform automated eligibility verification;

Whereas USAC, as directed by the FCC has indicated that it will now require a level of additional proof associated with low-income program participation designed to ensure that a consumer is a *current* participant in one of the five federal low-income programs used to qualify for Lifeline. Specifically, USAC has announced that a copy of a consumer’s SNAP EBT card will no longer be sufficient proof of the consumer’s current participation in the SNAP program because the SNAP card does not include either an “issued on” date within the prior 12 months or an “expiration date.” If this change in Lifeline policy is implemented, it will preclude Lifeline providers from continuing to accept SNAP EBT cards and, in some instances Medicaid enrollment cards, as proof of Lifeline eligibility. This change was not contemplated by the States upon review of the FCC’s rules, and appears to be inconsistent with FCC requirements;

Whereas for years, eligible low-income consumers have provided and Lifeline providers have accepted SNAP EBT cards and Medicaid cards as proof of eligibility, though all SNAP benefit cards and many Medicaid enrollment cards do not include issuance or expiration dates on the card itself;

Whereas the FCC in the *Lifeline Reform Order*, 27 F.C.C. Rcd. 6656 ¶ 101, explicitly states that SNAP EBT cards and Medicaid enrollment cards are acceptable documentation of program-based eligibility;

Whereas eliminating these forms of documentation can only undermine the program as more Lifeline enrollees qualify through participation in SNAP and Medicaid than through any other federal low-income programs;

Whereas in many cases, a SNAP or Medicaid card is the only documentation in a Lifeline applicant’s possession to demonstrate participation in the qualifying Federal program. Due to the transient nature of the Lifeline customer base, many eligible customers do not hold onto their initial SNAP or Medicaid enrollment letter, and will face additional challenges obtaining another physical proof;

Whereas at least one carrier estimates that approximately 25 % of their subscribers currently use their SNAP or Medicaid card to qualify and enroll;

Whereas the FCC has directed USAC to hard launch certain States without having gained access to major federal or state benefits program databases, such as the SNAP and Medicaid databases. This shortcoming significantly undermines the efficiency and effectiveness of the National Verifier. Without access to the databases, the National Verifier will not be able to perform automated, near-real time eligibility verification. Instead, they have to rely on the manual verification process that may be costlier and more time consuming with higher potential for errors;

Whereas to avoid an over-reliance of the manual enrollment process in States where the National Verifier has been, or will be, launched without the databases needed for the automated verification process, the FCC should direct USAC to accept proof of eligibility generated through third-party access to state databases, including proof of eligibility generated through Managed Care Organizations’ (“MCO”) access to state Medicaid databases;

Whereas as one of the wireless carriers points out in its August 2018 Emergency Petition for an order directing the USAC to alter the National Verifier processes, filed in WC Docket Nos. 17-287, 11-42, 09-197, such access could help mitigate the efficiency losses and reduce the risk of fraud and abuse created by the manual verification process;

Whereas paper applications are important to many Lifeline applicants because some applicants are not comfortable filling out forms online for security reasons; are disabled and cannot access broadband and a

computer; or otherwise require a friend or family member to assist with understanding and filling out the application in a home or other setting where a computer is not readily available. Some Lifeline providers estimate that 10% of its Lifeline subscribers sign up via paper applications per year;

Whereas in the newly revised paper application, applicants are required to acknowledge and/or agree to nine different statements by initialing nine separate boxes to signify their assent. However, many applicants incorrectly interpret the boxes as checkboxes, check-marking each statement rather than initialing it. Because of this, these applications are rejected by the National Verifier and Service Providers for the non-National Verifier states. The “initialing” requirement is codified as 47 C.F.R. § 54.410(d)(3);

Whereas in July 2018, the FCC, working closely with USAC, changed the paper application by way of Public Notice DA 18-161, from a service provider specific one page application to a standardized eight page application. The paper application with detailed legal disclosures, blank spaces, and significant fine print is not well-designed for comprehension by many low-income consumers. For example, many potential applicants are apparently so intimidated by the length and complexity of the application that they decline to complete the application. A Lifeline provider estimates that since July, after the National Verifier launched in six States, the number of paper applications submitted has declined by approximately 51%; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Commissioners, convened at its 2019 Winter Policy Summit in Washington DC, urges the FCC and USAC to work with the states to properly launch the National Verifier so that eligible low-income consumers can reasonably and efficiently sign up for the federal Lifeline program without undue burdens or delays; *and be it further*

Resolved that NARUC urges USAC to follow the rules set forth by the FCC for the proof of eligibility; streamline the Lifeline paper application; ensure that critical state/federal databases for eligibility programs such as SNAP and Medicaid are accessible in states where the National Verifier has been launched or is being launched; and allow Lifeline providers to provide MCO-generated proof of eligibility for Medicaid recipients, until such time as the National Verifier is otherwise able to handle these matters in a satisfactory manner.

Sponsored by the Committee on Telecommunications

Adopted by the NARUC Board of Directors on February 13, 2019

Resolution Supporting EPA's WaterSense "Fix-a-Leak Week" in March 2019

Whereas the U.S. Environmental Protection Agency ("EPA") launched the WaterSense initiative to make it easy for American consumers and businesses to save water and protect the environment by establishing water efficiency standards;

Whereas the National Association of Regulatory Utility Commissioners ("NARUC") passed a resolution in July 2008 directing NARUC to join EPA's WaterSense partnership and support appropriate EPA and Congressional efforts to encourage water efficiency;

Whereas State commissions are uniquely positioned to encourage the adoption of programs and offering of products that will promote water efficiency and reduce the amount of electricity used by water treatment facilities;

Whereas EPA's WaterSense program announced its eleventh annual water efficiency initiative, "Fix-a-Leak Week," for March 18-24, 2019;

Whereas EPA encourages NARUC as a WaterSense partner, to use this week to remind Americans to check their household fixtures and irrigation systems for leaks;

Whereas during each of the 2009 through 2018 Winter Committee Meetings, NARUC adopted a resolution that urged its members to participate in the program by using the online resources to raise consumer awareness about water conservation practices; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners ("NARUC"), convened at its 2019 Winter Policy Summit in Washington, D.C., encourages its members to participate in EPA's "Fix-a-Leak Week" by using any materials EPA provides and issuing an appropriate press release noting the EPA initiative and its support for it; *and be it further*

Resolved That NARUC will send a letter to the chairs of State commissions encouraging their participation in this initiative.

Sponsored by the Committee on Water

Adopted by the NARUC Board of Directors on February 13, 2019