

RESOLUTIONS

PASSED BY THE

BOARD OF DIRECTORS

AT THE

2018 SUMMER POLICY SUMMIT

OF THE

**NATIONAL ASSOCIATION OF
REGULATORY UTILITY COMMISSIONERS**

7/18/2018 12:30 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 proposed.

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

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Sponsor: Executive Committee [7/15 12:39 pm version from J. Ramsay]

Resolution urges this and future Administrations to appoint state commissioners to FERC and other federal agencies.

II. Committee on Critical Infrastructure

- CI-1 [EL-2] Resolution Supporting Infrastructure Modernization Programs** **Page 2**
Sponsor: Commissioner Brown [7/17 1:30 pm version from M. Roussy]

Resolution encourages regulators and industry to consider sensible programs aimed at accelerating investments in electric system infrastructure to help modernize and protect the nation's electric system and, to the extent permissible, explore and examine alternative rate recovery mechanisms to accelerate the modernization, replacement, and enhancement of the nation's electric system.

III. Committee on Electricity

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Resolution encourages regulators and industry to consider sensible programs aimed at accelerating investments in electric system infrastructure to help modernize and protect the nation's electric system and, to the extent permissible, explore and examine alternative rate recovery mechanisms to accelerate the modernization, replacement, and enhancement of the nation's electric system.

IV. Committee on Telecommunications

- TC-1/WC-1 Resolution on Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States** **Page 3**
Sponsor: Commissioner Nelson [7/17 4:00 pm version from Greg Doyle]
Co-Sponsors: Commissioners Schram, Holden, Bloom and Moser

Resolution encourages Congress to pass the "Precision Agriculture Connectivity Act of 2018," which creates a task force to review the connectivity and technology needs of precision agriculture, and also urges the Federal Communications Commission to appoint state utility commissioners to that Task Force.

TC-2 **Resolution to Implement a Properly Functioning and Consumer-Friendly Federal Lifeline National Eligibility Verifier As Soon As Possible** **Page 4**
Sponsor: Commissioner Hofmann [7/17 4:00 pm version from Greg Doyle]
Cosponsor: Commissioner Rhoades

Resolution urges the FCC to order USAC to incorporate application programming interfaces into its National Verifier implementation to permit carriers to help lifeline recipients with the enrollment process.

TC-3 **Resolution on FCC Release of Notice of Proposed Rulemaking on Separations** **Page 6**
Sponsor: Commissioner Moser [7/17 4:00 pm version from Greg Doyle]
Cosponsor: Commissioner Hofmann

Resolution urges the Separations Joint Board to “make every effort to gather facts concerning network and accounting trends within the telecommunications industry,” specifies, that even if an extension of the current freeze is necessary, it should not last longer than two years, and urges the FCC to consider participating in meaningful Joint Board consideration of several listed issues.

TC-4 **Resolution Opposing Proposed Expansion of the IP CTS Contribution Base** **Page 8**
Sponsor: Commissioner Moser [7/17 4:00 pm version from Greg Doyle]

Resolution (i) commends the FCC for seeking comments on ways to ensure that IP CTS remains sustainable and for recognizing and adopting certain rules for providers whose practices promote the overuse of IP CTS when there may be more practical and cost effective alternative technologies available, (ii) urges the agency to continue to cooperate with the States including on the option for State IP-CTS administration with funding authority, (iii) opposes redirecting more money into the current federal TRS fund at this time through a single combined contributions factor for IP-CTS, as it does nothing to stop the waste, fraud and abuse, (iv) urges the FCC continue to refine its rules to further minimize inefficiency by adopting additional requirements, including but not limited to, user eligibility assessments that are sufficiently thorough and not biased towards the use of IP CTS technology, (v) supports the FCC in restructuring the IP CTS Provider compensation rate methodology to align with a cost-based rate for IP CTS providers to discourage unethical sales practices, (vii) contends that any necessary contributions restructure for IP CTS occur only after measures to minimize inefficiency, and finally points out that the Act requires the FCC to engage the Federal-State Board on Jurisdictional Separations in any TRS contributions restructure.

V. Committee on Water

TC-1/WC-1 **Resolution on Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States** **Page 3**
Sponsor: Commissioner Nelson [7/17 4:00 pm version from Greg Doyle]
Co-Sponsors: Commissioners Schram, Holden, Bloom and Moser.

Resolution encourages Congress to pass the “Precision Agriculture Connectivity Act of 2018,” which creates a task force to review the connectivity and technology needs of precision agriculture, and also urges the Federal Communications Commission to appoint state utility commissioners to that Task Force.

EC-1 Resolution Urging the Administration to Appoint State Commissioners to Open Vacancies at FERC and other Federal Agencies

Whereas for more than 130 years, public utility commissions from every state, the District of Columbia, and all U.S. territories, have led the way in developing and implementing novel policies to promote the efficient and affordable deployment of utility services in all sectors;

Whereas more often than not, state commissions have implemented policies that have been the prototype for cutting-edge congressional or federal agency initiatives;

Whereas no one understands better than state commissioners the real-world, often unintended, effects of federal policy at the ground level on consumers, and how such policies complement, interfere, or interact with related state programs or local/regional market conditions/demographics;

Whereas energy is a primary economic driver for the U.S. economy and state commissioners oversee the operations of the country's gas, electric, water, and telecommunications systems at the ground level;

Whereas state commissioners live at the leading edge of energy policy formation;

Whereas past administrations and this one have recognized the advantages of appointing current and former state utility commissioners for service on the Federal Energy Regulatory Commission, the Federal Communications Commission, the Nuclear Regulatory Commission, and in the U.S. Department of Energy;

Whereas state commissioners are well positioned to help any administration fine tune policy to maximize opportunities in that sector - as well as address interdependencies, synergies, and security concerns that involve the other critical infrastructures subject to their oversight;

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2018 Summer Policy Summit in Scottsdale, Arizona, respectfully request that current and future administrations appoint individuals with service experience as state commissioners to vacancies on the Federal Energy Regulatory Commission and to related posts in other federal agencies to assure that the administration's policies can benefit from state commissioners' recognized practical experience, as well as seize opportunities for federal and state cooperation, and ensure that federal agency decisions consider the impact of federal decision-making all the way down to consumers in the states.

Sponsored by the NARUC Executive Committee

Approved by the NARUC Board of Directors July 18, 2018.

CI-1/EL-2 Resolution Supporting Infrastructure Modernization Programs

Whereas the National Association of Regulatory Utility Commissioners (“NARUC”) and its members have long focused on electric system reliability, adequacy, and affordability, as well as electric system infrastructure security and delivery;

Whereas NARUC enjoys a close working relationship and cooperative partnership with a variety of federal and state agencies and organizations tasked with ensuring the safety, security, resilience, reliability, and efficiency of the nation’s electric system;

Whereas innovations in technology in areas including, but not limited to, electric vehicles, renewable energy generation, microgrids, energy storage, distributed energy resources (“DER”), demand response and energy efficiency are occurring at a rapid pace;

Whereas utilities across the nation are finding it necessary to make investments in their electric transmission and distribution systems to accommodate the rapid pace of technological developments and meet increasing customer demands for an electric system that operates in a smart, secure, reliable, resilient, and efficient manner;

Whereas specific investments may be required to protect the nation’s electric system from the greater risk of disruption associated with growing physical and cybersecurity threats from a variety of sources across the nation and the world;

Whereas the upgrade and modernization of electric system infrastructure on an accelerated basis can mitigate this risk by enhancing the security, safety, reliability, and resilience of the electric grid;

Whereas alternative rate-recovery mechanisms may help expedite the upgrade and modernization of the electric system by promoting timely rate recovery for utility investments in electric system infrastructure safety, security, resilience, reliability, and efficiency;

Whereas alternative rate-recovery mechanisms may help eliminate near-term financial barriers of traditional ratemaking policies such as “regulatory lag” and promote access to lower-cost capital; *and*

Whereas with proper planning, controls, and regulatory monitoring to ensure accountability and ratepayer benefit, the adoption of alternative rate policies may be very effective for advancing critical electric system safety and reliability upgrades; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2018 Summer Policy Summit in Scottsdale, Arizona, encourages regulators and industry to consider sensible programs aimed at accelerating investments in electric system infrastructure to help modernize and protect the nation’s electric system; *and be it further*

Resolved that, to the extent permissible, State commissions should explore and examine alternative rate recovery mechanisms to accelerate the modernization, replacement, and enhancement of the nation’s electric system.

*Sponsored by the Committees on Electricity and Critical Infrastructure.
Adopted by the NARUC Board of Directors on July 18, 2018.*

TC-1/ WC-1 Resolution on Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States

Whereas the “Precision Agriculture Connectivity Act of 2018” has been introduced in the United States Senate (S. 2343) and House of Representatives (H.R. 4881);

Whereas precision agriculture technologies and practices allow farmers to significantly increase crop yields, eliminate overlap in operations, and reduce inputs such as seed, fertilizer, pesticides, water, and fuel;

Whereas these technologies allow farmers to collect data in real time about their fields, automate field management, and maximize resources;

Whereas studies estimate that precision agriculture technologies can reduce agricultural operation costs by up to 25 dollars per acre and increase farm yields by up to 70 percent by 2050;

Whereas advancement of precision agriculture will also benefit U.S. and global consumers to ensure a safe, reliable, and affordable future food supply;

Whereas the critical cost savings and productivity benefits of precision agriculture cannot be realized without the availability of reliable broadband Internet access service delivered to the agricultural land of the United States;

Whereas the deployment of broadband Internet access service to unserved agricultural land is critical to the United States economy and to the continued leadership of the United States in global food production;

Whereas despite the growing demand for broadband Internet access service on agricultural land, broadband Internet access service is not consistently available where needed for agricultural operations;

Whereas the “Precision Agriculture Connectivity Act of 2018” calls for the establishment of the “Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States,” which must include representatives from State and local governments;

Whereas the Federal Communications Commission (“FCC”) has an important role to play in the deployment of broadband Internet access service on unserved agricultural land to promote precision agriculture and is required by the Act to appoint the Task Force for that purpose; *and*

Whereas state public utilities commissioners have a demonstrated track record of advocating for broadband Internet buildout and have an expertise in assisting with that buildout by working with telecommunications providers to reduce regulatory hurdles; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, as convened at the 2018 Summer Policy Summit in Scottsdale, Arizona, encourages Congress to pass the “Precision Agriculture Connectivity Act of 2018” and the FCC to appoint state utility commissioners to the task force.

*Sponsored by the Committee on Telecommunications and the Committee on Water.
Adopted by the NARUC Board of Directors on July 18, 2018.*

TC-2 Resolution to Implement Expeditiously a Properly Functioning and Consumer-Friendly Federal Lifeline National Eligibility Verifier

Whereas on April 27, 2016, the Federal Communications Commission (“FCC”) released a Third Report and Order, Further Report and Order, and Order on Reconsideration addressing Lifeline modernization;¹

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

Whereas currently, approximately 10 million households participate in the Lifeline program, receiving \$9.25 per month in basic Lifeline benefits from the Universal Service Fund;

Whereas in the Third Report and Order, the FCC contributed to the modernization of Lifeline by expanding Lifeline to include broadband service² and by establishing the Lifeline National Eligibility Verifier (“National Verifier”) to address waste, fraud, and abuse;³

Whereas in establishing the National Verifier, the FCC recognized the critical importance of a consumer-friendly platform that would allow consumers to enroll in Lifeline online;⁴

Whereas in the Third Report and Order, the FCC designated the Universal Service Administrative Company (“USAC”), which administers the Lifeline program and other Universal Service Fund programs on behalf of the FCC, to play a key role in implementing the National Verifier;⁵

Whereas on June 18, 2018, the FCC’s Wireline Competition Bureau announced that the National Verifier is “now operational in Colorado, Mississippi, Montana, New Mexico, Utah, and Wyoming,” and that “[d]uring the soft launch, only Eligible Telecommunications Carriers will have access to the National Verifier. Consumers will be able to access the National Verifier at a later date once the hard launch takes place”;⁶

Whereas carriers petitioned the FCC and highlighted that there is a flaw in USAC’s technical implementation of the National Verifier that could disconnect millions of Americans from the enrollment process;

Whereas when USAC initially presented its “National Verifier Plan,” diagrams illustrated plans to include machine-to-machine interfaces (application programming interfaces, or APIs) that would have permitted user-friendly, carrier-assisted, online verification and enrollment of Lifeline households;

Whereas such APIs were consistent with the Third Report and Order establishing the National Verifier, which contemplated an “interface . . . geared toward providers that may allow application programming interfaces (machine-to-machine interaction)”;⁷

¹ *In the Matter of Lifeline and Link Up Reform and Modernization*, 31 F.C.C. Rcd. 3962 (2016).

² *Id.* ¶ 5.

³ *Id.* ¶¶ 5, 7, 126-166.

⁴ *Id.* ¶ 138 and text accompanying note 390.

⁵ *Id.* ¶ 132.

⁶ <https://docs.fcc.gov/public/attachments/DA-18-627A1.pdf>

⁷ *Id.* ¶ 137 n.390.

Whereas although USAC announced the soft launch of the National Verifier’s service provider’s portal, which supports only in-person carrier interaction with consumers, USAC had no stated plans to add an API for use by ETCs, which is an important component of an effective National Verifier;

Whereas without APIs, a customer seeking to enroll online will have to navigate the National Verifier’s verification process on his or her own only to repeat the same process with the carrier, imposing on consumers unnecessary burdens and potentially exposing consumers to phishing scams;

Whereas without APIs, ETCs will be unable to provide remote assistance to consumers, and may assist consumers only in person, to the detriment of many low-income households, many of whom rely on online enrollment because they do not live or work near a retail location;

Whereas without APIs, ETCs will no longer be able to screen ineligible applicants, or incorrect or incomplete applicant documents, prior to National Verifier review, saving the National Verifier significant annual operating costs;

Whereas without ETC assistance to consumers or screening, USAC’s costs of operating the National Verifier will be significantly inflated;

Whereas the National Verifier cannot operate effectively or efficiently between ETCs and the National Verifier without APIs;

Whereas the modifications to the National Verifier need to be made before use of the National Verifier is mandatory to preserve consumer access to Lifeline voice and broadband connections; *now therefore be it*

Resolved, that the Board of Directors of the National Association of Regulatory Commissioners (“NARUC”), convened at its 2018 Summer Policy Summit in Scottsdale, Arizona, urges the FCC and USAC to work with the states to implement a properly functioning, consumer-friendly National Verifier without further delay; *and be it further*

Resolved, that NARUC urges the FCC to order USAC to incorporate APIs into its National Verifier implementation.

Sponsored by the Committee on Telecommunications.

Adopted by the NARUC Board of Directors on July 18, 2018.

TC -3 Resolution on FCC Release of Notice of Proposed Rulemaking on Separations

Whereas one of the complexities of telecommunications regulation is that carriers use the same plant to provide jurisdictionally intrastate services, jurisdictionally interstate services, and nonregulated services;

Whereas as long as dual jurisdictional regulation remains, some means must exist to virtually divide the company into an intrastate component and an interstate component;

Whereas for well over a decade, state commissions and the FCC have agreed that the separations process, used for decades to allocate these network costs between state and federal jurisdictions, must be reformed to allocate and recover those costs in an equitable and reasonable manner, and further agreed that the reforms adopted to recover these network costs must reflect the real-world use of our networks;

Whereas in 2001, the FCC's solution to the increased reliance on the nations' networks to provide emerging services was to impose a short-term "interim freeze" of the allocation factors set to expire in 2006;

Whereas the solution was ordered *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board, Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, Docket No. 80-286, 16 FCC Rcd 11382 (2001)(Freeze Order), which describes the components of the freeze in detail;

Whereas there is a concern that the FCC's perpetuation of an "interim freeze" may be affecting the deployment of broadband in the states by allocating approximately 75 percent of a typical telecommunications' carrier's loop costs and related expenses to the states;

Whereas this "interim freeze" of the "75/25 split" was originally designed for voice services and was supported by states based on the FCC's commitment to "comprehensive, permanent reform" of the jurisdictional separations process expected to occur during the five- year period;

Whereas the FCC has not addressed the need for comprehensive reform of separations in general and the "75/25 split" in particular;

Whereas we are concerned that State members of the Federal State Joint Board proposed solutions to this cost, revenue, and expense misalignment have not been given adequate attention by the FCC;

Whereas Commissioner O'Reilly, commenting in part on state proposals on comprehensive reform, stated in his February concurrence to a related successfully concluded Joint Board referral: "I have come to conclude that the viewpoints are so vastly different on this complex issue that finding commonality is not going to be possible in the near term. I have notified the Chairman of such and recommended that the Commission immediately pursue a longer extension of the current freeze than what has been done in the past";

Whereas Commissioner O'Reilly also suggested a 15-year extension of the 17-year old "interim freeze;"

Whereas a more transparent approach would be for the FCC to extend the "interim freeze" two more years to permit additional comment on the State members' recommendations;

Whereas commenters in Docket 82-86 continue to agree that the "interim freeze" was never intended to be permanent;

Whereas the FCC continues to classify increasing amounts of carrier revenues as interstate, effectively leaving the states stranded with the cost recovery for 75 percent of the network, despite the fact that far more network costs are interstate in nature, and thus, should be recovered through interstate rates;

Whereas this cross-subsidization of interstate services arising from the ongoing misallocation of network costs under this “75/25 split” hurts American consumers by suppressing the deployment of broadband, which, in turn, exacerbates the digital divide in rural and urban areas; *and*

Whereas this misallocation means that the FCC’s estimate of the scope of the cost of deploying a broadband network and the FCC’s support of such deployment is massively understated; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2018 Summer Policy Summit in Scottsdale, Arizona, states that to make informed decisions, the Joint Board must make every effort to gather facts concerning network and accounting trends within the telecommunications industry; *and be it further*

Resolved that even if an extension of the current freeze is necessary, it should not last longer than two years, and any new freeze should be adopted only by administrative rule following a Notice of Proposed Rulemaking, and only after meaningful consultation with the Joint Board, as anticipated by 47 U.S.C. § 410(c) and the Freeze Order; *and be it further*

Resolved that the FCC should consider participating in meaningful Joint Board consideration of the following additional issues:

1. Whether changes in plant, services, technologies, and jurisdictional changes (such as the treatment of Broadband Internet Access Service and core broadband networks) require separations changes, possibly including modifications to the 75-25 fixed factor and usage factors;
2. Whether separations adjustments (and accounts) are needed to record properly, revenues and costs for wholesale services, including reciprocal compensation and unbundled elements;
3. Whether states that exercise Part 64 authority to exclude carrier plant or expenses for non-regulated services should calculate separations factors;
4. Whether new measurement methodologies can provide useful information regarding how separations reform should occur;
5. How new companies that do not have a pre-freeze usage history should separate their costs during the freeze; and
6. Whether the present method of allocating and distributing funds for Joint Board meetings should be changed to be more effective.

*Sponsored by the Committee on Telecommunications.
Adopted by the NARUC Board of Directors on July 18, 2018.*

TC-4 Resolution Opposing Proposed Expansion of the IP CTS Contribution Base

Whereas in 2004, Congress directed the Federal Communications Commission (“FCC”) to regulate Telecommunications Relay Service (“TRS”) by jurisdictional separation of the associated costs, which shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction;

Whereas in 2007, the FCC approved Internet Protocol Captioned Telephone Service (“IP CTS”) as a type of TRS eligible for compensation on an interim basis from the federal TRS Fund through contributions from carriers’ based on annually reported interstate revenues, consistent with the treatment of VRS and IP relay calls;

Whereas from 2011 to 2017, annual IP CTS minutes of use have grown from approximately 29 million minutes to 363 million minutes while most other forms of TRS (TTY-based, TRS, state-based CTS, IP Relay) have either declined in demand or demand is relatively flat;

Whereas the dramatic growth in IP CTS call volume appears to result, in part, from provider practices that promote over-use of IP CTS, including by people with hearing loss who may be able to achieve functionally equivalent telephone service using other forms of technologies;

Whereas on June 8, 2018, the FCC released a “Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking (“NPRM”), and Notice of Inquiry” addressing sustainability of IP CTS wherein the FCC adopted per-minute compensation rates for two years to correlate to actual reasonable costs for the service and prohibits providing service to users who do not need it;

Whereas in the NPRM, the FCC proposes to expand the contribution base to support IP CTS by including a percentage of annual intrastate revenues from telecommunications carriers, including VoIP service providers;

Whereas the FCC suggests that expanding the TRS funding base can be implemented in multiple ways, including a single contributor factor for IP CTS on all interstate and intrastate end-user revenues or an alternative plan that would establish jurisdictional allocation factors between the separate jurisdictions;

Whereas the FCC is seeking comment to update the records on whether States would have an interest in voluntarily administering IP CTS operations and “opt-out” of having intrastate revenues contribute to the federal TRS fund, or if States continue to have concerns with user eligibility, IP CTS growth from misuse, standards of service that should be addressed at the federal level before assuming administrative functions with respect to IP CTS; *and*

Whereas pursuant to 47 U.S.C. § 410(c) the FCC is directed to refer any proceeding regarding jurisdictional separations of common carrier property and expenses between interstate and intrastate operations to the Federal-State Board on Jurisdictional Separations; *now, therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners (“NARUC”) convened at its 2018 Summer Policy Summit in Scottsdale, Arizona, commends the FCC for seeking comments in its June 8, 2018 “Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking and Notice of Inquiry,” FCC 18-79A1, on ways to ensure that IP CTS remains sustainable for

each of our states' vulnerable individuals who rely on these services to communicate effectively in our society; *and be it further*

Resolved that NARUC urges the FCC to continue to cooperate with the states and engage state expertise, skills and experience in the TRS program decisions including, but not limited to, the option for state IP-CTS administration with funding authority; *and be it further*

Resolved that NARUC does not support redirecting more money into the current federal TRS fund at this time through a single combined interstate and intrastate contributions factor for IP-CTS, as these modifications do nothing to minimize the inefficient and/or inappropriate use of the program, and would therefore be premature; *and be it further*

Resolved that NARUC commends the FCC for recognizing and adopting certain rules for providers whose practices promote the overuse of IP CTS when there may be alternative technologies that could be more practical and cost effective for consumers; *and be it further*

Resolved that the FCC continue to refine its rules to further minimize inefficient and/or inappropriate use of the program by adopting additional requirements, including but not limited to, user eligibility assessments that are sufficiently thorough and not biased toward the use of IP CTS technology and standards of service; *and be it further*

Resolved that NARUC supports the FCC in restructuring the IP CTS Provider compensation rate methodology to align with a cost-based rate for IP CTS providers to discourage unethical sales practices; *and be it further*

Resolved that any necessary contributions restructure for IP CTS occur only after measures to minimize inefficient and/or inappropriate use of the program are implemented and appropriate costs are determined; *and be it further*

Resolved that the FCC must engage the Federal-State Board on Jurisdictional Separations in any TRS contributions restructure for IP CTS because the interstate and intrastate costs and minutes are severable, and the current separations rules do not accurately separate costs between the interstate and intrastate jurisdictions.

Sponsored by the Committee on Telecommunications.

Adopted by the NARUC Board of Directors on July 18, 2018.