

RESOLUTIONS
PASSED BY THE
BOARD OF DIRECTORS
AT THE
2018 WINTER POLICY SUMMIT
OF THE
NATIONAL ASSOCIATION OF
REGULATORY UTILITY COMMISSIONERS

(FEBRUARY 14, 2018)

Important Caveat: The descriptions in the Table of Contents are truncated. If you are interested in the topic, you should read the entire resolution.

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

I. Committee on Consumers and the Public Interest (2)

CPI-1 (TC-1) Resolution on Nationwide Number Portability

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Sponsor: Chairman Coleman and Chairman Kane (Feb. 13 2:16 pm vz)

Resolution urges the FCC to carefully consider issues raised in the NANC May 16, 2016 “Report on NNP,” and asks for disclosure for public comment of: (1) costs to consumers to implement NNP; (2) cost recovery options for NNP implementation; and (3) implementation timeline options.

CPI-2 (TC-2) Resolution to Ensure that the Federal Lifeline Program Continues to Provide Service to Low-Income Households

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Sponsor: Chairman Coleman and Chairman Hofmann (Feb. 13 2:16 pm vz)

Resolution urges the FCC “to continue to allow non-facilities based carriers to receive Lifeline funds” and that any budget for the Lifeline program carefully balance: (1) ensuring that qualified households that are current subscribers do not lose their Lifeline benefit; and (2) that there is reasonable and rationale growth in the Lifeline fund and subscribers.

II. Committee on Electricity (2)

EL-1 Resolution Regarding Guiding Principles for Management and Disposal of High-Level Nuclear Waste

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Sponsors: Commissioners Anthony O’Donnell & Bubba McDonald (Jan 10 1:24 pm vz)

Resolution urges Congress to adopt NARUC principles for waste disposal and appropriate the needed funds to complete licensing of a permanent repository and through rigorous oversight assure that DOE and the NRC complete the review of the Yucca Mountain license.

EL-2 (ERE-1) Resolution Urging Collaboration between the National Electrical Safety Code and the National Electrical Code to Address Code Conflicts and Gaps Regarding the Deployment of Distributed Generation Facilities

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Sponsor: Chairman Edward Finley (Feb 8 4:33 pm vz)

Resolution requests that leadership for the Cross-Code Correlating Committee present a status report to the Electricity and ERE Committees at NARUC’s 2018 Summer Meeting, and that the report highlight policy issues that require resolution to harmonize the NESC and the NEC.

III. Committee on Energy Resources and the Environment (2)

ERE-1 (EL-2) Resolution Urging Collaboration between the National Electrical Safety Code and the National Electrical Code to Address Code Conflicts and Gaps Regarding the Deployment of Distributed Generation Facilities

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Sponsor: Chairman Nancy Lange (Feb 8 4:33 pm vz)

Resolution requests that leadership for the Cross-Code Correlating Committee present a status report to the Electricity and ERE Committees at NARUC’s 2018 Summer Meeting and that the report highlight policy issues that require resolution to harmonize the NESC and the NEC.

ERE-2 (WC-1) Resolution Supporting EPA’s WaterSense “Fix-a-Leak Week” in March 2018

Sponsor: Commissioner Nancy Lange (Jan. 10 1:00 pm vz)

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Resolution encourages its members to participate in EPA’s “Fix-a-Leak Week” by using any materials EPA provides and issuing an appropriate press release.

IV. Committee on Telecommunications (2)

TC-1 (CPI-1) Resolution on Nationwide Number Portability

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Sponsor: Chairman Kane and Chairman Coleman (Feb. 13 2:16 pm vz)

Resolution urges the FCC to carefully consider issues raised in the NANC May 16, 2016 “Report on NNP,” and asks for disclosure for public comment of: (1) costs to consumers to implement NNP; (2) cost recovery options for NNP implementation; and (3) implementation timeline options.

TC-2 (CPI-2) Resolution to Ensure that the Federal Lifeline Program Continues to Provide Service to Low-Income Households

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Sponsor: Chairman Hofmann and Chairman Coleman (Feb. 13 2:16 pm vz)

Resolution urges the FCC “to continue to allow non-facilities based carriers to receive Lifeline funds” and that any budget for the Lifeline program carefully balances ensuring that: (1) qualified households that are current subscribers do not lose their Lifeline benefit and (2) there is reasonable and rationale growth in the Lifeline fund and number of subscribers.

V. Committee on Water

WC-1 (ERE-2) Resolution Supporting EPA’s WaterSense “Fix-a-Leak Week” in March 2018

Sponsor: Commissioner Holden (Jan. 10 1:00 pm vz)

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Resolution encourages its members to participate in EPA’s “Fix-a-Leak Week” by using any materials EPA provides and issuing an appropriate press release.

Resolution Regarding Guiding Principles for Management and Disposal of High-Level Nuclear Waste

Whereas members of the National Association of Regulatory Utility Commissioners (“NARUC”) are the State regulatory agencies responsible for the regulation of electric utilities that generate or purchase electric power from nuclear generating plants;

Whereas NARUC’s members have been actively involved in the creation of national policy to permanently dispose of high-level radioactive nuclear waste since before passage of The Nuclear Waste Policy Act of 1982 (“NWPA”);

Whereas the U.S. Department of Energy (“DOE”) has failed to honor its NWPA commitments to, starting in 1998, remove and dispose of radioactive waste currently stored at operating and shutdown reactor sites and federal facilities in 37 States and more than 100 communities;

Whereas the permanently shut down nuclear reactors that exist at 15 sites in 12 States impose costs without equivalent benefits and prohibit economic reuse of the sites;

Whereas the nation’s electric ratepayers have contributed, including interest, over \$40 billion dollars in fees into the Nuclear Waste Fund (“NWF”) to finance waste disposal activities, in addition to paying for storage and security of the utilities’ nuclear waste on-site;

Whereas court decisions and settlement agreements stemming from DOE’s breach of the waste disposal contracts continue to add to the federal liability costing all taxpayers, according to some estimates, an additional \$800 million dollars a year;

Whereas DOE failed to meet the mandate of the NWPA to begin accepting spent nuclear fuel for disposal in 1998, and there is no schedule of when DOE might begin receipt of any spent fuel;

Whereas ratepayers deserve and expect our government to fulfill its obligation now and not at some unknown time in the future;

Whereas it is past time for Congress to appropriate the needed funds to complete licensing of a permanent repository and through rigorous oversight assure that that DOE and the Nuclear Regulatory Commission expeditiously complete review of the Yucca Mountain License;

Whereas the Nuclear Waste Principles adopted by NARUC first in 1994 and revised in 1997, 2000, 2008, and 2013 bear re-examination for continued validity in view of the evolving policy and program activities; *now, therefore be it*

Resolved that the National Association of Regulatory Utility Commissioners, convened at its 2018 Winter Policy Summit in Washington, DC, adopts the following principles to guide NARUC representation with the Administration and Congress:

[1] **America Needs a Permanent Solution to Nuclear Waste Disposal**

- NARUC supports the policy established by Congress in 1982 that the best, long-term solution to isolating nuclear waste from the environment is permanent disposal in a geologic repository.
- Reprocessing of spent fuel is worthy of research, but even if determined to be technically and economically feasible, will not eliminate the need for a permanent repository.
- The Administration and the Nuclear Regulatory Commission (“NRC”) must comply with the 2002 law designating Yucca Mountain as the repository site by completing the licensing process.
- Congress should immediately appropriate adequate funds to complete review of the Yucca Mountain License application.
- Congress should exercise oversight to assure that DOE and the NRC are complying with the NWPA and completing review of the Yucca Mountain License application.
- Congress should exercise oversight to require federal agencies to resume other aspects of the nuclear waste program outlined in the NWPA.
- To maximize the country’s investments and ensure efficient operation, Congress should consider increasing the legal quantity of permissible quantities of spent fuel for the first repository to scientifically supportable levels.

[2] **The Nuclear Waste Fund Must Be Managed Responsibly and Used Only for Its Intended Purposes**

- The NWF must be used only for purposes intended in the NWPA and Congress should not divert the fund to other uses.
- Full access to the corpus of the NWF must be assured to the DOE to permit the agency to achieve repository program goals.
- The DOE, not electric utility ratepayers, must remain accountable for the financial consequences of its failure to begin accepting waste in 1998.
- Under the NWPA, DOE conducts a fee adequacy assessment to show that repository, storage, and benefit expenses of a re-started waste management program can be supported by annual fee revenue, earned interest, and the certainty of the “repayment” of the NWF corpus in full. A NARUC lawsuit suspended this NWF fee in 2014
- Under no conditions should the NWF fee be restarted until the Yucca Mountain License proceeding is complete.
- A new DOE fee adequacy study that demonstrates the need for reinstatement is a necessary pre-requisite for re-starting the NWF fee.
- Any DOE fee assessment must consider if the approximately \$1.5 billion in interest accruing annually on the NWF is adequate to fund projected annual disposal expenditures without reinstatement of a fee.
- The NWF fee should not be reinstated until program expenditures actually exceed annual investment income.
- To avoid misdirecting NWF fees to unrelated government obligations and provide for the gradual return of the corpus of the fund, Congress should mandate that no NWF fees can be collected in a fiscal year that exceed 90 percent of the Congressional appropriations for the fiscal year during which such fees are collected.

[3] Some Consolidated Interim Storage Is Needed; the Amount, Basis of Need and Duration Should be Determined

- Current reactor-site spent fuel storage is safe, but retaining spent fuel indefinitely at working reactor sites was never intended and is both inefficient and unacceptable.
- Continued storage at permanently shutdown plants is unacceptable. It imposes costs on ratepayers without equivalent benefits and prohibits economic reuse of the site. Relocation and consolidation may reduce the government's liability and improve security. The *Blue Ribbon Commission on America's Nuclear Future* ("BRC") report cites a study that suggests the savings from consolidated storage for this stranded spent fuel might be enough to pay for the cost of the storage facility.
- The BRC Report recommendations for consolidated interim storage represent a new use for the NWF that should be authorized only after a careful consideration of the costs and benefits involved.
- Any analysis of the cost and benefits of interim storage should consider transportation costs and proximity to possible or likely permanent disposal sites.
- No interim storage should be allowed unless and until the review of the Yucca Mountain License application is underway.
- DOE must honor its contracts with utilities to remove spent fuel so ratepayers will not be charged indefinitely for both onsite storage and NWF fees.
- Congress should reinforce the requirement for DOE to take physical possession of waste, to forestall arguments the agency can simply "take title" of waste where it is currently stored, leave it there indefinitely, and claim it has met its current contractual obligations.

[4] The Management of Federal Responsibilities for Used Fuel Management Would be More Successful if Assigned to a New Organization with a New Approach to Siting and Better Access to Financing.

- Whether DOE was unable to achieve its NWPA responsibilities due to mismanagement or to factors beyond its control can be debated, but the BRC makes a sound case for creating a new organization, outside of DOE, with sole responsibility to manage nuclear waste. NARUC supports this concept, which would require legislation.
- Since the former waste management organization was disbanded in 2010, a new organization is needed (or the old one must be reconstituted) even if responsibility is retained by DOE.
- The new organization should be charged to engage with States and local governments in a more collaborative manner that can be guided by a negotiated consent agreement among the involved parties, whether for storage or disposal facilities.
- The NWPA already has provisions for use of the Nuclear Waste Fund to provide benefits to affected States and localities as an incentive to host a repository that could be amended if a benefits agreement is negotiated that advances the siting process.
- NARUC should follow up on the BRC recommendation that a public utility commissioner be appointed to an oversight board having responsibility to evaluate the adequacy of the fees.

[5] **NARUC Must Be an Active Stakeholder on Nuclear Waste Management and Disposal**

- NARUC can best represent the ratepayer interests through close communications with the DOE and any other federal agencies involved in the nuclear waste program. DOE once funded the NARUC program office in Washington for this purpose and should do so again.

Sponsored by the Committee on Electricity

Adopted by the NARUC Board of Directors February 14, 2018

Resolution Urging Collaboration Between the National Electrical Safety Code and the National Electrical Code in Order to Address Code Conflicts and Gaps as Regards the Deployment of Distributed Generation Facilities, and Requesting Code Leadership to Update NARUC During its Summer 2018 Committee Meetings

Whereas the National Electrical Safety Code (“NESC”) was first published in 1914 by the National Bureau of Standards, and is today published by the Institute of Electrical and Electronics Engineers through the collaborative efforts of the businesses and industries that it serves;

Whereas the purpose of the NESC is to safeguard people and utility facilities during the installation, operation, and maintenance of electric supply and communication facilities;

Whereas 45 States have adopted the NESC and require their regulated electric and telecommunications companies to follow it;

Whereas staff members and a commissioner from various NARUC commissions serve on NESC committees and assist with on-going efforts to update the NESC, which is revised every five years;

Whereas the National Electrical Code (“NEC”) was first published in 1897, and has been published by the National Fire Protection Association since 1911;

Whereas the purpose of the NEC is the practical safeguarding of people and property from hazards arising from the use of electricity;

Whereas permitting authorities, such as cities and counties, across the United States require that buildings, as well as electricity-producing facilities that are owned by non-utilities, adhere to the NEC;

Whereas permitting authorities are increasingly using the NEC as they inspect and issue permits for emerging electric generation technologies, such as large-scale wind and solar projects, along with large-scale storage and microgrids, when they are owned by entities that are not electric utilities;

Whereas the NEC remains the appropriate code when energy facilities are physically located behind the utility service point;

Whereas the NESC’s Main Committee will review and reconsider current safety requirements for emerging distributed generation technologies during the upcoming code cycle in order to better address emerging new technologies directly interconnected to incumbent distribution or transmission utilities;

Whereas in September of 2016, NEC and NESC leadership jointly authored a white paper entitled *Partners for a Safer Tomorrow*, in which they proposed as a first step to form a “Cross-Code Correlating Committee” to reconcile the two codes and address gaps, overlaps and discrepancies that could threaten the safety of workers, the public, or property, and that could delay distributed generation installations or add unnecessarily to their cost; and

Whereas NARUC commends the Cross-Code Correlating Committee for its work; *now therefore be it*

Resolved that the National Association of Regulatory Utility Commissioners, convened at its 2018 Winter Policy Summit in Washington, DC, requests that leadership for the Cross-Code Correlating Committee present a status report to a joint meeting of the Electricity Committee and the Committee on Energy Resources and the Environment during NARUC's 2018 Summer Meeting, and that this status report highlight the policy issues that require resolution to harmonize the NESC and the NEC to ensure public safety.

Sponsored by the Committee on Electricity and the Committee on Energy Resources and the Environment

Adopted by the NARUC Board of Directors, February 14, 2018

Resolution on Nationwide Number Portability

Whereas in November 2015, the Chief of the Federal Communications Commission’s (“FCC’s”) Wireline Competition Bureau requested that the North American Numbering Council (“NANC”) evaluate the ability of a consumer to retain her or his telephone number when either physically moving or switching to another wireline or wireless service provider anywhere in the United States, which has been referred to as “nationwide number portability” (“NNP”) or “non-geographic number portability” (“NGNP”);

Whereas the Alliance for Telecommunications Industry Solutions (“ATIS”), through its Industry Numbering Committee (“INC”), previously evaluated issues related to the future of telephone numbers, including rate center consolidation and national 10-digit dialing; and in so doing identified various consumer and regulatory considerations that state and federal regulators must address (“Technical Report on Nationwide Number Portability Study”: ATIS-1000071; June 20, 2016);

Whereas the NANC endorsed a “Report on NNP” by the Future of Numbering (“FON”) Working Group (“WG”) to consider proposals related to the future of telephone numbers, including 10-digit dialing in relation to NNP; and on May 16, 2016 the NANC submitted the report to the FCC, which found certain likely impacts in the following areas: Mandated Fees and Surcharges assessed upon Telecommunications Service based upon Physical Address; Mandated State and Local Sales Taxes; Intrastate Tariffed Telecommunications Services; Intrastate Toll Telecommunications Services; Tariffs and Rulemaking; State Coordination & Collaboration; 10-Digit Dialing; Customer Complaints; and Public Safety (911/NG911);

Whereas State public utility commissions have been delegated authority by the FCC to approve and implement the methodology for area code relief, including whether to require 10-digit local dialing, which may be required for NNP;

Whereas on October 26, 2017, the FCC adopted a Notice of Proposed Rulemaking (“NPRM”) and Notice of Inquiry (“NOI”) (Docket Nos.: WC 17-244 and WC 13-97), which invite comment on steps that would lay the groundwork to achieve NNP and seek comment on a variety of issues related to the deployment of NNP, in particular, four models for NNP: (1) nationwide implementation of Location Routing Numbers (“LRNs”); (2) non-geographic LRNs; (3) commercial agreements; and (4) iconectiv’s GR-2982 CORE specification;

Whereas on December 7, 2017 the FCC Wireline Competition Bureau directed the NANC to:

- Determine whether any of the four models discussed in the NOI are preferable to others in terms of feasibility, cost, and adaptability to changing markets and technologies;
- Specify in detail the potential costs, benefits, and barriers to implementing each of these proposals;
- Identify any likely consequences of these proposals for routing, interconnection, or public safety;
- Recommend next steps to advance full nationwide number portability; and
- Make any other recommendations it deems necessary to achieve this goal;

and to approve a written report on its findings and to transmit the report to the FCC Wireline Competition Bureau by April 6, 2018; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2018 Winter Policy Summit in Washington, DC, urges the FCC to carefully consider issues outlined in the North American Numbering Council's May 16, 2016 "Report on NNP," so as to avoid known concerns; and that the FCC disclose for public comment: (1) the costs to consumers to implement NNP; (2) the cost recovery options for NNP implementation; (3) the timeline options for implementing NNP; and (4) the impact of NNP implementation on the IP transition.

Sponsored by the Committee on Consumers and the Public Interest and the Committee on Telecommunications

Adopted by the NARUC Board of Directors February 14, 2018

Resolution to Ensure that the Federal Lifeline Program Continues to Provide Service to Low-Income Households

Whereas on Dec. 1, 2017, the Federal Communications Commission (“FCC”) released a Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking (“NPRM”), and Notice of Inquiry addressing the federal Lifeline program and “Bridging the Digital Divide for Low-Income Consumers;”

Whereas in the NPRM, the FCC tentatively concludes that it “erred in preempting state commissions from their primary responsibility to designate [Eligible Telecommunications Carriers] under section 214(e) of the [Telecommunications] Act [of 1996] and seeks comment on this issue;”

Whereas in the NPRM, the FCC proposes to eliminate the “stand-alone LBP [Lifeline Broadband Provider] designation.”

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 11.3 million households participate in the federal Lifeline program receiving \$9.25 per month from the federal Universal Service Fund;

Whereas the federal Lifeline program is transitioning from an affordable voice subsidy to an affordable broadband subsidy. As of December 2017, the minimum usage amount for mobile broadband is 1 GB and as of December 2018, the minimum usage amount for mobile broadband will be 2 GB;

Whereas since 2009, the FCC, determining that it is in the public interest, has granted forbearance to wireless resellers from “owning their own network” to obtain Eligible Telecommunication Carrier (“ETC”) designation to provide Lifeline service;

Whereas since 2009, many wireless resellers have been approved as ETCs by the FCC and the States providing voice and broadband service;

Whereas the FCC, in the NPRM, seeks comment on the lawful role of States in the Lifeline program. States have been and will continue to be an important player in the Lifeline program where they have approved service providers as “eligible telecommunication carriers” pursuant to 47 CFR 54.201(b) to receive Lifeline funds; partnered with the FCC to prevent “waste, fraud, and abuse”; and used their own State dollars creating state Lifeline programs to supplement the federal Lifeline subsidy;

Whereas the FCC seeks comment on ways states can be encouraged to work cooperatively with the FCC and USAC [Universal Service Administrative Company] to integrate their state databases into the National Verifier without unnecessary delay. States are committed to preventing waste, fraud, and abuse and look forward to partnering with the FCC to launch the National Verifier;

Whereas the FCC seeks comment on discontinuing Lifeline support for non-facilities-based services. Non-facilities-based Lifeline providers make up approximately 74 percent of the Lifeline market with approximately 8.3 million households. By contrast, facilities-based providers are only 26 percent of the market with approximately 2.9 million households and each year their Lifeline customers have decreased;

Whereas by discontinuing Lifeline support for non-facilities-based services, the FCC will disconnect more than 8.3 million low-income households; *and*

Whereas the FCC is seeking comment about a budget for the Lifeline program, examining different mechanisms to determine the “responsible level and to prevent undue burdens on ratepayers.” The FCC proposes an annual cap for Lifeline disbursements and for the “program to automatically make adjustments to maintain the cap in the event the budget is exceeded.” According to 2014/2015 census data, only 33 percent of all eligible households subscribe to Lifeline services; *now therefore be it*

Resolved that the Board of Directors of the National Association of Regulatory Utility Commissioners (“NARUC”), convened at its 2018 Winter Policy Summit in Washington, DC, urges the FCC to continue to cooperate with the States and acknowledge States’ significant role in the Lifeline program; *and be it further*

Resolved that NARUC urges the FCC to approve its tentative decision in the “Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry” (WC Docket Nos. 17-287, 11-42 and 09-197) to: (1) eliminate the stand-alone Lifeline Broadband Provider designation; and (2) reverse its pre-emption of State regulatory authority to designate Eligible Telecommunications Carriers; *and be it further*

Resolved that NARUC urges the FCC to continue to allow non-facilities based carriers to receive Lifeline funds because they have been crucial in ensuring that low-income households are connected to vital telecommunication services; *and be it further*

Resolved that NARUC urges the FCC, in any budget it sets for the Lifeline program that it carefully balance: (1) ensuring that qualified households that are current subscribers do not lose their eligible Lifeline benefit; and (2) that there is reasonable and rational growth in the Lifeline fund to serve subscribers in an amount that does not exceed the current soft budget notification amount.

Sponsored by the Committee on Consumers and the Public Interest and the Committee on Telecommunications

Adopted by the NARUC Board of Directors, February 14, 2018

Resolution Supporting EPA's WaterSense "Fix-a-Leak Week" in March 2018

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 ninth annual water efficiency initiative, "Fix-a-Leak Week," for March 19-25, 2018;

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; *and*

Whereas during each of the 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017 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, convened at its 2018 Winter Policy Summit in Washington, DC, 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 Energy Resources and the Environment and the Committee on Water

Adopted by the NARUC Board of Directors February 14, 2018.