

# **RESOLUTIONS**

**APPROVED BY THE COMMITTEE OF THE WHOLE**

**124<sup>TH</sup> ANNUAL MEETING**

**OF THE**

**NATIONAL ASSOCIATION OF  
REGULATORY UTILITY COMMISSIONERS**

**(UPDATED: NOVEMBER 14TH, 2012)**

## CONTENTS

### **EL-1/ERE-2/GS-1**

#### **Resolution on Expanding the Alternative Fuel Vehicle Market**

*The Hon. Comm. White [EL]/, the Hon Comm. McKinney [ERE]/ the Hon. Comm. Balbis [GS]\**

**Page 3**

*The Resolution urges State and federal regulators to collaborate with other policymakers to remove barriers to AFV deployment, and ensure consistent, fuel-neutral policies to help realize the full economic, environmental and societal benefits of AFVs.*

### **EL-2/ERE-3**

#### **Resolution Supporting the Rapid Deployment of Voltage Optimization Technologies**

*The Hon. Comm. McKinney [EL]\* The Hon. Comm. Fox [ERE]*

**Page 5**

*The Resolution encourages State public service commissions to evaluate the energy efficiency and demand reduction opportunities that can be achieved with the deployment of Volt-Var Optimization (VVO) technologies and other electric utility grid modernization technologies and activities, and use of appropriate measurement and verification tools to ensure that such technologies provide the projected savings and energy efficiency necessary to meet legislative Energy Efficiency Resource Standards (EERS) and/or regulatory expectations.*

### **EL-3/ERE-1/GS-3**

#### **Resolution in Support of the Deployment of Combined Heat and Power**

*The Hon. Comm. Roberto [EL]\*, the Hon. Comm. McKinney [ERE], the Hon. Comm. Snitchler [GS]*

**Page 8**

*The Resolution encourages State public service commissions to evaluate opportunities to combine heat and power, encourage cost effective investment, and provide education on CHP to eliminate potential barriers to deployment.*

### **GS-2 Resolution on NAESB Gas Electric Harmonization Committee Report**

*The Hon. Comm. Simon [GS]\**

**Page 10**

*The Resolution commends NAESB for its consensus approach in unanimously approving the NAESB Gas-Electricity Harmonization Committee's Final Report and encourages members to participate and work with FERC in its FERC proceeding Coordination between Natural Gas and Electricity Markets; and utilize the final report to advance gas electricity harmonization.*

### **TC-1**

#### **Resolution Urging the FCC to take Action to Ensure Fair and Reasonable Telephone Rates from Correctional and Detention Facilities**

*The Hon. Comm. Boyle [TC]\**

**Page 12**

*The Resolution encourages the FCC to take immediate action on the "Wright Petition" by prohibiting unreasonable rates and charges for inmate telephone services and that States*

*should be encouraged to take action within their power to reduce or eliminate excessive inmate telephone service rates.*

**TC-2 Resolution Seeking Joint Board Referrals**

*The Hon. Comm. Mitchell [TC]\**

**Page 14**

*The Resolution proposes that subsequent to the transmission of recommendations from the Universal Service Joint Board on the development of a cost model to be used to determine Connect America Fund Phase II support, and prior to the adoption of any such model, the Board of Directors requests that the FCC refer the proposed model to the Separations Joint Board to determine whether the adoption of the model would effectively result in jurisdictional cost allocation changes and, if so, to provide the recommendations of the Separations Joint Board in accordance with the requirements of Section 410(c) of the Communications Act.*

**TC-3**

**Resolution in Support of Petition by City of Arlington, TX, et al. v. Federal Communications Commission Before the Supreme Court of the United States**

*The Hon. Comm. Kane [TC]\**

**Page 16**

*The Resolution opposes attempts by the FCC to expand jurisdictional authority and to pre-empt the regulatory authority of the State and local governments without clear and specific enabling statutory language.*

***EL-1/ERE-2/GS-1 Resolution on Expanding the Alternative Fuel Vehicle Market***

**WHEREAS**, On July 20, 2011, the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC) adopted a resolution on *Alternative Fuel Vehicle Development and Deployment* recognizing that alternative fuel vehicles (AFVs) can enhance national energy security and reduce emissions, and that continued leadership by State and federal policy makers is needed to ensure the goals of that resolution are fulfilled in today's rapidly evolving AFV market; *and*

**WHEREAS**, Utility companies and third-party providers are considering various business models for entering the AFV service market, including providing charging and fueling infrastructure; *and*

**WHEREAS**, Third-party equipment manufacturers are forging ahead with new technologies to make charging and fueling safe, easy, convenient, and affordable for customers; *and*

**WHEREAS**, There is a growing convergence of energy and transportation policy at the State level, with many State legislatures and governors considering and adopting policies that impact the role and responsibilities of utilities in the AFV market; *and*

**WHEREAS**, Utility companies are preparing for the AFV market by deploying advanced metering technologies and control systems, designing innovative rates and incentives, and assessing transmission and distribution systems, to minimize any potential risk to reliability and to maximize consumer savings; *and*

**WHEREAS**, As AFV penetration increases, a coordinated system to provide utility companies timely notification of AFV purchases and the location of planned public and private charging and fueling infrastructure would facilitate strategic system-wide planning, targeted customer education and outreach and further accelerate the development of the AFV market; *and*

**WHEREAS**, The continued commitment of utility companies to environmental improvements in the production and delivery of alternative fuels, programs and policies will help realize the full economic, environmental, and societal benefits of AFVs; *and*

**WHEREAS**, Local and State governments and State commissions are uniquely positioned to further the development of the AFV market by collaborating with utility companies and other stakeholders on educating consumers on the availability, environmental benefits, and cost-effectiveness of AFVs, as well as the proper installation and efficient use of charging and fueling infrastructure; now, *therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners convened at its 2012 Annual Meeting in Baltimore, Maryland, and urges State and federal regulators to collaborate with other policymakers to remove barriers to AFV deployment, and ensure consistent, fuel-neutral policies to help realize the full economic, environmental and societal benefits of AFVs; *and be it further*

**RESOLVED**, That NARUC supports utility company programs and policies that allow for the continued development of the AFV market, including addressing any potential upgrades to grid and pipeline infrastructure that may be needed to maintain the integrity of the utility system and design of innovative rate programs or incentives to maximize customer savings; *and be it further*

**RESOLVED**, That NARUC believes third-party providers of fueling and charging services that purchase power or fuel from a regulated public utility or other competitive energy supplier to provide to the public should not be considered public utilities and therefore not regulated as such; *and be it further*

**RESOLVED**, That NARUC encourages utility companies to collaborate with federal, State and local policymakers to address potential consumer protection concerns, safety issues and reliability impacts that could arise from fueling and charging services provided by third-parties; *and be it further*

**RESOLVED**, That NARUC supports a competitive AFV marketplace, where utility companies, businesses, governments, and third-party service providers are able to participate in the owning, leasing, operating, or maintenance of charging or fueling equipment; *and be it further*

**RESOLVED**, That NARUC encourages utility companies to work with local governments, State agencies, automakers, and other stakeholders to secure timely notification of AFV purchases and proposed charging or fueling infrastructure installations to facilitate strategic system-wide planning and targeted customer outreach; *and be it further*

**RESOLVED**, That NARUC supports customer education and outreach on the benefits of AFVs, including their availability, environmental benefits, and cost effectiveness, and the proper installation and efficient use of charging or fueling infrastructure, as well as the availability of programs and tariffs that maximize savings from AFV use and protect the integrity of the utility system; *and be it further*

**RESOLVED**, That NARUC encourages State legislatures and governors to consider consistent, fuel-neutral transportation funding solutions and policies that support the growth, adoption and increased environmental performance of AFVs.

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*Sponsored by the Committees on Electricity, the Committee on Energy Resources and the Environment and Committee on Gas*

*Recommended by the NARUC Board of Directors, November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*

*EL-2/ERE-3 Supporting the Rapid Deployment of Voltage Optimization Technologies*

**WHEREAS**, Adequate and reliable electric power is critical; *and*

**WHEREAS**, Each electric utility system is unique and States are in the best position to determine the appropriate activities to be employed in modernizing the distribution of electric power by electric utilities under their jurisdiction; *and*

**WHEREAS**, Some electric utilities, under State legislative guidance and regulatory oversight, have instituted initiatives designed to modernize the electric power grid to make it more efficient, more responsive and more secure; *and*

**WHEREAS**, Volt Var Optimization (VVO) technology deployment can be used as an important component of electric power grid modernization; *and*

**WHEREAS**, VVO technology has been proven through in-field deployments to deliver energy and demand reduction benefits, and these benefits have been independently verified; *and*

**WHEREAS**, These energy efficiency and demand reduction gains from VVO deployment are immediate, predictable, and measureable; *and*

**WHEREAS**, Since the VVO technology is typically installed on the utility side of the meter through an investment by the utility, with the possibility for rate base treatment, VVO benefits typically require no change in the consumer's home or business building structures, equipment purchases or uses, or behavior modification; *and*

**WHEREAS**, VVO technology deployment improves efficient delivery of energy and demand and these improvements are immediately reflected on consumers electric meters and reduce their electric bills; *and*

**WHEREAS**, The benefit-cost analytical results typically demonstrate that VVO technology investment is cost-effective from a ratepayer perspective; *and*

**WHEREAS**, Many States have legislative or regulatory Energy Efficiency Resource Standards (EERS) or regulatory expectations for electric utilities to provide for increasing amounts of energy and demand reductions; *and*

**WHEREAS**, Similar to traditional energy efficiency programs, VVO technology deployment can result in reductions of electric utility revenues, specifically revenues that are relied upon by electric utilities to cover fixed costs of investment and operations; *and*

**WHEREAS**, The impact of lost electric utility revenues can also be mitigated with the development and application of appropriate cost of service and rate designs, identifying the fixed costs of investment and operations which should not be recovered on the basis of customer consumption, but instead recovered through more appropriate means; *and*

**WHEREAS**, The energy efficiency impacts of VVO eliminate air emissions associated with the forgone energy production, and therefore provide an important tool to help States and electric utilities in meeting environmental compliance requirements; *and*

**WHEREAS**, Deployment of VVO technology serves as a platform for potential future grid modernization initiatives that can deliver operational visibility, efficiency, and control of the electric distribution grid, improving reliability and customer service for a relatively small incremental investment; *and*

**WHEREAS**, Investment in VVO can create new employment opportunities related to the manufacturing of equipment and construction jobs associated with deployment, as well as utility-sector jobs associated with the operation of the VVO technology; *and*

**WHEREAS**, VVO technology can be deployed incrementally as determined cost effective and as financial conditions and fiscal prudence allow, *now, therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners (NARUC) convened at its 2012 Annual Meeting in Baltimore, Maryland and encourages State public service commissions to evaluate the energy efficiency and demand reduction opportunities that can be achieved with the deployment of Volt-Var Optimization (VVO) technologies and other electric utility grid modernization technologies and activities, and use of appropriate measurement and verification tools to ensure that such technologies provide the projected savings; *and be it further*

**RESOLVED**, That State evaluation is a preferable course to the establishment of federal standards or guidelines that may not reflect the fact that each utility system is unique and the States are in the best position to determine the appropriate activities to be employed in modernizing the distribution of electric power by electric utilities under their jurisdiction; *and be it further*

**RESOLVED**, That NARUC encourages State public service commissions to work with State legislatures, State energy offices, governors' offices, other State agencies, and Regional Transmission Organization (RTO's)/Independent System Operator(ISO's) as needed, to certify energy efficiency and demand reductions associated with utility grid modernization efforts, including, but not limited to, the deployment of VVO technologies, as qualified resources in meeting legislative or regulatory Energy Efficiency Resource Standards (EERS) and/or regulatory expectations and orders to achieve prescribed levels of energy and demand reductions; *and be it further*

**RESOLVED**, That NARUC encourages State public service commissions to consider appropriate regulatory cost recovery mechanisms as appropriate in their respective States to ensure that electric utilities can reduce the reliance on customers' consumption to recover costs, and so that utilities and customers are not financially burdened as a result of achieving the benefits from the energy and demand reductions while experiencing reduced contributions to costs associated with the energy sales reductions produced by the VVO technology deployment; *and be it further*

**RESOLVED**, That NARUC encourages State public service commissions to avoid implementing policies that result in unnecessary barriers to the deployment of VVO technologies.

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

*Adopted by the Board of Directors, November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*

**EL-3/ERE-1/GS-3 Resolution in Support of the Deployment of Combined Heat and Power**

**WHEREAS**, The industrial sector accounts for over 30 percent of all energy consumed in the United States, and energy costs affect competitiveness in the U.S. industrial sector; *and*

**WHEREAS**, The U.S. Environmental Protection Agency (EPA) Clean Air Act pollution standards (Boiler MACT) for large and small boilers will affect a wide range of industrial facilities and institutions; *and*

**WHEREAS**, The U.S. EPA estimates that the total number of boilers affected by the standards is about 200,000; *and*

**WHEREAS**, While our Nation's manufacturing industry has made progress in energy efficiency, there is an opportunity to accelerate and expand these efforts with investments to reduce energy use through more efficient manufacturing processes and facilities and the expanded use of combined heat and power (CHP); *and*

**WHEREAS**, This investment has the potential to improve the competitiveness of United States manufacturing, lower energy costs, free up future capital for businesses to invest, reduce air pollution, and create jobs; *and*

**WHEREAS**, President Obama issued an Executive Order on August 30, 2012, encouraging accelerated deployment in industrial energy efficiency, formalizing interagency coordination and directing certain executive departments and agencies to convene national and regional stakeholders to identify, develop, and encourage the adoption of investment models and State best practice policies for industrial energy efficiency and CHP and provide technical assistance to States and manufacturers; *and*

**WHEREAS**, On August 30, 2012, the Federal Energy Regulatory Commission's (FERC) Chairman Wellinghoff issued a statement that FERC is using its existing statutory authorities to increase efficiency and facilitate evaluation of innovative solutions to the Nation's energy needs by investors, State legislatures, and State utility regulators; *and*

**WHEREAS**, The U.S. Department of Energy (DOE) is offering technical assistance to the owners of facilities with boilers to make them aware of cost-effective clean energy strategies for compliance; *and*

**WHEREAS**, It is the responsibility of State Commissions to carry out their policies, including, ensuring availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service; *and*

**WHEREAS**, State Commissioners are responsible for energy assurance and energy preparedness including estimating statewide and regional needs for energy which will reasonably balance requirements of State and regional development, protection of public health and safety, preservation of environmental quality, maintenance of a sound economy, and conservation of energy and material resources, *now, therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners (NARUC) convened at its 2012 Annual Meetings in Baltimore, Maryland, and encourages State public service commissions to evaluate opportunities for combined heat and power; *and be it further*,

**RESOLVED**, That NARUC encourages State public service commissions to work with stakeholders and other agencies, as needed, to encourage cost effective investment in CHP opportunities; *and be it further*,

**RESOLVED**, That State public service commissions explore educational opportunities and forums on CHP; *and be it further*,

**RESOLVED**, That State commissions evaluate regulatory mechanisms and consider and identify ways to best deploy cost-effective CHP technologies.

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*Sponsored by the Committee on Electricity, the Committee on Energy, Resources and the Environment, the Committee on Gas, and endorsed by the Task Force on Environmental Regulation and Generation*

*Adopted by the NARUC Board of Directors, November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*

## ***GS-2 Resolution on NAESB Gas-Electric Harmonization Committee Report***

**WHEREAS**, The North American Energy Standards Board (NAESB), composed of more than three hundred corporate members in the energy industry and many more non-member volunteers, who contribute to the drafting and adopting of NAESB standards, serves as an industry forum for the development and promotion of standards that will lead to a seamless marketplace for wholesale and retail natural gas and electricity; *and*

**WHEREAS**, In response to the natural gas-electric market harmonization challenges identified in the National Petroleum Council ("NPC") comprehensive study *Prudent Development: Realizing the Potential of North America's Abundant Natural Gas and Oil Resources*, recommended actions that should be taken by North American Electric Reliability Corporation (NERC), NAESB, Federal Energy Regulatory Commission (FERC), National Association of Regulatory Utility Commissioners (NARUC) and Independent System Operators to continue efforts to harmonize the interaction between the natural gas and electric markets. NAESB established a Gas-Electric Harmonization Committee ("committee") to review issues identified in the NPC study specific to natural gas-electric market harmonization; *and*

**WHEREAS**, The members of the committee were comprised of a broad cross section of natural gas and electric market stakeholders, including State and federal regulators. Additional stakeholders included but were not limited to pipeline operators, generation operators, energy producers, electricity distributors, marketing experts, gas and electric transmission operators, end users, independent system operators and technology experts; *and*

**WHEREAS**, NARUC in conjunction with FERC has conducted two successful panels on Gas-Electric Interdependency and Harmonization in its Winter February 2012 and Summer July 2012 meetings, addressing the market challenges and opportunities of increased gas/electric interdependencies; *and*

**WHEREAS**, NARUC members participated in a series of FERC regional workshops across the United States; *and*

**WHEREAS**, NARUC members may continue to participate in the FERC proceeding docket number AD12-12-000 *Coordination between Natural Gas and Electricity Markets* ("FERC proceeding") to foster greater awareness and cooperative efforts between State and federal regulators on the regional market issues surrounding gas electricity harmonization; *and*

**WHEREAS**, On September 20, 2012, the NAESB Board of Directors met in Houston, Texas and unanimously approved the *Gas-Electric Harmonization Committee Report* and agreed to adopt the report's three recommendations for standards development as provisional items in NAESB's wholesale gas and wholesale electric annual plans: (1) market timelines and coordination of scheduling, (2) flexibility in scheduling, and (3) provision of information, *now therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners, convened at its Annual Meetings in Baltimore, Maryland, and commends NAESB for its consensus approach

in unanimously approving the NAESB Gas-Electricity Harmonization Committee's Final Report; *and be it further*

**RESOLVED**, That NARUC members are encouraged to participate and work with FERC in its FERC proceeding *Coordination Between Natural Gas and Electricity Markets*; *and be it further*

**RESOLVED**, That NARUC members will utilize the final report *Gas Electric Harmonization Committee Report* ( <http://www.naesb.org/pdf4/bd092012a1.pdf> ) to advance its Gas-Electricity Harmonization efforts for its member States and to participate and comment if desired on any ongoing standards process at NAESB and other forums to advance gas electricity harmonization.

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*Sponsored by the Committee on Gas*

*Adopted by the NARUC Board of Directors, November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*

***TC-1 Resolution Urging the FCC to take Action to Ensure Fair and Reasonable Telephone Rates from Correctional and Detention Facilities***

**WHEREAS**, Inmate telephone service contracts are exclusive agreements between detention facilities and telephone companies that provide specialized functionality to enable monitoring of inmate telephone calls; *and*

**WHEREAS**, Although costly specialized equipment and monitoring services are provided, the contracts for inmate telephone systems often include high connection fees and per minute rate charges which are unrelated to the cost of providing the service; *and*

**WHEREAS**, Contracts for inmate telephone systems are often made by the operators of detention or correctional facilities and commonly include commissions paid to the State or local contracting agencies; *and*

**WHEREAS**, The commissions are based on gross revenues of inmate phone calls and could provide an incentive for operators of detention and correctional facilities to contract with telephone service providers that charge higher rates and/or provide higher commissions; *and*

**WHEREAS**, According to a Prison Legal News survey, roughly 85% of State prison systems receive commission payments and the average commission to State and local contracting agencies is 42% of the gross revenues from inmates' phone calls resulting in annual commissions totaling over \$152 million nationwide; *and*

**WHEREAS**, Inmate calling rates vary from State to State, however in many States, the charge for a fifteen minute telephone call from an inmate ranges from \$10 to \$17; *and*

**WHEREAS**, Most inmate calls are made as collect calls. As a result, family members and friends of inmates must bear the burden of above market per minute rates and connection fees; *and*

**WHEREAS**, In 2007, 52% of those in State prisons and 63% of those in federal prisons were parents of minor children according to a Prison Policy Initiative report (*The Price to Call Home: State-Sanctioned Monopolization in the Prison Phone Industry*); *and*

**WHEREAS**, High rates pose a significant barrier to frequent and meaningful communication between inmates and their families, in many cases forcing families to limit the frequency and length of communication with inmates; *and*

**WHEREAS**, Communication with the outside world is critical for inmates' successful re-entry into society so that inmates can secure housing and employment; *and*

**WHEREAS**, Successful reentry is critical to reducing overcrowding and high costs of maintaining prison systems; *and*

**WHEREAS**, A 2012 study by the Vera Institute of Justice (*The Price of Prisons: What Incarceration Costs Taxpayers*), reported the total taxpayer cost of prisons in the United States now exceeds \$39 billion, the average cost of incarceration per inmate per year is \$31,286 and more than four out of every ten prisoners return to custody within three years of release; *and*

**WHEREAS**, Due to the growing costs of prison systems, both Republican and Democratic 2012 Party Platforms explicitly recognized the importance of programs that reduce recidivism; *and*

**WHEREAS**, Maintaining contact with family members and community, specifically through telephone communication, has been consistently shown to reduce recidivism which saves taxpayer dollars (*Examining the Effect of Incarceration and In-Prison Family Contact on Prisoners' Family Relationships*, Journal of Contemporary Criminal Justice); *and*

**WHEREAS**, The Federal Communications Commission (FCC) was asked to resolve the issue of inmate telephone rates that are much higher than rates charged to other customers by imposing price caps on long-distance prison telephone rates in the "Wright Petition" which was filed in 2003; *and*

**WHEREAS**, In 2007, after no final action had been taken by the FCC, the Petitioners submitted an alternative rulemaking petition seeking per-minute rate caps on interstate long-distance services, however, no decision has been made; *and*

**WHEREAS**, Many States have addressed this issue by limiting rates for local calling, commissions, and connection fees; *and*

**WHEREAS**, California, Nebraska, New Mexico, New York, Michigan, Missouri, Rhode Island and South Carolina have banned prison telephone system commissions and, as a result, the cost of prison phone calls in those States have dropped; *and*

**WHEREAS**, A broad coalition of groups and organizations have urged the FCC to address high phone rates in correctional institutions, including the FCC Consumer Advisory Committee and the National Association of State Utility Consumer Advocates; *now, therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners (NARUC), convened at its 2012 Annual Meeting in Baltimore, Maryland, and encourages the FCC to take immediate action on the "Wright Petition" by prohibiting unreasonable interstate rates and charges for inmate telephone services; *and be it further*

**RESOLVED**, That State and federal action should consider policies that could lower prison phone rates as a step to reduce recidivism and thereby lower the taxpayer cost of prisons.

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*Sponsored by the Committee on Telecommunications*

*Adopted by the NARUC Board of Directors, November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*

## ***TC-2 Resolution Seeking Joint Board Referrals***

**WHEREAS**, On November 18, 2011, the Federal Communications Commission (FCC) released the *USF/ICC Transformation Order*, in which it adopted a framework for providing ongoing Universal Service Fund support to areas served by price cap carriers known as “Connect America Phase II,” and specifically stated that it will provide ongoing support to these areas through “a combination of a forward-looking cost model and competitive bidding;”*and*

**WHEREAS**, Section 254(b) of the Communications Act provides that matters regarding the establishment of policies for the preservation and advancement of universal service shall be considered by a Federal-State Joint Board and shall be based on principles set forth in Section 254(b) of the Act; *and*

**WHEREAS**, The determination of federal universal service support on the basis of a forward-looking cost model and competitive bidding will impact the level of the total costs of a carrier incurred to provide both interstate and intrastate services that are allocated to and recovered from the interstate jurisdiction; *and*

**WHEREAS**, The Supreme Court noted in *Louisiana Public Service Commission v. Federal Communications Commission, et al*, that “[t]he Communications Act not only establishes dual State and federal regulation of telephone service; it also recognizes that jurisdictional tensions may arise as a result of the fact that interstate and intrastate service are provided by a single integrated system. Thus, the Act itself establishes a process designed to resolve what is known as “jurisdictional separations” matters, by which process it may be determined what portion of an asset is employed to produce or deliver interstate as opposed to intrastate service. 47 U.S.C. §§ 221(c), 410(c);” *and*

**WHEREAS**, In a public notice dated June 8, 2012, the FCC’s Wireline Competition Bureau sought comments from the public regarding the development of a model to implement Connect America Phase II, and subsequently held a cost model workshop on September 13, 2012, but the FCC and its Staff have not formally sought the input of State regulators or consulted on this matter with the Federal-State Joint Boards; *now, therefore be it*

**RESOLVED**, The National Association of Regulatory Utility Commissioners (NARUC), convened at its 2012 Annual Committee Meetings in Baltimore, Maryland and requests that the FCC refer to the USF Joint Board the consideration of the development of a cost model to determine Connect America Fund Phase II support; *and be it further*

**RESOLVED**, That consistent with Resolution TC-3 adopted by the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2012 Summer Committee Meetings in Portland, Oregon, NARUC urges that the FCC should commit to USF support that is predictable and methodologically sound; *and be it further*

**RESOLVED**, That subsequent to the transmission of recommendations from the Universal Service Joint Board on the development of a cost model to be used to determine Connect America Fund Phase II support, and prior to the adoption of any such model, NARUC requests that the FCC refer the proposed model to the Separations Joint Board to determine whether the adoption of the model would effectively result in jurisdictional cost allocation changes and, if so, to provide the recommendations of the Separations Joint Board in accordance with the requirements of Section 410(c) of the Communications Act.

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*Sponsored by the Committee on Telecommunications*

*Adopted by the NARUC Board of Directors, November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*

***TC-3 Resolution in Support of Petition by City of Arlington, TX, et al. v. Federal Communications Commission Before the Supreme Court of the United States***

**WHEREAS**, On November 18, 2009, the Federal Communications Commission (FCC) issued a *Declaratory Ruling* (WT Docket No. 08-165, 24 FCC Rcd 13994) (Shot Clock Ruling) that established uniform time deadlines for State and local government action on zoning applications regarding the collocation and placement of wireless telecommunications facilities; *and*

**WHEREAS**, On October 5, 2012, the Supreme Court of the United States granted the *Petition for a Writ of Certiorari* (No. 11-1545, consolidated with No. 11-1547) by City of Arlington, Texas; City of Los Angeles, California; City of San Antonio, Texas; County of San Diego, California; and Texas Coalition of Cities for Utility Issues, *Petitioners*, v. United States of America; FCC, *Respondents*, limited to the issue of whether a court should apply *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, (467 U.S. 837, 104 S. Ct. 2778, 81 L. Ed. 2d 694, 21 ERC 1049 (1984) (*Chevron* decision)) to a federal agency's determination of its own jurisdiction; *and*

**WHEREAS**, In the *Chevron* decision the Supreme Court held that: "We have long recognized that considerable weight should be accorded to an executive department's construction of a statutory scheme it is entrusted to administer, and the principle of deference to administrative interpretations 'has been consistently followed by this Court whenever decision as to the meaning or reach of a statute has involved reconciling conflicting policies';" *and*

**WHEREAS**, The federal Circuit Courts are divided over whether the *Chevron* decision should extend beyond a federal agency's interpretation of its administrative policy authority and also apply when a federal agency interprets a statute to determine its own jurisdiction without some clear indication that Congress delegated the agency jurisdiction-defining authority; *and*

**WHEREAS**, Section 332(c)(7) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, provides that: "nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities," except for five expressed limitations, only one of which the statute empowers the FCC to address; *and*

**WHEREAS**, In the Shot Clock Ruling, the FCC ruled that it had authority to establish deadlines for State and local government action irrespective of the preservation clause in § 332(c)(7) because it was generally permitted under §§ 1, 4(i), 201(b) and 303(r) to "prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act"; *and*

**WHEREAS**, The Fifth Circuit Court upheld the FCC's rules, not because it determined that this was the best reading of the jurisdictional statutes, but because the court applied the *Chevron* decision to defer to the FCC's view of its own statutory authority; *and*

**WHEREAS**, Federal courts that defer to a federal agency's determinations of its own jurisdiction create a significant risk that the federal agency will impermissibly expand its authority over State regulatory agencies beyond statutory limits; *and*

**WHEREAS**, The FCC's decision in the Shot Clock Ruling that it has broad and sweeping general authority under the Communications Act to regulate all types of State, local, and private property increases the probability that it will use this determination of jurisdictional authority in the future to preempt State regulatory authority over other matters; *now, therefore be it*

**RESOLVED**, The National Association of Regulatory Utility Commissioners (NARUC), convened at its 2012 Annual Meeting in Baltimore, Maryland, and reaffirms its policy of opposing FCC efforts to expand its jurisdictional authority and to pre-empt the regulatory authority of State and local governments without clear and specific enabling statutory language; *and be it further*

**RESOLVED**, That NARUC supports the position of the Petitioners in the *City of Arlington, Texas, et al. v. FCC* before the Supreme Court of the United States regarding the issue that the lower court should not have applied the *Chevron* decision to defer to the FCC's determination of its jurisdictional authority, as set forth in the Shot Clock Ruling.

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*Sponsored by the Committee on Telecommunications*

*Adopted by the NARUC Board of Directors, November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*

# **Committee Honorary Resolutions**

**Approved**

**By the**

**Committee of the Whole**

**of the**

**NATIONAL ASSOCIATION OF  
REGULATORY UTILITY COMMISSIONERS**

**Wednesday, November 14th, 2012**

## ***CONTENTS***

<b>HON-1 Resolution Honoring Ms. Ambika Dalal</b>	<b>Page 3</b>
<b>HON-2 Resolution Honoring William O. “Bill” Richards</b>	<b>Page 4</b>
<b>HON-3 Resolution Honoring Sharon Gascon</b>	<b>Page 5</b>
<b>HON-4 Resolution Honoring Butch Howard</b>	<b>Page 6</b>
<b>HON-5 Resolution Honoring Bill Edge</b>	<b>Page 8</b>
<b>HON-6 Resolution Honoring William Nugent</b>	<b>Page 9</b>

***Resolution Honoring Ambika Dalal***

**WHEREAS**, Ambika Dalal began her distinguished career in utility regulation first in Maryland Public Service Commission prior to joining the Illinois Public Utilities Commission in 2008 and served as Vice-Chair of the NARUC Staff Subcommittee on International Relations since July 2011; *and*

**WHEREAS**, Ms. Dalal has been an active participant in local, regional, and national regulation for many years; *and*

**WHEREAS**, Ms. Dalal is dedicated to public service and showed her commitment and leadership as the Vice Chair of the Subcommittee on International Relations; *and*

**WHEREAS**, Ms. Dalal was known to volunteer for many subcommittee activities, including coordinating and/or assisting the subcommittee's conference call presentations and for meticulously taking IRC meeting minutes without the help of Pitman Shorthand; *and*

**WHEREAS**, Ms. Dalal was known to have successfully demonstrated and deployed her skills in introducing the speakers, be it in subcommittee conference calls or at the International Relations Committee Meetings, in a crisp refreshing manner and with a sophisticated demeanor: *and*

**WHEREAS**, Her impending departure from utility regulation means the National Association of Regulatory Utility Commissioners (NARUC) Staff Subcommittee on International Relations will lose an important pillar of support; *now, therefore be it*

**RESOLVED**, That the NARUC Board of Directors, convened at its 124<sup>th</sup> Annual Meetings in Baltimore, Maryland, expresses its sincere appreciation to Ambika Dalal for her years of dedicated public service and her leadership role in the Staff Subcommittee on International Relations; *and be it further*

**RESOLVED**, That the Committee on International Relations and all NARUC members convey their best wishes to Ms. Dalal in all of her future endeavors.

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*Sponsored by the Committee on International Relations*

*Adopted by the NARUC Board of Directors November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*

***Resolution Honoring William O. “Bill” Richardson***

**WHEREAS**, The National Association of Regulatory Utility Commissioners (NARUC) honors the exemplary service of William O. “Bill” Richardson, of the Public Service Commission of South Carolina, on the occasion of the completion of his term as Co-Chair of the Staff Subcommittee on Water; *and*

**WHEREAS**, Bill has performed three years of faithful service in this position; *and*

**WHEREAS**, Bill, during his tenure as Co-Chair, has led the NARUC Subcommittee in setting the tone for successful meetings and conferences, drafted numerous resolutions for the Water Committee, served as a member of the Rate School faculty, and always exhibited a steady and supportive hand of leadership and friendship to all; *and*

**WHEREAS**, Bill became an employee of the South Carolina Public Service Commission in January, 1978; and has rendered over 30 years of valued and respected service to the Commission; *and*

**WHEREAS**, Bill has a degree in Electrical Engineering from Clemson University, and was first employed in the South Carolina Commission’s Electric Department; Bill became Chief of the Commission’s Water Department in December 2002; *and*

**WHEREAS**, Prior to his work with the South Carolina Commission, Bill proudly served his country in the United States Navy; *and*

**WHEREAS**, Bill should be recognized for his many years of service to the NARUC Staff Subcommittee on Water and to the South Carolina Commission; *now, therefore, be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners, convened at its 2012 Annual Meeting in Baltimore, Maryland, by this resolution, honors and offers its sincere thanks to William O. “Bill” Richardson for his devotion, commitment, and distinguished service as Co-Chair of the Staff Subcommittee on Water.

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*Sponsored by the Committee on Water*

*Adopted by the Board of Directors, November 13, 2012*

*Adopted by the Committee of the Whole, November 14, 2012*

***Resolution Recognizing the Contributions of Sharon Gascon***

**WHEREAS**, Sharon Gascon is Deputy Executive Director and Senior Director of State Regulatory Programs for the National Association of Water Companies; *and*

**WHEREAS**, After more than 25 years of dedicated and unparalleled service Sharon is retiring from her positions at the National Association of Water Companies; *and*

**WHEREAS**, In representing the private water industry Sharon has been the valuable and critical link between the industry and the regulatory community. Through her dedication she has built a bridge of collaboration and education with Public Service Commissions across the country regarding the challenges facing the water industry; *and*

**WHEREAS**, Sharon has admirably served as the water industry's liaison to the National Association of Regulatory Utility Commissioners (NARUC) Committee on Water and Staff Subcommittee on Water, and is a faculty member for the NARUC Utility Rate School; *and*

**WHEREAS**, Prior to her work with NAWC, Sharon specialized in public health and environmental issues with several Federal agencies and has had a continued involvement with a number of local and national charities. Throughout her career Sharon has been one of the trailblazing women who have modernized the utility industries and today she stands as beacon for many women across all utility sectors; *and*

**WHEREAS**, Sharon Gascon should be recognized for her inimitable brand of dedication, professionalism and remarkable service in the furtherance of the understanding of the pivotal issues of our water industries and our environment; *now, therefore, be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners, convened at its 2012 Annual Meeting in Baltimore, Maryland, by this resolution, recognize and express collective gratitude to Sharon Gascon for her many years of good and faithful service to the National Association of Water Companies and the regulatory community at large. She has provided excellent stewardship of critical information on water issues to leagues of utility regulators and their respective Staff. Through this dedicated service Sharon has had a marked positive impact on a multitude of water and environmental policy issues that will continue to serve America for many years to come.

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*Sponsored by the Committee on Water*

*Adopted by the Board of Directors, November 13, 2012*

*Adopted by the Committee of the Whole, November 14, 2012*

***Resolution Honoring Commissioner John E. “Butch” Howard***

**WHEREAS**, Commissioner John E. Howard has served as Chairman, Vice Chairman, and Commissioner of the Public Service Commission of South Carolina over the past eight years; *and*

**WHEREAS**, Commissioner Howard has recently served as Chairman and Vice Chairman of the National Association of Regulatory Utility Commissioners (NARUC) Water Committee and has been a member of the Committee for the past eight years; *and*

**WHEREAS**, Under his leadership, the Water Committee has addressed a number of important issues related to the quality of regulation and the value of water, including: best regulatory practices, small-system solutions, financial viability, sustainability, ROE and the regulatory compact, US EPA water quality regulations, and customer communication; *and*

**WHEREAS**, Commissioner Howard has shown his dedication to public utility regulation through leadership and commitment to NARUC and the Water Community via membership in relevant associations, including the Southeastern Association of Regulatory Utility Commissioners (SEARUC), Water Research Foundation, Public Council on Drinking Water Research, New Mexico State Center for Public Utilities Advisory Council, and the Department of Homeland Security’s Water Sector Coordinating Council; *and*

**WHEREAS**, Commissioner Howard has accumulated over 30 years’ experience in public service, including in such leadership roles as: Boy Scouts of America – VP of Programs and Recipient of the Silver Beaver Award; Girl Scouts of America – Board Member; Palmetto Touchdown Club – President and Program Chairman; Kiwanis Club of Charleston – President and Past President; Charleston Trident Chamber of Commerce – Chairman of Membership Committee; Charleston Advertising Federation – Board Member; Blessed Sacrament School Board – President; St. Joseph Parish Council – Member; St. Joseph Men’s Club – President; South Carolina Trucking Association – Member; South Carolina Trucking Association Safety Council – Member; and Greater Charleston Printers Association – Member; *and*

**WHEREAS**, Commissioner Howard has directed the NARUC Rate School by way of inspirational leadership and an unparalleled enthusiasm for the students, faculty, and ever-increasing success of the program; *and*

**WHEREAS**, Commissioner Howard has been awarded a Bachelor of Science degree from the University of South Carolina in Business Administration and later had the wise and good sense to marry his wonderful partner, Lady Pat, who has been a stalwart supporter and team player in all of the generous activities of the Howard household, including sharing their devoted Boykin Spaniel, Cocoa – South Carolina’s state dog – and their two pampered felines Howie and Higgins, as well as always cheering for the South Carolina Gamecocks no matter what the score of the game; *now, therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners, convened in its November 2012 Annual Meetings in Baltimore, Maryland, expresses sincere appreciation to Commissioner Howard for his years of dedicated public service and his leadership within NARUC; *and be it further*

**RESOLVED**, That NARUC members convey their best wishes to Commissioner Howard in all of his future endeavors.

*Sponsored by the Committee on Water*  
*Adopted by the NARUC Board of Directors November 13, 2012*  
*Adopted by the NARUC Committee of the Whole, November 14, 2012*

***Resolution Honoring Bill Edge***

**WHEREAS**, Bill Edge is the Public Information Officer at the Georgia Public Service Commission;  
*and*

**WHEREAS**, Bill has been a consistent and valuable member of the NARUC Staff Subcommittee on Consumer Affairs; *and*,

**WHEREAS**, Bill's commitment to NARUC has also been demonstrated by his participation in the Communications and Public Relations Task Force, an informal group of State commission Public Affairs Officers; *and*,

**WHEREAS**, Aside from his service to Georgia and NARUC, Bill is a leader in the U.S. Navy Reserve, rising to the rank of Captain, serving the unit's Public Affairs Office; *and*,

**WHEREAS**, Bill, who has served in the Navy Reserve for 27 years, was recently deployed to Afghanistan for seven months; *and*,

**WHEREAS**, For his entire career, Bill has been a dedicated public servant, serving his country, State, and the nation's utility ratepayers; *and*,

**WHEREAS**, This tour of duty in Afghanistan is not Mr. Edge's first deployment overseas to face imminent danger having served in Iraq for seven months from March to October 2007 and in Bahrain for four months from March to June 2002. *and*,

**WHEREAS**, This deployment is his final assignment in his prestigious tenure in the Navy Reserves;  
*now, therefore be it*

**RESOLVED**, That the NARUC Committee on Consumer Affairs, and its Staff Subcommittee, thank Bill Edge for his selfless service not only to NARUC but to the country; *and be it further*

**RESOLVED**, That the NARUC Community wishes Bill Edge godspeed and a safe return when his deployment ends next year

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*Sponsored by the Committee on Consumer Affairs*

*Adopted by the NARUC Board of Directors, November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*

## ***Resolution Honoring William M. Nugent***

**WHEREAS**, For at least the last twenty-two years, William M. Nugent has remained a significant, persistent, and respected voice at the national and regional levels, using his time and efforts to positively impact public utility policy; *and*

**WHEREAS**, Prior to becoming a Commissioner in 1991, Mr. Nugent prepared for that position through a variety of jobs that also directly served the public interest, including, in reverse chronological order: President of the Greater Portland Chamber of Commerce, Chief Operating Officer of Envirollogic Data, Inc., Commissioner of the Michigan Lottery, Michigan's Deputy Budget Director, an aide to the Governor of Michigan and the Mayor of Detroit, a staff member of a White House Council, a staff assistant in the Office of the Secretary of Defense, a newsman and editor; *and*

**WHEREAS**, During Mr. Nugent's service as a member of the Public Utilities Commission of Maine from October 1991 through June 2003 he gained national stature through both his work in Maine and through extensive involvement in the National Association of Regulatory Utility Commissioners (NARUC), serving an extraordinary 18 month term as NARUC President, along with service on NARUC Committee on Energy Resources and the Environment, NARUC Committee on International Relations, NARUC Executive Committee, and NARUC Board of Directors; *and*

**WHEREAS**, Shortly after leaving the Maine Commission, Mr. Nugent dived back into public service again, this time as the Executive Director for the New England Conference of Public Utility Commissioners (NECPUC); *and*

**WHEREAS**, His work at NECPUC for the last eight years continued at the same intensity and caliber to protect State authority and facilitate coordinated action among NECPUC's members; *and*

**WHEREAS**, Bill Nugent always managed that most difficult of balances, getting things done with everyone involved still respecting (and liking him) after the work was done: *and*

**WHEREAS**, Few can look back over their careers and know they made a difference, but Mr. Nugent is one of the fortunate few; *now, therefore be it*

**RESOLVED**, That the National Association of Regulatory Utility Commissioners, convened in its November 2012 Annual Meetings in Baltimore, Maryland, extends its sincere appreciation and affection to Bill Nugent for his outstanding public service, and conveys to him its best wishes for all his future endeavors.

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*Sponsored by the NARUC Executive Committee*

*Adopted by the NARUC Board of Directors, November 13, 2012*

*Adopted by the NARUC Committee of the Whole, November 14, 2012*