

## SECTION VIII - MISCELLANEOUS

- \* Constitutionality of prohibiting bill inserts on controversial matters - Adopted December 5, 1979 in Atlanta, GA.
- \* Automatic adjustment clauses - Adopted November 14, 1979.
- \* Funding and participation of specialized consumer groups - Adopted November 10, 1980 in Houston, TX.
- \* Need for an energy and utility research center for NASUCA members - Adopted November 10, 1980 in Houston, TX.
- \* Urging Legislators and Regulators to Prohibit Utilities from Passing Advertising Costs on to Ratepayers except for Advertising Which has a Direct and Demonstrated Benefit to Ratepayers, such as Conservation and Safety Advertising -Adopted November 15, 1986 in Sedona, AZ.
- \* Urging State and Federal Regulators to Initiate Utility Rate Reductions in Today's Declining Cost Economic Environment and Thereby Strengthen Control of Public Utility Monopolies in the Public Interest - Adopted November 15, 1986 in Sedona, AZ.
- \* Commending NARUC's establishment of its Committee on Utility Association Oversight and Urging vigorous pursuit of appropriate audit definitions, procedures, and annual audits - Adopted October 20, 1988 by telephone vote pursuant to Article VII, Section 8 of the NASUCA Constitution.
- \* In Opposition to Weakening the Racketeering Influenced and Corrupt Organizations Act (RICO) - Adopted June 16, 1989 in Columbus, OH.
- \* Supporting Repeal of the McCarran-Ferguson Act - Adopted June 16, 1989 in Columbus, OH.
- \* In Support of Congressional Revisions to Assure State Regulatory Authority over Utilities in Bankruptcy - Adopted November 15, 1989 in Boston, Massachusetts.
- \* Urging the Department of Energy to Emphasize True Energy Efficiency in Formulating a National Energy Strategy - Adopted June 15, 1990 in Santa Fe, N.M.
- \* Supporting the Fundamental Rights of Consumers to Be Represented By NASUCA Members In All State And Federal Forums In Matters Relating To Utility Restructuring and Competition - Adopted July 14, 1997 by Faxed Ballot.

(7/23/97)

Miscellaneous, page 2

- \* Endorsing Federal Legislation That Establishes Tax Incentives To Improve The Energy Efficiency Of New Homes - Adopted June 1999 in Baltimore, MD. (1999-01)

(12/20/99)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

CONSTITUTIONALITY OF PROHIBITING BILL  
INSERTS ON CONTROVERSIAL MATTERS

WHEREAS, a number of utilities throughout the United States used inserts in customer bills as a mechanism for the dissemination of the utility's position on controversial matters of public policy; such dissemination of information is commonly referred to as political advertising.

WHEREAS, Consolidated Edison Company of New York, Inc., challenged the constitutionality of the order of the New York State Public Service Commission, dated February 25, 1977, that prohibited New York State utilities from using bill inserts for political advertising.

WHEREAS, Consolidated Edison Company of New York, Inc., legal challenge to the constitutionality of the New York State Public Service Commission order in a case entitled "Consolidated Edison Company of New York vs. Public Service Commission of the State of New York" is pending before the Supreme Court of the United States,, and the decision of the United States Supreme Court will effect the ability of the states to protect utility customers' right to privacy and the public interest.

THEREFORE BE IT RESOLVED THAT NASUCA finds that:

1. Utilities as regulated monopolies do not have the constitutional right to violate their customers' right to privacy by using bill inserts in customer bills to reach a captive audience to promote utilities' positions on controversial matters of public policy,
2. Utilities as regulated monopolies do not have the constitutional right to an exclusive form - bill inserts in customer bills - to promote their positions on controversial matters of public policy. However, if this forum is available under the Constitution to the utilities, it should also be available to anyone with opposing points of view,
3. Utilities as regulated monopolies do not have the constitutional right to impose on their customers the cost of using bill inserts to promote utilities' positions on controversial matters of public policy,

4. It is constitutional for regulatory agencies to limit the amount of political advertising by utilities whether or not the utilities claim such advertising will not be paid for by ratepayers; any expenditures for political advertising by utilities, whether charged as an operating expense, do impose costs on ratepayers.

BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive Committee to file in the Supreme Court of the United States a brief amicus curiae on behalf of NASUCA in the case entitled "Consolidated Edison Company of New York vs. Public Service Commission of the State of New York." The brief on behalf of NASUCA shall be consistent with the terms of this Resolution. The brief may be signed by other entities with interests consistent with those of NASUCA. The Executive Committee may delegate its authority under this provision.

BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive Committee to develop specific positions consistent with the terms of this Resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA

Submitted by:

Atlanta, Georgia  
Place

Harold I. Abramson  
New York State Consumer  
Protection Board

December 5, 1979  
Date

Reported out by Resolutions  
Committee

Date: \_\_\_\_\_

Favorably \_\_\_\_ Not Favorably \_\_\_\_

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\_\_\_\_\_

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NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

AUTOMATIC ADJUSTMENT CLAUSES

WHEREAS, automatic adjustment clauses account for hundreds of millions of dollars of utility rate increases annually, far more than rate increases authorized by regulatory commissions after notice and hearings;

WHEREAS, automatic adjustment clauses eliminate the opportunity for public scrutiny and input as well as effective regulatory scrutiny of utility operating practices and procurement procedures;

WHEREAS, automatic adjustment clauses by design are inflationary and encourage inefficient and uneconomic practices because the automatic adjustment clauses recover inefficient and uneconomic costs just as swiftly and completely as reasonable and prudently incurred costs, and thus excuse utilities' managements from responsibility for such inefficient and uneconomic actions and because the automatic adjustment clauses allow recovery of expenses in areas the utilities control such as the operating efficiency of these plants, fuel inventory management, general operating efficiency of their system and sometimes purchase power agreements;

WHEREAS, Title I, Section 115(e), of the Public Utility Regulatory Policies Act of 1978 requires that automatic adjustment clauses be determined, after evidentiary hearings, not less than every four years by state regulatory authorities, and such clauses must be reviewed not less than every two years to insure the maximum economies in operations and purchases affecting the rates to which such clauses apply;

THEREFORE, be it resolved that the National Association of State Utility Consumer Advocates finds that automatic adjustment clauses inherently encourage uneconomic practices; and in any form are of dubious wisdom necessity, workability, and fairness; and that in determining at least each four years whether a particular utility should be permitted to have or continue to have such an automatic adjustment mechanism, regulatory authorities must fully audit and investigate the utilities' procurement practices for the prior four years on items covered by the automatic adjustment clause, and before authorizing any such automatic adjustment clause make a finding at a minimum, that based upon evidence in the hearing record, that:

- (i) in the case of the utility currently without an automatic adjustment clause over the preceding four years, that the utility's procurement practices have been highly efficient and economical, and that there is no evidence that authorizing an automatic adjustment mechanism will adversely affect the existing level of efficient and economic procurement; and

(ii) in the case of the utility with an automatic adjustment clause over the preceding four years, that the utility's procurement practices have been highly efficient and economical, as measured at a minimum by the prices paid by utilities without automatic adjustment clauses for the same items covered by the automatic adjustment clauses, and by actual review of the contract that there is no evidence that items covered by the automatic adjustment clause could have reasonably been procured more efficiently or economically.

BE IT FURTHER RESOLVED THAT NASUCA finds that if regulatory authorities are going to allow automatic adjustment clauses, in order to minimally comply with the Public Utility Regulatory Policies Act standards referred to above, such automatic adjustment clauses must:

(a) Provide by design for recovery of something less than 100 percent of the cost changes to be covered by such automatic adjustment clause, because automatic adjustment clauses inherently minimize or eliminate, rather than maximize, efficient and economic procurement practices;

(b) provide for the exclusion from the automatic adjustment clause of items supplied by an affiliated supplier unless the regulatory authority is prepared to certify, after complete audit and investigation, and before including such costs in rates, that there is no evidence that such items could be reasonably procured from an unaffiliated supplier more economically or efficiently;

(c) provide, as a condition of authorizing such automatic adjustment clause, that not less than every two years the utilities shall affirmatively demonstrate, by clear and convincing evidence in an evidentiary hearing, that costs incurred were at the minimum possible level, that maximum economies were obtained, that alternatives to incurring the costs were examined and either unavailable or more expensive, and that the costs incurred and automatically passed on to ratepayers were reasonable and prudent in all respects;

(d) provide for reconciliation of the recoverable costs and the amounts recovered at least once each year through field audits and investigations, and if amounts are collected in excess of the recoverable costs, then such amounts must be refunded to the customers who were overcharged such amounts in the amounts overcharged with interest of at least the prime lending rate combined with a six-month suspension of the automatic adjustment clause for the first overcollection, a 12-month suspension of the automatic adjustment clause for the second overcollection, and termination of the automatic adjustment clause for a third overcollection by the utility;

(e) provide for termination of the automatic adjustment clause, after notice and hearing, if a utility is found to have abused the automatic adjustment clause in any manner, including but not limited to, including unauthorized items in the automatic adjustment clause, intentionally overcollecting with the automatic adjustment clause for any reason, failing to promptly notify regulatory authorities of known or anticipated overcollections, overcollecting resulting from utility's presenting to the regulatory authority inaccurate or unreliable data for use in designing or operating the automatic adjustment clause, or otherwise taking advantage of the automatic adjustment clause by overcharging rate-payers when the utility knows or reasonably should have known that the automatic adjustment clause was collecting more than authorized recoveries, or by using the clause to collect inefficient or uneconomical costs caused by such as deferring maintenance, failing to efficiently operate the system, failing to efficiently manage fuel inventories, and failing to negotiate economical power purchases by either spot purchases or contracts.

BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive Committee to develop specific positions consistent with the terms of this Resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Submitted by:

\_\_\_\_\_  
Place

\_\_\_\_\_  
Roderick Coy  
Department of Attorney General  
Michigan

\_\_\_\_\_  
Date

Reported out by Resolutions Committee

Date: November 14, 1979

Favorably x Not Favorably \_\_\_\_\_

Harold Abramson - New York (CPB)  
Chairperson

Roderick Coy - Michigan

Brian Lederer - Washington, D.C.

Charles Rogers - Oklahoma



1980

80

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES  
RESOLUTION

Funding and Participation of Specialized Consumer Groups

WHEREAS, the National Association of State Utility Consumer Advocates (NASUCA) is an association of state agencies that represents utility consumer interests in local, state and federal regulatory, legislative and judicial proceedings. The purpose of NASUCA is to improve communications among its members, to enhance their impact on public policy at the state and federal levels and to otherwise assist its members in the representation of utility consumer interests,

WHEREAS, the members of NASUCA represent the general class of utility customers, usually residential customers and in some instances residential and small business customers or all classes of customers,

WHEREAS, the broad consumer interests represented by the members of NASUCA should not preempt the particular priorities and adjustments advocated by specific consumer interests represented by specialized consumer groups.

THEREFORE BE IT RESOLVED THAT NASUCA supports the funding and active participation of specialized consumer groups in local, state and federal utility regulatory, legislative, and judicial proceedings in order to encourage that all viewpoints be adequately represented in these proceedings,

THEREFORE BE IT RESOLVED THAT NASUCA supports the funding and active participation in utility proceedings of such specialized consumer groups as the National Consumer Law Center, organizations funded by the Legal Services Corporation and the Community Services Administration to represent low-income consumers, and organizations and individuals representing the elderly, the handicapped, environmental concerns and other such specialized consumer interests.

BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive Committee to develop specific positions consistent with the terms of this Resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Submitted by:

Houston, Texas

Place

Harold I Abramson  
New York State  
Consumer Protection Board

November 10, 1980

Date

Reported out by Resolutions Committee

Date: \_\_\_\_\_

Favorably \_\_\_\_\_ Not Favorably \_\_\_\_\_

\_\_\_\_\_  
Chairperson  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NATIONAL ASSOCIATION  
OF  
STATE UTILITY CONSUMER ADVOCATES  
RESOLUTION  
ON THE NEED FOR AN ENERGY AND UTILITY  
RESEARCH CENTER FOR NASUCA MEMBERS

Whereas, NASUCA members require expert research assistance in performing their public advocacy functions. Whereas such assistance could be provided effectively by a university affiliated research center.

Be it resolved that NASUCA investigate whether and, if so, how it should fund a center for performing research on energy and utility issues of interest to the NASUCA membership.

Be it further resolved that NASUCA authorizes its Executive Committee to develop a position consistent with the terms of this resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Houston, Texas  
Place

November 10, 1980  
Date

Submitted by:

NEAL RAUCH  
Energy & Utility Section  
N.Y.S. Department of Law  
2 World Trade Center  
New York, New York 10047  
(21) 488-7592

Reported out by Resolutions Committee

Date:

Favorably \_\_\_\_\_ Not Favorably \_\_\_\_\_

\_\_\_\_\_  
Committee Member

\_\_\_\_\_  
Committee Member

1986-10

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Urging Legislators and Regulators to Prohibit  
Utilities from Passing Advertising Costs on to  
Ratepayers Except for Advertising Which has a  
Direct and Demonstrated Benefit to Ratepayers,  
Such as Conservation and Safety Advertising

WHEREAS, monopoly utilities have only a limited justification  
for advertising funded by utility rates;

WHEREAS, "puffery" advertising has the significant potential to  
enhance the corporate image of the utility, to distract  
public attention from legitimate needs for rate reform  
and to increase the utility's political credibility and  
corporate positioning;

THEREFORE BE IT RESOLVED, that the National Association of State  
Utility Consumer Advocates (NASUCA) urges legislators  
and regulators to prohibit utilities from passing  
advertising costs onto ratepayers except for  
advertising which has a direct, demonstrated benefit to  
ratepayers, such as conservation and safety advertising

Approved by NASUCA:

Sedona, Arizona  
Place

November 15, 1986  
Date

Submitted by:  
Citizens' Utility Board, Inc.

16 N. Carroll Street  
Suite 300  
Madison, WI 53703  
(608) 251-3322

Reported out by Resolutions  
Committee Substitute

Date: November 10, 1986

Favorable X Not Favorable     

Deppish Kirkland  
COMMITTEE MEMBER

William A. Spratley  
COMMITTEE MEMBER

Daniel Clearfield  
COMMITTEE MEMBER

1986-12

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Urging state and federal regulators to initiate utility rate reductions in today's declining cost economic environment and thereby strengthen control of public utility monopolies in the public interest.

WHEREAS, state and federal regulators have the obligation to serve the public by reducing public utility rates in today's economic environment of falling cost of money, lower fuel costs, and substantially lower federal income taxes;

WHEREAS, effective state public utility regulation is a two-way street that should lead to utility rate reductions, not merely "freezing" rates or declaring "rate moratoriums" or "rate stability" plans when rate reductions are clearly required;

WHEREAS, a state's abdication of thorough ratemaking responsibilities in favor of automatic, small percentage increases is a roadblock to potential utility rate reductions in today's economic environment;

WHEREAS, any failure of government regulators to effectively regulate public utilities by initiating utility rate reductions will reduce public confidence in regulation;

THEREFORE BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) urges state and federal regulatory agencies to initiate utility rate reductions in today's declining cost economic environment and thereby strengthen control of public utility monopolies in the public interest.

RESOLUTION

(Urging state and federal regulators to initiate utility rate reductions in today's declining cost economic environment and thereby strengthen control of public utility monopolies in the public interest.)

PAGE TWO

Approved by NASUCA:

Sedona, Arizona  
Place

November 15, 1986  
Date

Submitted by:  
Ohio Consumers' Counsel

William A. Spratley  
137 East State Street  
Columbus, Ohio 43215  
(614) 466-8574

Submitted pursuant to the  
Provisions of Article VII,  
Section 5 of the NASUCA  
Constitution

Date: November 15, 1986

## NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

## RESOLUTION

Commending NARUC's establishment of its Committee on Utility Association Oversight and urging vigorous pursuit of appropriate audit definitions, procedures, and annual audits.

- WHEREAS, NARUC, through its Executive Committee, has established through the attached resolution a Committee on Utility Association Oversight and charged it with the responsibility of developing appropriate audit definitions and procedures for Edison Electric Institute (EEI), American Gas Association (AGA), and United States Telephone Association (USTA).
- WHEREAS, annual audit procedures are being implemented for the first time for the year 1987 for all three associations;
- WHEREAS, NASUCA has served as an Observer to the Committee and has actively participated in the development of the audit definitions and procedures;
- WHEREAS, NASUCA recognizes that millions of dollars of dues to these associations are paid annually by ratepayers, which its members represent, through utility payments.
- WHEREAS, although NASUCA recognizes that the NARUC audits provide useful information to regulators and the public, NASUCA also recognizes:  
(1) the "Information Dissemination" definition, among others, for EEI needs clarification in light of the fact that over 60% of its dues are booked in that category and (2) the classification of various types of AGA advertising expenses needs refinement in light of the fact that many of the AGA ads promote the sale of gas and gas appliances but many of the expenditures for these ads are not booked as promotional advertising expenses;
- WHEREAS, NASUCA is aware of attempts being made to dilute the effectiveness of the Committee's efforts to develop appropriate annual audit definitions and procedures at a critical time in their development;
- WHEREAS, NASUCA believes the benefits of appropriately developed NARUC audits conducted annually far outweigh the costs of such audits;

NOW THEREFORE, BE IT RESOLVED, that NASUCA commends NARUC for establishing the Committee and for allowing NASUCA to participate fully in the Committee's deliberations;

BE IT FURTHER RESOLVED, that NASUCA strongly urges NARUC and Committee members, in particular, to continue to pursue vigorously the development and implementation of clear and appropriate audit definitions and procedures, as well as annual NARUC audits.

BE IT FURTHER RESOLVED, that NASUCA authorizes its Executive Committee to develop specific positions consistent with the terms of this Resolution, such as recommending expansion of the associations to be audited and onsite visits to each association being audited. The Executive Committee shall advise the membership of any proposed action prior to taking.

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to members of the NARUC Executive Committee and the Committee on Utility Association Oversight.

Approved by NASUCA:

By Telephone vote pursuant  
to Art. VII §8 of Const.

October 20, 1988  
Date

Submitted by:

Electric Committee

Reported out by Electric  
Committee

Date: October 10, 1988

Favorably X  
Not Favorably \_\_\_\_\_

Committee Members:

Raymon Lark - S. Carolina  
James Meehan - Connecticut  
Bill Hermann - Illinois  
Stephen Ward - Maine  
Ted Bohlen - Massachusetts  
Alan Barak/Ed Petrini - Michigan  
Glenn Watts - Mississippi  
Chuck Adams - Washington  
Sonny Popowsky - Pennsylvania



THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

In Opposition To Weakening The Racketeering  
Influenced and Corrupt Organizations Act (RICO)

- WHEREAS, RICO's existence acts as a deterrent against utility  
illegality, mismanagement, and irresponsibility, and;
- WHEREAS, monopoly utilities have the opportunity to engage  
outside the competitive spotlight in activities that can  
illegally deprive customers of millions of dollars, and;
- WHEREAS, many regulatory agencies lack the resources and/or the  
will to hold monopoly utilities accountable, and;
- WHEREAS, there is increasing corporate pressure on Congress to  
enact restrictive amendments to RICO, including  
elimination of the civil provision;

THEREFORE BE IT RESOLVED THAT THE NATIONAL ASSOCIATION OF STATE  
UTILITY CONSUMER ADVOCATES supports RICO and opposes all  
weakening amendments;

BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive  
Committee to develop specific positions consistent with  
the terms of this Resolution on legislation,  
regulations, or any other type of proposal that concerns  
the subject matter of this Resolution. The Executive  
Committee shall advise the membership of any proposed  
action prior to taking such action, if possible. In any  
event, the Executive committee shall notify the  
membership of any action under this provision.

Approved by NASUCA:

Columbus, Ohio  
Place

June 16, 1989  
Date

Submitted By:

Kathleen O'Reilly  
Citizen's Utility Board  
Wisconsin

THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Supporting Repeal of the McCarran-Ferguson Act

- WHEREAS, utilities spend millions of ratepayer dollars on premiums for insurance that cover such risks as automobile, casualty, directors' and officers' excess liability, fire, and property liability, and;
- WHEREAS, utilities have in recent years established utility-owned insurance mutual associations, which fall beyond the purview of significant state regulation, and;
- WHEREAS, since 1945, by virtue of the McCarran-Ferguson Act, the insurance industry is exempt from federal anti-trust laws, including prohibitions against price-fixing, monopolization, market division, tying arrangements, and other anti-competitive activities, and;
- WHEREAS, the McCarran-Ferguson Act delegates all regulation of the insurance industry to the states, including the discretion to exempt insurers from states' own anti-trust laws, and;
- WHEREAS, most states have adopted such laws, exempting the insurance industry from anti-trust enforcement, with the result that insurance companies throughout most of the nation are permitted to collectively fix prices and engage in other activities that are illegal in other industries, and;
- WHEREAS, such immunity generally keeps rates artificially high, impedes competition, and is not vital to the insurance industry, and;
- WHEREAS, the monopoly nature of utilities does not provide an incentive for them to challenge the effects of anti-competitive insurance activities,;
- THEREFORE BE IT RESOLVED THAT the National Association of State Utility Consumer Advocates supports repeal of the McCarran-Ferguson Act and repeal of state antitrust exemptions, and;

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BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive Committee to develop specific positions consistent with the terms of this Resolution on legislation, regulation, or any other type of proposal that concerns the subject matter of this Resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action under this provision.

Approved by NASUCA:

Columbus, Ohio  
Place

June 16, 1989  
Date

Submitted By:

Kathleen O'Reilly  
Citizen's Utility Board  
Wisconsin

THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES  
RESOLUTION

In Support of Congressional Revisions to Assure  
State Regulatory Authority Over Utilities In Bankruptcy

- WHEREAS, The regulation of the rates, charges and corporate structure of public utilities is a legitimate function of the police powers of the individual states; and
- WHEREAS, State utility commissions have been delegated that responsibility by their respective state constitutions and/or legislatures; and
- WHEREAS, State utility consumer advocates have been charged by law with the duty of representing the interests of utility customers before the state commissions;
- WHEREAS, Federal bankruptcy courts are responsible for protecting the interests of a debtor and its creditors, and are incapable of properly considering the interests of a utility's customers, or performing a state commission's traditional public interest analysis associated with rate making and other regulatory functions; and
- WHEREAS, It is clearly not in the public interest for state regulatory jurisdiction to be supplanted by federal bankruptcy jurisdiction, and for consumer advocates to be shut out of the bankrupt utility's reorganization process; and
- WHEREAS, The Congress is currently considering two bills (S. 46 and H.R. 681) proposing to amend the Federal Bankruptcy Code to require state regulatory approval before a bankruptcy court may approve any plan of adjustment or reorganization with respect to an electric utility or take any other action that would terminate or restrict existing jurisdiction of state regulatory authority; and
- WHEREAS, Passage of the legislation will assure that state commissions may exercise prior approval authority before a bankruptcy court may confirm any plan of adjustment or reorganization for an electric utility, and that state utility consumer advocates will play a role in the consideration of those plans.

THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates (NASUCA) supports amendments the Federal Bankruptcy Code that preserve the authority of state utility commissions to consider and act upon the interests of ratepayers in the event of utility bankruptcies, such as embodied in S. 46 and H.R. 681; and

BE IT FURTHER RESOLVED, that NASUCA authorizes the Executive Committee to develop positions and take further actions consistent with the contents of this resolution. The Executive Committee shall inform the membership of any proposed actions, prior to taking the action, if possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Submitted By:

November 15, 1989  
Date

RUCO, Phoenix, Arizona

Boston, MA  
Place

Pursuant To:  
Article VII, Section 6 of the  
NASUCA Constitution

1997-07

**NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

**RESOLUTION**

**Supporting the Fundamental Rights Of Consumers  
To Be Represented By NASUCA Members In All  
State And Federal Forums In Matters Relating To  
Utility Restructuring And Competition**

- WHEREAS, one of the essential purposes of NASUCA is to assist its members in the representation of utility consumer interests at the state and federal levels; and
- WHEREAS, administrative, legislative, and judicial proceedings are ongoing that will dramatically alter the manner in which consumers receive utility service in the future; and
- WHEREAS, the authority of NASUCA members to represent the interests of consumers has been called into question in certain proceedings under the Telecommunications Act of 1996 as well as a federal court challenge to a state electric restructuring proceeding; and
- WHEREAS, the consumer interests in these critical matters involving utility restructuring and competition must be given the specific representation provided by NASUCA members.
- THEREFORE, BE IT RESOLVED THAT NASUCA supports the efforts of its members to represent the interests of consumers in all state and federal forums in matters involving utility restructuring and competition; and
- BE IT FURTHER RESOLVED THAT NASUCA shall take such actions as are appropriate, including but not limited to the filing of amicus briefs in support of the ability of NASUCA members to participate in utility proceedings, in order to protect the interests of utility consumers; and

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BE IT FURTHER RESOLVED THAT NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking action if possible. In any event the Executive Committee shall notify the membership of any action pursuant to this resolution.

Approved by NASUCA:

By Faxed Ballot \_\_\_\_\_  
Place

July 14, 1997 \_\_\_\_\_  
Date

Submitted by:

NASUCA Executive Committee

Irwin A. Popowsky (PA), President  
Frederick J. Schmidt (NV)  
Stephen G. Ward (ME)  
Billy Jack Gregg (WV)  
Martha S. Hogerty (MO)  
Robert F. Manifold (WA)  
Elizabeth A. Noël (DC)  
Jack Shreve (FL)  
Patricia A. Stowell (DE)  
Robert S. Tongren (OH)  
Michael J. Travieso (MD)