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## SECTION V - TAX & ACCOUNTING

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- \* Special Tax Provisions - Adopted December 5, 1979 at Atlanta, GA.
- \* Supporting Congressional Action Which Would Allow States and the Federal Regulatory Commission more Flexibility in Flowing Through Tax Benefits to Customers and Creating Incentives for Least Cost System Planning - Adopted November 28, 1984 in Los Angeles, CA.
- \* Urging Congress to Enact Laws Permitting State Commissions and the Federal Energy Regulatory Commission Greater Flexibility in Flowing Through Tax Benefits to Ratepayers - Adopted November 18, 1985 in New York, N.Y.
- \* Calling for Utility Rate Reductions to Reflect the Effects of the Tax Reform Act of 1986 - Adopted November 15, 1986 in Sedona, AZ.
- \* Calling Upon Congress to Repeal Provisions in the Tax Reform Act of 1986 which Prohibit the Return to Ratepayers of Excess Deferred Taxes at a Rate Faster than the Average Remaining Service Life of the Property - Adopted November 15, 1986 in Sedona, AZ.
- \* Regarding the Taxable Status of Customer Advances Necessary to Initiate Service for Water Consumers - Adopted June 18, 1987 in Washington, D.C.
- \* Urging Congress to Pass H.R. 1049, a Bill Permitting State Utility Commissions Flexibility in Flowing Through Tax Benefits to Ratepayers - Adopted June 18, 1987 in Washington, D.C.
- \* Regarding the Taxable Status of Contributions in Aid to Construction Necessary to Initiate Service for Water Consumers - Adopted November 13, 1987 in New Orleans, LA.
- \* Opposing the Provision of H.R. 3545 Which Limits the Ability of Local Governments to use Tax-exempt Bonds for Acquisition of Electric and Gas Utility Facilities Held by Investor Owner Utilities - Adopted November 14, 1987 in New Orleans, LA.
- \* Urging that State Utility Consumer Advocates be given standing in proceedings involving Revenue Procedure 88-6 which requires that a utility request for an Internal Revenue Service ruling on normalization must be reviewed by the Regulatory authority - Adopted October 31, 1988 in San Francisco, CA.

- \* Reaffirming the position of the NASUCA in relation to legislation which would permit State Utility Commissions flexibility in flowing through Tax Benefits to Ratepayers - Adopted November 1, 1988 in San Francisco, CA.
- \* Reaffirming the position of the NASUCA in relation to the Taxable Status of Contributions in Aid to Construction necessary to initiate service for Water Customers - Adopted November 1, 1988 in San Francisco, CA.
- \* Urging Congress to pass legislation affirming state authority related to excess deferred taxes - Adopted June 16, 1989 in Columbus, OH.
- \* Urging Congress to Direct Treasury to adhere to the scope of normalization accounting as intended by Congress - Adopted June 16, 1989 in Columbus, OH.
- \* Establishing authority for the Executive Committee to act on behalf of NASUCA in accordance with previously adopted tax resolutions - Adopted June 16, 1989 in Columbus, OH.
- \* In Support of Legislation Specifically Affirming State Authority Related to Excess Deferred Taxes - Adopted November 14, 1989 in Boston, Massachusetts.
- \* Requesting the Internal Revenue Service to Find That Conservation and Load Management Expenses Can Be Expensed for Tax Purposes in the Year Incurred Although They are Deferred for Ratemaking Purposes - Adopted November 13, 1990 in Orlando, FL.
- \* Urging State and Federal Utility Regulatory Commissions to Reject for Ratemaking Purposes the Accounting Changes Required by Statement of Financial Standards (SFAS) No. 106 - Adopted November 18, 1992 in Los Angeles, California.  
(1992-17)

(12/7/92)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

SPECIAL TAX PROVISIONS

WHEREAS, special tax provisions in the Internal Revenue Service Code, Sections 46f and 167 l&m (investment tax credit, accelerated depreciation, depreciation class lives, accelerated depreciation repair allowance, and the like) are designed generally to promote capital formation by reducing current income taxes;

WHEREAS, company books, including those of utilities, show higher taxes than those actually paid by recording current taxes as if those special income tax provisions did not exist;

WHEREAS, electric, gas and telephone utilities seek to recover in their rates as a current income tax expense the totality of taxes on their books, including those they did not pay and which is called income tax "normalization;"

WHEREAS, nationally these additional utility tax collections amount to over a billion dollars in mandatory interest-free loans by the ratepayers, and therefore have substantial community economic impact;

WHEREAS, utilities force this ratemaking result primarily by contending the IRS Code provisions above and IRS regulations condition utility tax preference eligibility on ratemaking treatment;

WHEREAS, such mandatory tax eligibility-ratemaking linkage produces the following results:

- capital formation without regard to need;
- higher rates whether or not they are "just and reasonable;"
- uncertainty in federal tax administration;
- preemption of state ratemaking authority;
- conflict between federal tax polity (promoting possibly inflationary utility rates) and federal anti-inflationary policy;

BE IT HEREBY RESOLVED that eligibility by utilities for special federal tax provisions to promote capital formation be detached and independent of regulatory treatment, that state utility regulatory agencies be able to determine ratemaking treatment of federal income taxes based on actual needs of utilities and the proper equitable balancing of ratepayer-investor interests in setting just and reasonable rates, and that federal tax legislation be passed to that effect.

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:

Atlanta, Georgia  
Place

December 5, 1979

Submitted by:

Brian Lederer  
People's Counsel of  
The District of Columbia

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, DC

Charles Rogers - Oklahoma

**NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

**RESOLUTION**

Supporting Congressional action which would allow states and the Federal Regulatory Commission more flexibility in flowing through tax benefits to customers and creating incentives for least cost system planning.

**WHEREAS,** tax normalization is a method of accounting used by utility companies to take advantage of federal tax breaks;

**WHEREAS,** if a company is permitted to normalize taxes it can charge customers for more taxes than it actually pays;

**WHEREAS,** since the federal tax breaks began in 1954, the nation's power companies have collected \$29.4 billion from consumers in unpaid taxes; adding telephone and natural gas companies increases the total to \$66 billion;

**WHEREAS,** this tax incentive has contributed to overbuilding and to the industry's problem of excess generating capacity and in addition it discourages energy conservation and development of alternative energy sources;

**WHEREAS,** many abandoned utility construction projects might never have been started without the funding supplied by phantom taxes;

**WHEREAS,** the Revenue Act of 1981 partially revoked the discretion of state commissions by mandating deferral of certain tax benefits;

**WHEREAS,** the Environmental Action Foundation reports that tax overcharges would continue to rise \$5-6 billion a year unless state utility commissions are given full control over federal income tax expenses;

**RESOLUTION**

(Supporting Congressional action which would allow states and the Federal Regulatory Commission more flexibility in flowing through tax benefits to customers and creating incentives for least cost system planning)

PAGE TWO

THEREFORE BE IT RESOLVED THAT the National Association of State Utility Consumer Advocates supports action which gives the state commissions the authority to determine rate-making treatment of the investment tax credit and depreciation expenses for utilities under their jurisdiction whenever a least cost plan has been approved for those utilities. Thus, any utility commission which adopts a least cost energy plan or plans could eliminate "phantom tax" charges for any utility covered by such a plan; and,

BE IT FURTHER RESOLVED THAT the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the resolution on a legislative bill, regulation, or any other type of proposal that concerns the subject matter of this Resolution including the preparation of a policy paper reflecting NASUCA's position which shall be filed with the United States Congress. The Executive Committee shall advise the membership of any other 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:

Los Angeles, CA  
Place

Resolutions Committee  
Name  
Address  
Phone

11-28-84  
Date

Reported out by Resolution  
Committee  
Date: November 13, 1984

Favorable ☒ Not Favorable ☐

**RESOLUTION**

(Supporting Congressional action which would allow states and the Federal Regulatory Commission more flexibility in flowing through tax benefits to customers and creating incentives for least cost system planning)

**PAGE THREE**

William A. Spratley  
**COMMITTEE MEMBER**

Denise Goulet  
**COMMITTEE MEMBER**

Deppish Kirkland  
**COMMITTEE MEMBER**

## NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

## RESOLUTION

Urging Congress to enact laws permitting state commissions and the Federal Energy Regulatory Commission greater flexibility in flowing through tax benefits to ratepayers.

- WHEREAS, tax normalization is a method of accounting used by public utilities to take advantage of tax saving measures associated with accelerated depreciation and investment credits;
- WHEREAS, the opportunity for public utilities to normalize rather than flow-through tax benefits was enhanced by the Economic Recovery Tax Act of 1981;
- WHEREAS, the option of normalization allows public utilities to charge its customers for more taxes than it actually pays;
- WHEREAS, deferring tax benefits has created a gigantic pool of no-interest cost funds for public utilities;
- WHEREAS, the Revenue Act of 1981 revoked, in part, state commission discretion in this regard by mandating deferral of certain tax benefits;
- WHEREAS, the federal government is, in effect, encouraging utilities to build large, new centralized generating facilities by offering tax breaks and accounting treatments which make building new plants financially attractive, even when additional capacity is not needed;
- WHEREAS, the President's Tax Proposals to the Congress for Fairness, Growth, and Simplicity introduced in May 1985, will reduce the corporate tax rate from 46 percent to 33 percent resulting in a significant excess accrual in the utilities deferred tax accounts;
- WHEREAS, under the President's proposal these deferred balances would now be reduced at the 33 percent rate with the result being that the utilities can retain the deferred taxes for a longer period of time, and absent some form of special treatment, could keep the accrued deferred taxes indefinitely;



RESOLUTION (1985-B)  
PAGE TWO

- WHEREAS, though the President's proposal provides that 40 percent of the excess depreciation taken between January 1, 1980 and July 1, 1986 will be included in income over a three year period, the proposal is silent concerning the remaining 60 percent of deferred taxes for the same period, and with respect to taxes deferred prior to January 1, 1980;
- WHEREAS, the President's tax proposal would abolish the accelerated cost recovery system (ACRS), and replace it with the capital cost recovery system (CCRS);
- WHEREAS, CCRS would allow cost recovery of the real or inflation adjusted cost of depreciable assets rather than original cost;
- WHEREAS, CCRS would assign property to new economic depreciation, the result being that property now written off over a fifteen year period would be written off over ten years;
- WHEREAS, normalization of inflated costs could result in permanent tax-to-book differences as opposed to timing tax-to-book differences when only the original cost is being recovered;
- WHEREAS, depreciation rates currently in use for tax purposes are artificially high and do not accurately reflect the actual useful lives of electric utility plant;
- THEREFORE BE IT RESOLVED THAT the National Association of State Utility Consumer Advocates (NASUCA) urges the Congress to consider carefully the accumulations in deferred taxes in existence now and those amounts which coincide with the President's proposal;
- BE IT FURTHER RESOLVED THAT the National Association of State Utility Consumer Advocates (NASUCA) urges Congress to modify normalization statutes such that the Federal Energy Regulatory Commission and state regulatory commissions may determine the appropriate ratemaking treatment for all deferred taxes; and,
- BE IT FURTHER RESOLVED THAT NASUCA urges Congress to lengthen plant depreciation lives to periods that closely reflect the actual physical lives of the assets; and

RESOLUTION (1985-B)  
PAGE THREE

BE IT FURTHER RESOLVED THAT the National Association of State Utility Consumer Advocates (NASUCA) authorizes its Executive Committee to develop specific positions on any legislative bill, rule or any other kind of proposal consistent with the provisions herein. The Executive Committee shall advise the membership of any actions taken in this regard, prior to taking such actions, if at all possible. In any event, the Executive Committee shall inform the membership of any actions taken pursuant to this resolution.

Approved by NASUCA:

\_\_\_\_\_  
Place

\_\_\_\_\_  
Date

Submitted by:

\_\_\_\_\_  
Resolutions Committee

Name

Address

Phone

Reported out by Resolution  
Committee

Date: November 18, 1985

Favorable  X  Not Favorable    

\_\_\_\_\_  
Dan Clearfield  
COMMITTEE MEMBER

\_\_\_\_\_  
Donna Sorgi  
COMMITTEE MEMBER

\_\_\_\_\_  
Bill Spratley  
COMMITTEE MEMBER

\_\_\_\_\_  
Dep Kirkland  
COMMITTEE MEMBER

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Calling for Utility Rate Reductions  
to Reflect the Effects of the Tax  
Reform Act of 1986

- WHEREAS, Congress has enacted, and President Reagan has signed the Tax Reform Act of 1986 which will make sweeping changes in present Federal Tax Law, including a reduction in the incremental corporate income tax rate from 46% to 34%, the elimination of investment tax credits, the lengthening of certain lives for tax depreciation, changes in tax rules regarding the taxability of unbilled revenues, contributions in aid of construction and capitalized overheads, as well as other changes;
- WHEREAS, ratepayers generally are paying in rates a tax expense that reflects the law existing prior to the effective date of the Tax Reform Act of 1986, including a 46% tax rate;
- WHEREAS, the sum total of these tax changes, while they may increase the actual tax bill paid to the taxing authority by public utilities, will likely reduce the pro forma income tax expense that utilities may properly charge to ratepayers;
- WHEREAS, calculations for most public utilities indicate that these reductions could amount to billions of dollars of pro forma tax expense reductions;
- WHEREAS, failure to adjust rates to reflect the reduction in pro forma income tax expense resulting from the changes in the Tax Reform Act of 1986 will result in an undesired and unfair windfall for public utilities;

RESOLUTION

(Calling for Utility Rate Reductions  
to Reflect the Effects of the Tax  
Reform Act of 1986)

PAGE TWO

THEREFORE, BE IT RESOLVED that revenue requirement reductions resulting from the passage of the Tax Reform Act of 1986 should be passed along to ratepayers in the form of rate reductions for all utilities whose pro forma income tax expense is reduced as a reflection of the new law;

BE IT FURTHER RESOLVED that revenue requirement reductions should be established and made effective as soon as possible to reflect the fact that many of the changes in the tax law required by the Tax Act of 1986 will take effect beginning January 1, 1986, including the use of a 40% blended rate for utility companies;

BE IT FURTHER RESOLVED that the windfalls made possible as a result of the Tax Reform Act should not be retained by utilities for any purpose; and

BE IT FURTHER RESOLVED that the National Association of State Utility Consumer Advocates 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 taken pursuant to this provision.

RESOLUTION  
(Calling for Utility Rate Reductions  
to Reflect the Effects of the Tax  
Reform Act of 1986)

PAGE THREE

Approved by NASUCA:

Sedona, Arizona  
Place

November 15, 1986  
Date

Submitted by:

Pennsylvania Office of  
Consumer Advocate

1425 Strawberry Square  
Harrisburg, PA 17120  
(717) 783-5048

Reported out by Resolutions  
Committee

Date: November 6, 1986

Favorable X Not Favorable     

Deppish Kirkland  
COMMITTEE MEMBER

William A. Soratley  
COMMITTEE MEMBER

Daniel Clearfield  
COMMITTEE MEMBER

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Calling Upon Congress to Repeal Provisions in the Tax Reform Act of 1986 Which Prohibit the Return to Ratepayers of Excess Deferred Taxes at a Rate Faster than the Average Remaining Service Life of the Property

- WHEREAS, the Tax Reform Act of 1986 has been passed by the United States Congress and signed by the President and will become effective as of January 1, 1987; and
- WHEREAS, the Tax Reform Act of 1986 makes sweeping changes in the Federal tax law including a reduction in the incremental corporate income tax from 46% to 34%; and
- WHEREAS, an October, 1986 study for the Electricity Consumers Resource Council (ELCON), a national group of 20 large industrial utility consumers reports that America's electric, gas and telephone utilities have collected from ratepayers \$20 billion in deferred taxes from previous years and that they will no longer owe federal taxes;
- WHEREAS, according to ELCON, electric utilities are expected to reduce bills by \$2.5 billion over the next two years as part of the tax savings but will be able to keep \$13 billion they have collected which will no longer be payable;
- WHEREAS, it appears that another \$4 billion has been collected by telephone utilities and \$3 billion by gas utilities;
- WHEREAS, reductions in the corporate income tax rate will result in an overstatement of the deferred tax balances for utility companies because taxes which were calculated and deferred using a 46% rate will be paid to the taxing authority at the new 34% rate; and
- WHEREAS, taxes deferred and charged to ratepayers in excess of 34% will never be paid to the federal government in the form of higher tax expense; and

# RESOLUTION

(Calling upon Congress to Repeal Provisions in the Tax Reform Act of 1986 Which Prohibit the Return to Ratepayers of Excess Deferred Taxes at a Rate Faster than the Average Remaining Service Life of the Property)

PAGE TWO

WHEREAS, the Tax Reform Act of 1986 contains a provision which prohibits state public utility commissions from using accelerated depreciation methodologies for calculating tax expense if the utility is required to return to ratepayers the overcollection in federal deferred taxes resulting from the change in the tax rate from 46% to 34% any faster than the average remaining service life of the property; and

WHEREAS, this provision results in public utilities being able to retain the use of these funds over the average service life of the property which in many cases can extend for 20 to 30 years; and

WHEREAS, public utility commissions around the country have required excess deferred taxes resulting from previous changes in tax rates such as the change in the rate from 48% to 46% to be returned to ratepayers over a shorter period of time such as 3 to 5 years in order to reflect the fact that current ratepayers are those that contributed the greatest amount of these excess deferred taxes; and

WHEREAS, the provision in the Tax Reform Act of 1986 will provide a windfall to public utilities because it will allow them to retain the excess deferred taxes which should be paid back to ratepayers for up to thirty years and compensate ratepayers for the retention only by a rate base reduction.

NOW, THEREFORE, BE IT RESOLVED BY THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES that the United States Congress should repeal the provision of the Tax Reform Act which restricts the discretion of public utility commissions to return to ratepayers the excess deferred taxes at a rate faster than the average remaining service life;

RESOLUTION

(Calling upon Congress to Repeal Provisions  
in the Tax Reform Act of 1986 Which Prohibit  
the Return to Ratepayers of Excess Deferred  
Taxes at a Rate Faster than the Average  
Remaining Service Life of the Property)

PAGE THREE

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 taken pursuant to this  
provision.

Approved by NASUCA:

Sedona, Arizona  
Place

November 15, 1986  
Date

Submitted by:

Pennsylvania Office of  
Consumer Advocate

1425 Strawberry Square  
Harrisburg, PA 17120  
(717) 783-5048

Reported out by Resolutions  
Committee

Date: November 6, 1986

Favorable X Not Favorable     

Deppoish Kirkland  
COMMITTEE MEMBER

William A. Spratley  
COMMITTEE MEMBER

Daniel Clearfield  
COMMITTEE MEMBER



1987-5

**NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

**RESOLUTION**

**Urging Congress to Pass H.R. 1049, a Bill  
Permitting State Utility Commissions Flexibility  
In Flowing Through Tax Benefits to Ratepayers**

**WHEREAS, the Tax Reform Act of 1986 reduced the corporate income tax rate from 46% to 34%;**

**WHEREAS, reductions in the corporate income tax rate will result in an overstatement of the deferred tax balance for utility companies because taxes which were calculated and deferred using a 46% rate will be paid to the government at the new 34% rate;**

**WHEREAS, taxes deferred and charged to ratepayers in excess of 34% will never be paid to the federal government in the form of higher tax expense;**

**WHEREAS, the Tax Reform Act of 1986 contains a provision which prohibits state public utility commissions from returning to consumers excess deferred taxes in a shorter period of time than the average service life of the utility property which can extend for 30 years;**

**WHEREAS, H.R. 1049 would repeal Section 203(E) of the 1986 Tax Reform Act. Repealing this section will give discretion to state utility commissions to flow these taxes back to consumers on a case-by-case basis;**

**THEREFORE BE IT RESOLVED THAT the National Association of State Utility Consumer Advocates supports the passage of H.R. 1049 which repeals the provisions of the Tax Reform Act which restricts the discretion of public utility commissions to return to ratepayers the excess deferred taxes at a rate faster than average remaining service life.**

**BE IT FURTHER RESOLVED THAT the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of this resolution and to present such positions in regulatory proceedings, legislative hearings, and other public forums where the issues set forth in this resolution arise.**

RESOLUTION  
(Urging Congress to Pass H.R. 1049, a Bill  
Permitting State Utility Commissions  
Flexibility in Flowing Through Tax Benefits  
to Ratepayers)  
PAGE TWO

Approved by NASUCA:

Place: Washington, DC

Date:

Submitted by:

Ohio Office of Consumer  
Counsel  
137 East State Street  
Columbus, OH 43215

Reported out by Tax Committee

Date: June 8, 1987

Favorable\_\_\_ Not Favorable\_\_\_  
Favorable as Amended X

Committee Members:

David Barasch (PA), Chairman  
Ken Rosselet (OH)  
Jack Shreve (FL)  
Theodore Sommer (IN)

1987-4

**NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES**

**RESOLUTION**

**Regarding The Taxable Status of Customer Advances  
Necessary to Initiate Service for Water Consumers**

**WHEREAS, NASUCA recognizes the beneficial aspects of not taxing required customer advances necessary to initiate service for consumers;**

**WHEREAS, NASUCA would request that Section 824 of the Internal Revenue Code as enacted in October of 1986, be clarified to reflect a desire that contributions in aid to construction be deemed taxable, and not customer advances;**

**WHEREAS, NASUCA believes that Section 824 of the Internal Revenue Code as added by the Tax Reform Act of 1986 is unclear on this matter, and the proposed clarification will greatly relieve the burden on potential customers, particularly in the water industry. This will eventually result in increased revenues to the Internal Revenue Service from these utilities through their enhanced ability to provide water service to a greater number of customers, and revenues derived therefrom;**

**THEREFORE, BE IT RESOLVED THAT the National Association of State Utility Consumer Advocates strongly supports such a clarification on the part of the U.S. Congress.**

**BE IT FURTHER RESOLVED THAT the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of this resolution and to present such positions in regulatory proceedings, legislative hearings, and other public forums where the issues set forth in this resolution arise.**

**RESOLUTION**  
**(Regarding the Taxable Status of**  
**Customer Advances Necessary to**  
**Initiate Service for Water Customers)**  
**PAGE TWO**

**Approved by NASUCA:**

**Place: Washington, DC**

**Date:**

**Submitted by:**

**Indiana Office of Utility**  
**Consumer Counselor**  
**807 State Office Building**  
**Indianapolis, IN 46204**

**Reported out by Tax Committee**

**Date: June 8, 1987**

**Favorable X Not Favorable**  
**Favorable as Amended**

**Committee Members:**

**David Barasch (PA), Chairman**  
**Ken Rosselet (OH)**  
**Jack Shreve (FL)**  
**Theodore Sommer (IN)**

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Regarding the Taxable Status of Contributions in  
Aid to Construction Necessary to Initiate Service  
for Water Consumers

- WHEREAS, NASUCA recognizes the beneficial aspects of not taxing required contributions in aid to construction;
- WHEREAS, House of Representatives Bill 3250 as sponsored by Representatives Matsui, Duncan and Coelho on September 10, 1987, proposes to amend Section 118 of the Internal Revenue Code to exempt contributions in aid to construction from inclusion as taxable income for federal tax purposes;
- WHEREAS, NASUCA believes that the passage of this legislation will greatly relieve the burden on new consumers that can result under present law, particularly in the water industry. Passage of this legislation can eventually result in increased revenues to the Internal Revenue Service because it will make service to new customers more affordable, thus increasing the utility's revenue base;
- WHEREAS, NASUCA believes that the passage of this legislation will enable a significantly greater number of consumers to afford the customer contribution necessary before utility service can be provided:
- THEREFORE, BE IT RESOLVED, that the National Association of State Utility Consumer Advocates strongly supports House of Representatives Bill 3250 as sponsored by Representatives Matsui, Duncan and Coelho.
- BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates authorizes its Executive Committee or in the alternative, if it so chooses, the Tax Committee on its behalf to develop specific positions consistent with the terms of this resolution and to present such positions in regulatory proceedings, legislative hearings, and other public forums where the issues set forth in this resolution arise.
- BE IT FURTHER RESOLVED, that NASUCA Resolution 87-4, which addressed the issue of Customer Contributions prior to the introduction of H.R. 3250, is hereby replaced and superseded by this resolution.

RESOLUTION

(Regarding the Taxable Status of Contributions in  
Aid to Construction Necessary to Initiate Service  
for Water Consumers)

PAGE TWO

Approved by NASUCA:

Place: New Orleans, LA

Date: November 13, 1987

Submitted by:

Indiana Office of Utility  
Consumer Counselor  
307 State Office Building  
Indianapolis, IN 46204

Reported out by Tax Committee

Date: November 1, 1987

Favorable ☐ Not Favorable ☐  
Favorable as Amended ☒

Committee Members:

David Barasch (PA), Chairman  
Ken Rosselet (OH)  
Jack Shreve (FL)  
Theodore Sommer (IN)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Opposing the Provision of H.R. 3545 Which Limits  
the Ability of Local Governments to Use Tax-exempt Bonds  
for Acquisition of Electric and Gas Utility  
Facilities Held by Investor Owned Utilities

- WHEREAS, H.R. 3545, the Guaranteed Deficit Reduction Reconciliation Act, contains a provision that would drastically limit the ability of local governments to use tax-exempt bonds for the acquisition of electric and gas utility facilities owned or held for use by investor owned utilities;
- WHEREAS, the provision was added at the last-minute to the bill without the knowledge of national interests affected -- states, cities, towns and ratepayers;
- WHEREAS, the provision is an infringement on the rights of local governments to carry out legitimate municipal functions including acquiring, owning and operating electric facilities; and,
- WHEREAS, the provision would thwart local governments currently exploring acquisitions of electric and gas facilities as an alternative to excessive or unfair rate increases from investor owned utilities;
- THEREFORE BE IT RESOLVED that the National Association of State Utility Consumer Advocates opposes the provision in H.R. 3545, the Guaranteed Deficit Reduction Reconciliation Act, infringing on the use of tax-exempt financing by state and local governments for acquiring utility franchises.
- BE IT FURTHER RESOLVED that NASUCA authorizes its Executive Committee to develop specific positions consistent with the terms of this resolution and to present such positions in regulatory proceedings, legislative hearings, and other public forums where the issues set forth in this resolution arise.

Approved by NASUCA

Place: New Orleans, LA

Date: November 14, 1987

Submitted by:

Louisiana Department of  
Justice

234 Loyola Avenue, 7th Floor  
New Orleans, LA 70112  
(504) 568-5575

## NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

## RESOLUTION

Urging that State Utility Consumer Advocates Be Given Standing In Proceedings Involving Revenue Procedure 88-6 Which Requires That A Utility Request For An Internal Revenue Service Ruling On Normalization Must Be Reviewed By The Regulatory Authority

WHEREAS, Utility service is a necessity of modern life and is provided by sanctioned and franchised monopolies, legally protected from competition, leaving utility consumers without any alternative to paying the full utility rates established by the regulatory authority;

WHEREAS, Regulatory authorities universally establish utility rates to cover every cost of service, including revenues, profits and the specific dollar component necessary to cover the total federal income tax expense;

WHEREAS, Utility consumers pay the entire federal income tax liability of utilities, making those consumers, by definition, "the taxpayers," while the utilities themselves are merely conduits;

WHEREAS, Most states have established offices of consumer advocacy which directly represent the monetary interests of the utility consumers ("taxpayers"), while most regulatory authorities are charged with remaining neutral in deciding the substantially different interests of utilities and their consumers;

WHEREAS, Because Revenue Procedure 88-6 recognizes that "ratepayers have an interest in whether a public utility uses a normalization method of accounting," it requires that any utility request for an IRS ruling on normalization must be reviewed by the regulatory authority and must authorize the regulatory authority to participate in any office conferences. Revenue Procedure 88-6, however, suffers from the substantial shortcoming of relegating to consumer advocates the role of "third party contacts";

THEREFORE BE IT RESOLVED that the Executive Committee of NASUCA hereby instructs the Accounting and Tax Committee to explore and pursue any action necessary to prompt the IRS to elevate consumer advocates to the same mandatory level of participation as that currently granted to the regulatory authorities.



Approved by NASUCA:

San Francisco, California  
Place

October 31, 1988  
Date

Reported Out By:

The NASUCA Tax and Accounting  
Committee  
October 7, 1988  
Date

Theodore Sommer - Indiana  
Sally Friedman - West Virginia  
Tim Newhard - Massachusetts  
Kenneth Rosselett - Ohio  
Jeff Heverling - Pennsylvania  
Steve Burgess - Florida  
Gary Stewart - Iowa  
Randy Allen - Texas  
Richard Sobolewski - Connecticut  
Mary McKee - Nevada  
Nick Gumer Singh - D.C.  
Russ Trippensee - Missouri  
Bill Peloquin - Michigan

## NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

## RESOLUTION

Reaffirming the position of the National Association of State Utility Consumer Advocates in relation to legislation which would permit State Utility Commissions flexibility in flowing through tax benefits to ratepayers

- WHEREAS, Section 203(e) of the Tax Reform Act of 1986 will result in an overstatement of the deferred tax balance for utility companies because taxes which were calculated and deferred using a 46% rate will be paid to the government at the new 34% rate;
- WHEREAS, The National Association of State Utility Consumer Advocates did pass Resolution 1987-5 in Washington, D.C. which resolved that it supports the passage of H.R. 1049 which would repeal Section 203(e) of the 1986 Tax Reform Act;
- WHEREAS, That resolution authorized its Executive Committee to develop specific positions consistent with the terms of the resolution and to present such positions within regulatory proceedings, legislative hearings, and other public forums where the issues set forth therein would arise;
- THEREFORE BE IT RESOLVED, That the National Association of State Utility Consumer Advocates reaffirms its position in relation to the repeal of Section 203(e) of the 1986 Tax Reform Act should similar legislation be introduced;
- BE IT FURTHER RESOLVED, That NASUCA continues to believe that the passage of such legislation is in the best interest of the ratepayers;
- BE IT FURTHER RESOLVED, That the National Association of State Utility Consumer Advocates reaffirms its support of legislation which would amend Section 203(e) of the Internal Revenue Code. It similarly reaffirms the authorization granted therein to its Executive Committee to develop specific positions consistent with the terms of the resolution and to present such positions within regulatory proceedings, legislative hearings, and other public forums where the issues set forth therein arise.

BE IT FURTHER RESOLVED, That this resolution does not supplant  
NASUCA Resolution 87-5, but rather reaffirms it.

Approved by NASUCA:

San Francisco, CA  
Place

November 1, 1988  
Date

Submitted by:

The NASUCA Tax and Accounting  
Committee

Favorable \_ Not Favorable \_  
Favorable as Amended \_

Theodore J. Sommer (IN) Chairman  
Sally Friedman (WV)  
Tim Newhard (MA)  
Kenneth N. Rosselet (OH)  
Jeff Haverling (PA)  
Steve Burgess (FL)  
Gary Stewart (IA)  
Randy Allen (TX)  
Richard Sobolewski (CT)  
Mary McKee (NV)  
Nick Gumer Signh (DC)  
Russ Trippensee (MO)  
Bill Peloquin (MI)

## NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

## RESOLUTION

Reaffirming the position of the National Association of State Utility Consumer Advocates in relation to the taxable status of contributions in aid to construction necessary to initiate service for water customers

- WHEREAS, Section 118 of the Internal Revenue Code mandates that contributions in aid to construction must be included as taxable income for federal tax purposes;
- WHEREAS, NASUCA first recognized the propriety of not taxing required contributions in aid to construction through its Resolution 1987-12 which was favorably passed by this organization on November 13, 1987 in New Orleans, Louisiana;
- WHEREAS, In that resolution the National Association of State Utility Consumer Advocates expressed its strong support of House of Representatives Bill 3250 as sponsored by Representatives Matsu, Duncan and Coelho;
- WHEREAS, NASUCA continues to believe that the passage of this legislation or similar legislation will greatly relieve the burden on new customers that can result from the present law, particularly in the water industry and will eventually result in increased revenues to the Internal Revenue Service as it will make service to new customers more affordable, thus increasing the utilities revenue base;
- WHEREAS, NASUCA continues to believe that the passage of this legislation will enable a significantly greater number of consumers to afford the customer contribution necessary before utility service can be provided;
- THEREFORE IT BE RESOLVED, That the National Association of State Utility Consumer Advocates reaffirms its support of legislation which would amend section 118 of the Internal Revenue Code.
- BE IT FURTHER RESOLVED, That the National Association of State Utility Consumer Advocates reaffirms its position taken in Resolution 1987-12. It similarly reaffirms the authorization granted therein to its executive committee, or in the alternative, if it so chooses, the Accounting and Tax Committee on its behalf, to develop specific positions consistent with the terms of that resolution, and to present such positions in regulatory proceedings, legislative hearings, and other public forums where germane.

BE IT FURTHER RESOLVED, That this resolution does not supplant NASUCA resolution 87-12, but rather reaffirms it.

Approved by NASUCA:

San Francisco, CA  
Place

November 1, 1988  
Date

Submitted by:

The NASUCA Tax and Accounting  
Committee

Favorable \_ Not Favorable \_  
Favorable As Amended \_

Theodore J. Sommer (IN) Chairman  
Sally Friedman (WV)  
Tim Newhard (MA)  
Kenneth N. Rosselett (OH)  
Jeff Haverling (PA)  
Steve Burgess (FL)  
Gary Stewart (IA)  
Randy Allen (TX)  
Richard Sobolewski (CT)  
Mary McKee (NV)  
Nick Gumer Singh (DC)  
Russ Trippensee (MO)  
Bill Peloquin (MI)

## THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

## RESOLUTION

Urging Congress to pass legislation  
affirming state authority related to excess  
deferred taxes

- WHEREAS, the Tax Reform Act of 1986 implemented a reduction in the statutory tax rate from 46% to 34% effective July 1, 1987, thereby resulting in a windfall equivalent to the amount of deferred taxes booked at 46% which are greater than the level of deferred taxes required at the new statutory rate;
- WHEREAS, Section 203(e) of the Act prohibits state regulatory authorities the discretion of determining the manner in which to deal with the protected excess deferred tax reserves, and has basically required that the protected excessive deferred tax balances be returned over the average useful life of the assets;
- WHEREAS, this Tax Reform Act restriction only applies to public utility property;
- WHEREAS, the Financial Accounting Standards Board has issued Statement of Financial Accounting Standards No. 96 which will require (as of fiscal years beginning after December 15, 1989) that the excess deferred tax reserves be immediately recognized as income, unless state regulatory authorities specifically order that the excess deferred tax reserves be recognized as a regulatory liability which will be flowed-back to consumers.
- WHEREAS, Congressman Byron Dorgan recognized the inequity created by Section 203(e) of the Act and therefore authored The Utility Ratepayer Refund Act (H.R. 1049, reintroduced in 101st Congress as H.R. 1150) in order to repeal Section 203(e);
- WHEREAS, Congressman Robert Matsui also recognized the inequity created by Section 203(e) of the Act and introduced H.R. 2493 which remedies the inequities of the Act by permitting the states to determine the appropriate amortization period for protected excess deferred tax reserves provided such amortization is not more rapid than over three years and not commencing before January 1, 1991;

WHEREAS, National Association of State Utility Consumer Advocates (NASUCA) supports the Dorgan Bill because it has proposed to repeal Section 203(e) of the Act and restores full authority to the states. While this position is preferred by NASUCA, it is clear that Congressman Matsui's bill will also provide the states with the authority to review the financial positions of the utilities and based thereon, develop a case specific period for flowing the excess reserve balances back to the ratepayers; and,

THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates remains supportive of Congressman Dorgan's original proposal to repeal Section 203(e) and endorses Congressman Matsui's bill.

Approved by NASUCA:

Columbus, Ohio

Place

June 16, 1989

Date

Favorably Reported By:

Tax and Accounting  
Committee

June 16, 1989  
Date

Committee Members:  
Randy M. Allen (TX) Chairman  
Steve Burgess (FL)  
Gary Stewart (IA)  
Tim Newhard (MA)  
Nick Gumer (DC)  
Ken Rosselet (OH)  
Sally Friedman (WV)  
Jeff Heverling (PA)  
Mary McKee (NV)  
Russ Trippensee (MO)

THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

Urging Congress to Direct Treasury  
to adhere to the scope of normalization  
accounting as intended by Congress

- WHEREAS, Sections 167 and 168 of the Internal Revenue Code allow utilities to use accelerated depreciation for determining current tax liability in order to create a cost-free source of investment capital;
- WHEREAS, Sections 167(1)(3) and 168(i)(9) of the Internal Revenue Code require utilities to use normalization accounting to ensure availability of the cost-free source of investment capital created by accelerated depreciation;
- WHEREAS, The scope of normalization accounting intended by Congress and required by the Internal Revenue Code is limited to deferred taxes stemming only from temporary depreciation method and life differences as reflected in Regulation 1.167(1)-1(a);
- WHEREAS, Treasury opened Regulation Project )S-107-88 in order to consider expansion, revision or clarification of normalization and consistency requirements.
- WHEREAS, Treasury issued notice 89-63 setting forth an anticipated regulation which expands normalization accounting to disallow any adjustment (temporary or permanent difference) that results in an effective tax rate below the prevailing statutory rate;
- WHEREAS, Treasury does not have regulatory authority to expand normalization accounting beyond the scope intended by Congress;
- WHEREAS, Treasury has published notification that the effective date of such anticipated regulation will be on or after June 29, 1989 even though such anticipated regulation will not likely be issued until December 1989.
- WHEREAS, Such anticipated regulation will adversely impact utility rates to all customer classes while providing a permanent windfall to utility shareholders;
- THEREFORE BE IT RESOLVED, that the National Association of State Utility Consumer Advocates calls upon Congress to positively reaffirm that normalization accounting is intended to apply only to temporary depreciation method and life differences;



BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates calls upon Congress to direct Treasury to either withdraw Notice 89-63 or revise said Notice to indicate that the anticipated regulation will clarify that normalization accounting as intended by Congress only relates to temporary depreciation method and life differences and that only such resulting deferred taxes must reflect the prevailing statutory tax rate.

BE IT FURTHER RESOLVED, that the National Association of State Utility Consumer Advocates calls upon Treasury to either withdraw Notice 89-63 or revise said Notice to indicate that the anticipated regulation will clarify that normalization accounting as intended by Congress only relates to temporary depreciation method and life differences and that only such resulting deferred taxes must reflect the prevailing statutory tax rate.

Approved by NASUCA:

Columbus, Ohio  
Place

Favorably Reported By:

Tax and Accounting  
Committee

June 16, 1989  
Date

June 16, 1989  
Date

Committee Members:  
Randy M. Allen (TX) Chairman  
Steve Burgess (FL)  
Gary Stewart (IA)  
Tim Newhard (MA)  
Nick Gumer (DC)  
Ken Rosselet (OH)  
Sally Friedman (WV)  
Jeff Heverling (PA)  
Mary McKee (NV)  
Russ Trippensee (MO)

## THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

## RESOLUTION

Establishing authority for the Executive  
Committee to act on behalf of NASUCA in  
accordance with previously adopted tax resolutions

- Whereas, The National Association of State Utility Consumer Advocates adopted a Resolution urging Congress to pass legislation affirming State authority related to excess deferred taxes; (1989-8)
- Whereas, The National Association of State Utility Consumer Advocates adopted a Resolution urging Congress to direct Treasury to adhere to the scope of normalization accounting as intended by Congress; (1989-9)
- THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates authorizes its Executive Committee to develop specific positions consistent with the terms of the above stated resolutions or any other type of action that concerns the subject of the resolutions, including the preparation of policy papers and other communications reflecting the National Association of State Utility Consumer Advocates' position to the United States Congress, Internal Revenue Service, Treasury or others.

Approved by NASUCA:

Columbus, Ohio

Favorably Reported By:

Tax and Accounting  
Committee

June 16, 1989

Date

June 16, 1989

Date

Committee Members:

Randy M. Allen (TX) Chairman  
Steve Burgess (FL)  
Gary Stewart (IA)  
Tim Newhard (MA)  
Nick Gumer (DC)  
Ken Rosselet (OH)  
Sally Friedman (WV)  
Jeff Heverling (PA)  
Mary McKee (NV)  
Russ Trippensee (MO)

## THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

## RESOLUTION

In Support of Legislation Specifically Affirming  
State Authority Related To Excess Deferred Taxes

- WHEREAS, the Tax Reform Act of 1986 implemented a reduction in the statutory tax rate from 46% to 34% effective July 1, 1987, thereby resulting in a windfall equivalent to the greater amount of deferred taxes booked at 46% over the level of deferred taxes required at the new statutory rate;
- WHEREAS, Section 203(e) of the Act prohibits state regulatory authorities from determining the manner in which to deal with the protected excess deferred tax reserves, and has basically required that the protected excessive deferred tax balances be returned over a period no shorter than the average useful life of the assets;
- WHEREAS, this Tax Reform Act restriction only applies to public utility property;
- WHEREAS, the Financial Accounting Standards Board has issued Statement of Financial Accounting Standards No. 96 which will eventually require that the excess deferred tax reserves be recognized as income, unless state regulatory authorities specifically order that the excess deferred tax reserves be recognized as a regulatory liability to be flowed back to consumers.
- THEREFORE BE IT RESOLVED that the National Association of State Utility Consumer Advocates supports federal legislative action that specifically restores full authority to the states which remedies the inequities of the Act by permitting the states to determine the appropriate treatment of and amortization period for excess deferred taxes that are currently protected by the Tax Reform Act of 1986.

Approved by NASUCA:

Boston, Massachusetts  
Place

November 14, 1989  
Date

Favorably Reported By:

Tax and Accounting  
Committee

November 13, 1989  
Date

Committee Members:

Randy M. Allen (TX) Chairman  
Steve Burgess (FL)  
Gary Stewart (IA)  
Tim Newhard (MA)  
Nick Gumer (DC)  
Ken Rosselet (OH)  
Jeff Heverling (PA)  
Mary McKee (NV)  
Russ Trippensee (MO)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

**Requesting the Internal Revenue Service to Find That Conservation  
and Load Management Expenses Can Be Expensed for Tax Purposes  
in the Year Incurred Although They Are Deferred For  
Ratemaking Purposes**

- WHEREAS, the Internal Revenue Service performed an audit of Puget Sound Power and Light Company for the years 1979 and 1980 and has proposed an adjustment to the taxable income for those years that requires the deferral for tax purposes of costs of utility conservation and load management programs when those costs have been deferred by the state regulatory commission for ratemaking purposes;
- WHEREAS, this proposed adjustment prohibits the utility from deducting for tax purposes those costs in the year in which incurred;
- WHEREAS, if a utility does not purchase utility plant, then the deferral of a utility's conservation and load management costs is a regulatory accounting treatment only; the utility acquires no right, title or interest in property purchased by its customers or others; property purchased as a conservation or load management investment does not have the potential to generate, transmit, or distribute power or energy, and therefore, does not have the potential to generate revenues for the utility from power or energy sales; and the authority to grant such regulatory accounting treatment rests solely with the state regulatory commission;
- WHEREAS, the ratemaking treatment of such costs is determined by the state regulatory authorities and is not uniform among states or among utilities, and the proposed IRS treatment would result in inconsistent tax treatment among utilities for the same type of expenses;
- WHEREAS, the National Association of State Utility Consumer Advocates (NASUCA) is not aware of any legal or regulatory basis for the IRS to find the tax treatment of an item is controlled by or must follow the ratemaking treatment for that item, and adoption of the proposed adjustment would open up a myriad of complex questions regarding the relationship between tax and ratemaking treatments of expenses;

WHEREAS, the proposed IRS adjustment creates a disincentive for utilities to implement and regulators to promote conservation and load management programs which are an integral component of a national energy strategy;

THEREFORE, BE IT RESOLVED, that the members of NASUCA assembled at their 1990 Annual Meeting in Orlando, Florida, request that the IRS find that conservation and load management expenses that are deferred for ratemaking purposes may be recognized as expenses and deducted for tax purposes in the year in which they are incurred;

BE IT FURTHER RESOLVED that NASUCA members authorize 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, including the development of any policy papers reflecting NASUCA's position. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible, and in any event, the Executive Committee shall notify the membership of any action taken pursuant to this Resolution.

Approved by NASUCA:

Orlando, Florida  
Place

November 13, 1990  
Date

Submitted by:

NASUCA Ad Hoc Tax and Accounting  
Committee

October 31, 1990  
Date

Committee Members:

Nick Gumer (DC)  
Roger Howe (FL)  
Gary Stewart (IA)  
Curt Nelson (MN)  
Russ Trippensee (MO)  
Joseph Thorne (NY)  
Jeff Heverling (PA)  
Ken Rosselet (OH)  
Marilyn Johnson (TX)

## NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

## R E S O L U T I O N

**Urging State and Federal Utility Regulatory Commissions  
to Reject for Ratemaking Purposes the Accounting  
Changes Required by Statement of Financial  
Standards (SFAS) No. 106**

- WHEREAS, In December, 1990, the Financial Accounting Standards Board (FASB) issued SFAS No. 106, Employer's Accounting for Postretirement Benefits Other Than Pensions, requiring for financial accounting purposes employers to recognize postretirement benefits and related costs during the period employees provide the service that entitles them to these benefits;
- WHEREAS, SFAS No. 106 essentially requires utilities to reflect postretirement benefits other than pensions on an accrual rather than on a cash basis for accounting purposes;
- WHEREAS, FASB, at the urging of the National Association of State Utility Consumer Advocates (NASUCA) specifically recognized in Paragraph No. 364 of SFAS No. 106 that, pursuant to SFAS No. 71, Accounting for the Effects of Certain Types of Regulation, regulators may choose not to change the treatment of postretirement benefits for ratemaking purposes;
- WHEREAS, Paragraph No. 364 of SFAS No. 106 provides regulatory commissions with the flexibility to retain the cash, or "pay-as-you-go", basis of reflecting postretirement benefits other than pensions for rate recovery purposes so long as the regulatory commissions indicate an intent that future recovery of the difference in costs between the accrual basis for accounting purposes and the cash basis for rate purposes is probable;
- WHEREAS, Reflecting the SFAS accrual basis of treating postretirement benefits other than pensions for rate purposes would result in a substantial increase in rates for consumers of utility services;
- WHEREAS, Reflecting the SFAS accrual basis of treating postretirement benefits other than pensions for rate purposes would require estimates of future health care costs, medical inflation rates, medical care use and changes in health care delivery systems;
- WHEREAS, Estimates concerning such future health and medical care costs and use patterns entail a great deal of uncertainty and speculation;

- WHEREAS, SFAS No. 106 requires that use of the accrual method of treating postretirement benefits other than pensions be based only on current levels of employer obligations and current state or federal laws regarding the provision of such medical benefits such as the medicare program;
- WHEREAS, Many utilities have no legal obligation to continue providing these postretirement benefits other than pensions, under existing laws;
- WHEREAS, Numerous studies by the financial accounting community reveal that even small errors in any of the estimates necessary for calculating the accrual basis for reflecting postretirement benefits other than pensions can lead to substantial overestimates of future costs;
- WHEREAS, The speculative and uncertain nature of the estimates necessary to calculate the accrual amounts pursuant to SFAS No. 106 do not satisfy regulatory criteria that utility rates be based on known and measurable changes in cost levels;
- WHEREAS, Reflection of the SFAS No. 106 accrual basis for rate recovery purposes would likely result in utilities substantially overrecovering actual costs associated with the provision of postretirement benefits other than pensions;
- WHEREAS, Establishment of a trust mechanism to redress the cost overrecovery problem provides an ineffective remedy for insuring that consumers do not end up providing cost free capital to the utilities for a number of reasons, including the fact that only a portion of the accruals will qualify for tax advantaged treatment (i.e., the portion of benefits associated with collective bargaining employees);
- WHEREAS, Under the accrual basis of reflecting postretirement benefits other than pensions, rates would likely be higher than the continued cash basis in both the short term and the long term since the accrual amount recovered in rates would always be based on estimates of future costs, which generally tend to be higher than current costs due to inflationary impacts;
- WHEREAS, Continuation of the cash basis of reflecting postretirement benefits other than pensions for rate recovery purposes would impose no adverse financial or economic impacts on utilities;
- WHEREAS, Reflecting the SFAS 106 accrual basis of treating postretirement benefits other than pensions for rate purposes would not require any change in actual cash outlays by utilities from actual payments made under the cash basis;
- WHEREAS, Switching to the accrual basis for rate recovery purposes imposes a substantial transition cost obligation on consumers over a substantial period of time requiring these consumers to pay two generations of costs in order



to pay the transition obligation and consequently resulting in discriminatory treatment of current consumers as opposed to past and future consumers;

WHEREAS, Switching to the accrual basis for rate recovery of postretirement benefits other than pensions raises substantial retroactive ratemaking and filed rate doctrine concerns with respect to requiring today's consumers to pay the transition obligation for costs attributable under SFAS No. 106 to past periods;

WHEREAS, Consumers have no assurances that utilities will or can be required to refund any overcollections of rates attributable to postretirement benefits other than pensions in the future;

THEREFORE, BE IT RESOLVED, that NASUCA urges federal and state regulatory commissions to reject use of the SFAS No. 106 accrual method of reflecting postretirement benefits other than pensions for ratemaking purposes and to adopt or continue use of the cash or pay-as-you-go basis of reflecting postretirement benefits other than pensions for ratemaking purposes.

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 such positions and action prior to proceeding with them, if at all possible. In any event, the Executive Committee will advise the membership of any actions taken consistent with the recommendations contained herein.

Approved by NASUCA:

Los Angeles, California  
Place

November 18, 1992  
Date

Submitted and Favorable Reported by:

NASUCA Tax & Accounting Committee

Committee Members:

Russell Trippensee, (MO) Chair  
James Armstrong (AZ)  
James Fout (OH)  
Naunihal Singh Gumer (DC)  
Marilyn Kraus (PA)  
Russell Needler (TX)  
Curt Nelson (MN)  
Terry Redmon (NV)  
Timothy Robb (IN)  
Gary Steward (IA)  
Joseph Thorne (NY)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION

**Endorsing Federal Legislation That Establishes Tax Incentives to Improve  
the Energy Efficiency of New Home Construction and Home Renovation**

WHEREAS, the National Association of State Utility Consumer Advocates (NASUCA) is on the record as supporting energy efficiency as a way of reducing residential utility bills; and

WHEREAS, energy efficiency is a cost-effective way reduce energy bills and reduce pollution; and

WHEREAS, tax incentives to improve the energy efficiency of new home construction and home renovation could improve the efficiency of those homes by at least thirty percent; and

WHEREAS, tax incentives to improve the energy efficiency of new home construction and home renovation would make homes more affordable for millions of American families by providing an up-front tax credit and by lowering monthly utility bills for years to come; and

WHEREAS, tax incentives to improve the energy efficiency of new home construction and home renovation would spur the adoption of energy-efficient technologies and permanent transformation of the home construction marketplace;

THEREFORE, BE IT RESOLVED, that NASUCA continues its commitment to energy efficiency by endorsing federal legislation that establishes tax incentives to improve the energy efficiency of new home construction and home renovation.

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:

June, 1999, Baltimore, Maryland