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National Association of Regulatory Utility Commissioners

January 31, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

The Honorable Harold W. Furchtgott-Roth
Commissioner
Federal Communications Commission
445 Twelfth Street, S.W. [The Portals]
Washington, D.C. 20554

Re: **Ex Parte Comments** - Two Copies filed in the proceeding captioned: *In the Matter of Calling Party Pays Service Offering in the Commercial Mobile Radio Services, WT Docket No. 97-207*

Dear Commissioner Furchtgott-Roth:

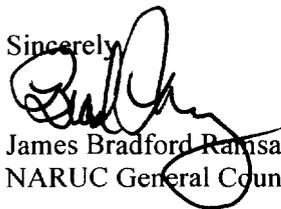
As you know, in February of 1998, NARUC passed a resolution asking the FCC to work cooperatively with the states to address the concerns regarding jurisdiction, consumer protection, and asserted necessity of CPP for maintaining local service options. Subsequently, on July 7, 1999, the released its *Declaratory Ruling and Notice of Proposed Rulemaking* in the above captioned proceeding. Significantly, the NPRM directed the FCC staff to work closely with NARUC's members on preamble requirements. At our last meetings in November, NARUC passed another resolution addressing the FCC's July action. I earlier provided your office with copies of all the resolutions from that meeting, but would like to take this opportunity to emphasize NARUC's positions on the CCP initiative. Specifically, NARUC's November 1999 resolution takes the following positions on the July NPRM:

- **RECOMMENDED ELEMENTS OF NEEDED NOTIFICATION:** With the introduction of CPP offerings some effective form of notification to the caller that he or she will be billed for the call to the CMRS phone or pager is critically important to avoid consumer confusion. NARUC strongly recommends that any such notification announcement in some way include the following information: "This call to a [insert carrier name] wireless customer will be billed to you on your [insert name of bill where charge will appear] at a flat rate of [y] plus [x] cents per minute [or, itemize if more than one line item will be billed], in addition to any long distance or local toll charge. To connect and accept charges, press [insert appropriate button on keypad]."
- **REQUIREMENT FOR AFFIRMATIVE ACTION BY THE CALLING PARTY:** NARUC also urges the FCC to assure that completion of the calling party pays CMRS call requires an affirmative action and specifically recommends that any options within the notification announcement that allows the caller to complete the call *without listening to a complete notification announcement, at a minimum* (1) require a positive response by the caller, (2) not be offered until the caller has been notified of the identity of the wireless carrier and (3) assure the caller is notified that he or she will be charged for the call,

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Both of NARUC's Calling Party Pays Resolutions are attached for your information and review. I respectfully request that you carefully consider the views of your state colleagues as you examine the record placed before for decision. I am, in accordance with the FCC's regulations, also filing this letter in the record of these proceedings to comply with the FCC's *ex parte* regulations. If you have a question about this or any other NARUC positions, please do not hesitate to give me a call at 202.898.2207.

Sincerely,

A handwritten signature in black ink, appearing to read "James Ramsay", written over the typed name.

James Bradford Ramsay
NARUC General Counsel

APPENDIX A - RESOLUTION ON CALLING PARTY PAYS NOTIFICATION

WHEREAS, On July 7, 1999, the Federal Communications Commission (FCC) released its Declaratory Ruling and Notice of Proposed Rulemaking (NPRM) in WT Docket No. 97-207, to facilitate the wider availability of Calling Party Pays (CPP) by Commercial Mobile Radio Services (CMRS) providers, and to consider key issues associated with the offering of CPP service, including calling party notification; and

WHEREAS, The NPRM recognizes that with the introduction of CPP offerings some effective form of calling party notification, that the caller will be billed for his or her call to the CMRS phone or pager, is critically important to avoid consumer confusion; and

WHEREAS, The NPRM concludes that notification should include the following elements: (1) Notice that the calling party is making a call to a wireless phone subscriber that has chosen the CPP option, and that the calling party therefore will be responsible for payment of airtime charges; (2) Identification of the CMRS provider; (3) The per minute rate, and other charges, that the calling party will be charged by the CMRS provider; and (4) Notice that the calling party will have an opportunity to terminate the call prior to incurring any charges; and

WHEREAS, The FCC in its NPRM directed its Wireless Telecommunications Bureau to work with the States through the National Association of Regulatory Utility Commissioners (NARUC) to develop a consensus implementation of its calling party notification; and

WHEREAS, Members of the NARUC Staff Subcommittee on Telecommunications and representatives of the FCC's Policy Division of the Wireless Telecommunications Bureau have participated in conference calls to discuss the uniform notification announcement proposed by the NPRM; and

WHEREAS, It is important that any notification announcement should in some way include the following information: "This call to a [insert carrier name] wireless customer will be billed to you on your [insert name of bill where charge will appear] at a flat rate of [y] plus [x] cents per minute [or, itemize if more than one line item will be billed], in addition to any long distance or local toll charge. To connect and accept charges, press [insert appropriate button on keypad]"; *now, therefore, be it*

RESOLVED, That the National Association of Regulatory Utility Commissioners, assembled at its 111th Annual convention in San Antonio, Texas, recommends the FCC include in its CMRS calling party notification the information proposed above; *and be it further*

RESOLVED, That the NARUC recommends that completion of the calling party pays CMRS call require an affirmative action; *and be it further*

RESOLVED, That the NARUC recommends that any options within the notification announcement that allows the caller to complete the call without listening to a complete notification announcement should require a positive response by the caller, should not be offered until the caller has been notified of the identity of the wireless carrier and the caller is notified that the calling party will be charged for the call, *and be it further*

RESOLVED, That the NARUC General Counsel be directed to file comments with the FCC to this regard.

Adopted in Convention November 10, 1999.

**RESOLUTION REGARDING THE FCC INQUIRY ON THE CMRS
"CALLING PARTY PAYS" SERVICE OPTION**

WHEREAS, the FCC issued a Notice of Inquiry and request for comments in WT Docket No. 97-36, on September, 25, 1997, regarding Calling Party Pays (CPP), and the comment period has passed; and

WHEREAS, CPP is a service billing option, currently provided by some Commercial Mobile Radio Service (CMRS) carriers (cellular, paging, and Personal Communications Service (PCS) carriers) to their customers, in which the party placing the call or page pays the airtime charge and any other applicable charges; and

WHEREAS, the purpose of this inquiry is to explore whether CPP could serve as one means of promoting and expanding competition in the local exchange telephone market and increasing options for local telephone service; and

WHEREAS, in order for a CMRS provider to offer CPP to its customers, the local exchange carrier (LEC) on whose facilities the call generally originates must agree to bill the calling party on behalf of the CMRS carrier or must furnish the CMRS carrier with sufficient billing information to enable the CMRS carrier to bill the calling party directly; and

WHEREAS, the FCC is examining whether the fact that CMRS subscribers currently must pay for incoming calls is or could have the effect of slowing the rate at which CMRS services are accepted by consumers as a close substitute for wireline telephone service; and

WHEREAS, specifically, the FCC is seeking information regarding, among other issues: 1) the current availability of the CPP service option, 2) the impact CPP has had in stimulating demand for wireless services. 3) consumer protection issues, such as how the calling party is informed of charges and the magnitude of these charges, 4) what technical and contractual requirements are needed to implement this service option, 5) whether there are technical, regulatory, or other barriers hampering the availability of this service option, and 6) whether the CMRS industry and the public believe it is in the public interest for the Commission to initiate actions to increase the availability of this service option; and

WHEREAS, jurisdictional issues exist regarding the authority of the FCC versus the states to permit or require the billing and other services to enable CMRS providers to offer CPP; and

WHEREAS, the FCC asserts "the main billing difference between wireline and wireless telephone service is that a wireline telephone subscriber typically does not pay any additional charges to receive telephone calls, whereas most CMRS telephone subscribers pay a per minute charge to receive calls" and the FCC is interested in determining if this difference in billing practices between wireline and wireless telephone service could stifle the ability of wireless carriers to compete with wireline carriers in the local exchange marketplace; and

WHEREAS, the FCC has a long standing policy goal of eliminating the cost of the physical loops for wireline access from terminating access charges, and the wireless loop equivalent is the air time cost; and

WHEREAS, the CMRS market is growing at a steady and rapid rate without CPP; and

WHEREAS, some CMRS carriers charge only half the normal airtime charge for mobile to mobile calling among their customers; and

WHEREAS, CPP charges may not convey to wireline callers that CMRS services are a close substitute for wireline telephone service; and

WHEREAS, reciprocal compensation arrangements should have the effect of equalizing the costs of call transfers between wireless and wireline carriers; and

WHEREAS, it would be appropriate for the FCC to work cooperatively with the states to address these concerns; now, therefore, be it

RESOLVED, that the Executive Committee of the National Association of Regulatory Utility Commissioners ("NARUC"), convened at its 1998 Winter Meeting in Washington, D.C., urges the FCC, in its current NOI, to consider the effects of the current local service market and interconnection agreements on CMRS comparability to wireline service, and whether or not it is proper and necessary at this time for the FCC to promote CPP to maintain options for local service; and be it further

RESOLVED, that the NARUC calls upon the FCC to work cooperatively with the states to address the concerns regarding jurisdiction, consumer protection, and asserted necessity of CPP for maintaining local service options; and be it further

RESOLVED, that the NARUC General Counsel be directed to file and take any appropriate actions to further the intent of this resolution.