



National Association of Regulatory Utility Commissioners
1101 Vermont Avenue, NW, Washington, D.C. 20005

P R E S S R E L E A S E

FOR IMMEDIATE RELEASE
March 2, 2003

Contact: Jaclyn Wintle
202.898.2200

NARUC EXPECTS TO SEEK CERTIORARI, CALLS FOR FCC TO FILE ITS OWN APPEAL

Washington, D.C. -- Today, the District of Columbia Circuit released its decision vacating several significant aspects of the FCC's Triennial Review Order. The Opinion, among other things, finds that the FCC unlawfully delegated authority to the States - focusing on two points: its effective finding that the FCC's findings were "provisional" and thus did not comport with its statutory duty to act; and its subsequent discussion of the "purported delegation of the Commission's own authority." The decision also vacates the FCC's finding of impairment with respect to mass market switching.

NARUC President Stan Wise said: "Of course we are still reviewing the Order, but, if for no other reason, the rationale presented for vacating the State delegation, certainly suggests the FCC should immediately seek certiorari of this decision. Assuming the FCC's national findings meet the requirements of the Act, the FCC's delegation is permissible but not required, to allow further State action under a plain reading of the Act. While we are still digesting the decision, at this point, NARUC expects to seek review of this decision."

Commissioner Robert Nelson of the Michigan PSC and Chair of the NARUC Telecommunications Committee indicated that "The state commissions throughout this country have spent considerable time and effort conducting hearings, reviewing documents and analyzing records because the D.C. Circuit two years ago called for a granular analysis of the state of local competition in each telephone market. We believe we have fulfilled the original mandate of the Court and are dismayed that that this opinion concludes that the States should not undertake this role. If appropriate, we will assist the FCC in the determinations they will have to make pursuant to today's ruling."

The National Association of Regulatory Utility Commissioners is a non-profit organization founded in 1889. Its members include the governmental agencies that are engaged in the regulation of utilities and carriers in the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands. NARUC's member agencies regulate telecommunications, energy, and water utilities. NARUC represents the interests of State public utility commissions before the three branches of the Federal government and the Independent Federal agencies.

###