

Resolution on Right to Repair

NOTE—If approved, this resolution would replace the Resolution on Right to Repair passed at the May 2018 Telecom & Technology conference

WHEREAS, utilities own, operate and maintain extensive Information and Communications Technology (ICT) systems to support the safe, reliable, resilient, secure and affordable delivery of essential electric, gas and water services and to provide wholesale capacity to other third-party communications service providers and retail services to consumers; and,

WHEREAS, utilities must comply with the North American Electric Reliability Corporation (NERC), Federal Energy Regulatory Commission (FERC), Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations, among others, that deal with reliability, resiliency, security and safety and,

WHEREAS, utility ICT technicians use training, test equipment, schematics, software and replacement parts to make repairs and bring ICT systems back on-line or back into compliance as quickly as possible and,

WHEREAS, some ICT equipment manufacturers and suppliers may be preventing utilities from making their own adjustments and repairs by restricting the training, schematics, software and replacement parts to themselves or their suppliers and as a result, many utilities must exclusively rely on the manufacturer or supplier to undertake the testing and adjustment of equipment purchased by utilities and,

WHEREAS, equipment manufacturers and suppliers justify these restrictions by claiming to be protecting their intellectual property rights under the Digital Millennium Copyright Act (DMCA) and,

WHEREAS, these restrictions and overly restrictive End User License Agreements (EULA's), create an anti-competitive business practice and have the practical effect of creating safety hazards, increasing costs, imposing unnecessary delays, extending outage times and hindering utilities' ability to comply with the FCC's rules, which is an untenable situation; and,

WHEREAS, UTC has filed a Petition for Declaratory Ruling with the FCC on the matter of whether part 90 and part 101 rules require that transmitters be adjusted where installed, so that an affirmation by the FCC would make it more difficult for the equipment manufacturer and supplier to restrict the equipment owner, or a third party, from possessing the software to make transmitter adjustments and,

WHEREAS, legislation has been introduced in several states that would create a right for consumers such as utilities to repair equipment they have purchased themselves or use their own third-party provider, rather than having to use the manufacturer, supplier or their authorized representative.

NOW THEREFORE, LET IT BE RESOLVED, that the Utilities Technology Council (UTC), gathered at its Annual Telecom & Technology Meeting in Ft. Worth, Texas, urges state and federal policymakers to establish or modify policies, copyright laws, or the DMCA, thus freeing utilities to maintain, repair and upgrade equipment themselves or to use a third party of their choosing to maintain, repair and upgrade their equipment in order to ensure the safety, reliability, resiliency, security and affordability of the essential services they provide and to ensure compliance with federal regulations and,

LET IT BE FURTHER RESOLVED, that UTC urges ICT equipment manufacturers and their suppliers to provide products, training, schematics, parts, software and EULA's to their CII customers that allows repair to be made as quickly as possible.

Submitted to the Public Policy Division, January 2019
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DRAFT