

**STATEMENT OF
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On Behalf of the,

NATIONAL EMERGENCY NUMBER ASSOCIATION (NENA)

Before the,

**UNITED STATES SENATE
COMMITTEE ON COMMERCE, SCIENCE, and TRANSPORTATION**

S. 2281 'VOIP Regulatory Freedom Act of 2004'

June 16, 2004

Mr. Chairman and Members of the Committee, thank you very much for providing me the opportunity to appear before you today. My name is David Jones and I'm a nationally certified Emergency Number Professional (ENP), serving Spartanburg County, South Carolina as the Director of Emergency Services.

I'm also the First Vice President of the National Emergency Number Association (NENA), an organization consisting of public officials, fire, EMS, law enforcement, equipment and service providing vendors of the 9-1-1 community. I've been recently appointed to the Federal Communications Commission's (FCC) Intergovernmental Advisory Committee (IAC), representing the interests of local government and public safety. Additionally, I'm a longtime member of the Association for Public Safety Communications Officials (APCO) International.

Today I am appearing before the Committee on behalf of NENA, but also standing on the shoulders of others. Admirable colleagues, like those on my team in Spartanburg, who

continue to find ways to get the job done regardless of the technical obstacles or challenges of modern communications in our Public Safety Answering Point (PSAP). National leadership, like that of Senators Burns and Clinton, as well as Representatives Shimkus and Eshoo who are leading the Congressional E9-1-1 Caucus and E9-1-1 legislation in the 108th Congress. And of course the South Carolina representation of Senator Hollings, who has taken an active interest in the deployment of wireless E9-1-1 as well as improved emergency communications in our state. I thank all of you for tireless work to make our 9-1-1 system work like it should.

Opening Comments

Mr. Chairman, I applaud your leadership, as well as that of your colleagues and staff in bringing the 9-1-1 community to the table for these vital discussions about the future of our nation's communications capabilities, services, and systems. Truly the future is happening now. Voice over Internet Protocol (VoIP) is reaching millions of Americans with exciting communications possibilities. VoIP is dynamic, competitive, innovative and most of all, an opportunity to improve all of our communications systems. Better, faster, cheaper technology and communications service is vital to American consumers and business, but it may prove even more vital for our public safety and security.

With our excitement for VoIP comes equal concern. If the past is any indication, public safety services and access will be woefully neglected unless we pursue early technical review and service planning within free-market development. Today we are on that path.

NENA has adopted a “Future Path Plan” by which new services, technologies and devices capable of dialing or signaling 9-1-1 can and should be able to provide their users with access to emergency assistance. This path forward generates common objectives for E9-1-1 design and development. More than an evolutionary vision, it’s an economical plan for long-term investment in 9-1-1. The Future Path is a process, to ensure the effectiveness and integrity of the E9-1-1 system, both now and well into the future. It’s an opportunity to do it right, to plan for the next emerging technology, today, not tomorrow.

In my statement today, I will refer to our vision, our needs and respectfully make recommendations to improve the legislation before the Committee, emphasizing fundamental points for NENA, 9-1-1 and Voice over IP.

The Problems of E9-1-1 and VoIP

VoIP brings a unique set of challenges to the delivery of location service for 9-1-1. To be effective and meaningful, E9-1-1 must work with a wide range of VoIP and IP-enabled products and services. This includes both voice and data, whether serving a fixed location, or nomadic locations that may change from day to day, or operating wirelessly in a much greater area (including roaming from area to area), during a single call.

Long-term solutions are needed to accommodate all the variances. To do that, it is essential that government and industry support goal-oriented work, with appropriate

technical experts and 9-1-1 operational professionals in an open standard and architecture environment. This is a tremendous undertaking which can not be marginalized by larger policy discussions or debates.

Federal Jurisdiction for VoIP Regarding E9-1-1 Services and Systems

The technical development of 9-1-1 must be convergent with its policy direction. Today's regulations for 9-1-1 are fragmented, consisting of a jurisdictional patchwork of rules for various types of communications, providers and stakeholders. Wireline issues are regulated by States. Wireless issues are regulated by the FCC. 9-1-1 Public Safety Answering Points are often local. Consumer expectations are national. VoIP can be international.

9-1-1 needs to be treated as an integrated public safety service, part of a larger whole for our safety and national security. This concept has been recently tested with the deployment of wireless Enhanced 9-1-1 (E9-1-1). Through this process, we've learned some important lessons in implementing new technologies with E9-1-1 systems: (1) E9-1-1 must be treated as an inter-dependent overall system; (2) coordination is very important; (3) federal leadership is necessary for national implementation and resolution of issues.

In the late 1990's, Senator Conrad Burns lead an effort to recognize '9-1-1' as the universal number for emergency calling, and ensure the deployment of E9-1-1 for wireless capabilities and emergency integration. Enacted by Congress, "The Wireless

Public Safety Act of 1999” is our foundation for greater 9-1-1 policy goals, including the ability to locate an emergency caller from any device, at anytime, everywhere.

The tragic events of September 11, 2001, opened our nation’s eyes to the greater tasks at hand. Our nation’s 9-1-1 system is a homeland security asset. Everyday 9-1-1 callers are the eyes and ears of our defense. Modern communication capabilities are partners in delivering timely information. The 9-1-1 community must embrace and react to change quickly, to better serve the American public, industry, and the mobile consumer in all emergencies.

This past year, Co-chairs of the Congressional E9-1-1 Caucus, Senators Burns and Clinton, and Representatives Shimkus and Eshoo drafted legislation (S. 1250 and HR.2898) to recognize further the national interests of 9-1-1 as well as address the needs of the deployment of new technologies. We thank them for their leadership. But more importantly we thank them for a vision for the future, by creating a national E9-1-1 Coordinating Office.

A national E9-1-1 Coordinating Office is a needed and necessary step for improving our nation’s emergency response capabilities. The recent history of wireless E9-1-1 has demonstrated all too often how our 9-1-1 system can become easily strained by new technology. A national ‘Office’ could provide us immediate perspective, informed resources and a better dialogue for technical assistance, and consistent leadership for deploying technology advancements.

We cannot support the further fragmentation of 9-1-1. We recognize that consumer expectations for 9-1-1 are national and therefore require jurisdictional leadership and resources from the Federal Government. We need a national coordinating office to make this happen. We agree and support the assertion of federal jurisdiction for VoIP services related to E9-1-1.

The Federal Communications Commission, VoIP and E9-1-1

As part of the federal jurisdiction discussion, we support the need for targeted federal regulation for E9-1-1 and VoIP, believing further that this is most appropriately handled by the FCC.

On May 28th of this year, we responded to the FCC's Notice of Proposed Rulemaking in WC Docket No. 04-36. In our comments, we requested the FCC to exercise E9-1-1 leadership in "promoting the safety of life and property," 47 U.S.C. §151.

We stated:

Given the obvious importance of emergency calling, how can we encourage (or require, if need be) 9-1-1 access as an essential ingredient of early planning for 'technical and market development' of new communications or information services and products?

We support the FCC's authority in creating a regulatory safety net if required, through our present collaborative and voluntary approach. With our support, we look to the

Commission to maintain a directive influence in the needed processes for industry and public safety collaboration. In that we seek a 'light touch' regulatory approach for E9-1-1.

A light touch approach can provide a consensus targeted regulatory definition that enables full 9-1-1 capabilities for the consumer while minimally affecting, and actually improving the advancement of overall consumer services. The changing dynamics of technology should be encouraged as a means toward improvement of consumer services and information availability. In our experience, voluntary consensus development, within reasonable timeframes, of requirements and rules for technology and service integration provides better, more accurate results. Improved E9-1-1 project management is better than legal debate. Real E9-1-1 solutions are better than arbitrary requirements.

Flexible policies are needed to react to changes without having to adopt legislation every time there is a new technology or service advancement. We envision the FCC acting directly within forward-looking limits set by Congress. This can be achieved through the timely definition of needed results to Congress, and then through the direct enactment of appropriate requirements for 9-1-1 with the involved industry parties.

Law Enforcement

Subscriber information is a vital aspect of E9-1-1 service. If a subscriber is disconnected or hangs up on a call, we need reliable information to contact the caller. We recognize a reasonable 9-1-1 obligation for VoIP providers, consistent with expectations of other

service providers, and we understand the expectations of law enforcement for far greater capabilities to obtain subscriber information in the fight against terrorism or criminal investigations.

Consensus

Since its inception, the 9-1-1 system has been THE first responder in times of individual and mass emergencies. Every day, Americans call 9-1-1 at the time of their greatest need. Today we are averaging over 200 million 9-1-1 calls per year. Ninety-six percent of the nation's geography is covered by at least some basic 9-1-1; ninety-nine percent of the American public has access to 9-1-1. For the caller and the public, the successful completion of a 9-1-1 call can mean the difference between danger and security, injury and recovery, or life and death. The ability to call for help in times of an emergency is not 'voluntary' – it's mandatory.

We must set our standards high for achieving access to emergency assistance for all users. We must retain and improve 9-1-1 features and functions established and in use for the safety of the public.

Connected VoIP applications, as defined in the legislation (S.2281) are only a portion of the E9-1-1 and IP landscape. There will likely be VoIP applications that need to support 9-1-1 calls terminating at the 9-1-1 PSAP without ever touching the Public Switched Telephone Network. Legislative definitions must allow for treatment of the full extent of options for IP and E9-1-1 as the future unfolds.

The development of consensus guidelines, protocols, and performance requirements pertaining to VoIP applications for 9-1-1 services has begun. Aggressive NENA development efforts started in 2003, and the FCC's NRIC VII focus on E9-1-1 and IP started in 2004. The potential is there. Indeed, the 2003 NENA – VON Coalition agreement was an important first step toward consensus development to both guide the initial efforts of Voice over Internet providers in handling 9-1-1 calls, and to gain agreement to that industry's active role in the development of migratory and longer term IP and VoIP solutions for E9-1-1. NENA's schedule is for completion of various technical and operational requirements before the end of First Quarter 2005.

Customer disclaimers do little to support the public's safety. Such actions should be viewed as only temporary, and with the clear expectation that the service provider is pursuing best effort toward the earliest possible application of industry recommended or otherwise required 9-1-1 solutions.

Transmission Facilities and E9-1-1 Cooperation

While ultimately VoIP application providers are expected to meet E9-1-1 obligations, the role of the transmission facility may be less clear. The proposed legislation states in Section 8 that regulations may not extend to the transmission facility. Without arguing the merits of Section 8, we recognize an E9-1-1 relationship between the transmission facility and the VoIP provider. This is especially true in determining the location of the caller. In the event of an emergency, the VoIP application provider may need to gain

information on a caller's location from the transmission facility provider, since that provider would have some knowledge of the terminating address/location or IP characteristics of the user.

This is most likely for mobile and nomadic users, as a VoIP application provider may not be able to query the user for location. However, the transmission facility provider would have some basic knowledge, given the fixed connection to its terminus, as well as the relationship to the subscriber. In that scenario, there is an E9-1-1 relationship for the transmission facility and a need to support the VoIP provider with available known location information in the event of an emergency.

Therefore, we ask for an emphasis on E9-1-1 availability, and less on classifications of services and facilities.

Funding E9-1-1 in a VoIP Environment

IP-enabled E9-1-1 services will not come free. The public safety community is extremely concerned by the immediate and growing impact of Voice over IP on loss of conventional service fees and surcharge revenue, and the uncertainty of any requirement to replace that critical operational funding stream in the VoIP environment. Until a clear solution is identified for this immediate public safety funding problem, attention to the need for technological change and evolution of the E9-1-1 system itself is difficult to achieve.

Yet both must be solved, at the national, state, and local level, in order to realize the ability to bring new technologies into E9-1-1 service easily and quickly upon their appearance on the consumer front, and with less overall cost. We support the need for national direction from the FCC, just as we support, in pending legislation, cabinet-level attention to 9-1-1 issues. State and local government may still require the authority to consider, and should not be preempted from considering, equitable distribution of financial obligations among communications and information service providers offering 9-1-1 capability.

Conclusion

This past March, NENA issued an open letter to concerned leaders and citizens asking for a commitment to make significant progress in realizing the full potential for 9-1-1 and emergency services in the digital migration of our nation's communications systems. In that letter we offered six IP services and applications principles for 9-1-1. These principles are NENA's guidelines for establishing a public policy, technical and operational blueprint for the advancement of Internet-based service offerings for 9-1-1. These are emphasized in our testimony as follows:

First, we need a **national E9-1-1 VoIP policy**. We have examined some of these issues in our testimony, but we recognize that more needs to be done to build a cogent policy for our nation's 9-1-1 system.

Second, we must **encourage vendor and technology neutral solutions and innovation.** Attempting to fit specific regulations to today's circumstances has the potential to limit our options in design and future capabilities for our nation's 9-1-1 system. This is not a free pass, but rather the recognition of a needed commitment.

Third, we must **retain consumer service quality expectations.** 9-1-1 is national, consumers are increasingly global. As the consumer changes communications capabilities, the 9-1-1 system should be dynamic in design and operation to adjust to and match new technologies and old expectations.

Fourth, we must **support dynamic, flexible, open architecture system design process for 9-1-1.** In an October 2002 report conducted by telecommunications consultant Dale Hatfield, 'Report on Technical and Operational Issues Impacting the Provision of Wireless Enhanced 911 Services' he stated that 9-1-1, and especially wireless E9-1-1 was a 'kluge' of various planning efforts and patchwork efforts to address new technology. If we are to avoid the kluge, we must support an open environment.

Five, we must **develop policies for 9-1-1 compatible with the commercial environment for IP communications.** We seek to improve design and enhance the capabilities offered to consumers. However, we recognize that this must be

managed in a reasonable timeframe to match service options available to consumers, private industry and others in calling 9-1-1.

Six, we must promote a fully funded 9-1-1 system. Our nation's 9-1-1 system needs reliable and dependable funding. In the VoIP environment, funding could prove evermore complicated, given the traditional policy framework reliance on state and local funding for 9-1-1 services and upgrades.

S. 2281 is a step toward discussing the policy principles we see necessary for 9-1-1 and VoIP. A needed step, the proof will truly be in the approaches and leadership taken outside the Halls of Congress. 9-1-1 service should not be an 'afterthought' for communications providers, but rather an active part of service design and development.

With some modifications, the legislation could make great contributions toward public safety and security. On behalf of thousands of NENA members, the 9-1-1 professionals and all involved in supporting their work, I thank you for your support and the opportunity to be here today.