

SUMMARY OF THE STATEMENT OF JASON BARBOUR, ENP

General

NENA and APCO encourage all interested parties and the Members of the Committee to focus on the words in the title of the bill: **9-1-1, Modernization and Public Safety**. This bill must remain focused on improving 9-1-1 today and into the future. We must not allow the bill to become hostage to a broader communications debate among competing industries. NENA and APCO support the goals of the 911 Modernization and Public Safety Act of 2007 because it strengthens the FCC VoIP E9-1-1 Order by codifying the obligation of all IP-enabled voice service providers to provide 9-1-1 and E9-1-1 in accordance with FCC regulations. Additionally, the bill provides needed tools to assist in the completion of the national E9-1-1 deployment for VoIP service and addresses the issue of Next Generation (NG) 9-1-1.

Codifying FCC VoIP E9-1-1 Requirements

NENA and APCO support the FCC's VoIP E9-1-1 Order and Section 6 of HR 3403 making clear that IP-enabled voice service providers must provide 9-1-1 and E9-1-1 in accordance with FCC regulations. Moreover, we urge the inclusion of a Savings Clause in the bill making it clear that nothing in this bill in any way alters or modifies actions the FCC has already taken in this regard. We also wish to make sure that no definitions in the bill tie the hands of the FCC from any future actions placing 9-1-1 obligations on other services in which consumers have a reasonable expectation of 9-1-1 service.

Liability Parity

NENA and APCO wholeheartedly support the liability provision of HR 3403, which is appropriately forward-thinking to ensure that every time a new service is given 9-1-1 obligations or voluntarily elects to connect to 9-1-1 with appropriate approvals, we do not need to return to Congress and ask for a further extension of liability protections.

Preserving State Authority Over 9-1-1 Fees, Managing the 9-1-1 System and Enforcing Federal E9-1-1 Requirements

While we have suggested a very slight change in the structure of the funding section, NENA and APCO strongly support the current language in HR 3403 confirming state and local authority to impose and collect 9-1-1 fees on IP-enabled voice services. Conversely, NENA and APCO oppose any efforts to preempt state and local authority over 9-1-1 fees.

In addition to funding issues, NENA and APCO believe it is essential to maintain the appropriate role of the states in the management of the 9-1-1 system and enforcement of federal E9-1-1 requirements in the states. Policy makers must seek a regulatory scheme in implementing E9-1-1 that embodies cooperative federalism between state and federal governments. Nothing in this bill should alter the state role.

9-1-1 Modernization: The Future of 9-1-1 and Emergency Communications

NENA and APCO fully support section 102 of the 911 Modernization and Public Safety Act requiring the National 9-1-1 Implementation and Coordination Office to provide a plan for the migration from today's 9-1-1 system towards an IP-enabled emergency network.

**STATEMENT OF
JASON BARBOUR, ENP**

On Behalf of the

**NATIONAL EMERGENCY NUMBER ASSOCIATION (NENA) and the ASSOCIATION
OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS (APCO) INTERNATIONAL**

Before the

**UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET OF THE
COMMITTEE ON ENERGY AND COMMERCE**

**Issues in Emergency Communications: A Legislative Hearing on H.R. 3403, the 911
Modernization and Public Safety Act of 2007**

September 19, 2007

Mr. Chairman and Members of the Committee, thank you very much for providing me the opportunity to appear before you today. My name is Jason Barbour and I am a nationally certified Emergency Number Professional (ENP), serving Johnston County, North Carolina as the 9-1-1 Director. I am also a volunteer fire fighter and a Deputy Sheriff. I have been working in the field of public safety communications for the better part of two decades and know firsthand the importance of our nation's 9-1-1 system.

I'm also the President of the National Emergency Number Association (NENA), an organization consisting of nearly 7,000 members in 48 chapters across the U.S., Canada and Mexico representing public officials, fire, EMS, law enforcement and equipment and service vendors of the 9-1-1 community. Finally, I am also a member of our sister organization, the Association of Public-Safety Communications Officials (APCO) International, and I am pleased to be here today on behalf of both NENA and APCO.

Today I appear before the Committee representing NENA and APCO, but also on behalf of the thousands of 9-1-1 professionals in America who work tirelessly to help those people who dial 9-1-1 in times of need. Admirable colleagues like those on my team in Johnston County, and others across the country who continue to find ways to get the job done in the face of staffing, funding and technology challenges. I would like to thank the national leadership of the House Co-chairs of the Congressional E9-1-1 Caucus, both members of this Committee, Representatives Eshoo and Shimkus, and other leaders of this Committee for working with NENA and APCO to promote policy to advance and improve our nation's 9-1-1 system.

Opening Comments

Chairman Markey and Vice-Chairman Upton, thank you and your staff for holding this hearing today. I applaud your initiative and in particular, the leadership of Representatives Gordon, Eshoo and Shimkus for continuing to move this important legislation forward. On behalf of NENA and APCO I am here today to testify in support of the goals of the 911 Modernization and Public Safety Act of 2007. While there may be some differences of opinion over details of some aspects of the bill, I encourage all of those who will testify today and the Members of this Committee to focus on the words in the title of the bill: **9-1-1, Modernization and Public Safety**. That is the intent of the bill's sponsors and will be the focus of my testimony today. I urge all parties involved to ensure that this bill remains focused on improving 9-1-1 today and into the future. We must not allow the bill to become hostage to a broader communications debate among competing industries.

My comments will focus on four areas: First, codifying the FCC's VoIP E9-1-1 Order and requiring IP-enabled Voice Service Providers to provide 9-1-1 and E9-1-1 in accordance with

FCC regulations; Second, liability parity; Third, preserving state authority to impose 9-1-1 fees on IP-enabled voice service providers and maintaining state authority to manage the 9-1-1 system and enforce federal E9-1-1 requirements; Fourth, modernization of the 9-1-1 system.

Before addressing each of these points, I believe it is important to understand the overall status of the 9-1-1 system today, the challenges we currently face, the need to transition to an IP-enabled Next Generation (NG) 9-1-1 system and how this legislation addresses these issues.

The Current State of 9-1-1 and E9-1-1 Service

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-seven 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.

In the past year alone tremendous strides have been made regarding a number of critically important issues facing the 9-1-1 industry. One year ago in September of 2006, less than 80% of the population of the United States resided in areas covered by Phase II wireless E9-1-1. Today, that number has jumped to over 85%, representing an increase in coverage for nearly 25 million Americans who previously were not protected by this vital aspect of our 9-1-1 system. Additionally, the percentage of counties that are covered by Phase II wireless E9-1-1 has increased from 52% to 65% from a year ago, a 13 percent increase. Progress is being made. At the same time, there is still a 9-1-1 divide between densely populated and low population areas.

As of today there are still nearly 225 counties, mostly rural, that lack E9-1-1 for their landline telephone service, let alone wireless or VoIP service. It is important that the US population is increasingly being covered by wireline and wireless E9-1-1, but we are truly a mobile society so we must consider not only where people live, but also where they may travel. And thus, we need to continue to strive for 100% E9-1-1 deployment for all areas and all technologies. This legislation is a step in the right direction to make this goal a reality.

Of course the last two years have also seen a tremendous amount of progress on the issue of 9-1-1 and E9-1-1 for VoIP. We applaud the continued leadership of FCC Chairman Martin and his colleagues at the Commission for adopting the VoIP E9-1-1 Order and their focus on improved emergency communications. FCC action and the steps taken by the public safety community working together with VoIP providers and their vendors have led to the fastest-ever national rollout of E9-1-1 service. Like the early days of wireless, it has been no easy task to retrofit an existing 9-1-1 system that was not designed for a new technology. But we have stepped up and largely met the challenge. The system currently being employed for VoIP is not perfect and it requires significant cooperation among numerous parties to work. We have only touched the surface on where we need to be concerning IP-enabled services.

I would like to take this opportunity to commend the diligent work of the all-volunteer NENA Technical, Operations and Regulatory Committees who have done an amazing amount of work developing standards, deployment checklists and policies to assist with VoIP E9-1-1 implementation. Still, many areas lack E9-1-1 for VoIP service for many of the same reasons that E9-1-1 is not universally available for wireline or wireless service. Primarily, those reasons

can be boiled down to a lack of funding, a lack of cooperation among key parties in some instances and a failure of leadership at the state and local level in some areas where 9-1-1 service has not been made the priority it needs to be. Additionally, there has been a lack of federal action in certain areas that we are confident will be addressed through the passage of HR 3403 and in other measures by this Congress.

Needed Tools for VoIP E9-1-1 and Next Generation (NG) 9-1-1 Implementation

NENA and APCO support the goals of the 911 Modernization and Public Safety Act of 2007 because it strengthens the FCC VoIP E9-1-1 Order by codifying the obligation of all IP-enabled voice service providers to provide 9-1-1 and E9-1-1 in accordance with FCC regulations.

Additionally, the bill provides needed tools to assist in the completion of E9-1-1 deployment for VoIP service in all parts of the United States and addresses the issue of NG9-1-1. Having said that, we believe that a few modifications to the bill will fine-tune its effectiveness.

HR 3403 provides several key elements to enable nationwide VoIP E9-1-1 deployment including the following:

- **liability parity** for PSAPs, service providers and their third party vendors equivalent to existing liability protections already in place for wireline and wireless service. Liability protections are extended to VoIP and any other technologies obligated by the FCC to provide 9-1-1 in the future, and any services voluntarily providing 9-1-1 calls and information to PSAPs that are approved by state and local 9-1-1 authorities;
- **confirmation of state and local authority to impose and collect 9-1-1 fees** from IP-enabled voice service providers;
- **a requirement on the National 9-1-1 Implementation and Coordination Office (ICO) to produce a report to Congress on the migration to an IP-enabled emergency network; and**
- a statutory requirement that owners of the E9-1-1 infrastructure provide access to VoIP providers who require such access to provide E9-1-1 service.

Each of these items will assist with current VoIP E9-1-1 implementation and 9-1-1 service for future technologies.

Codifying FCC VoIP E9-1-1 Requirements

With the growing adoption of internet telephony, NENA and APCO continue to believe it is critical for VoIP companies to provide 9-1-1 and E9-1-1 for their customers. We therefore support the FCC's VoIP E9-1-1 Order and Section 6 of HR 3403 making clear that IP-enabled voice service providers must provide 9-1-1 and E9-1-1 in accordance with FCC regulations.

Moreover, *we urge the inclusion of a Savings Clause in the bill making it clear that nothing in this bill in any way alters or modifies actions the FCC has already taken in this regard. We also wish to make sure that no definitions in the bill tie the hands of the FCC from any future actions placing 9-1-1 obligations on other services in which consumers have a reasonable expectation of 9-1-1 service.*

NENA and APCO also believe it is important that VoIP providers are given access to the 9-1-1 components necessary to complete 9-1-1 calls in accordance with FCC rules. We do not wish to insert ourselves into a debate among competing industries over the specific language needed to achieve this goal. We simply wish to ensure that all elements needed to comply with 9-1-1 requirements are made available to VoIP providers and that such access is based on accepted industry standards that promote open and secure access to the 9-1-1 system. For example, it is the preference of public safety for MSAG (Master Street Address Guide) validated addresses. In order for VoIP providers to comply with this request they must have access to this information which is traditionally maintained by the local 9-1-1 System Service Provider (typically an ILEC).

Liability Parity

HR 3403 provides immunity from liability for PSAPs, service providers and their third party vendors equivalent to existing liability protections already in place for wireline and wireless service. Liability protections are extended to VoIP and any other technologies obligated by the FCC to provide 9-1-1 in the future, and any services voluntarily providing 9-1-1 calls and information to PSAPs that are approved by state and local 9-1-1 authorities.

Past experience in the deployment of E9-1-1 has shown that a lack of legal clarity on the issue of liability parity can lead to a lack of E9-1-1 deployment and delays in the provisioning of E9-1-1 service. Therefore, *NENA and APCO wholeheartedly support the liability provision of HR 3403,* which only Congress can provide at the federal level. We are particularly pleased that the bill's language is not just limited to currently-defined IP-Enabled voice services. The bill is appropriately forward-thinking to ensure that every time a new service is given 9-1-1 obligations or voluntarily elects to connect to 9-1-1 with appropriate approvals, we do not need to return to Congress and ask for a further extension of liability protections.

Preserving State Authority Over 9-1-1 Fees, Managing the 9-1-1 System and Enforcing Federal E9-1-1 Requirements

Maintaining current funding levels and providing funding for the development of the next generation 9-1-1 system is one of the most important issues for 9-1-1 today. The public safety community is extremely concerned by the immediate and growing impact of changes in the communications landscape that are leading to a loss of conventional 9-1-1 revenue through 9-1-1 fees and surcharges. Fourteen percent of households have abandoned their wireline service relying only on wireless service and millions are turning in their traditional telephone service for

VoIP service, leading to uncertainty in the states as to how the traditional revenue from 9-1-1 fees on wireline service, collected at the local level, will be replaced.

NENA and APCO are keenly aware of the limitations of the current 9-1-1 system funding model and that changes will be needed to sustain service while also advancing toward an IP-based NG9-1-1 system. While that may be the case, it is essential that Congress do nothing to compromise current state and local authority to impose and collect 9-1-1 fees on all services regardless of the type of technology involved. Some parties advocate for sweeping federal action to replace the layered funding approach in the states. We have initiated a dialogue in a variety of forums on funding issues to sustain high quality 9-1-1 service today and advance 9-1-1 into the next generation. This issue needs to be thoroughly discussed and debated to identify effective solutions, but changes to 9-1-1 funding models are best handled within the states that know the intricacies of individual state and local 9-1-1 systems and funding needs. Thus, while we have suggested a very slight change in the structure of the funding section, NENA and APCO strongly support the current language in HR 3403 confirming state and local authority to impose and collect 9-1-1 fees on IP-enabled voice services. Conversely, NENA and APCO oppose any efforts to preempt state and local authority over 9-1-1 fees.

We also support the concern of the bill's sponsors of state diversion of 9-1-1 fees and believe an important aspect of the bill is the requirement of an FCC Fee Accountability Report. The bill directs the Commission to submit annual report to Congress on the status of state fees and whether or not any of the fees were used for unauthorized purposes.

Finally, the bill is forward-looking and understands that federal grant programs should allow funding for today's challenges but should also provide funds for the advancement of Next Generation solutions. HR 3403 takes an important step by broadening the eligible use of ENHANCE 911 Act grant funds to include not only wireless E9-1-1 deployment, but also the development and implementation of an IP-based emergency communications network.

State and local authority over 9-1-1 fees is important. So too is ensuring a central role for the states in managing the system. State and local governments have traditionally played a significant role in overseeing the 9-1-1 system within the states and enforcing federal E9-1-1 requirements. An effective 9-1-1 system requires a number of moving parts to work together, including PSAPs, communications service providers, 9-1-1 vendors, 9-1-1 System Service Providers and government agencies. For such a system to work, policy makers must seek a regulatory scheme in implementing E9-1-1 that embodies cooperative federalism between state and federal governments. Recent debates in Washington have focused on federal authority versus state authority over IP-enabled services. There is room for a debate on the optimal regulatory environment for IP-enabled services, but NENA and APCO believe it is essential to maintain the appropriate role of the states in the management of the 9-1-1 system and enforcement of federal E9-1-1 requirements in the states. Nothing in this bill should alter the state role.

9-1-1 Modernization: The Future of 9-1-1 and Emergency Communications

Advancements in communications and network technologies are quickly blurring the lines of familiarity in the world of emergency communications and 9-1-1. No longer can we discuss 9-1-1 solely in the context of the public switch telephone network (PSTN). No longer can we discuss

the routing of 9-1-1 calls as being dependent on the use of the existing analog, circuit switched telephone network. NENA started with “One nation – One number”, and now we add, “any device, from anywhere, at anytime.” As 9-1-1 and emergency communications continue to advance, it is critical that communications regulation at all levels of government evolve in a parallel fashion and is flexible enough to accommodate future advancements that have yet to be considered.

Already, nearly 100 million Americans are using some form of broadband Internet access offering exciting new communications possibilities. Voice over IP is no longer just coming, it is here. Wi-Fi and WiMax networks continue to expand. IP-enabled services are 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 emergency communications.

A NG9-1-1 system is not just a luxury, it is essential. Let me provide one example to explain why: Ensuring direct access to 9-1-1 for those who are deaf and hard of hearing and those with speech disabilities. A large and growing number of deaf individuals are replacing their traditional TTY’s in favor of text messaging, IP-Relay Services and Video Relay Services. These text and video based technologies are very popular among deaf users, but they are not currently able to connect directly to 9-1-1 over the existing E9-1-1 system due to limitations in the current system. This causes delays in access to 9-1-1 and could inevitably lead to unnecessary death or injury which is unacceptable in today’s world of modern technology. So too are younger Americans increasingly communicating with text messaging and instant messaging. These technologies

continue to gain in popularity and users will have a reasonable expectation that our 9-1-1 system will be able to accept communications to 9-1-1 from these devices.

There are other information and communications services currently available that 9-1-1 is ill-equipped to handle as well. Automatic crash notification (ACN) data from telematics service providers like OnStar; bio-chemical information from sensors in a subway system; video from bank cameras or video taken by a bystander to a vehicle crash; photos from a cell phone capturing the identity of a criminal. The data is available, but the 9-1-1 system simply is not equipped to receive it, much less seamlessly share the data with appropriate emergency response agencies. However, increasing public expectations are beginning to demand that we be able to receive text and multi-media messages over a system that was not designed to handle such data. With that reality in mind, NENA and APCO continue to make NG9-1-1 one of our top priorities. NENA and APCO are pleased to be working together on this important issue through NENA's NG Partner Program, APCO's Project 41 and other supporting activities.

Migrating to a fully IP-based next generation 9-1-1 system will certainly require some legislative and regulatory change. Issues of funding, jurisdiction, cost sharing, interoperability, and automatic location requirements for IP devices and networks are only a few areas that have to be addressed. The federal government has a key role to play in providing overall system coordination and funding where appropriate to assist efforts in the states to implement standardized IP-based emergency communications networks, much like the federal government did in the 1950s in establishing the federal highway system. Therefore, *NENA and APCO fully support section 102 of the 911 Modernization and Public Safety Act requiring the National 9-1-1*

Implementation and Coordination Office to provide a plan for the migration from today's 9-1-1 system towards an IP-enabled emergency network.

Conclusion

Our nation's 9-1-1 system is a vital public safety and homeland security asset. Everyday 9-1-1 callers seek critical emergency assistance and are the eyes and ears helping others during emergencies in local communities and assisting with our nation's homeland security. Modern communication capabilities offer an opportunity to improve the system as we know it, but they also offer challenges. The 9-1-1 community must embrace and react to change quickly, to better serve the American public, industry, and the consumer in all emergencies. We need help from Congress to do so.

NENA supports the goals of HR 3403 because it addresses current VoIP E9-1-1 needs, including the issues of 9-1-1 funding and liability parity, and also includes language requiring a report on the migration to a fully IP-based NG9-1-1 system and would allow ENHANCE 911 Act grants to be used to fund the "migration to an IP-enabled emergency network".

As previously mentioned we believe a few minor modifications will improve the bill that will make great contributions toward public safety and security. On behalf of thousands of NENA and APCO members, 9-1-1 professionals and all involved in supporting their work, I thank you for your support and the opportunity to be here today.