ATTACHMENT A

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Verizon Wireless Working Round-The-Clock To Restore, Maintain And Enhance Service In Gulf Coast Area

Service Improvements Continue in Baton Rouge, Pensacola, Mobile; Network Equipment Ready To Join In New Orleans Recovery Efforts

Media Contact Info

09/01/2005

BEDMINSTER, NJ — Verizon Wireless continues the urgent work of maintaining and restoring wireless service in the New Orleans and Gulf Coast regions in the aftermath of Hurricane Katrina. The company has dispatched teams of network technicians who are making progress in strengthening communications in many of the affected areas. Service to parts of New Orleans and surrounding areas, including Mandeville, Lacombe, Slidell, Hammond and Covington, are beginning to come back online and coverage has been reestablished at Louis Armstrong New Orleans International airport. Wireless service continues to improve in Baton Rouge, Louisiana; Pensacola, Florida; and Mobile, Alabama and in surrounding areas where technicians have been able to move in and begin restoring the network.

"The severity of Hurricane Katrina has led to significant disruption to all communications services and we fully understand and agree with the urgency to restore service as quickly as humanly possible," said Verizon Wireless South Area President Jack Plating, who is leading the company's recovery efforts. "We will continue to work round-the-clock on our network and at our stores to provide support to residents in the affected areas."

Emergency recovery crews have been dispatched to areas that can be reached safely to assess damage and initiate repairs. The Verizon Wireless network team has been working with the landline telephone company and others to identify connectivity issues that are impacting Verizon Wireless' network. Additionally, support staff and equipment from surrounding areas are being brought in to support the restoration effort.

Verizon Wireless hurricane response and recovery efforts include:

- More than a dozen COWs (Cell on Wheels) are staged and ready to be deployed to help increase wireless coverage in the hardest hit areas in Louisiana, Mississippi and Alabama, once state and federal emergency officials give the go-ahead.
- Electrical generators are in place to provide emergency power to cell sites without permanent generators.
- Verizon Wireless Disaster Recovery teams are coordinating with wireline and power companies to reestablish connectivity to cell phone towers in the area.
- Continuous monitoring of cell sites and switches in the affected areas has been under way from the company's national Network Operations Control Centers located in New Jersey and Texas, assisting recovery teams on the ground in identifying service status and conditions.
- Verizon Wireless Communications Stores in Baton Rouge, Mobile and Pensacola have been re-opened and are providing residents free local and long-distance calls, battery charging and technical support to anyone in need of these services due to Hurricane Katrina.
- Verizon Wireless Emergency Communication Centers (WECCs) will be established in Houston and in Baton Rouge. Verizon Wireless employees from other states have volunteered their assistance to the WECCs, which will help evacuees place calls, re-charge their phones and will provide technical support and customer service, free of charge.

- Verizon Wireless has joined with the American Red Cross to provide its customers nationwide the opportunity to support the relief efforts by making donations directly from their wireless phones.
- The Verizon Foundation has established a special disaster relief program to help the victims of Hurricane Katrina that could raise up to $2 million. The Foundation will match 2-to-1 Verizon Wireless and Verizon Communications employee contributions, up to $2,500 per year in disaster relief donation per employee, and up to $2 million companywide to support relief efforts by the Red Cross through September 30, 2005.

While Verizon Wireless continues to work to restore service in all areas impacted by Hurricane Katrina, the company also offers the following tips to those in the affected areas:

- Communicate through TXT Messaging since this service uses less bandwidth than voice calls and has a higher chance of getting through.
- Try to limit wireless phone usage as much as possible by calling an out of town contact to let them know you are safe and asking them to spread the word to your family and friends. This will help keep the network from being overloaded for emergency workers who are depending on wireless communications in their rescue and restoration operations.

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About Verizon Wireless

Verizon Wireless owns and operates the nation's most reliable wireless network, serving 47.4 million voice and data customers. Headquartered in Bedminster, NJ, Verizon Wireless is a joint venture of Verizon Communications (NYSE: VZ) and Vodafone (NYSE and LSE: VOD). Find more information on the Web at www.verizonwireless.com. To preview and request broadcast-quality video footage and high-resolution stills of Verizon Wireless operations, log on to the Verizon Wireless Multimedia Library at www.verizonwireless.com/multimedia.

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Verizon Wireless Continues Relief Efforts In Gulf Coast Area

Normal Operations in Baton Rouge, LA, Pensacola, FL and Jackson, MS; Service Improvements Continue in Mississippi Gulf Coast, Mobile, AL and the North Shore of Lake Pontchartrain; Phone Banks Set Up to Help Evacuees Contact Family

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09/03/2005

BEDMINSTER, NJ — Verizon Wireless continues the urgent work of maintaining and restoring wireless service in the New Orleans and Gulf Coast regions in the aftermath of Hurricane Katrina. The company has dispatched teams of network technicians who are making progress in strengthening communications in many of the affected areas. Service in Baton Rouge, Louisiana; Pensacola, Florida; and Jackson, Mississippi has returned to normal, while service improvements continue in Mobile, Alabama, along the Mississippi Gulf Coast, including Biloxi, and in New Orleans and surrounding areas, including Mandeville, Lacombe, Hammond and Covington, where technicians have been able to move in and begin restoring the network. Service has also been restored at the Louis Armstrong New Orleans International airport where helicopters are transporting those that have been rescued from roof tops.

"We are making progress, bringing more resources to the impacted areas, opening additional store locations to help connect people in the impacted communities, and working diligently to restore service as quickly as possible," said Verizon Wireless South Area President Jack Plating, who is leading the company's recovery efforts. "We will continue to work where we can and bring more cell sites up as the situation improves." |

Emergency recovery crews have been dispatched to areas that can be reached safely to assess damage and initiate repairs. The Verizon Wireless network team has been working with the landline telephone company and others to identify connectivity issues that are impacting Verizon Wireless' network. Additionally, support staff and equipment from surrounding areas are being brought in to support the restoration effort.

Verizon Wireless hurricane response and recovery efforts include:

Network

- Nearly 20 COWs (Cell on Wheels) are staged and ready to be deployed to help increase wireless coverage in the hardest hit areas in Louisiana, Mississippi and Alabama, once state and federal emergency officials give the go-ahead.
- Electrical generators have been sent in from across the country and are now in place to provide emergency power to cell sites without permanent generators.
- Verizon Wireless Disaster Recovery teams are coordinating with wireline and power companies to reestablish connectivity to cell phone towers in the area.
- Continuous monitoring of cell sites and switches in the affected areas has been under way from the company's national Network Operations Control Centers located in New Jersey and Texas, assisting recovery teams on the ground in identifying service status and conditions.

Customer Service

- Verizon Wireless Communications Stores in Baton Rouge, Hammond, Mobile and Pensacola and other areas have been re-opened and are providing residents free local and long-distance calls, battery charging and technical support to anyone in need of these services due to Hurricane Katrina.

Community Outreach

- Verizon Wireless Emergency Communication Centers (WECCs) have been established in Houston at the Astrodome and Reliant Arena to help evacuees place calls, re-charge their phones and will provide technical support and customer service, free of charge. Verizon Wireless employees from other states have volunteered their assistance to the WECCs.
- As evacuees arrive at the Astrodome and other sites, Verizon Wireless is providing them with the means to reach out to people around the country who are desperate to know that they're safe. Communicating via text messaging, Verizon Wireless has helped reunite many families that have been separated as they were transported to Houston, as well as help evacuees reach family members that have been displaced. Verizon Wireless is also handing out 10,000 Verizon long-distance calling cards at these locations.
- Verizon Wireless is distributing phones to shelters in Baton Rouge and other areas to help evacuees connect with family and friends.
- Verizon Wireless' EV-DO high-speed data service is being used in areas in Louisiana, including Baton Rouge, by relief agencies for e-mail, Internet blogging and access to Web sites that help reunite displaced people.
- Verizon Wireless has joined with the American Red Cross to provide its customers nationwide the opportunity to support the relief efforts by making donations directly from their wireless phones. Customers simply send the message "2HELP" via a text message to the address 2HELP or 24357 using the key word "help." They will receive a reply message asking them to confirm a donation to the American Red Cross of $5.00 – customers wishing to donate more than once can send up to four additional text messages to 2HELP, for a total contribution of $25.00.
- The Verizon Foundation has established a special disaster relief program to help the victims of Hurricane Katrina that has raised nearly $5 million to date. The Foundation is matching 2-to-1 Verizon Wireless and Verizon Communications employee contributions to support relief efforts by the Red Cross through September 30, 2005.

While Verizon Wireless continues to work to restore service in all areas impacted by Hurricane Katrina, the company also offers the following tips to those in the affected areas:

- Communicate through TXT Messaging since this service uses less bandwidth than voice calls. TXT messages continue to have a higher success rate of getting through in many areas where service has not returned to normal.
- Try to limit wireless phone usage as much as possible by calling an out of town contact to let them know you are safe and asking them to spread the word to your family and friends. This will help keep the network from being overloaded for emergency workers who are depending

on wireless communications in their rescue and restoration operations.

About Verizon Wireless
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Verizon Wireless Reports "Significant Strides" In Coverage And Call Capacity In Gulf Coast, Including New Orleans Area

Company Provides Unprecedented 10,000 Phones And Internet-Enabled Devices To Aid Relief Workers and Evacuees

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09/09/2005

BEDMINSTER, NJ — With more than 86 percent of its service restored along the storm-battered Gulf Coast, Verizon Wireless reports today that it has provided more than 10,000 wireless devices, including wireless phones and data air cards, as well as free wireless service, to key organizations involved in disaster relief and recovery efforts in the areas devastated by Hurricane Katrina.

As of 1 p.m. today, the company had made significant progress in the Gulf Coast region and the areas surrounding New Orleans, including the Lake Ponchartrain area. All cell sites covering the Baton Rouge and Mississippi Gulf Coast areas were back in service this morning, and more than 70 percent of the cell sites serving the greater New Orleans area were back in service.

"We have made significant strides within the last week relative to our network coverage and service," said Jack Plating, South Area President of Verizon Wireless, who is leading the company's recovery efforts. "The Baton Rouge, Mobile, Florida Gulf Coast and Jackson, Mississippi areas are operating normally. The North Shore area to the north of Lake Pontchartrain is operating with less than 20 percent of the area experiencing service issues. The New Orleans metro area gradually improves each day."

Organizations on the ground in the hurricane devastated area that have received phones, wireless data equipment and service include the American Red Cross, National Guard, Coast Guard, National Weather Service, as well as medical, transportation, construction, police and fire agencies and others. In addition to 10,000 phones, another 5,400 were rushed to government agencies making special requests for additional wireless service in the disaster zone. Many of the phones will be placed in the hands of evacuees who need to reach out to family and friends. Verizon Wireless' PC Cards equipped with EV-DO high-speed BroadbandAccess data service are also being used by relief agencies for e-mail, Internet blogging and access to Web sites that help reunite displaced people in areas in Louisiana, including Baton Rouge.

Phones have also been dispatched to Verizon Wireless' Wireless Emergency Communication Center (WECC) at the River Center in Baton Rouge, Louisiana. The company has provided phones at Verizon Wireless WECCs and at many shelters across the South so people can contact relatives and recharge phones. Verizon Wireless continues to deploy additional WECCs at other areas across the country as evacuees are transferred to these locations.

"Verizon Wireless employees are working night and day to get wireless equipment and service into the hands of first responders, relief organizations and evacuees to help them communicate," said Mr. Plating. "We have donated more wireless phones and devices to help our friends and neighbors than we ever have and we won't stop until the job is done. Verizon Wireless knows the rebuilding process is under way and we will work to help with this journey."

As of Friday, September 9, 2005, conditions are as follows:

Louisiana

- The surrounding areas of New Orleans to the southwest, particularly the Houma area, and the cities of Slidell, Hammond, Mandeville, Lacombe, Covington, Metairie and Kenner have good coverage with a few pockets of limited coverage. The areas approximately 20 miles north of Lake Pontchartrain, particularly the Independence, Loranger and Folsom areas have good coverage, although service may not be available in all areas. Service is operating normally at the Louis Armstrong New Orleans International Airport.
- There is service in the French Quarter; however, the central New Orleans area is experiencing limited coverage.
- The Baton Rouge area has normal coverage with no sites down.

Mississippi

- Verizon Wireless' cell site is operational on the roof of the Imperial Palace Hotel and Casino in Biloxi - the site of FEMA's base of operations in the area.
- Verizon Wireless' cell site is operational at the Gulfport-Biloxi Regional Airport, a major base of operations for the National Guard. The Biloxi / Gulfport area has limited coverage, although the company continues to bring up additional cell sites daily and coverage is improving.
- COWs (Cell on Wheels) have been deployed to boost coverage at the following locations:
  - Keesler Air Force Base in Biloxi
  - FEMA's relief distribution center in Gulfport
  - The Ocean Springs area
- The Jackson area has normal coverage with no sites down.
- The Mississippi Gulf Coast continues to experience some outages with a few areas with limited service, although the company continues to bring up additional cell sites daily and coverage is improving.

Alabama

- The Alabama Gulf Coast now has the majority of service restored with a few areas of spotty coverage. In the Mobile area service has returned to normal.

Florida

- The Florida Gulf Coast area is operating normally.

(EDITORS: To view the most recent network updates, visit http://news.vzw.com and click on MEDIA INFORMATION FOR HURRICANE KATRINA. Broadcast-quality B-roll footage featuring

network recovery, reinforcement and support is available online. Log on to www.verizonwireless.com/multimedia to preview and request video segments, which can be received in newsrooms digitally, by tape or via satellite.)

About Verizon Wireless
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ATTACHMENT C

Helping Evacuees Every Way We Can

The pressing call to our Dispatch Resource Center in Bridgeport, W.Va., came at 4 a.m. on Saturday, Sept. 3 — Labor Day weekend.

The state's Department of Homeland and Emergency wanted to know if Verizon could immediately provide a bank of 50 telephones at Camp Dawson, a National Guard base in Kingwood.

More than 500 evacuees from New Orleans would begin arriving that day to make their temporary home there, and they needed a way to contact loved ones.

In 12 hours over the holiday weekend, Network Services Group (NSG) employees wrote and assigned the necessary service orders and secured the resources needed for the 50 lines and handsets. Then, two central office technicians and seven outside plant technicians installed the 50-phone facility — finishing a few hours before the evacuees arrived.

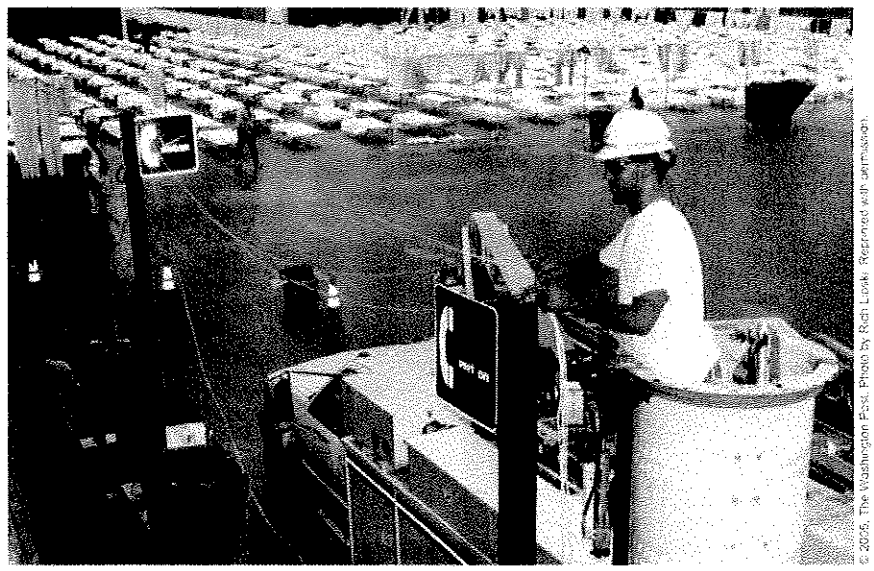
Along with the phone lines, Verizon provided evacuees with free local and long-distance calling.

The job was one of a number of urgent requests Verizon received early this month to provide vital phone services to emergency officials and Hurricane Katrina evacuees in shelters.

In Washington, D.C., we set up a phone bank in the D.C. Armory as the facility was readied for several hundred evacuees who arrived Sept. 6.

Through a coordinated effort with Public Communications, Network Services' Potomac customer operations and Potomac central office, and the Recent Change Memory Administration Center, employees installed 30 phones in one day.

Like Camp Dawson, evacuees at the armory connected with their loved ones, thanks to free local and long-distance calling provided by Verizon.



Cable Splicing Technician Trevor Brooks helps set up service for a bank of 30 toll-free payphones for evacuees coming to the D.C. Armory.

Other Verizon organizations and employees also sprang into action:

- In less than a day, Verizon employees in NSG's Customer Operations installed 66 phone lines in two Philadelphia schools during the holiday weekend in preparation for evacuees coming to the city.
- Verizon distributed 10,000 pre-paid calling cards to evacuees throughout Texas, giving them free calls. And Verizon and 7-Eleven began distributing 10,000 long-distance calling cards with free calling to evacuees.
- Retail Markets employees contributed their incentive-program points, which were turned into donations to support Red Cross relief efforts. As of Sept. 8, more than $44,000 had been donated. (Employees earn points through their sales of Verizon products.) In addition, employees donated about $6,000 from their Sell One More accounts, another incentive program.
- The Verizon LiveSource team created a special "Katrina relief" greeting designed to quickly direct callers to operators with access to a special database of relief services nationwide.

Verizon provided evacuees with free local and long-distance calling.

Updates on our Hurricane Katrina recovery efforts are available on the company's eWeb at *eweb.verizon.com*.

CONTINUED ON PAGE 2

CONTINUED FROM PAGE 1

PARTICIPATE IN THE VERIZON FOUNDATION'S DISASTER-RELIEF PROGRAM

American Red Cross
Hurricane 2005 Relief Fund-
Hurricane Katrina
Attention: Jennifer Porter
P.O. Box 37295
Washington, D.C. 20013

NAACP
Disaster Relief Fund-Hurricane Katrina
Attention: Verizon Volunteers
Disaster Relief Incentive Program
4805 Mount Hope Drive
Baltimore, Md. 21215

The Salvation Army
Attention: Nalini
615 Slaters Lane
Alexandria, Va. 22313

To participate in the Verizon Foundation's 2-to-1 matching gift program for Hurricane Katrina relief, employees can send contributions to the organizations listed above. Contributions must be registered on the foundation's Web site at **foundation.verizon.com/donor** by Sept. 30. When you register, print the Disaster Relief Program Coupon generated by your donation and mail it with your check. Be sure to write "Verizon-Hurricane Katrina" on the check.

ATTACHMENT D

KATRINA HITS WIRELESS SERVICE, EMPLOYEE HOMES

When Hurricane Katrina hit the Gulf Coast, Verizon Wireless facilities were damaged and cell-phone service was down. Sadly, many employees lost their homes, and some lost loved ones.

After the hurricane, the company's primary concern was the safety and well-being of employees. With efforts under way to check on employees, emergency-recovery crews began assessing damage and initiating repairs where they could.

"The biggest challenge was accessibility," said Patrick Kimball, corporate communications manager for the Houston and Gulf Coast regions. "Much of New Orleans was flooded, and there were significant problems with the roads and mountains of debris in Gulfport and Biloxi, Miss."

In areas that were accessible and safe, employees worked around the clock with BellSouth and others to identify connectivity issues that affected Verizon Wireless' network, and support staff and equipment from surrounding areas were brought in to help with the restoration effort. In some places, where it was not safe to enter affected areas, crews had to stand by.

Many of those who pitched in were among nearly 300 employees who lost their homes, their belongings or, in some cases, were unable to return to see if they still had a home. At least two Verizon Wireless employees lost family members.

In some areas, damage to wireless facilities was extensive. Flooding, power outages and landline telecommunications issues hampered efforts to restore service.

Two of the company's switches in Louisiana, which also serve the Mississippi coast, were affected. The switch just outside New Orleans was isolated from the network — largely because a landline switch in downtown New Orleans was under water — while the Baton Rouge switch fought to accommodate a surge in demand.

Nearly 400 of the company's cell sites were out of service, although half of them were operational within several days. Service in New Orleans and the Mississippi Gulf Coast was limited a week after Katrina, but service in surrounding areas improved significantly.

Within a week, service in Baton Rouge, Mobile and Pensacola was back to normal, and coverage was re-established early on at the New Orleans' Louis Armstrong International Airport, where hurricane victims were being airlifted out of the region.

Initially, about 18 of the Verizon Wireless' Communications Stores were out of operation — some hit severely and others with the status unknown because employees could not get to them.

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Verizon Wireless set up emergency communication centers at the Houston Astrodome and Reliant Arena.

Many evacuees had not used a phone in many days since Katrina hit New Orleans. (Photos, clockwise from top) Verizon Wireless employee Gerry Sheehan helps New Orleans evacuee Hilda White connect with family members in New York, Oklahoma and California. This was the first they had heard from her since the storm. New Orleans resident Cheryl Hyams is relieved to reach her loved ones. Frank Parker talks to his wife for the first time in five days after they were separated during the hurricane.

CONTINUED FROM PAGE 1

Verizon Wireless Communications Stores in Baton Rouge and Mobile, Ala., and Pensacola, Fla., provided area residents with free local and long-distance calls, a place to charge their cell-phone batteries and technical support.

The response and recovery efforts included:

- Deploying nearly 20 COWs (cell on wheels) and COLTs (cell on light trucks) to help provide wireless coverage in the hardest hit areas of Louisiana, Mississippi and Alabama;
- Providing portable electrical generators to power some cell sites;
- Coordinating the efforts of the Verizon Wireless disaster-recovery teams with wireline and power companies to re-establish connectivity to cell-phone towers;
- Providing laptop computers with BroadbandAccess (wireless broadband Internet access service) for relief agencies;
- Working with the American Red Cross to distribute phones to shelters in Louisiana, Texas and areas across the South where evacuees were transported;
- Continuously monitoring cell sites and switches in affected areas through the network-operations centers in New Jersey and Texas and assisting recovery teams in identifying service status and conditions; and
- Establishing Verizon Wireless emergency communication centers for hurricane victims in Houston and in Baton Rouge, and distributing thousands of phones so evacuees could call loved ones, the first contact many had had since the storm.

PARTICIPATE IN THE VERIZON FOUNDATION'S DISASTER-RELIEF PROGRAM

American Red Cross
Hurricane 2005 Relief Fund-
Hurricane Katrina
Attention: Jennifer Porter
P.O. Box 37295
Washington, D.C. 20013

NAACP
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The Salvation Army
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ATTACHMENT E

Helping Katrina's Victims

Employee Giving, Foundation Match Surpasses $8.3 Million

Photo: AP Wide World/Andrea Booher

A Red Cross volunteer comforts an evacuee at the Houston Astrodome, where thousands are temporarily sheltered.

Employees responded with overwhelming generosity to the Verizon Foundation's 2-to-1 matching-gift program to aid victims of Hurricane Katrina.

More than $8.3 million was raised as part of the special disaster-relief campaign for the American Red Cross. As of Sept. 19, that total included more than $2.8 million in contributions from more than 21,000 Verizon and Verizon Wireless employees and more than $5.5 million in matching funds.

Recognizing the enormity of this disaster, the foundation increased its total dollar commitment several times as employee donations mounted. After the first week of the special disaster-relief program, it also added the NAACP and The Salvation Army to the program, providing 2-to-1 matches for employee donations to those organizations as well.

The 2-to-1 match of employee contributions runs through Sept. 30 and has a limit of $2,500 per year per individual in disaster-relief donations.

"Long-term recovery efforts and needs are still unknown," said Patrick Gaston, president of the Verizon Foundation. "We will monitor the situation to determine our continued response to this devastating disaster."

See more Katrina stories elsewhere in this issue.

American Red Cross volunteers have been deployed to the hardest-hit areas of Katrina's destruction, supplying critical necessities to hundreds of thousands of victims left homeless.

The NAACP has mobilized members and volunteers across the nation to coordinate efforts to provide food, shelter, clothing, medical supplies, counseling, transportation and transitional services to hurricane victims.

The Salvation Army has served over 740,000 meals in Alabama, Louisiana, and Mississippi and is beginning to serve evacuees in 30 states.

By making a financial contribution, employees help these organizations provide shelter, food, counseling and other assistance to those in need.

See the next page for details on where to send your donations and how to generate the foundation's match for contributions to the Red Cross, NAACP and Salvation Army.

For more information on the matching gifts, employees can call the Verizon Volunteers Support Center at 866-247-2687.

CONTINUED FROM PAGE 1

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ATTACHMENT F

NATIONAL SECURITY TELECOMMUNICATIONS ADVISORY COMMITTEE

March 1, 2006

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

Your National Security Telecommunications Advisory Committee (NSTAC) continues to evaluate the lessons learned from Hurricane Katrina. We are writing to bring to your attention the first of several NSTAC recommendations that would strengthen the ability of telecommunications providers to respond even more effectively to future hurricanes and other natural or manmade events.

National security and emergency preparedness (NS/EP) communications are those telecommunication services used to maintain a state of readiness or to respond to and manage any event or crisis (local, national, or international) that causes or could cause injury or harm to the population, damage to or loss of property, or degrades or threatens the NS/EP posture of the United States. The provision of NS/EP communications to support the incident management structure defined in the National Response Plan (NRP) requires that the supporting communications infrastructure is quickly returned to working order after an incident. However, the restoration of service necessary to deliver NS/EP services is contingent upon the ability of telecommunications infrastructure providers to quickly access and repair damaged facilities.

Unfortunately, initial legal and policy interpretations in the aftermath of Katrina significantly delayed the restoration of the basic communications infrastructure. Specifically, the major policy challenges resulted from (1) the lack of recognition of telecommunications infrastructure providers as emergency response providers in the *Homeland Security Act of 2002* and the NRP, and (2) inconsistent interpretations of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)*. Strict interpretations of the law and these policy documents determined that telecommunications infrastructure providers were not emergency responders and were not entitled to assistance under the Stafford Act, which precluded key providers from receiving Government assistance in accessing restricted areas and obtaining fuel, water, power, billeting, and workforce and asset security.

To ensure the expeditious restoration of critical telecommunications infrastructure after a natural disaster or terrorist attack, your NSTAC recommends that you take action to designate telecommunications infrastructure providers as "Emergency Responders (Private Sector)." The National Weather Service forecasts that the 2006 hurricane season, beginning on June 1, 2006, will be as destructive as the 2005 season. Implementing these recommendations before the hurricane season or a potential terrorist attack will enable Federal agencies to render non-monetary assistance to telecommunications infrastructure providers to facilitate recovery of the very communications central to incident management efforts.

Accordingly, the NSTAC recommends that, no later than June 1, 2006, you establish and codify the term Emergency Responder (Private Sector) to include telecommunications infrastructure providers and ensure non-monetary assistance, including accessing restricted areas and obtaining fuel, water, power, billeting, and workforce and asset security, to them by—

- Directing the Department of Homeland Security to modify the NRP and its Emergency Support Functions to designate telecommunications infrastructure providers as Emergency Responders (Private Sector) and to establish protocols and procedures for the way in which Federal, State, local, and tribal Governments should work with telecommunications infrastructure providers before, during, and after a national disaster,

- Issuing appropriate Presidential guidance to define Emergency Responders (Private Sector) under the Stafford Act and other authorities as appropriate to align with the broadened definition of national defense in the 2003 amendments to the *Defense Production Act (DPA) of 1950.* Specifically, the guidance should make clear that key response personnel of critical telecommunications infrastructure owners and operators should be defined as Emergency Responders (Private Sector) and should receive non-monetary Federal assistance under the Stafford Act, and

- Directing the Secretary of Homeland Security to work with Congress to align the Stafford Act and other appropriate legislative authorities with the DPA by codifying the designation of private sector telecommunications infrastructure providers as Emergency Responders (Private Sector) and by codifying the official interpretation that for-profit telecommunications infrastructure providers should receive non-monetary Federal assistance.

The adoption of these recommendations will help expedite the recovery and restoration of essential NS/EP communications after a natural disaster or terrorist attack. The attached report sets forth the findings and conclusions of our evaluation. Thank you for the opportunity to advise you on this vital matter and the NSTAC would be pleased to work with you to carry out these recommendations.

Sincerely,

F. Duane Ackerman
Chairman

Copy to:
The Vice President
Secretary of State
Secretary of Defense
The Attorney General
Secretary of Transportation
Secretary of Energy
Secretary of Homeland Security
Director, Office of Management and Budget
Assistant to the President for National Security Affairs
Assistant to the President for Homeland Security
Assistant to the President for Science and Technology
Chairman, Federal Communications Commission
Under Secretary for Preparedness, Department of Homeland Security
Assistant Secretary for Infrastructure Protection, Department of Homeland Security/Manager, National Communications System
Director, Federal Emergency Management Agency, Department of Homeland Security
Director, Office of Legislative and Intergovernmental Affairs
NSTAC Principals and Industry Executive Subcommittee Members

THE PRESIDENT'S
NATIONAL SECURITY TELECOMMUNICATIONS
ADVISORY COMMITTEE

LEGISLATIVE AND REGULATORY TASK FORCE

Federal Support to Telecommunications Infrastructure Providers in National Emergencies

Designation as "Emergency Responders (Private Sector)"

January 31, 2006

TABLE OF CONTENTS

1.0 INTRODUCTION

The President's National Security Telecommunications Advisory Committee (NSTAC), in recognition of the importance of protecting and restoring vital services following natural or man-made disasters, is charged with providing the President "advice in the identification and solution of problems which the Committee considers will affect national security telecommunications capability."[1] On August 29, 2005, Hurricane Katrina made landfall near New Orleans, Louisiana, as a Category 4 hurricane and battered the Gulf Coast region of the United States. Most notably, the storm surge breached the levees that protected New Orleans from Lake Pontchartrain, and most of the city was subsequently flooded by the lake's waters. In addition, the Mississippi Gulf Coast was devastated. The storm and ensuing flooding resulted in severe damage to the wireline and wireless communications infrastructure throughout the area. Electric power no longer functioned, switches were damaged by flooding, and critical personnel could not gain access to many sites. Because of the storm's unprecedented destruction to the infrastructure, recovery and restoration teams were faced with numerous challenges. Civil unrest that arose in the wake of the disaster seriously impeded recovery and restoration efforts. The NSTAC examined the response to Hurricane Katrina and the implications of that response for vital national security and emergency preparedness (NS/EP) communications.

The Federal Government recognizes the significance of the telecommunications infrastructure in providing essential communications during and after a natural disaster or terrorist attack. The President's *National Strategy for the Physical Protection of Critical Infrastructures and Key Assets*, February 2003, affirms that "the Government and critical infrastructure industries rely heavily on the public telecommunications infrastructure for vital communications services." Communication is at the foundation of the Nation's ability to respond to a catastrophic event because the stability of the telecommunications infrastructure helps to ensure the protection and restoration of other infrastructures.

The NSTAC realizes that because the private sector owns the vast majority of the critical telecommunications infrastructure, industry and the Federal Government must work together to protect and restore this infrastructure during and after a catastrophic event. Consistent with its charge, the NSTAC investigated whether the current legal and regulatory framework hindered the coordination of the restoration of critical telecommunications infrastructure efforts between the Federal Government and telecommunications infrastructure providers[2] (TIP) in the aftermath of Hurricane Katrina.

[1] EO 12382, *President's National Security Telecommunications Advisory Committee,* September 13, 1982.

[2] For this report, telecommunications infrastructure providers are those entities who own and operate infrastructure and/or provide enabling software, hardware, and/or services for the purposes of providing "telecommunications" as defined in and consistent with the definition found in National Communications System Manual 3-1-1—namely, "the transmission, emission, or reception of intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio visual or other electronic, electric, electromagnetic, or acoustically coupled means, or any combination thereof."

2.0 BACKGROUND

Since its inception, the NSTAC has addressed a wide range of policy issues regarding the importance of protecting and restoring the Nation's telecommunications infrastructure to maintain vital NS/EP functions in the event of a national disaster. Hurricane Katrina caused unprecedented damage to the national telecommunications infrastructure and TIPs had to quickly respond and restore the infrastructure to expedite emergency response to the devastated areas. However, in their response and restoration efforts, many TIPs had difficulty accessing vital resources needed to repair essential infrastructure and could have shortened their response times with non-monetary assistance from the Federal Government. This difficulty was attributed in large part to differing interpretations of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)* [Public Law 93-288, as amended], which were intensified by the National Response Plan's (NRP) unclear description of the Federal Government's role in providing support to TIPs during disaster relief efforts.

The Stafford Act is the legislative vehicle through which the Federal Government provides disaster relief to State, local, and tribal Governments; individuals; families; and some private nonprofit organizations through the federally administered Disaster Relief Fund. The Act grants the President authority to declare an area a natural disaster, thereby expediting Federal assistance through the Federal Emergency Management Agency (FEMA) to States during catastrophes such as Hurricane Katrina.[3] With the recent transfer of FEMA to the Department of Homeland Security (DHS), existing ambiguities in the Stafford Act became subject to new analysis by DHS lawyers.

Several sections of the Stafford Act indicate that the Act does not preclude Federal assistance to TIPs. Section 5170(b)(3), for instance, allows Federal departments and agencies to "provide assistance essential to meeting immediate threats to life and property resulting from a major disaster" including, "Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety." Additionally, 5170(b)(4) allows Federal agencies to make "contributions to State or local Governments or owners or operators of private non-profit facilities for the purpose of carrying out the provisions of this subsection," and Section 5172 allows the President to make contributions to private nonprofit facilities if "the facility provides critical services (as defined by the President) in the event of a major disaster." As a result of new interpretations regarding the applicability of the Stafford Act to for-profit entities, restoration efforts were stalled. The Federal Government's ability to provide assistance to TIPs was hindered, preventing the private sector from reacting to Katrina with the same efficiency with which it had responded in previous disasters.

Once an incident has been declared a national disaster, support extended under the Stafford Act is coordinated through the protocols established in the NRP, which was developed pursuant to the *Homeland Security Act of 2002 (HSA)* [Public Law 107-296]. As mandated under Homeland Security Presidential Directive 5, *Management of Domestic Incidents*, the NRP does not have force of law; rather, its guidelines are intended to provide a firm national framework for

[3] The NSTAC acknowledges that proposed legislation exists to amend the Stafford Act and the *Homeland Security Act of 2002*; however, the Committee does not take a position on any specific bill.

streamlining incident management activities by improving disaster management coordination among Federal, State, and local jurisdictions and private sector entities. To facilitate this coordination, the Government incorporated mechanisms, known as emergency support functions (ESF), describing the type of Federal support available and delineating the roles of the ESF Coordinator and support agencies in administering aid to the public and private sector. Table 2-1[4] lists the 15 ESFs.

Table 2-1. Emergency Support Functions in the NRP

ESF	Description	Lead Agency
1. Transportation	Providing civilian and military transportation	Department of Transportation
2. Communications	Providing telecommunications support	National Communications System
3. Public Works and Engineering	Restoring essential public services and facilities	U.S. Army Corps of Engineers, Department of Defense
4. Fire Fighting	Detecting and suppressing wildland, rural and urban fires	U.S. Forest Service, Department of Agriculture (USDA)
5. Information and Planning	Collecting, analyzing, and disseminating critical information to facilitate the overall Federal response and recovery operations	FEMA
6. Mass Care	Managing and coordinating food, shelter and first aid for victims; providing bulk distribution of relief supplies; operating a system to assist family reunification	American Red Cross
7. Resource Support	Providing equipment, materials, supplies, and personnel to Federal entities during response operations	General Services Administration
8. Health and Medical Services	Providing assistance for public health and medical care needs	U.S. Public Health Service, Department of Health and Human Services (HHS)
9. Urban Search and Rescue	Locating, extricating, and providing initial medical treatment to victims trapped in collapsed structures	FEMA
10. Hazardous Materials	Supporting Federal response to actual or potential releases of oil and hazardous materials	Environmental Protection Agency
11. Food	Identifying food needs; ensuring that food gets to areas affected by disaster	Food and Nutrition Service, Department of Agriculture
12. Energy	Restoring power systems and fuel supplies	Department of Energy
13. Public Safety and Security	Securing facilities and resources	DHS and Department of Justice
14. Long-Term Community Recovery and Mitigation	Assessing social and economic community impact	USDA, Department of Commerce, HHS, DHS/Emergency Preparedness and Response (EPR)/FEMA, Department of Housing and Urban Development, Department of the Treasury, and Small Business Administration
15. External Affairs	Establishing emergency public information and protective active guidance	DHS/EPR/FEMA

[4]FEMA. "Your Guide to FEMA." April 2005.
< http://www.training.fema.gov/emiweb/dfto/docs/Your%20Guide%20to%20FEMA.doc >

Several sections of the plan allude to the importance of partnering with and providing resources to TIPs to ensure NS/EP communications during response and recovery efforts. For example, ESF-2 gives specific guidance regarding industry and Government coordination by instructing Federal officials to "[work] with the telecommunications industry" to "restore and reconstruct telecommunications facilities as the situation permits."[5] Recognizing that restoration of damaged critical telecommunications infrastructure requires resources, the NRP calls on the National Communications System Manager to "[coordinate] with ESF-12 regarding telecommunications industry requests for support under the Electric Service Priority initiative, emergency fuel resupply, and safe access for telecommunications work crews into disaster areas."[6] ESF-13 helps provide public safety resources when State and local Governments are overwhelmed. Instances in which Federal security support is appropriate are as follows:

- "**Badging and Credentialing:** Assisting in the establishment of a consistent process for issuing identification badges to emergency responders and other personnel needing access to places within a controlled area;"

- "**Site Security:** Providing security forces and establishing protective measures around the incident site, critical infrastructure, and/or critical facilities;" and

- "**Force Protection:** Providing for the protection of emergency responders and other workers operating in a high-threat environment."[7]

ESF-7 complements the support provided in ESF-13 by offering resources to Federal, State, local, and tribal jurisdictions in the form of "relief supplies, facilities space, office supplies, office space, telecommunications, security services, and personnel required to support immediate response activities."[8] References to coordination with the private sector in the ESFs are bolstered in the Private-Sector Coordination Support Annex to the NRP, which reiterates DHS's responsibility to "facilitate coordinated incident response planning with the private sector at the strategic, operational, and tactical levels."[9]

The NRP also designates "emergency response providers" and "emergency responders" who are eligible for specific support described in the ESFs, such as the credentialing and force protection measures mentioned above. Specifically, it identifies emergency response providers using the statutory definition from the HSA, which focuses on Government entities.[10] However, the plan does not completely overlook the importance of the private sector in emergence response. In Appendix 3, the NRP makes one reference to "private sector emergency response providers"[11]

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[5] NRP, ESF-2.

[6] Ibid.

[7] NRP, ESF-13.

[8] NRP, ESF-7.

[9] NRP, Private Sector Coordination Support Annex.

[10] 6 U.S.C. § 101(6)(2005) states, "the term 'emergency response provider' includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities." The NRP's definition in Appendix 1, *Glossary of Key Terms*, inserts "and tribal" following "local" and notes that "emergency response providers" are "also known as 'emergency responders.'"

[11] NRP, Appendix 3, *Authorities and References.*

separately from the "emergency response providers" described in the HSA. Although the plan seems to allow for a private sector emergency response provider designation, it neither elaborates on this concept nor lists specific entities who qualify as such. Furthermore, it also does not clarify whether any support will be available to private sector emergency response providers or whether any such support provided would be commensurate with that granted to other emergency response providers.

3.0 EXAMINATION

Immediately following the storm, industry and Government response and infrastructure restoration efforts were addressed through the National Coordinating Center (NCC), which, under the NRP, is designated as the Federal office for national telecommunications domestic incident management. However, as a result of the unprecedented destruction to the infrastructure, the NCC and other recovery and restoration teams in the private sector faced numerous new and unforeseen operational challenges. To analyze these challenges, the NSTAC examined the way in which TIPs responded to Hurricane Katrina's damage, the difficulties they faced during their restoration efforts, and the legal and regulatory environment in which industry and the Federal Government conducted emergency response. The Committee also investigated how legally designating TIPs as "Emergency Responders (Private Sector) (PS)" would aid in accomplishing their task of restoring telecommunications infrastructure.[12]

3.1 Security for Private Facilities

Following Hurricane Katrina, civil unrest ensued in New Orleans, and TIPs were in need of security protection to safely move into the affected areas. TIPs initially reached out to the Government for security protection; however, interpretations of the Stafford Act limited industry's ability to receive Government security assistance from the National Guard. For example, one carrier noted that it was repeatedly denied security protection from the National Guard through official channels at its fixed facilities and while conducting convoy operations to move emergency equipment and personnel into New Orleans. The carrier was eventually able to obtain some security assistance from the National Guard informally, but this was sporadic and resulted in delays. Another carrier was unclear on how Northern Command perceived its role in providing security assistance to TIPs. The carrier was overwhelmed with requests for granular detail about the restoration process over several weeks. The request for data diverted the carrier's resources from the restoration efforts and obliged it to focus on responding to data requests. It was informed later that regardless of the data, no assistance would be provided. The lack of protection for communications disaster response personnel delayed industry's response to the disaster. Several companies then resorted to private security services to protect their workers and equipment but were subsequently informed that armed private security personnel were not permitted to carry weapons in Louisiana if they were not licensed by the State of Louisiana. Unfortunately, the process of engaging and retaining private security service providers gave rise to delays in restoration. For example, in one case, the use of private security delayed

[12] The Committee considered the advantages of designating TIPs as "Emergency Responders (PS)" to remove all doubt as to whether TIPs could receive Federal disaster relief under the Stafford Act and require them to be included in Federal, State, regional, and local emergency planning processes. This designation would also make TIPs eligible to priority access to restricted disaster sites in accordance with official credentialing procedures.

restoration efforts 5 days. This included time necessary to execute contracts for services, travel time to the disaster area, and time necessary to set up support infrastructure (e.g., sleeping accommodations, showers, toilet facilities) for these additional personnel in the disaster area. State licensing requirements also contributed to delays in many cases.

Although ESF-13 applies to "Federal-to-Federal support or Federal support to State and local authorities," it assigns some responsibility for public safety and security to the private sector.[13] Accordingly, ESF-13 does not distinguish between the public and private sector when declaring that the Federal Government can provide security assistance for response and recovery activities "where locally available resources are overwhelmed or are inadequate, or where a unique Federal capability is required."[14] Once the need is determined, ESF-13 activates Federal security assistance aimed at "providing security forces and establishing protective measures around the incident site, critical infrastructure, and/or critical facilities."[15] Unfortunately, in several instances, this standard was not applied to TIPs even though they were restoring critical infrastructure.

3.2 Priority Access to Critical Resources

Interpretations of the Stafford Act and lack of specificity of the language in ESF-7 and ESF-12 hindered industry's ability to obtain priority access to necessary resources (e.g., fuel, water, power, vehicles, food and shelter) that were typically provided by the Federal Government to entities who were recognized and treated as official emergency responders. In addition, TIPs faced challenges trying to provide housing for their personnel restoring the infrastructure. There was a lack of coordination with and support from the Federal Government to secure housing for company personnel who were called in to help restoration efforts. In one instance, FEMA requested information detailing a carrier's temporary housing requirements. The carrier provided this information, but then FEMA declined to offer housing support to the carrier since the housing was on a Federal parcel. In some cases, FEMA commandeered rooms in local hotels that were previously secured by carriers for their restoration teams, and billeting at military bases was not allowed for TIPs. Industry was again delayed in its recovery process because of a lack of housing for its restoration crews.

In addition, the hurricane's damage left TIPs with limited energy options. Although most companies had extensive plans in case of power outages, the lack of civil order coupled with the extent of the destruction severely impaired companies from carrying out those plans. Specifically, several cellular sites were equipped with backup generators with enough fuel to last for 2 to 3 days, but a number of those generators were stolen. Fuel suppliers contracted to maintain those sites were often unilaterally commandeered and, in some cases, State officials redirected fuel tankers intended for telecommunications facilities to other locations.

[13] NRP, ESF-13

[14] NRP, ESF-13.

[15] Ibid.

3.3 Priority Site Access Authorization

The day after Hurricane Katrina hit, industry repair crews ready to begin restoring service could not obtain permission from officials to enter the disaster area, preventing telecommunications services from being restored as quickly as they should have been. TIPs had difficulty gaining access to restricted facilities, which significantly hindered quick response. Specifically, inconsistent access authorization policies delayed crews and burdened incident management teams. For example, FEMA letters authorizing access to restricted areas were changed repeatedly. Wireless technicians and emergency response workers were consequently delayed in getting access to damaged cell sites because local law enforcement agencies were not aware of FEMA authorization, did not respond appropriately to access letters, or did not know when they were able to allow recovery crews into the areas. Furthermore, predelivery of equipment necessary for the timely recovery of wireless critical infrastructure also was not permitted into secure locations near the expected impacted areas. This included equipment that was crucial to establishing wireless coverage in the areas where Federal, State, and local agencies were staging their operations. The changing interpretations of FEMA authorization letters and varying interpretations of those who were eligible to access restricted areas caused TIPs substantial delays in their recovery and restoration efforts. In addition, the ESF-13 guidelines did not provide badging and credentialing procedures that would have substantially helped TIPs gain needed access to sites where critical telecommunications infrastructure was located.

The NSTAC has previously examined access and credentialing issues and has made recommendations to remedy gaps in the current policy. In 2003, the NSTAC recommended to the President that he "direct the appropriate departments and agencies to...coordinate with industry to develop a plan for controlling access at the perimeter of a disaster area in coordination with State and local Governments."[16] This recommendation was especially important given that perimeter access laws are, in general, beholden to State and local regulation. Unfortunately, as the NSTAC indicated in a 2005 report, there is currently "no standard Government policy...for private sector use in planning activities for any perimeter control issues."[17] Therefore, the Committee recommended that the President direct appropriate agencies to work with industry "to develop a national plan for controlling access at the perimeter of a national special security event or a disaster area."[18] Gaining access to critical areas, however, remains a salient issue for TIPs. The NSTAC Telecommunications and Electric Power Interdependency Task Force has recently reiterated the need to improve access to disaster areas by implementing the perimeter access measures noted in its *Trusted Access* report and has asked the President to direct the appropriate Government agency to include site access "as part of the Emergency Responder planning process to ensure priority restoration to critical telecommunications..."[19] The persistent policy lapse has created an environment in which the Federal Government may task TIPs with certain recovery activities without facilitating coordination with State and local officials charged with implementing jurisdictional perimeter access laws. The recent hurricane response efforts in the

[16] NSTAC, Vulnerability Task Force, *Trusted Access*, January 2003, p. 10.

[17] NSTAC Trusted Access Task Force, *Screening, Credentialing, and Perimeter Access Controls*, January 2005, p. 6.

[18] NSTAC Trusted Access Task Force, *Screening, Credentialing, and Perimeter Access Controls*, January 2005, p. 9.

[19] NSTAC Telecommunications and Electric power Interdependency Task Force, *People and Processes: Current State of Telecommunications and Electric Power Interdependencies*, January 2006, Section 6.0.

Gulf region demonstrated that vital telecommunications restoration efforts were stalled as a result of this situation.

3.4 Legal and Regulatory Issues

Many companies turned to the Federal Government for support because the civil unrest, coupled with the unprecedented level of damage from the storm and subsequent flooding hindered their access to the disaster site and to necessary resources, thus impairing their ability to repair the damaged critical infrastructure on their own. When requesting support from the Federal Government, many companies were unable to receive assistance because Federal agencies indicated that they did not have the authority to provide them support under the Stafford Act, and the NRP did not guide an interpretation that would enable that support.

3.4.1 The Stafford Act

The legal predicate for interpreting the authority of the Federal Government to provide assistance to TIPs is the Stafford Act. Congress stated that its intent in creating the Act was "to provide an orderly and continuing means of assistance by the Federal Government to State and local Governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by," among other things, "achieving greater coordination and responsiveness of disaster preparedness and relief programs."[20] The Act acknowledges the need for robust coordination; however, it does not clearly address coordination with the private sector. The Stafford Act provides assistance to "State or local Governments for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the Government."[21]

Although the language of the statute does not specifically preclude the private sector from receiving resources under the Act, it does not clearly grant the Federal Government authority to provide assistance to private entities, apart from nonprofit organizations. It states that the President can provide resources to "a person that owns or operates a private non-profit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of the facility and for associated expenses incurred by the person."[22] In addition, the law states that the President can "coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local Governments."[23] Section 5170(b)(3) of the Act also allows Federal departments and agencies to "provide assistance essential to meeting immediate threats to life and property resulting from a major disaster."

[20] 42 U.S.C. § 5121 (2005).
[21] 42 U.S.C. § 5172(a)(1)(A) (2005).
[22] 42 U.S.C. § 5172(a)(1)(B) (2005).
[23] 42 U.S.C. § 5170(a)(2) (2005).

This permission to "render assistance" to prevent loss of life or other serious harm stems from a long-standing tradition embodied in policy, regulation, statute, and international obligation. Indeed, the focus of this discussion is properly on the existence of present authority to assure participation by necessary private sector infrastructure stewards in actions directed at such life saving activity, rather than eligibility of private sector entities for reimbursement.

Among relevant existing authority directing the rendering of assistance to prevent loss of life are the multilateral and unilateral maritime treaty obligations under which the Coast Guard and military are obligated to render assistance to vessels in distress.[24] Interpretation of policy implementing United States bilateral treaties such as the Treaties of Commerce, Friendship, and Navigation in place with dozens of Nations incorporate a "right of assistance entry" for vessels and aircraft.[25] All ship and aircraft commanders are obligated to assist those in danger of being lost at sea. This long-recognized duty permits assistance entry to render emergency assistance to those in danger or distress at sea. In general, military commanders are permitted to render such assistance to prevent loss of life upon request of civil authorities pursuant to Department of Defense policy for Immediate Response Authority.[26]

Absent from the Stafford Act is any direct reference to Federal assistance to "for-profit" entities, and it does not recognize that TIPs, which own about 80 percent of the Nation's critical infrastructure, play a critical recovery role in disasters to address the threats to public health and safety, life, and property.

3.4.2 The Defense Production Act

The NSTAC examined other laws that have been amended to reflect the importance of critical infrastructure in NS/EP efforts. For example, the *Defense Production Act (DPA) of 1950* [Public Law 81-774] provides DHS the authority to redirect production and distribution of certain response and incident management resources. The DPA is the primary authority to ensure the timely availability of resources for national defense and civil emergency preparedness and response. Among other things, the DPA authorizes the President to demand that companies accept and give priority to Government contracts that the President "deems necessary or appropriate to promote the national defense."[27] The term "national defense" has traditionally

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[24] International convention for the safety of life at sea, 1974, with annex. International Maritime Organization http://www.imo.org/home.

[25] Statement of Policy by the Department of State, Department of Defense (DoD), and United States Coast Guard Concerning the Exercise of the Right of Assistance Entry of 8 August 1986. This policy statement is implemented within the DoD by CJCSI 2410.01B. This instruction specifically deals with assistance entry by aircraft for life-threatening and nonlife-threatening situations.

[26] The Immediate Response Authority permits commanders to take immediate action to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions. Commanders may take whatever action the circumstances reasonably justify. As soon as practical, the commander rendering assistance shall report the fact of the request from civil authorities, the nature of the response, and any other pertinent information through the chain of command. In the case of civil disturbances, which may result from a terrorist act, military commanders may rely on this authority, which is contained in DoDD 3025.12 [MILITARY ASSISTANCE FOR CIVIL DISTURBANCES (MACDIS)]. See also DoDD 3025.15 [MILITARY ASSISTANCE TO CIVIL AUTHORITIES] and DoD Directive 3025.1 [MILITARY SUPPORT TO CIVIL AUTHORITIES (MSCA).]

[27] 50 U.S.C. App. 2071(a) (2002).

been interpreted very narrowly and generally only included those elements supporting military operations.

In 2003, Congress passed the *Defense Production Act Reauthorization Act of 2003* [Public Law 108-195], which was amended to broaden the definition of "national defense" to include critical infrastructure protection and restoration, as well as activities authorized by the emergency preparedness sections of the Stafford Act. The broader definition specifically includes "restoration" and "preparedness" as part of national defense because of the central role critical infrastructures, such as telecommunications, play in the overall security of the Nation. There is close relationship between the DPA and the Stafford Act. However, when the DPA was amended, there was no parallel effort to modernize the definitions in the Stafford Act, which may have contributed to some of the confusion in responding to Hurricane Katrina.

DPA authorities are available for activities and measures undertaken in preparation for, during, or following a natural disaster or accidental or man-caused event. The Department of Commerce has redelegated DPA authority under Executive Order (EO) 12919, *National Defense Industrial Resource Preparedness*, as amended, to the Secretary of Homeland Security to place and, upon application, to authorize State and local Governments to place priority-rated contracts in support of Federal, State, and local emergency preparedness activities. Essentially, this provision allows the Federal Government to assist a private infrastructure provider in obtaining goods or services necessary to protect, restore, or prepare the infrastructure for an extraordinary event.

3.4.3 The National Response Plan

The NRP is not a legally binding document, but it is an essential policy document that provides an all-hazards framework for the Nation to manage domestic incidents and guides the implementation of the Stafford Act. Federal, State, and local Governments did not provide assistance to TIPs through the NRP because the plan does not specifically identify or include private sector entities that are involved in restoring vital communications infrastructure as emergency responders in ESFs. Appendix 3 of the NRP notes that the HSA includes "private sector emergency response providers" as components of terrorism preparedness efforts, but it does not specifically include TIPs in this category of emergency responders. Private sector emergency response providers are referenced in the NRP but are not fully integrated into the ESFs, which provide details regarding how Federal agencies are to provide support to all levels of Government and other jurisdictions.

4.0 FINDINGS

The NSTAC finds that private TIPs need non-monetary Federal assistance and support during a national disaster to facilitate the response, recovery, and restoration of our Nation's critical infrastructure. This support includes priority access to restricted disaster sites, fuel, power, water, billeting, and workforce and asset security. The NSTAC finds that a reasonable interpretation of the Stafford Act, in conjunction with modifications to the NRP and its ESFs that recognize TIPs

as "Emergency Responders (PS)," would greatly facilitate and enhance the national response, recovery, and restoration of the Nation's critical infrastructure after a national disaster.[28]

4.1 The Stafford Act and Legal Interpretation of Federal Assistance

The NSTAC finds that the provisions of the Stafford Act, when taken as a whole [see 42 U.S.C. Sec. 5170, et. seq. (2005)], support a legal interpretation that establish that Federal assistance may lawfully be provided to TIPs during the recovery and restoration periods of a disaster. The Government attempts to address immediate threats to public health and safety before, during, and following a disaster, and telecommunications facilities and services are key to achieving this goal. Roughly 80 percent of the Nation's telecommunications critical infrastructures are privately owned and operated and cannot be recovered and restored without TIPs. Accordingly, it is reasonable to interpret the Act to permit Federal assistance to TIPs for the security and critical resources necessary to recover and restore telecommunications facilities for the benefit of the affected community. The Stafford Act, while not authorizing grant assistance to for-profit entities, does not preclude Federal assistance to for-profit entities to address "immediate threats to life and property" and public health and safety following a disaster. The Committee believes that because TIPs own and operate private facilities necessary for maintaining emergency services determined critical to either the disaster response or the health and safety of the community, they should qualify for non-monetary Federal assistance.

The NSTAC is aware of legal guidance from FEMA set forth in an e-mail memorandum from the FEMA Assistant General Counsel to DHS on September 9, 2005, that provides a legal interpretation of the Stafford Act consistent with the NSTAC's interpretation that would provide TIPs Federal resources "to complete the Federal mission of assisting with immediate threats to life and property..."[29] The NSTAC, in accordance with FEMA's guidance, believes that such assistance granted to the privately owned facility would not be provided for the benefit of the specific facility but for the health and safety of the community as a whole and would help ensure the continuity of Federal operations support to the disaster. Difficulty arose in the post-Hurricane Katrina disaster response when FEMA did not interpret the Stafford Act in the same manner as the NSTAC and the recent FEMA guidance. Immediately after Hurricane Katrina, neither FEMA nor other Federal, State, and local Government personnel were willing to recognize TIPs' restoration efforts as a Federal mission, even though ESF-2 states that TIPs support the Federal mission, and accordingly, the disaster assistance was not provided. Reluctance by FEMA or DHS to grant Federal assistance to TIPs is perplexing in light of the request by FEMA and the Federal Government for a list of top assets from TIPs. If the Federal Government recognizes that TIPs have assets that are critical to the Federal mission, then it should follow that non-monetary Federal assistance to help TIPs protect those assets is necessary and appropriate.

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[28] The term Emergency Responder (PS) should not be confused with the term First Responders, which includes fire, police, and other governmental personnel who arrive immediately at a disaster site to help protect public safety, health, welfare, and property. Rather, Emergency Responders (PS) are TIP personnel who need access to disaster sites to repair, restore, and reconstitute privately owned and operated critical infrastructure facilities.

[29] FEMA E-mail Memorandum from Assistant General Counsel to FEMA personnel, September 9, 2005: Guidance, "Reimbursable Security Costs Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act." This guidance contains a propriety marking indicating that the contents of the guidance should not be disclosed to persons other than the original addressees of the e-mail. However, the NSTAC companies received a copy of the guidance through the Telecommunications Information Sharing and Analysis Center process.

4.2 The Stafford Act and TIPs as Emergency Responders (PS)

The NSTAC also finds that the Stafford Act does not directly recognize the role of private TIPs in the recovery and restoration of NS/EP services and functions in disasters. The statute does not mention critical TIPs, nor does it adequately provide for direct assistance to for-profit entities during a disaster. This lack of recognition led to confusion, differing interpretations, and a lack of consensus among Government officials during Hurricane Katrina, significantly delaying the disaster response. NSTAC finds that specific recognition and designation of TIPs as "Emergency Responders (PS)" in the statute will help eliminate future statutory confusion and will make future disaster response, recovery, and restoration of essential telecommunications facilities and services faster and more efficient.

The NSTAC's examination revealed that during and following Hurricane Katrina, TIPs faced numerous problems because of a lack of communication, coordination, and understanding of the existing legal and regulatory framework. In the aftermath of Hurricane Katrina, Federal authorities asked and expected TIPs to repair networks damaged by Katrina, but they did not provide TIPs with the vital resources necessary to do so. Had those private sector companies received the support they requested, the communications problems among first responders, civilians, and Federal officials could have been at least partially alleviated. Providers of critical NS/EP telecommunications infrastructures worked through a patchwork of Federal, State, and local authorities and jurisdictions each with varying interpretations of statutes governing cooperation and coordination with the private sector. Confusion about roles and responsibilities was pervasive, and industry expressed concern that the existing legal and regulatory environment is not conducive to ensuring an effective response to disasters.

4.3 The NRP and TIPs as Emergency Responders (PS)

The NSTAC finds that the NRP does not clearly delineate the roles and responsibilities of State and local Governments vis-à-vis TIPs, nor does it recognize and identify TIPs as Emergency Responders (PS). The NRP was not properly leveraged because State and local Governments were not aware of the numerous protocols that identified their roles and responsibilities in the event of a disaster, such as Hurricane Katrina. Even if the plan had been adequately used in the aftermath of Hurricane Katrina, the NSTAC finds that the NRP and its ESFs could be enhanced with protocols that identify TIPs as Emergency Responders (PS), which would clarify their roles and responsibilities in repairing critical infrastructure. Federal, State, and local Government officials did not view TIPs as essential components of the emergency response effort; therefore, these officials did not help to facilitate assistance to TIPs so that telecommunications infrastructure could be quickly restored.

Although the concept of private sector emergency responders is referenced in Appendix 3, the NRP neither clarifies this concept nor expands on it elsewhere in the plan. Moreover, references to emergency response providers in the HSA and NRP focus on Government entities, rather than the private sector. TIPs would be in a position to better assist the Government in restoring key telecommunications infrastructure if the term Emergency Responder (PS) were categorized in the NRP with a definition that delineates qualifying entities, including TIPs. The definition should

also clarify that Emergency Responders (PS) are eligible to receive non-monetary emergency support commensurate with that granted to other emergency response providers.[30]

5.0 CONCLUSION

The NSTAC concludes that differing interpretations of the Stafford Act and lack of a designation of TIPs as Emergency Responders (PS) in the interpretation of and in the Act itself as well as in the NRP prevented the Federal Government from authorizing assistance to the private sector, which hindered TIPs in repairing critical infrastructure in the aftermath of Hurricane Katrina. It is essential that private sector TIPs have emergency access to resources needed to restore critical infrastructure in the event of a large-scale natural disaster or terrorist attack to ensure proper NS/EP communications. The Federal Government amended the DPA in 2003 to specifically include critical infrastructure protection and restoration as part of national defense and provide the ability of the Federal Government to prioritize goods and services to assist in restoration of infrastructures. Unfortunately, no corresponding changes were made to the Stafford Act. The current policy, legal, and regulatory landscape should be clarified to eliminate confusion and modified to provide adequate preparation and planning mechanisms for the Federal Government and TIPs to work together to respond to a catastrophic event.[31]

The NSTAC concludes that the Stafford Act should be officially interpreted to permit direct non-monetary assistance to TIPs during a disaster to aid in the speedy response, restoration, and recovery for the benefit of public safety, health, property and life.[32] TIPs should be legally designated as Emergency Responders (PS), named and defined as such in the Stafford Act, and should be treated as Emergency Responders (PS) who receive non-monetary assistance under the Act.[33] This designation would result in a requirement that TIPs be included in the Federal, State, regional, and local emergency planning process and would allow them priority access to restricted areas to restore essential infrastructure.[34] Designation of TIPs as Emergency Responders (PS) during Hurricane Katrina would have enabled companies to receive security protection from the National Guard, priority access to critical resources, and priority site access authorization. Designating TIPs as Emergency Responder (PS) in the Stafford Act will eliminate the legal and regulatory hurdles experienced in the Hurricane Katrina disaster and will significantly expedite industry's response efforts in future disasters.

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[30] The NSTAC companies are willing to work with DHS to establish a definition of Emergency Responders (PS) and to identify the personnel who are included in this definition.

[31] The NSTAC companies are willing to work with DHS to establish processes and procedures for implementing the new designation of TIPs as Emergency Responders (PS) in the Stafford Act.

[32] The NSTAC is not recommending that for-profit companies receive monetary cost reimbursement pursuant to the Stafford Act; rather, it recommends that TIPs receive designation as Emergency Responders (PS), which would permit them to receive priority access to disaster sites and access to critical resources necessary for the response and recovery effort such as security, fuel, water, and billeting.

[33] The NSTAC companies are willing to work with DHS to establish a definition of Emergency Responder (PS) and to identify the personnel who are included in this definition.

[34] The NSTAC's Telecommunications and Electric Power Interdependency Task Force (TEPITF) came to a similar conclusion in their report, "People and Processes: Current State of Telecommunications and Electric Power Interdependencies." However, the TEPITF's definition of Emergency Responder includes both telecommunications and electric power professionals who are the key response personnel of critical infrastructure owners and operators.

The NSTAC also concludes that the NRP should be modified to identify TIPs as Emergency Responders (PS) and to establish a protocol with them to facilitate priority site access and access to critical resources during a disaster. The HSA and NRP include definitions of emergency response providers but reserve the designation for Government entities. Accordingly, the NSTAC believes that a separate designation is needed for TIPs. Under the HSA and NRP, emergency response providers perform roles and responsibilities specific to Government that are distinct from the those of private sector emergency response personnel. A separate classification of Emergency Responder (PS), which includes TIPs, is necessary to clarify the legal status of TIPs and enable them to best restore key infrastructure after an emergency or national disaster.

TIPs are necessary components of an emergency response effort, and recognizing that the NRP provides a unified incident management framework for all disciplines, TIPs should be integrated into the all-hazards approach to provide a truly comprehensive plan. The NRP should be modified to establish a protocol that incorporates the roles and responsibilities of TIPs in the event of a natural disaster or terrorist attack. This protocol should detail with whom TIPs should correspond at the Federal, State, and local levels and should also provide the proper credentialing process to allow TIPs access to critical sites as Emergency Responders (PS). The NSTAC acknowledges that other efforts are underway to establish comprehensive and effective credentialing procedures. An Emergency Responder (PS) designation for TIPs will help identify individuals authorized to access disaster sites and to receive the appropriate credentials. New protocols established within the NRP and ESF framework should clarify response actions and help create a culture where TIPs have a legal status as Emergency Responders (PS) and are treated as such by Federal, State, and local Government officials. Accordingly, the DHS Office of Grants and Training and the Office of Legislative and Intergovernmental Affairs should play a central role in identifying the implications of the Emergency Responder (PS) designation and then work with State and local Government stakeholders to follow through on the execution of this designation so that the Emergency Responders (PS) designation for TIPs can be implemented effectively.

The NSTAC recommends that the President designate TIPs as Emergency Responder (PS) through three different mechanisms. First, the President should direct DHS to modify the NRP and its ESFs to designate TIPs as Emergency Responders (PS) and to establish interfaces between Federal, State, and local Government, and private sector TIPs. This designation should be formalized by including a protocol in ESF-2, and other ESFs as appropriate, that establishes the way in which TIPs are to work with Federal, State, local, and tribal Governments during and after a national disaster.

Second, because of the urgency of this problem, the President should issue appropriate guidance to clarify differing interpretations of the Stafford Act. This guidance should officially interpret 42 U.S.C. § 5170 (2005) and establish that private sector TIPs are eligible to receive non-monetary Federal assistance under the Stafford Act. The Directive should name these entities as Emergency Responders (PS) eligible for non-monetary disaster relief in the aftermath of a national disaster to ensure the stability of the Nation's telecommunications infrastructure.

Finally, the President should direct the Secretary of Homeland Security to work with Congress — specifically, the House Committee on Homeland Security and the Senate Committee on Homeland Security and Governmental Affairs—to amend the Stafford Act to designate TIPs as Emergency Responders (PS) who are eligible to receive Federal assistance under law. Permanent codification of the Emergency Responder (PS) designation should eliminate any future differing interpretations of the Act and will support the establishment of a permanent protocol under the NRP-ESF framework where Federal, State, and local Governments interface with TIPs for emergency planning, response, recovery, and restoration. The President should coordinate this amendment to the Stafford Act with other ongoing efforts to modify the Act's language in the wake of Hurricane Katrina.

The NSTAC recommends that the President implement all three mechanisms to better prepare the Nation for future events such as Hurricane Katrina. The National Weather Service forecasts that the 2006 hurricane season, beginning on June 1, 2006, will be as destructive as the 2005 season; therefore, it would be helpful to implement these recommendations before this date.

6.0 RECOMMENDATIONS

NSTAC Recommendations to the President

Based on its findings, the NSTAC recommends that, no later than June 1, 2006, in accordance with the responsibilities and existing mechanisms established by EO 12472, *Assignment of National Security and Emergency Preparedness Telecommunications Functions,* and other existing authority, the President establish and codify the term Emergency Responder (PS) to include TIPs and ensure non-monetary assistance, including accessing restricted areas and obtaining fuel, water, power, billeting, and workforce and asset security, to them by—

- Directing the DHS to modify the NRP and its ESFs to designate TIPs as Emergency Responders (PS) and to establish protocols and procedures for the way in which Federal, State, local, and tribal Governments should work with TIPs before, during, and after a national disaster

- Issuing appropriate Presidential guidance to define Emergency Responders (PS) under the Stafford Act and other authorities as appropriate, to align with the broadened definition of national defense in the 2003 amendments to the DPA. Specifically, the guidance should make clear that key response personnel of critical telecommunications infrastructure owners and operators be defined as Emergency Responders (PS) and should receive non-monetary Federal assistance under the Stafford Act, and

- Directing the Secretary of Homeland Security to work with Congress to align the Stafford Act and other appropriate legislative authorities with the DPA by codifying the designation of private sector TIPs as Emergency Responders (PS) and by codifying the official interpretation that for-profit TIPs should receive Federal assistance.

APPENDIX A
TASK FORCE MEMBERS, OTHER PARTICIPANTS, AND GOVERNMENT PERSONNEL

TASK FORCE MEMBERS

Telcordia Technologies	Ms. Louise Tucker, Chair
Lockheed Martin Corporation	Mr. Gerald Harvey, Vice Chair
AT&T	Mr. Harry Underhill
BellSouth	Mr. David Barron
The Boeing Company	Mr. Robert Steele
Computer Sciences Corporation	Mr. Guy Copeland
Lucent Technologies	Mr. Michael Garson
Verizon Business	Mr. Dennis Guard
Microsoft Corporation	Mr. Bill Guidera
Nortel Networks	Mr. Raymond Strassburger
Northrop Grumman Corporation	Mr. Scott Freber
Qwest Communications	Mr. Jon Lofstedt
Rockwell Collins, Inc.	Mr. Ken Kato
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The George Washington University	Dr. Jack Oslund
Lucent	Ms. Selma Munden
Microsoft	Mr. Paul Nicholas
North American Electric Reliability Council	Mr. Lou Leffler
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Sprint	Mr. Tim Bowe
Sprint	Ms. Allison Growney
Sprint	Mr. John Stogoski
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National Communications System	Mr. Jeff Glick
National Communications System	Mr. Thad Odderstol