

Before the Federal Communications Commission

IN RE
LEGAL AND STATUTORY FRAMEWORK
FOR NEXT GENERATION 9-1-1 SERVICES

ON PUBLIC NOTICE

**COMMENTS OF THE
NATIONAL EMERGENCY NUMBER ASSOCIATION**

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PS Docket Nos. 10-255 / 11-153 / 12-333

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The National Emergency Number Association (“NENA”) respectfully submits the following comments in response to the *Public Notice* released by the Bureau on November 13th, 2012.

COMMENTS

The Next Generation 9-1-1 Advancement Act of 2012 represented a key step by the federal government toward establishing a national legal and regulatory framework for the deployment and operation of NG9-1-1 service. This proceeding represents another: Expanding on its earlier inquiry and rulemaking proceedings with respect to NG9-1-1, the Commission has now asked fundamental – and, in some cases, difficult – questions about the changes or additions to existing laws and regulations that will be necessary. Because emergency communications service is central to the public good derived from communications services, these questions call for answers that touch upon

nearly every aspect of modern communications. In some cases, this necessitates a straightforward look at long-simmering controversies or a reevaluation of seemingly well-settled points of interpretation. Trying as those actions may, however, be, now is the time to undertake them. Next Generation 9-1-1 systems or components are already being deployed, and all stakeholders – consumers, vendors, carriers, lawmakers, and regulators – need the certainty provided by a considered legal framework to ensure that these deployments do not encounter cost-inflating delays or disabling roadblocks. NENA believes that the Commission can help to provide that certainty by taking some of the steps outlined below on its own, and by recommending necessary changes in federal law to Congress.

I. A successful legal and regulatory framework for the deployment of NG9-1-1 services will require action at every level of government.

Over nearly 45 years, the several states have served as a valuable laboratory for investigating the relative merits of legal and regulatory approaches to providing a universal means of seeking help in an emergency. Variations in individual implementations are myriad: In some states a central authority has responsibility for *all* aspects of regulation or even operation of 9-1-1 systems. In others, there exists literally *no* state authority responsible for any aspect of 9-1-1. Between these extremes there exists nearly every combination imaginable of local, regional, and state agencies with overlapping or interlocking jurisdiction. That 9-1-1 has proven a success in the face of this organizational morass is a testament to the dedication of the thousands of public safety and industry professionals who have dedicated their lives to ensuring that the public can reach help when it is needed.

The community of 9-1-1 professionals is not unaccustomed to change. Since its inception 9-1-1 systems have undergone three major evolutions, first as automatic location identification and selective routing were introduced,

then as wireless calling and location determination were added, and, finally, as interconnected Voice over Internet Protocol services became 9-1-1 capable. These evolutions took place on a largely comfortable timeline, however, with none of the three roll-outs entirely completed even today. The transition to NG9-1-1 will not follow a similar timeline.

A. *With appropriate incentives and backstops, states can manage the transition to NG9-1-1.*

For economic and technological reasons, communications services are at the brink of a fundamental change from fixed, hierarchical, circuit-switched access networks with integrated originating services to mobile, flat, IP-based access networks operating largely independent of competitive originating service providers. This change is happening with unprecedented speed and scope. Within the last year, the FCC's own Technical Advisory Committee has proposed that the Commission sunset the legacy rules relating to the Public-Switched Telephone Network as early as 2018. Additionally, AT&T recently petitioned the Commission to authorize pilot transitions of local service to IP-based services on a similar timeframe. Likewise, anecdotal evidence suggests that the public *already* expects that 9-1-1 should have advanced capabilities at least equivalent to the originating services available on recent-vintage smartphone. Even if the transition to all-IP networks takes twice as long as the TAC proposes, however, it would still be complete in less than 1/3 the time of the as-yet unfinished transition to location-based routing of 9-1-1 calls. Taken together, all of these factors make the transition to NG9-1-1 a practically mandatory proposition.

NENA firmly believes that state, regions, and localities *can* manage this transition effectively on their own. Many states can point to a history of productive collaboration between industry, public safety, and policymakers that has produced functional, effective, and ever-improving emergency communications systems for the

public. Others cannot, however, and even those which can often arrived at their successes after prolonged regulatory, legal, and political battles that consumed resources, delayed the implementation of critical services, and embittered opponents who should have been natural allies. Given the short implied timeframe for NG9-1-1 deployments, NENA believes that the risk that these less desirable outcomes could recur cannot be ignored. Consequently, although we do not endorse a comprehensive federal role in the planning, coordination, and deployment of NG9-1-1, we do recommend that the Commission, the National 9-1-1 Office, and Congress take specific steps to facilitate the deployment of NG9-1-1 by the states, and to ensure that state deployments are timely and effective.

1. *State-level coordination, preferably by independent, representative boards, will be critical to the success of NG9-1-1 due to its novel architecture.*

Because the architecture of NG9-1-1 is fundamentally different from that of its precursors, it will no longer be possible for state governments to devolve *all* responsibility for 9-1-1 deployment to their municipalities. While the state role need not be invasive, some functionalities, such as interconnection of regional or local Emergency Services IP Networks (“ESInet”), maintenance of shared databases, and provisioning of state-level “Forest Guides” can *only* be effectively accomplished at the state level. Other functions such as equipment scheduling or procurement probably should, for economic reasons, be performed at the state or regional level, but could be accomplished by individual jurisdictions that are willing and able to devote the necessary resources to their performance.

Extensive experience in the laboratory of the states has demonstrated that this type of oversight and coordination is most effective when undertaken by an independent body of representative stakeholders. NENA therefore recommends that the Commission suggest to Congress a program of incentives, coupled with backstops, aimed at encouraging the creation regional or state boards to coor-

dinate the transition to NG9-1-1. Congress could incent the creation of state boards (in states that do not already have them) by, for example, offering states that have or that create such boards access to GSA schedules for purchases relating to NG9-1-1 deployment, providing preferential consideration in public-safety-oriented grant programs to states that have established boards, or exempting such states from some backstop regulations that would otherwise apply. Conversely, Congress could provide disincentives for states to ignore the transition in, by, for example, allowing the FCC to craft default NG9-1-1 regulations that would apply in the absence of a modernized state regime or at least demonstrated progress toward such a regime. The Commission might also provide a disincentive by conditioning the obligation of carriers to deliver traffic to an NG9-1-1 system that has requested service on the existence of a governing board and a coordinated deployment plan.

2. Independent administration of 9-1-1 service fees could reduce the diversion of such fees to other purposes.

Although NENA is cognizant of the complex interconnection between 9-1-1 funding and state and local revenue policy, we do believe that a key feature of effective NG9-1-1 governance bodies will be the ability to plan purchases and infrastructure investments over longer timeframes than are typical of state appropriations cycles. Emergency communications systems, particularly during a major transition, involve complex and capital-intensive components that, in many cases, require the accumulation of large cash balances for procurement. Unfortunately, such balances have proven ripe targets for legislatures desperate to balance state budgets and more willing to breach the public trust implicit in the collection of fee-for-service revenues than to tackle difficult choices on taxes and spending.

Previous efforts to end 9-1-1 fund diversion have proven ineffective: Neither the annual reports produced by the Commission on the basis of “self certifications” from

states, nor the threat of reduced grant funding have deterred states from massive diversions to unrelated purposes. This is in part because the Commission lacks the power to compel responses to its inquiries or to identify false or misleading voluntary reports, and in part because federal grant funding for 9-1-1 – unlike every other public safety discipline – is virtually non-existent. NENA therefore believes that Congress should establish mechanisms to ensure that dedicated 9-1-1 funding streams continue to exist and are held immune from diversion to unrelated purposes. Congress might, for example, prohibit the collection of 9-1-1 fees that are remitted to a state's general fund rather than a separate 9-1-1 fund, or that are subject to appropriation for other purposes. Congress might also condition *all* public safety grant funding, rather than just the meager proportion devoted to 9-1-1, on the proper use of fees collected under the auspices of providing 9-1-1 service.

3. *Ensuring a consistent logical architecture of NG9-1-1 service systems will be key to achieving nation-wide interconnectivity and interoperability.*

Next Generation 9-1-1, to a greater extent than any other public safety communications concept that has come before, was designed from the beginning to leverage Commercial Off-The-Shelf hardware, software, and networks along with open standards-based interfaces and functional entities. As the developer of the NG9-1-1 service system architecture, NENA sought to enable a robust and competitive market for products and services. This model stands in stark contrast to the rigid and monolithic structure of existing, PSTN-based E9-1-1 markets. If the market for NG9-1-1 products and services is allowed to flourish, then NENA believes that local, state, and federal government stakeholders will see reduced costs and improved service. This belief is borne out by indications from early-adopter states that report cost savings as high as 48% resulting from the switch to IP-connectivity, and by

the nascent but rapidly-growing market for efficient and reliable network-hosted services.

Because of the NENA i3 architecture's emphasis on sharing expensive database resources and minimizing the burdens associated with routing or transferring a call, however, conformity with the standard will be key to the success of NG9-1-1 deployments as service systems grow beyond isolated localities and begin to interconnect and interoperate via regional, state, and national networks, data sources, and functional entities. Conformity will also be key to enabling critical accessibility features such as multi-party video calling, and text messaging. Importantly, however, literal *physical* deployments of ESInets and functional entities need not be identical. Instead, NG9-1-1 systems and originating services need only conform to standards at defined interconnect points. Fortunately, NENA believes that a simple mechanism can ensure standards conformity of state, regional, and local NG9-1-1 deployments. NG9-1-1 relies on a few national-level functional entities such as a Certificate Authority and Forest Guide, coupled with some national-level network capabilities needed to enable interconnection of state ESInets beyond immediate neighbors. Congress or the FCC could therefore condition access to these assets on conformity with the functions and interfaces specified in the i3 standard at defined interconnect points. Similarly, the Commission could condition a carrier's obligation to deliver traffic to an NG9-1-1 system on that systems conformity with the standard. Both of these requirements would provide powerful incentives to 9-1-1 authorities to deploy NG9-1-1 in a way that minimizes costs and maximizes capabilities for all parties.

4. *Enabling regional, state, or even national scheduling of standards-compliant NG9-1-1 equipment, software, and services could dramatically reduce both procurement cycle costs and individual unit costs.*

As alluded to above, NENA believes that minimizing procurement costs could serve as a key motivator for the

swift deployment of NG9-1-1. For increasingly cash-strapped states and municipalities, procurement of complex and integrated enterprise communications systems like NG9-1-1 service systems can be enormously burdensome and costly, particularly when viewed from a systemic perspective. All but the largest metropolitan governments surely lack the networking and systems integration expertise required to evaluate an NG9-1-1 product or system proposal. This could make consulting and integration fees a disturbingly-large cost component for many deployments. States could, of course, provide openly-bid schedules of pre-screened products and services from which localities could make purchases with some assurance of standards compliance and competitive pricing. For some smaller or less-densely populated states, however, this approach is unlikely to produce sufficient purchasing volume to attract significant discounts.

A national schedule, accessible to state or regional coordinating bodies could, however, generate much larger volumes – and therefore larger savings. Too, such an arrangement would reduce the overhead associated with lengthy and detailed, but nationally-duplicative competitive bidding processes. In order to reap these benefits, Congress could enact legislation that directs the General Services Administration to evaluate and solicit bids for NG9-1-1 equipment and services, place approved and cost-effective items on a public schedule, and allow designated regional or state 9-1-1 boards to purchase from that schedule. Given the potentially enormous reduction in the nation-wide costs of deploying NG9-1-1 that this approach could bring, NENA strongly suggests that the Commission propose such a model to Congress.

B. The Commission should recommend that Congress establish clear roles for certain federal agencies in NG9-1-1 planning, coordination, and deployment.

Although states, regions, counties, and cities are, in general, best suited to manage their own NG9-1-1 deploy-

ments, NENA does believe that certain aspects of the nation-wide deployment of NG9-1-1 could best be performed at the federal level. In order to be effective, the federal role in NG9-1-1 must be clearly delineated and divided among the agencies that are best situated and best trusted to effectively support NG9-1-1 deployment.

1. *The FCC should be responsible for establishing national policy to ensure consistent regulation of NG9-1-1.*

Because the FCC is the expert agency with the longest and most detailed involvement in 9-1-1 policy, and because its existing jurisdiction extends to many of the questions that must be confronted to speed the deployment of NG9-1-1 on a nation-wide basis, NENA believes that the Commission should be statutorily designated as the agency responsible for establishing national NG9-1-1 policy.

- a. The FCC should launch an advisory committee tasked with conducting a comprehensive review of state regulations with an eye toward identifying those that may impede NG9-1-1 deployment.

Because of the short time frame on which the Commission is required to submit its report to Congress, it will be impractical to include in the report a comprehensive listing of problematic state laws and regulations. Instead, NENA believes it will be helpful for the commission to provide congress with some archetypal examples of regulations that may impede the deployment of NG9-1-1, such as those set out below. Nevertheless, NENA believes that a comprehensive review of state 9-1-1 regulations would be beneficial. Indeed, such a review might prompt states to either resolve identified problems, or explain why they believe the FCC might be better suited to do so. Toward that end, NENA recommends that the Commission establish a Federal-State 9-1-1 Advisory Committee in concert with NENA and the National Association of Regulatory Utility Commissioners. The Committee could then be

tasked with assembling a comprehensive library of state 9-1-1 regulations, identifying specific regulations or classes of regulations that are problematic, and proposing general steps the Commission might take to facilitate the elimination or revision of such regulations, or to preempt them with less problematic federal rules. While NENA believes that this approach could reduce the need to preempt existing state regulations, the comparatively short timeframe on which NG9-1-1 must be deployed implies that the Commission must not rely solely on such a voluntary approach.

- b. The Commission should establish default rules for NG9-1-1 regulation, but offer the states an opportunity to opt-out of those rules by reforming their own regulatory regimes.

As early NG9-1-1 deployments have begun, some particular classes of troublesome regulations have already become apparent. For example, regulatory authorization to operate NG9-1-1 service systems has proven to be a major stumbling block. In many instances, state regulations do not contemplate the possibility that entities other than a certified incumbent local exchange carrier might play a role in providing 9-1-1 service, let alone replace a LEC as the terminating entity for 9-1-1 traffic. In some cases, this problem manifests itself in an outright rejection of whole classes of NG9-1-1 service models. Regulatory decisions along these lines may effectively prohibit, for example, the operation of NG9-1-1 systems by 9-1-1 authorities, regional coalitions of 9-1-1 authorities, or third-party vendor/integrators. This runs counter to the intent of the consensus model for NG9-1-1 to broaden the class of potential service providers and thereby reduce overall system costs through competition.

Similarly, certification requirements developed in the heyday of utility telecommunications regulations have proven particularly ill-suited to the federated nature of NG9-1-1. One regional coalition of public safety agencies that previously sought certification as a 9-1-1 system ser-

vice provider, for example, abandoned its request for certification after expending immense resources preparing thousands of pages of required filings and responding to myriad requests for information by potential competitors acting as intervenors, much of which was irrelevant to the provision of NG9-1-1 service.

NG9-1-1 requirements should instead foster a culture of innovation in 9-1-1 services, not recalcitrance. Many incumbent 9-1-1 system service providers need stronger incentives to work with states and localities to invest in upgrades that could improve public safety capabilities, rather than treating those facilities akin to other legacy local exchange service investments. NENA has observed a positive recent trend of national carriers recognizing these problems and taking steps at higher organizational levels to overcome them – which will work to the benefit of public safety agencies and consumers alike. Some subjects, such as interconnection involving incumbent networks, however, will likely remain challenging.

In order to reduce the regulatory burdens associated with resolving issues such as interconnection rights, cost recovery, and authority to operate NG9-1-1 systems, NENA believes it will be necessary for the Commission to clarify the rights and obligations of would-be NG9-1-1 system service providers. NENA is not insensitive to the legitimate federalism concerns of state regulators who may oppose on principal an expanded federal role in this area. However, NENA has learned that many state regulatory agencies have adopted a wait-and-see posture, expecting the FCC to provide guidance on how they should approach complex issues such as interconnection and consumer protections in the NG9-1-1 context.

NENA believes that Commission has a unique opportunity to jumpstart the process of clearing regulatory underbrush by adopting a bifurcated approach to NG9-1-1 regulation. First, the Commission could initiate a rule-making to establish a default regulatory regime for NG9-1-1 service that settles which parties may act as NG9-1-1 system service providers, what those parties must do to

receive that status, and what rights and obligations that status confers with respect to interconnection, termination rights, access to rights-of-way, etc. Second, the Commission could establish an opt-out regime under which a state that chooses to implement a comprehensive NG9-1-1 regulatory regime of its own would no longer be subject to the default rules once its regime entered into force. Presented with the choice, NENA believes that many states would defer to the FCC's default rules rather than separately revisiting the thorny issues that must be resolved to develop a comprehensive regulatory scheme for NG9-1-1. Others may choose to tackle those issues on their own to escape the preemptive force of the default rules, but in doing so would at least be forced to break existing impasses, thereby removing the need for the default rules within their territories anyway.

- c. Determination of which originating services must support emergency calling is a key *national* decision.

As novel communications services have been introduced and adopted by the public over the past 45 years, their incorporation into 9-1-1 systems has been halting and inconsistent. At times, this has led to significant uncertainty as to the applicability of 9-1-1 requirements to various originating service or access network providers, and even to regulatory arbitrage. This week's Commission action on text-to-9-1-1 provides a particularly relevant example: Although national wireless access network operators have agreed to deploy text-to-9-1-1 throughout their networks by May 15th, 2014, extension of a universal text-to-9-1-1 mandate may face jurisdictional challenges when applied to so-called "over-the-top" text messaging services, such as RIM's BlackBerry Messenger, Apple's iMessage, and the Android-based WhatsApp service. NENA believes that existing Commission jurisdiction does cover those services, but that the case for extending 9-1-1 service mandates to other services may be less clear.

NENA believes that the Commission is the appropriate federal entity to tackle the complex and ever-evolving

question of which originating services should be subject to 9-1-1 obligations. NENA therefore urges the Commission to take three steps aimed at providing needed certainty in this area on a timely basis as new services arise. First, the Commission should recommend that Congress explicitly clarify its authority to determine which originating services should be subject to 9-1-1 obligations, independent of any such service's relation to legacy access networks.

Second, regardless of whether Congress accepts that recommendation, the Commission should initiate a rule-making to establish a generic framework for evaluating the applicability of 9-1-1 obligations to originating service providers. This will allow software and hardware developers – many of whom have shown interest in providing emergency calling enhancements to consumers – with a clear regulatory roadmap to accompany the standardized interfaces of NG9-1-1 that will allow novel applications to connect consumers to 9-1-1 in novel ways.

Finally, the Commission should establish a straightforward and automatic forbearance process whereby originating service providers that voluntarily undertake to provision 9-1-1 service for consumers using the requisite standards could avoid the imposition of regulatory 9-1-1 obligations. NENA believes this last step is crucial to ensuring that consumers have access to the broadest possible set of originating services by which to reach 9-1-1 in an emergency and minimizing barriers to entry for small or novel originating services.

2. *The National 9-1-1 Office should have primary responsibility for supporting state, local, territorial, and tribal planning efforts and for coordinating federal/non-federal deployment efforts.*

Since its inception the limited but widely-respected federal efforts at improving 9-1-1 service in the United States have been carried out by the joint National 9-1-1 Office. Administered by the National Highway Traffic Safety Administration's Office of Emergency Medical Services

and the National Telecommunications and Information Administration, the Office has proven highly effective at engaging stakeholders and developing materials aimed at educating and informing policy makers and consumers alike. Based on these successes and the high regard in which the office is held by its stakeholders in the 9-1-1 community, NENA believes that the Office can also be extremely effective at supporting the planning, governance, and coordination efforts that will be necessary below the federal level to ensure timely, cost effective, and functional NG9-1-1 deployments. Consequently, NENA believes that the Commission should recommend that Congress expand the scope of the Office's statutory authorization to include responsibility for supporting state planning, training, and coordination efforts with respect to NG9-1-1, as well as responsibility for coordinating the federal aspects of NG9-1-1 as described below.

- a. The Office should ensure that national NG9-1-1 functional elements and networks conform to relevant standards.

In order to reap the benefits of the nearly decade-long collaborative effort between industry and public safety that led to the NENA i3 architecture for NG9-1-1, it will be important for the federal government to provide the national-level functional entities and network services that enable the federation of NG9-1-1 service systems to the state and local levels. Although not an exhaustive list, three examples are illustrative.

First, the federal government will need to provide a national "Forest Guide" service. This service will support the routing of calls and other data streams to the border control functions of lower-level state and local ESInets appropriate to a caller's location. This service will also enable NG9-1-1 service discovery for devices and applications that come into the territory of the United States from abroad.

Second, the federal government will need to provide or support a national PSAP Credentialing Authority

(“PCA”) to handle the issuance of cryptographic certificates used to implement the role-based security model of NG9-1-1. This service will require a high level of operational security to ensure the integrity and security of NG9-1-1 operations. In particular, the PCA will require physical and logical security provisions equivalent to a Sensitive Compartmented Information Facility. Such facilities already exist at the federal level, and prior federal initiatives have already established well-controlled access points for public IP networks, making a federally-operated PCA the least costly option for implementation and operation. Operation by a federal agency with experience in such facilities could also prove beneficial from a technical capacity standpoint, as NENA believes it will be important for the PCA root certificate to be signed by the federal bridge certification authority. This will enable authentication of responders and agencies outside the PCA domain, easing interoperation between NG9-1-1 systems and field responder systems such as FirstNet.

Finally, the federal government will need to provide a national backbone network to make available Forest Guide and PCA services to state, regional, and local NG9-1-1 systems, to provide secure access to federal databases (GIS, crime, etc.) used by PSAPs, and to facilitate ubiquitous, low-cost interconnection of state, territorial, and tribal ESInets. By requiring that prospective peer networks demonstrate their adherence to the standard architecture of NG9-1-1, this network can serve both as a means of cheaply and reliably interconnecting state, regional, local, and tribal ESInets, and as a tool for ensuring adherence to the architecture necessary to allow seamless and efficient interoperation of NG9-1-1 systems across the country. This backbone can also benefit federal agencies that operate or interact with PSAPs (e.g., military installations and the Bureau of Prisons) by providing access to shared set of functional entities such as Emergency Call Routing Functions that would otherwise require significant duplication to serve non-interconnected federal facilities. Most likely, this network could be im-

plemented as a logical extension of existing physical or commercially-contracted network assets of the federal government, further reducing costs and speeding deployment.

Regardless of which or how many agencies are ultimately responsible for the actual deployment of these national NG9-1-1 assets, NENA believes that the National 9-1-1 Office should be the federal entity with direct responsibility for overseeing their deployment. Because the Office is a joint activity of NHTSA and NTIA, it could leverage NTIA's existing statutory authority over executive branch communications policy and activities and the beneficial relationships and trust it has built with the 9-1-1 community to ensure the success of this critical enterprise. Additionally, the Office could, over time, build up stronger internal expertise in IP networking, public-key infrastructure management, and Forest Guide database administration.

- 3. DHS should include 9-1-1 coordination requirements in the guidance for its existing public-safety-oriented grants, and in its operational (response/recovery) activities.*

In addition to the primary roles of the FCC and the National 9-1-1 Office, NENA believes that various components of the Department of Homeland Security should play related roles in advancing the deployment of NG9-1-1. For instance, FEMA and the National Communications System will be key sources and consumers of NG9-1-1 data, and should be consulted in the design and deployment of federal NG9-1-1 assets. Additionally, NENA believes that Congress should direct DHS to include NG9-1-1 planning, coordination, and deployment as allowable costs in all existing public safety grant programs with a communications component.

C. The FCC should recommend that Congress adopt a comprehensive liability protection scheme for NG9-1-1.

Congress has, on several occasions required states to extend existing liability protections to novel 9-1-1 service providers and system component providers that fell outside the traditional scope of such protections. These extensions have certainly helped to remove a major barrier to entry in a market that would otherwise be far too risky due to its fundamental relation to safety-of-life. However, many of the underlying liability protection regimes may not necessarily provide adequate assurances that vendors, carriers, integrators, PSAPs, or 9-1-1 professionals will not be subject to potentially devastating civil damage awards.

NENA believes that Congress could significantly enhance the market for 9-1-1 related products and services by ensuring – broadly and conclusively – that 9-1-1 vendors, integrators, access network providers, originating service providers, and professionals have comprehensive civil liability protection. Therefore, NENA recommends that the Commission propose the creation of a comprehensive liability protection scheme that would bar any cause of action or imposition of liability for ordinary negligence in the provisioning of 9-1-1 service.

By enacting such a scheme, Congress make providing 9-1-1 service a lower-cost/lower-risk proposition for originating service providers, thereby eliminating a significant disincentive to provide service. This would also reduce the number and frequency of regulatory battles that have historically accompanied the incorporation of new originating services into the 9-1-1 enterprise, thereby reducing costs and regulatory burdens for both originating service providers and the public safety community.

D. The Commission should recommend that Congress establish a technology-neutral 9-1-1 revenue model.

NENA has devoted considerable thought to how future revenue models for 9-1-1 can best be formulated to ensure that public safety agencies receive sufficient funds to operate NG9-1-1 systems while also balancing the burdens and benefits imposed on access network and originating service providers. At this time, NENA declines to recommend a single national funding model. Among those we have considered, however, one model, in particular, bears careful consideration by the Congress in concert with NENA, the FCC, and other stakeholders.

Congress should consider a 9-1-1 funding model based on service fees imposed on access network subscriptions. By levying a fee on any access network service that could potentially be used to engage an originating service (e.g., to initiate a voice call, text session, or video chat), this model would provide a broad base for revenue collection. It would also encompass many access networks that currently have no 9-1-1 funding obligation but which still provide customers a means to access 9-1-1 via over-the-top originating services. This would effectively eliminate a “free-riding” problem, at the expense of capturing revenue from a small number of users who do not use any 9-1-1 capable originating service. This model has the added benefit of reducing the financial and regulatory burdens associated with provisioning 9-1-1 service for originating service providers. As noted above, each new type of originating service that has become subject to 9-1-1 obligations in the past has done so only after a protracted regulatory battle. Looking toward the future, making it as cheap and easy as possible for originating services (such as VoIP and instant-messaging providers) to provision 9-1-1 service could result in providers of those services choosing to provision service voluntarily. On the other hand, this approach could face opposition from state agencies accustomed to collecting 9-1-1 fees on VoIP service, and from integrated service providers that have not yet embraced

the disaggregation of access network and originating service products.

Once again, NENA believes that other technology-neutral revenue models are possible and stands ready to evaluate potential models in a collaborative process with all stakeholders. As we have in the past, NENA again recommends the creation of a blue-ribbon panel to examine all aspects of 9-1-1 revenue assessment, collection, and distribution.

II. The Commission should clearly spell out the location determination obligations of access network providers.

One of the defining characteristics of NG9-1-1 is its reliance on caller location data, associated with call signaling, and geospatial information systems for call routing and accurate dispatching of responders. By transitioning away from fixed databases and toward dynamic location determination mechanisms, NG9-1-1 will eliminate or reduce many of the challenges telecommunicators and responders now face in dealing with newer technologies that have been effectively “bolted on” to legacy E9-1-1 systems. For example, in an NG9-1-1 environment, originating services such as VoIP and instant messaging providers should be able to automatically discover the location of a device that initiates an emergency service request or “call” from the underlying access network using standards-based protocols and interfaces, rather than relying on users to manually register their location. Access network providers are uniquely situated to know or determine the location of their users, thanks to their inherent knowledge of where fixed links terminate and/or access to network-based location measurement assets. In order to ensure that originating services can access and transmit caller location information, and that NG9-1-1 systems can receive that information and route calls based upon it, it is imperative that the Commission move quickly to spell out the location determination and exposure obligations of access network providers, and to establish a timeframe for

implementation of this key capability. To the extent that the Commission's authority to impose such a mandate may be in doubt, Congress should clarify the obligation of access network providers to provision location determination and discovery service and confer explicit authority on the Commission to decide what information must be provided, by what protocols or other means, and under what conditions.

III. Existing federal regulations should be modified to provide 9-1-1 authorities with additional flexibility during the NG9-1-1 transition.

Due to the short timeframe for submitting comments in this notice proceeding, NENA was unable to undertake an exhaustive review of federal regulations pertaining to NG9-1-1. Nonetheless, NENA has identified two critical, near-term regulatory changes that would provide 9-1-1 authorities with much needed flexibility to manage through the transition to NG9-1-1.

- 1. The Commission should eliminate the rules requiring Non-Service Initialized phones to be capable of completing a call to 9-1-1.*

In the past some members of the public safety community strongly supported a requirement, which the Commission eventually adopted, that wireless networks permit all non-service-initialized ("NSI") wireless telephones to make 9-1-1 calls. At the time, many consumer, domestic violence, and public safety advocacy groups believed that requiring NSI devices to retain the capability to call 9-1-1 would prove an effective means of ensuring that vulnerable populations could access 9-1-1 even in environments where access to a landline telephone was unavailable or blocked by a malicious actor. Initially, this belief was borne out as thousands of NSI devices were distributed to low-income individuals and victims of domestic abuse, many of whom used those devices successfully to seek help from 9-1-1. As time progressed, however, these early successes came to be viewed in a much different light. The

lack of location capabilities for NSI devices, coupled with their susceptibility to accidental or intentional misuse, gave rise to a consensus view that the promotion of NSI devices causes more harm than good. Thereafter, most charities and domestic violence advocates abandoned the practice of distributing NSI devices, in many cases on the advice of the same public safety agencies that had advocated the initiation of such distributions in the first place.

In addition to proving ineffective as tools for enhancing the safety and security of vulnerable populations, NSI devices have proven themselves enormously detrimental to PSAP operations. Today, PSAPs face an ever-growing onslaught of non-emergency calls to 9-1-1 from NSI devices. Some of these calls are accidental, such as those triggered by children given an obsolete telephone as a toy. Others are deliberate, but not intended to cause harm, such as those initiated by lonely individuals simply seeking a friendly ear. Still others, however, are malicious, often initiated by serial callers who exploit the lack of location capability in NSI devices to evade capture as they initiate hundreds or even thousands of calls simply to harass telecommunicators or waste government resources.

Whatever the source, however, every type of non-emergency NSI call results in significant burdens to telecommunicators and 9-1-1 authorities. Telecommunicators are required to deal with each of these non-emergency calls, taking them away from legitimate emergencies. Likewise, expensive 9-1-1 trunk time or link bandwidth are made unavailable to serve callers with a legitimate need. This increases the cost of providing 9-1-1 service and reduces its effectiveness. Consequently, NENA recommends that the Commission move swiftly to rescind this well-intentioned but ultimately detrimental rule.

2. *The Commission should recommend that existing regulations under the Americans with Disabilities Act be modified in light of shifting consumer behavior and advancing technology.*

The 9-1-1 community has long supported improving access to emergency calling services for individuals with disabilities. Just two days ago, we celebrated a joint victory as national wireless providers agreed to provide text-to-9-1-1 service to PSAPs throughout their service footprints by early 2014. This agreement will realign the accessibility features of 9-1-1 service with the strong preferences of consumers for 9-1-1 text service based on modern, ubiquitous wireless devices. As consumers have moved to mobile devices and wireless text services, the use of legacy baudot-based TTY text devices has almost entirely evaporated. Only in the 9-1-1 context is TTY still a relevant communications platform because of DoJ regulations requiring that each PSAP position have the capability to accept a TTY call. As text-to-9-1-1 becomes a reality for individual PSAPs, NENA believes they should be relieved of this legacy burden and allowed to transition to IP-based transitional or NG9-1-1 text service processes. This will allow PSAPs to redeploy operation and maintenance funds required to keep up the now largely useless TTY equipment or software to the provisioning of NG9-1-1 service, to the benefit of individuals with disabilities who will thereby gain access to enhanced features like video calling and multi-party (caller – telecommunicator – interpreter) calling.

CONCLUSION

The Commission should report NENA's recommendations to Congress and begin the process of implementing changes to existing federal regulations that can be undertaken with its existing authority.

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DECEMBER 2012