

**Before the Federal Communications Commission**

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

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*ON PUBLIC NOTICE*

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**REPLY COMMENTS OF THE  
NATIONAL EMERGENCY NUMBER ASSOCIATION**

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**Before the Federal Communications Commission**

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

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

**REPLY**

This proceeding is remarkable among the more recent commission actions in the public safety realm for the unusual degree of consensus it has revealed. Two propositions, in particular, are the subject of near universal agreement: the need for a comprehensive, nation-wide liability protection regime applicable not only to PSAPs and telecommunications carriers but also to other service providers involved in NG9-1-1 operations,<sup>1</sup> and the need

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<sup>1</sup> APCO *Comments* at 4; AT&T *Comments* at 3-5; Intrado *Comments* at 2, 8; L.R. Kimball *Comments* at 8; Motorola Solutions,

to ensure that funds paid by the public for 9-1-1 service are expended by public servants *for* 9-1-1 service.<sup>2</sup> Additionally, although the details vary, there is a clear consensus that states will play a central role in the deployment of NG9-1-1, and that the Federal government's chief role will be facilitation, rather than control.

**A. *States must have effective tools to ensure a smooth transition to competitive markets for NG9-1-1 system service provision.***

As the record reflects, the transition to all-IP networks will be fraught with contentious battles between entrenched interests and competitive entrants.<sup>3</sup> While NENA is hopeful that many such disputes can ultimately be resolved by market forces alone, history indicates that that will not always be possible. Consequently, NENA believes that the Commission should heed the calls of competitive NG9-1-1 System Service Providers (SSPs) such as Bandwidth.com, Intrado, and TCS, along with their carrier supporters such as Verizon and Verizon Wireless, to provide states with effective tools to ensure that competitive entrants can gain access to necessary network elements and data assets that are currently held by incumbent SSPs at reasonable rates and on reasonable terms.<sup>4</sup> Secondarily, however, NENA believes that the experienc-

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Inc. *Comments* at 7; Tele-Communications Systems *Comments* at 6; T-Mobile *Comments* at 9.

<sup>2</sup> APCO *Comments* at 5; Industry Council for Emergency Response Technology (iCERT) *Comments* at 3; Motorola *Comments* at 4; T-Mobile *Comments* at 9-10. See Hawaii E9-1-1 Board *Comments* at 2.

<sup>3</sup> *E.g.*, Bandwidth.com *Comments* at 4 & 6. Compare Comptel *Comments* at 3 with AT&T *Reply Comments* *passim*.

<sup>4</sup> Bandwidth.com *Comments* at 6; Telecommunication Systems, Inc. *Comments* at 10. See Comptel *Comments* at 3; Telecommunication Systems, Inc. *Comments* at 10; T-Mobile USA, Inc. *Comments* at 11; Verizon and Verizon Wireless *Comments* at 8.

es of the Counties of Southern Illinois and Bandwidth.com indicate a need for some backstop mechanism by which the Commission can itself resolve disputes – either on a case-by-case basis or, if necessary, by rule – when states fail or decline to address difficult but critical policy questions. Without such preemptive backstop authority, NENA agrees with Bandwidth.com and Verizon that NG9-1-1 deployments may not be timely effected.<sup>5</sup>

***B. State coordination is not synonymous with state domination.***

While there is near-universal agreement in the record that state coordination of NG9-1-1 deployments will be necessary to ensure effective and efficient Emergency Service IP Network (ESInet) design and interconnection,<sup>6</sup> NENA considers it important to emphasize one of the many salient points raised by L.R. Kimball: Coordination is not synonymous with domination. NENA has been clear about our belief that some level of state coordination is a prerequisite to effective NG9-1-1 deployment, particularly given the inherently federated nature of NG9-1-1 systems (*see infra* at § II.C). Even accounting for variations in the existing division of legal and fiscal responsibility for 9-1-1 services, however, NENA holds no illusions as to the difficulty of establishing the necessary governance framework: For every state whose capital plays host to trusted partners in the 9-1-1 enterprise, there is another state whose capital denizens are regarded with suspicion and distrust. The scope, scale, and legal posture of the state’s coordinating role will therefore necessarily vary from state to

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<sup>5</sup> Bandwidth.com *Comments* at 3; Verizon and Verizon Wireless *Comments* at 8.

<sup>6</sup> Bandwidth.com *Comments* at 3; Consumer Groups *Comments* at 4-5; Counties of Southern Illinois *Comments* at 1; Intrado, Inc., and Intrado Communications, Inc. *Comments* at 3; T-Mobile USA, Inc. *Comments* at 6; Verizon and Verizon Wireless *Comments* at 4. *See* AT&T *Comments* at 5; L.R. Kimball *Comments* at 2.

state. As L.R. Kimball makes clear, citing a need for state coordination is *not* equivalent to calling for the centralization of one or more management functions,<sup>7</sup> and NENA expressly declines to do so.

***C. Expenditures for NG9-1-1 must be placed on an equal footing with other public safety services and protected from diversion.***

Two consensus principles should govern any Federal involvement in public safety funding: First, 9-1-1 should be treated as co-equal public safety competence and explicitly made eligible for all public safety communications funding opportunities (e.g., grants) offered by Federal agencies.<sup>8</sup> If it is not, the hard-won advances in field responder communications achieved at great cost and over many decades may come to naught as consumer data is left stranded between the complementary call-taking and dispatching functions. Second, 9-1-1 revenues collected from consumers and grants made by the Federal government should be protected against diversion to non-9-1-1 purposes.<sup>9</sup> Tough economic times have made capital-intensive (and therefore high-balance) 9-1-1 accounts prime targets for legislative gamesmanship, stretching out the time to deployment of NG9-1-1 systems across the country, and, in some cases, diminishing the capabilities of existing E9-1-1 systems. This must stop. Consumers pay 9-1-1 fees in good faith and, if state legislators are unwilling to keep that faith, Congress should act to compel them.<sup>10</sup>

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<sup>7</sup> L.R. Kimball *Comments* at 2.

<sup>8</sup> Hawaii Enhanced 9-1-1 Board *Comments* at 2.

<sup>9</sup> Motorola Solutions, Inc. *Comments* at 4; T-Mobile USA, Inc. *Comments* at 9-10.

<sup>10</sup> See Motorola Solutions, Inc. *Comments* at 4; T-Mobile USA, Inc. *Comments* at 9-10.

***D. NG9-1-1 is a naturally-federated service and does not require a FirstNet-like entity to manage funding or roll-out.***

NENA supports the statutorily-mandated integration of FirstNet with Public Safety Answering Points and NG9-1-1 systems, but we respectfully disagree with Motorola's suggestion that a FirstNet-like entity is necessary or appropriate to coordinate the roll-out of ESInets or other state-level components of NG9-1-1 systems. Fundamentally, NENA believes that the designed-in federation of NG9-1-1 systems and functional elements obviates the need for a strong central management function a-la FirstNet. For example, while FirstNet requires a central authority to ensure the creation a single, seamless Radio Access Network characterized by centrally-provisioned (if locally adjustable) mobility management, NG9-1-1 is premised on the existence of multiple ESInets federated between regional, state, and national deployments. This model ensures flexibility and redundancy at the quasi-local level while preventing needless duplication of functional elements on a national basis. Further, the deployment of NG9-1-1 is already being successfully managed by existing or emerging governance structures at the regional and state levels. To introduce a novel governance structure that is not strictly necessary at this stage, NENA believes, would needlessly delay deployment. NENA therefore recommends that the Commission refrain from suggesting such a structure to Congress.

***E. NG9-1-1 will provide individual PSAPs with access to a broad range of interpretive services that individual PSAPs cannot afford to provide "in-house."***

NENA is strongly committed to ensuring universal and equal access to emergency services by individuals with disabilities using consumer-preferred modes of communications. Through our standards work on NG9-1-1 systems and PSAP operations, we have incorporated many important suggestions from the disability-rights community

that will, once implemented, provide powerful tools to provide that access. Tools such as Real-Time Text, Video Calling, and Multi-Party Video Calling will dramatically improve access to emergency services for the hearing, visual, and speech impaired communities, and to many other communities characterized by non-English communication modes (e.g., Foreign-language speakers). NENA wishes to emphasize, however, that a fundamental assumption of NG9-1-1 architecture and funding models is that these technologies will allow PSAPs to leverage three-way real-time third-party services to provide translation of, for example, American Sign Language calls. We do not read the comments of the Consumer Groups<sup>11</sup> to suggest otherwise, but we wish to reiterate this point for clarity.<sup>12</sup>

***F. The transition to NG9-1-1 cannot be effected on the basis of voluntary standards alone.***

As the principal standards developer for NG9-1-1 system architecture and operation, NENA is pleased that several industry and carrier commenters have emphasized the role of consensus standards in ensuring an efficient, interconnected, and interoperable deployment of federated NG9-1-1 systems nation-wide.<sup>13</sup> In particular, we agree with the Telecommunications Industry Association that the Commission could tie the imposition of regulatory

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<sup>11</sup> Collectively, “Telecommunications for the Deaf and Hard of Hearing, Inc.; National Association of the Deaf; Association of late-Deafened Adults, Inc.; California Coalition of Agencies Serving Deaf and Hard of Eharing Persons, Inc; Hearing Loss Association of America; Deaf and Hard of Hearing Consumer Advocacy Network; Cerebral Palsy and Deaf Organization; Technology Access Program at Gallaudet University.”

<sup>12</sup> See Consumer Groups *Comments* at 8.

<sup>13</sup> See, e.g., 4G Americas *Comments* at 2; Telecommunications Industry Association *Comments* at 7; Verizon and Verizon Wireless *Comments* at 2.

mandates to the timing of standards completion or revision.<sup>14</sup> NENA cautions, however, that such an approach must be backed up with flexible but meaningful time horizons that are *not* tied to work that could be delayed or halted as a means to extend the value of proprietary or incumbent solutions. Further, the Commission should establish rules that provide incentives for compliance with voluntary consensus standards adopted across relevant sectors of the 9-1-1 market, and back those incentives with implicit regulatory guarantees. The Commission could, for example, establish default requirements for NG9-1-1 function provisioning by access network providers and certain regulated originating service providers, but simultaneously confer a blanket forbearance from those requirements for any entity that voluntarily commits to providing equivalent functions or service to consumers. Under such a regime, providers would be free to implement NG9-1-1 functions as best suits their unique networks and services while the public and public safety agencies would enjoy a modicum of assurance, supported by a provider's desire to avoid regulatory mandates, of quality, functional service. NENA proposes this regime out of a desire to reap the benefits of voluntary consensus standards and best-practice sharing in the industry, but cognizant of repeated failures by industry to implement such practices.<sup>15</sup>

## CONCLUSION

The Commission should recommend that Congress establish state-centric policies for the deployment of NG9-1-1 and itself act to eliminate legacy PSTN-centric rules that may impede the deployment of NG9-1-1 while maintain-

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<sup>14</sup> Cf. Telecommunications Industry Association *Comments* at 7

<sup>15</sup> E.g., FCC Public Safety & Homeland Security Bureau, *Impact of the June 2012 Derecho on Communications Networks and Services* 41 (2013). *Contra* Telecommunications Industry Association *Comments* at 9.

ing an essential regulatory backstop to prevent the abuse of competitive advantages enjoyed by some incumbents.

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