

**STATEMENT OF
BRIAN FONTES, CEO**

On Behalf of the

National Emergency Number Association

Before the

United States House of Representatives

**Subcommittee on Communications, Technology, and the Internet of the
Committee on Energy and Commerce**

**Next Generation 9-1-1 Preservation Act of 2010 (H.R. 4829)
and Public Safety Broadband Act of 2010**

June 17, 2010

Chairman Boucher, Ranking Member Stearns, Members of the Subcommittee, my name is Brian Fontes and I am CEO of the National Emergency Number Association (NENA). NENA represents over 7,000 dedicated 9-1-1 and emergency communications professionals who receive and manage nearly 250 million 9-1-1 calls annually. These public safety individuals are the first link in the emergency response chain that so many Americans rely on every day. Today, I appear before the Committee representing not just a national organization, but also on behalf of the thousands of individual NENA members who work tirelessly to help those who dial 9-1-1 in times of need. I would like to thank the House Co-chairs of the Congressional E9-1-1 Caucus, both members of this Subcommittee, Representatives Eshoo and Shimkus for their commitment to advancing 9-1-1 and emergency communications systems, most recently by introducing the Next Generation 9-1-1 Preservation Act of 2010 (H.R. 4829), which NENA fully supports.

In my testimony today I wish to do two things:

- First, offer full support for the Next Generation 9-1-1 Preservation Act and offer a few suggestions to improve the bill.
- Second, offer support for the establishment of a nationwide public safety broadband network, recognizing the spectrum needs of public safety, but focusing on the critical issue of funding.

On behalf of its Board and members, NENA thanks the Subcommittee for holding today's hearing. I would also like to take this opportunity to publicly thank the Chief of the FCC's Public Safety and Homeland Security Bureau, Jamie Barnett, and his staff for their significant efforts to address public safety broadband needs, as well as Next Generation 9-1-1, in the National Broadband Plan. It is fitting that the Subcommittee is simultaneously addressing 9-1-1 legislation and a draft bill to provide for a nationwide wireless public safety broadband network.

The public must be able to rely on an effective and efficient 9-1-1 and emergency response system, and in a broadband world, the two are joined. This requires the most technologically advanced 9-1-1 systems and access to high-speed wireless broadband networks for emergency responders. The legislation the Subcommittee is addressing today would significantly improve our nation's 9-1-1 and emergency communications capabilities.

The Next Generation 9-1-1 Preservation Act of 2010

Hundreds of millions of 9-1-1 calls are made every year by citizens who are increasingly capable of utilizing innovative forms of voice, video and data services and applications. Yet, today most 9-1-1 centers are primarily limited to voice-only communications. This is simply unacceptable. It is essential that we improve access to 9-1-1 for a growing segment of the population, including the deaf, hard of hearing, and individuals with speech disabilities, who regularly communicate with non-traditional text, video, and instant messaging communications services, and who expect those services to be able to connect directly to 9-1-1 systems. Therefore, it must be a national priority to foster the migration from 20th century voice-centric 9-1-1 and emergency communications systems into a broadband-enabled, IP-based emergency services model that embraces all voice, video, and data applications. The Next Generation 9-1-1 Preservation Act of 2010 (H.R. 4829) will help foster this transition.

What is Next Generation 9-1-1 (NG9-1-1) and why is it so important?

There are four fundamental purposes of NG9-1-1: (1) fully replace Enhanced 9-1-1 (E9-1-1) with all the core functionalities and capabilities of the current E9-1-1 system; (2) add capabilities to support 9-1-1 access in multiple formats for all current and new types of originating service providers; (3) add increased system flexibility for Public Safety Answering Points (PSAPs) and 9-1-1 governing authorities; and (4) add capabilities to integrate and interoperate with entities involved in emergency response beyond the PSAP.

NG9-1-1 systems are not being designed as dedicated, closed, single purpose systems. Instead, they will be shared systems comprised of multiple entities. 9-1-1 will be only one part of a much larger system shared with general government, private sector entities and other public safety services and agencies. The amount and type of information (voice, text or video) received by PSAPs and shared with emergency response agencies will greatly surpass current E9-1-1 systems. NG9-1-1 makes it possible to push and pull video, still images, medical information and a host of other data with a 9-1-1 call. NG9-1-1 is not simply an extension of E9-1-1. While a full NG9-1-1 system must support all E9-1-1 functions and features, NG9-1-1 is IP-based, and software and database controlled in fundamentally new ways, enabling many new technical and operational capabilities to further enhance the coordination and delivery of emergency services nationwide. NG9-1-1 is designed to:

- provide standardized interfaces from all call and message services
- process all types of emergency calls including non-voice (multi-media) messages
- acquire and integrate additional data useful to call routing and handling
- accurately locate and deliver calls/messages and data to the appropriate PSAPs and other appropriate emergency entities

- support data and communication needs for coordinated incident response and management
- provide a secure environment for emergency communications

Building upon and extending several elements of the ENHANCE 911 Act of 2004, the Next Generation 9-1-1 Preservation Act of 2010 includes the following important provisions that will facilitate the transition to NG9-1-1 systems:

- **First**, the bill would reauthorize the National 9-1-1 Implementation Coordination Office (ICO) which plays a central role in coordinating 9-1-1 issues and activities among federal government agencies, state and local government agencies, national organizations and industry involved in the implementation of 9-1-1 services.
- **Second**, the 9-1-1 Office also would be responsible for administering an important grant program authorized at up to \$250 million annually for Next Generation 9-1-1 services and applications, as well as training.
- **Third**, the bill would provide a federally codified definition of NG9-1-1. Not only is it important to define NG9-1-1 for purposes of the grant program authorized by this bill, but also having a federal definition will be helpful for states to be able to point to in their own NG9-1-1 legislation to ensure consistency.
- **Fourth**, the legislation would require the FCC to issue a public notice concerning E9-1-1 requirements for providers of multi-line telephone systems (MLTS). NENA supports each of these important provisions.

While we support the legislation, there are a few minor modifications that we think could be made to improve the bill. We have shared the following recommendations with staff of the bill's lead sponsors and the Committee:

- **First**, we have suggested some modifications to the terms “emergency call” and “Next Generation 9-1-1 services” to be consistent with national NG9-1-1 standards.
- **Second**, we would eliminate Section 6, a requirement that GAO issue a report on the current practices of the states in the collection and use of 9-1-1 fee revenues. This is unnecessary as it is duplicative of a report the FCC is now required to produce annually on the same subject as a result of the NET 911 Improvement Act of 2008.
- **Third**, there should be an explicit requirement that the 9-1-1 Office coordinate its activities with the FCC. With the release of the National Broadband Plan and the recommendations put forth by the Commission, and the regulatory responsibility of the FCC for 9-1-1 service, it makes sense to ensure that any communication and coordination led by the National 9-1-1 Office is done in coordination with the FCC.
- **Fourth**, we have proposed the formation of a National 9-1-1 Advisory Council to provide guidance and assistance from a wide array of stakeholders with expertise in 9-1-1 technical, operational, and policy issues. The Advisory Council would give direction and help establish priorities for the Office and make recommendations on several identified topics.
- **Fifth**, we have suggested language to further disincentivize the practice of state diversion of 9-1-1 fee revenues for unintended purposes.

Finally, while the current bill would place the leadership of the National 9-1-1 Office within the National Telecommunications and Information Administration (NTIA), NENA is aware that the co-sponsors of the bill have discussed making the Office a joint-program Office by adding the Administrator of the National Highway Traffic Safety Administration (NHTSA). This would essentially be a continuation of the current structure of the National 9-1-1 Office as established in the ENHANCE 911 Act of 2004. Given the tremendous support of 9-1-1 issues that NHTSA has demonstrated, NENA would support this modification to the bill.

We look forward to working with you and your staff to address NENA's proposed changes to the Next Generation 9-1-1 Preservation Act. Thank you for your bi-partisan effort on this important legislation.

Now, I would like to address the discussion draft legislation concerning the establishment of a nationwide public safety wireless broadband network released on Monday of this week.

Nationwide Public Safety Wireless Broadband Network

As different options for a nationwide public safety wireless broadband network have been considered, NENA has consistently encouraged the FCC and Congress to ensure that any actions taken ensure that:

- a public safety wireless broadband network, or network of networks, is built nationwide;
- in addition to public safety broadband networks, public safety agencies also have priority access and the ability to roam on to commercial wireless broadband networks at affordable rates and on favorable terms;
- a known and recurring revenue source is available to pay for public safety access to and use of (hardware, software, applications, training) broadband networks;
- public safety is able to benefit from the substantial research and development of the commercial wireless industry; and
- sufficient oversight and enforcement of agreed upon requirements for the nation-wide system is provided.

To that end, on May 24th of this year NENA sent a letter to the leadership of this Subcommittee in which we expressed our strong support for key elements of the public safety portion of the National Broadband Plan (see Appendix A). The Plan outlines several essential steps necessary to achieve a nationwide wireless public safety broadband network, including some issues that only Congress can address. First and foremost, is the critical issue of funding. In our letter, NENA urged Congress to act upon the FCC's recommendations to make near-term funding available for public safety broadband systems and to ensure that funds are available on a sustainable and annually recurring basis. Such action will ensure that broadband networks are built, maintained and effectively serving all areas of the country. With the release of the discussion draft this week, it is clear that you do intend to address public safety's broadband funding needs for construction, maintenance and operational costs. NENA applauds your willingness to address this essential need.

While there is a strong and understandable desire to have wireless broadband networks designed and built specifically for public safety use (and under the control/ownership of public safety), a recent report of the National Public Safety Telecommunications Council (“NPSTC”) indicates that reliance on commercial wireless broadband networks will continue for many years. The NPSTC 700 MHz Broadband Task Force Report states that, “a nationwide, interoperable wireless broadband network...for public safety will not be built overnight and it will take many years to even approximate ubiquitous coverage. During that period, the ability of public safety users to roam on commercial networks will be essential.”¹ This is primarily due to the reality that there is a lack of identified funding to build public safety stand-alone broadband networks, a central fact that has driven the Commission’s discussion on innovative public/private partnerships to ensure public safety access to wireless broadband.

The general lack of funding and recognition that in many areas public safety will continue to rely on commercial wireless broadband networks for a long time leads to three overall conclusions:

- **First**, it is essential that a reliable, recurring funding source is established for public safety access to, and use of, broadband.
- **Second**, it is important to seek innovative public/private partnerships to ensure public safety access to commercial wireless broadband networks on a priority basis.
- **Third**, given the continued reliance on commercial wireless broadband networks, it is important to look at what additional steps can be taken to ensure that current and planned commercial networks can meet the bandwidth, coverage and reliability needs of public safety.

It will always be desirable to have specialized public safety-only networks that meet the critical needs for public safety communications, but it will not always be efficient or cost effective. Therefore, it is important to consider options that could enhance commercial networks and devices, in conjunction with the construction of public safety networks. The discussion draft addresses each of these three points.

Recently, much attention has been devoted to efforts to seek the allocation of the D Block to public safety. NENA certainly understands the desire and benefits of contiguous public safety spectrum and the ability to control/own the network. As NENA has previously stated, if the D block were allocated to public safety to create a 20 MHz contiguous spectrum block for broadband, and a substantial and recurring revenue stream was provided to ensure public safety could build out and use that spectrum, NENA would support such an approach. However, to date the D block allocation efforts have focused almost exclusively on spectrum, and not the associated and necessary funding. It is unclear how the primary funding aspect under this approach (leasing public safety spectrum) will generate sufficient revenues to build and maintain a nationwide wireless public safety broadband network. Nor is there any guarantee that such leasing arrangements will be in demand or able to be effectively negotiated in many parts of the

¹ National Public Safety Telecommunications System, 700 MHz Public Safety Broadband Task Force Report and Recommendations (September 4, 2009) at pg. 32; available at http://www.npstc.org/documents/700_MHz_BBTF_Final_Report_0090904_v1_1.pdf.

country. It is this uncertainty over funding that has driven NENA's decision to focus more on sustainable and recurring funding solutions than spectrum allocation.

As it currently stands, it appears that there are two approaches on the table to providing a nationwide wireless public safety broadband network. The two approaches are as follows:

1. Allocate the 700 MHz D Block to public safety with funding coming from the traditional sources of state and local government (and possibly some additional federal grant funds). Additional money could potentially be generated through the lease of excess public safety capacity where there is demand for additional spectrum from commercial carriers. There would also have to be provisions that revenues obtained from leasing excess spectrum must be reinvested in the public safety broadband network in the 700 MHz band, rather than used by local and state authorities for non-broadband uses. In addition, it would appear that any leasing arrangements would need to have provisions to ensure public safety could reacquire that spectrum on a short-term preemptive basis during emergencies (or in the long term in the event that public safety needs to utilize all 20 MHz for their own broadband network). A benefit of this approach for public safety is of course that the terms of use of the network are under the control of the public safety licensee.
2. The second approach is contained in the draft legislation and the National Broadband Plan which would, if the draft legislation were to become law, provide a major source of funding for public safety broadband systems while ensuring access to adjacent commercial spectrum during emergencies on a priority basis with roaming. This approach does not allocate the D Block to public safety. However, it does provide a significant source of funding and would provide access to 80 MHz of combined public safety and commercial spectrum, rather than a standalone 20 MHz public safety block if the D block is allocated to public safety. Of course, this approach would require the FCC to establish clear priority access and roaming rules suitable to public safety's needs, and to allow funding mechanisms to pay for priority access and roaming as necessary.

NENA believes that there is merit to both approaches. Nonetheless, all parties need to focus on what will best serve the interests of both public safety and the public. In NENA's opinion, having access to a nationwide public safety broadband network with significant funding for construction, maintenance and operation of the network, with a guarantee of roaming and priority access, is a workable approach. Critical details would need to be worked out, primarily on the viability and capabilities of the priority access regime that is implemented and on the operational costs that can be reimbursed from federal grant funds (*e.g.* roaming and priority access fees).

We thank you for releasing this discussion draft and hope that it will do just that, generate discussion, resulting in the establishment of a nationwide public safety broadband network and the funding to build and operate that network. We stand ready to work with you, the Commission, and others in public safety on this important issue.

Thank you.

Appendix A

May 24, 2010

The Honorable Henry Waxman
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Rick Boucher
Chairman
Subcommittee on Communications,
Technology, and the Internet
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Cliff Stearns
Ranking Member
Subcommittee on Communications,
Technology, and the Internet
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Waxman, Chairman Boucher, Ranking Member Barton, and Ranking Member Stearns:

The National Emergency Number Association (“NENA”) wishes to express our strong support for key elements of the public safety portion of the National Broadband Plan (“Plan”). The Plan outlines several essential steps necessary to achieve a nationwide wireless public safety broadband network and Next Generation 9-1-1 systems, including many issues that only Congress can address. First and foremost, is the critical issue of funding. NENA urges you to act upon the FCC’s recommendations to make near-term funding available for public safety broadband and Next Generation 9-1-1 systems and to ensure that funds are available on a sustainable and annually recurring basis. Such action will ensure that broadband networks are built, maintained and effectively serving all areas of the country.

Recently, much attention has been devoted to efforts to seek the allocation of the D Block to public safety. However, little attention has been given to other important elements of the National Broadband Plan. The focus on public safety’s need for additional spectrum, while important, must be put into the broader context of the other key elements of the Plan, including the critical need for funding to build, maintain and operate a nationwide system.

Key elements included in the Plan for the benefit of public safety include the following recommendations:

- the need for sustainable funding to ensure the public safety broadband network is built and maintained;
- requiring the ability of public safety to roam on commercial networks with priority access during emergencies resulting in access to a significant amount of commercial spectrum in the 700 MHz band;

- the creation of the Emergency Response Interoperability Center (ERIC) that will implement technical requirements and procedures to ensure system operability, roaming, priority access, authentication, encryption, gateway functions and interfaces, and interconnectivity of public safety broadband wireless networks; and
- a commitment to address pending public safety 700 MHz waiver requests (recently resolved); and
- the identification of several steps to enable Next Generation 9-1-1 systems.

NENA supports these recommendations, especially the proposals for funding.

While the Commission did not recommend the allocation of the D Block to public safety, the FCC certainly recognized the need for additional spectrum for public safety broadband. NENA is aware that legislation was recently introduced to allocate the D Block to public safety (HR 5081). However, in its current form, the legislation does not address the need for funding, a central issue for NENA. As we have consistently stated, while access to additional spectrum is important, spectrum without sufficient funding will not provide for a truly nationwide public safety broadband network. This is particularly true for the more rural areas of the country that are traditionally underfunded.

In summary, the FCC is to be commended for the numerous recommendations in the National Broadband Plan designed to ensure the availability of a nationwide public safety wireless broadband network and Next Generation 9-1-1 systems. We look forward to fully engaging in the FCC Broadband Plan proceedings and with Members of Congress in a constructive effort to enable a much needed transition into the broadband era for public safety and 9-1-1 systems.

Sincerely,

A handwritten signature in black ink, appearing to read "R. G. Whittington".

Craig Whittington, ENP
President

cc: The Honorable Janet Napolitano, Secretary, Department of Homeland Security
The Honorable Julius Genachowski, Chairman, Federal Communications Commission
The Honorable Michael Copps, Commissioner, Federal Communications Commission
The Honorable Robert McDowell, Commissioner, Federal Communications Commission
The Honorable Mignon Clyburn, Commissioner, Federal Communications Commission
The Honorable Meredith Attwell Baker, Commissioner, Federal Communications
Commission
The Honorable Lawrence Strickling, Assistant Secretary for Communications and
Information, Department of Commerce