STATEMENT OF
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On Behalf of the,

NATIONAL EMERGENCY NUMBER ASSOCIATION (NENA)

Before the,

UNITED STATES SENATE
COMMITTEE ON COMMERCE, SCIENCE, and TRANSPORTATION

S. 1063 'IP-Enabled Voice Communications and Public Safety Act of 2005'

September 1, 2005

Mr. Chairman and Members of the Committee, thank you very much for providing me the opportunity to appear before you today. My name is David Jones and I'm a nationally certified Emergency Number Professional (ENP), serving Spartanburg County, South Carolina as the Director of Emergency Services.

I'm also the President of the National Emergency Number Association (NENA), an organization consisting of more than 7,000 members in 46 chapters across the U.S. and Canada representing public officials, fire, EMS, law enforcement, equipment and service providing vendors of the 9-1-1 community. Additionally, I serve as the Vice Chair of the Federal Communications Commission's (FCC) Intergovernmental Advisory Committee (IAC), representing the interests of local government and public safety. I am also a longtime member of the Association for Public Safety Communications Officials (APCO) International.

Today I a appear before the Committee on behalf of NENA, but also standing on the shoulders of the thousands of 9-1-1 professionals in America who work tirelessly to help those people who dial 9-1-1 in times of need. Admirable colleagues, like those on my team in Spartanburg, who continue to find ways to get the job done regardless of the technical obstacles or challenges of modern communications in our Public Safety Answering Point (PSAP). National leadership, like that of Senators Burns and Clinton, as well as Representatives Shimkus and Eshoo, co-chairs of the Congressional E9-1-1 Caucus. I thank all of you for your tireless work to make our 9-1-1 system work like it should.

Opening Comments

Mr. Chairman, I applaud your leadership, as well as that of your colleagues and staff in bringing the 9-1-1 community to the table for these vital discussions about the future of public safety communications. The 9-1-1 Community has known no greater friend than Senator Conrad Burns. I sincerely thank you for the continued leadership you have

provided on 9-1-1 issues over the years. NENA represents the national 9-1-1 community as the "Voice of 9-1-1", but if there is truly one voice of 9-1-1 in the halls of Congress, surely it is Senator Conrad Burns.

In the late 1990's, Senator Burns lead an effort to recognize '9-1-1' as the universal number for emergency calling and to ensure the deployment of wireless E9-1-1. Enacted by Congress, "The Wireless Communications and Public Safety Act of 1999" is our foundation for greater 9-1-1 policy goals.

Building off of the success of that legislation, Senator Burns helped found the E9-1-1 Caucus, along with fellow co-chairs Senator Hillary Clinton, Congressman John Shimkus and Congresswoman Anna Eshoo, a group whose leadership on 9-1-1 issues has been unparalleled. Most recently Senator Burns, along with the other E9-1-1 Caucus co-chairs, successfully led the charge to pass the Enhance 911 Act of 2004. Signed into law by President Bush on December 23, 2004, the ENHANCE 911 Act authorized the creation of a national 9-1-1 Implementation and Coordination (ICO) office and up to $250 million per year for grants to upgrade enhanced emergency communications services. This was monumental legislation for 9-1-1 and I thank Senator Burns and the E9-1-1 Caucus co-chairs for their efforts this year to secure an appropriation to fund the provisions in that law.

Thank you Senator Burns, and fellow E9-1-1 Caucus co-chairs, for your continued leadership and support of 9-1-1.

I am here today to testify in support of the IP-Enabled Voice Communications and Public Safety Act of 2005. We applaud the recent actions taken by the FCC in adopting its Order on E9-1-1 requirements for IP-enabled service providers, but NENA believes Congressional action in this area is needed as well. We appreciate the need to enact communications legislation that encourages innovation and the widespread deployment of broadband service which we believe will not only provide benefits to the general public, but will also have an enormous positive impact on public safety communications. As legislation to update our communications laws is drafted, NENA encourages Congress to include provisions that address critical 9-1-1 and public safety concerns focusing on today's needs and taking into consideration the progression towards the next generation 9-1-1 and emergency services system. The IP-Enabled Voice Communications and Public Safety Act provides a foundation for such action.

In my statement today, I will refer to our vision, our needs and respectfully make recommendations to improve the legislation before the Committee, emphasizing fundamental points for NENA, 9-1-1 and IP-enabled services.

The Changing Landscape of 9-1-1

Since its inception, the 9-1-1 system has been THE first responder in times of individual and mass emergencies. Every day, Americans call 9-1-1 at the time of their greatest need. Today we are averaging over 200 million 9-1-1 calls per year. Ninety-six percent of the nation's geography is covered by at least some basic 9-1-1; ninety-nine percent of

the American public has access to 9-1-1. For the caller and the public, the successful completion of a 9-1-1 call can mean the difference between danger and security, injury and recovery, or life and death. The ability to call for help in times of an emergency is not 'voluntary' – it's mandatory.

Yet the advancement of communications and network technology is quickly blurring the lines of familiarity in the world of emergency communications and 9-1-1. No longer can we discuss 9-1-1 solely in the context of the public switch telephone network (PSTN). No longer can we discuss the routing of 9-1-1 calls as being dependent on the use of the existing analog, circuit switched telephone network. In fact, just last week NENA introduced for public comment its first ever VoIP 9-1-1 standard. NENA started with "One nation – One number", and now we add, "any device, from anywhere, at anytime." As 9-1-1 and emergency communications continue to advance, it is critical that communications regulation evolve in a parallel fashion and is flexible enough to accommodate future advancements that have yet to be considered.

Truly the future is happening now. Already, over fifty million Americans are using some form of broadband Internet access offering exciting new communications possibilities. Voice over IP is coming. In many places it's already here. IP-enabled services are dynamic, competitive, innovative and most of all, an opportunity to improve all of our communications systems. Better, faster, cheaper technology and communications service is vital to American consumers and business, but it may prove even more vital for our public safety and security.

With our excitement for IP-enabled services comes some trepidation. Today, IP is where we were with wireless ten years ago; an industry and technology advancing at a rapid rate with unlimited promise facing the challenge, and regulatory requirement, to provide E9-1-1 to all customers. Even today, after more than ten years of discussion and debate, wireless E9-1-1 is available in less than fifty percent of the PSAPs in the United States. We must not allow history to repeat itself with VoIP. It is critical that all parties, public and private, come together in the spirit of cooperation, collaboration and good faith, to plan a national deployment for VoIP. To make this happen will require a good deal of leadership at all levels of government, starting with the United States Congress.

National Plan for 9-1-1 and IP-Enabled Communications Services

Last June I testified before this committee supporting the need for targeted federal regulation for E9-1-1 and VoIP, suggesting that this would most appropriately be handled by the FCC. Since then the Commission has acted and we applaud their leadership. Now we must work together at all levels of government and with industry to plan for a nationally standardized and coordinated approach to the deployment of VoIP E9-1-1.

To be effective and meaningful, E9-1-1 must be included in a wide range of VoIP and IP-enabled products and services. This includes both voice and data, whether serving a fixed location, or nomadic locations that may change from day to day, or operating wirelessly in a much greater area over Wi-Fi or Wi-Max networks for example. Each of these service types offers different challenges.

The technical development of 9-1-1 must be convergent with its policy direction. Today's regulations for 9-1-1 are fragmented, consisting of a jurisdictional patchwork of rules for various types of communications, providers and stakeholders Wireline issues are regulated by states. Wireless issues are regulated by the FCC. 9-1-1 public safety answering points are often local. Consumer expectations are national. VoIP can be international.

9-1-1 needs to be treated as an integrated public safety service, part of a larger whole for our safety and national security. This concept has been recently tested with the deployment of wireless E9-1-1. Through this process, we've learned some important lessons in implementing new technologies with E9-1-1 systems: (1) E9-1-1 must be treated as an inter-dependent overall system; (2) coordination is very important; (3) federal leadership is necessary for national implementation and resolution of issues.

In our experience, voluntary consensus development, within reasonable timeframes, of requirements and rules for technology and service integration provides the best results. To enable a coordinated national deployment of VoIP it is very important that Congress and the FCC provide directive influence to encourage the development of national standards and require the early adoption of recognized national standards when they become available. Federal rules and regulations should provide reasonable guidelines to enable a path forward but should allow the appropriate standards processes to determine the specific methodologies to meet such guidelines. In doing so, the FCC and Congress will contribute needed leadership toward the facilitation of a nationally-coordinated effort in delivering IP-enabled E9-1-1 service.

NENA strongly encourages both the FCC and Congress to work closely with the joint NHTSA/NTIA national 9-1-1 Implementation and Coordination Office once established. We believe the ICO should manage all 9-1-1 specific functions at the federal level. The ICO is uniquely positioned to coordinate and provide guidance to multiple ongoing 9-1-1 efforts at the national, state and local level. This will ensure that individual efforts are not occurring in a void and are not duplicated or at cross purposes.

Regulatory Authority

Too often in the past we have tried to draft new laws and regulations for E9-1-1 requirements for innovative technologies as they are introduced, including wireless and VoIP. Recognizing this issue, earlier this month NENA joined APCO and several other groups in a letter asking Congress to include a clear statement in any telecom reform language on the jurisdiction of the FCC to establish rules requiring providers of interconnected voice telecommunications services to provide their customers with E9-1-1 capabilities.

We certainly agree that this is an important topic to consider given today's 9-1-1 system, but NENA asks Congress to go a step further. NENA believes that regardless of the service classification - telecommunications, information or otherwise - if a service provides a communications capability in which a customer can reasonably expect to be able to reach a PSAP when dialing 9-1-1, whether over the PSTN, an IP network or some

other yet to be identified path, the FCC should have the clear regulatory authority to address the 9-1-1 aspects of those services.

This is not to suggest that the FCC should enact regulations to cover all potential service types, but the FCC should have sufficient authority so that if regulation is deemed necessary, Congress does not have to continually go back and update laws based on every new communications technology or service needing 9-1-1 access. Therefore we support the provision in the IP-Enable Voice Communications and Public Safety Act that authorizes the FCC to regulate in the area of IP-enabled voice communications, but we ask Congress to extend that authority to any service that provides a communications capability in which a customer can reasonably expect to be able to reach a PSAP when dialing 9-1-1.

State Authority

Funding for IP-enabled E9-1-1 services and the development of the next generation 9-1-1 system is perhaps the most important issue for 9-1-1 today. The public safety community is extremely concerned by the immediate and growing impact of VoIP on loss of conventional service fees and surcharge revenue, and the uncertainty of any requirement to replace that critical operational funding stream in the VoIP environment. We support the need for national direction from the FCC, just as we support cabinet-level attention to 9-1-1 issues through the national 9-1-1 Program Office.

Thus, in addition to establishing clear FCC regulatory authority, it is essential that Congress do nothing to compromise state and local authority to impose and collect 9-1-1 fees on all services where a customer has a reasonable expectation of being connected to 9-1-1, again regardless of the type of technology. In addition to funding, there will be other state and local issues as well that are best addressed at that level, but it is clear that as technology evolves, the classification of service or technology type should not have an effect on the ability of state and local government to address those issues.

Congress should also consider ways to facilitate state and local funding of critical 9-1-1 emergency communications systems. Last year Congress effectively acted in this regard by passing the ENHANCE 911 Act of 2004 and authorizing up to $250 million per year in grants for 9-1-1 system upgrades. However, to date no monies have been appropriated to fund such grants. NENA implores Congress to fund the ENHANCE 911 Act. The continued success and sustainability of our 9-1-1 system will greatly benefit from such action.

While ensuring that states have the authority to impose fees on VoIP services is important, NENA also acknowledges that a shift in the 9-1-1 funding model may be needed as we move to the next generation IP-enabled E9-1-1 network. This subject is a main topic of the NENA Next Generation NG E9-1-1 Program, a year long effort that is also addressing key next generation technical and operational 9-1-1 issues. All Program participants agree that until a clear solution is identified for the immediate and long term 9-1-1 funding problem, attention to the need for technological change and evolution of the E9-1-1 system itself is difficult to achieve.

It is important to add here that NENA continues to emphasize the necessity of state coordination in the deployment of E9-1-1 services, regardless of service type. The importance of state coordination for wireless E9-1-1 has been recognized by Congress through the Wireless Communications and Public Safety Act of 1999 and the ENHANCE 911 Act of 2004. This has proven to be a valid position as states with a coordination entity are generally further along in the Phase II wireless E9-1-1 deployment process. While recognizing that the delivery of 9-1-1 service is managed at the local level and that local PSAPs have an important role to play, Congress and the FCC should encourage coordination at the state level for the deployment of IP-enabled E9-1-1 services.

Non-Discriminatory Access to Capabilities and Liability Parity

The IP-enabled Voice Communications and Public Safety Act of 2005 requires each entity with ownership or control of 9-1-1 infrastructure, known commonly as E9-1-1 system service providers (SSPs), to provide requesting IP-enabled service providers access to the equipment, databases, network and other necessary capabilities on a non-discriminatory basis. The bill also provides immunity from liability to the same extent as provided to local telephone exchange companies for providers of IP-enabled 9-1-1 service. Additionally, the bill provides liability protection to users of such services as well as liability protection for PSAPs to the same extent they currently have for non-IP enabled services.

On the issue of liability parity, the bill mirrors the language granted to wireless carriers, users of wireless service and PSAPs answering 9-1-1 calls that is contained in the Wireless Communications and Public Safety Act of 1999. It is important to note that the Wireless Act of 1999 was passed before the widespread deployment of Phase I and Phase II wireless, an action that was deemed critical and applauded by both the 9-1-1 community and industry. NENA believes it is also important to have liability parity for IP-enabled services enacted into law before the quickly approaching 120 day VoIP E9-1-1 deadline of November 28, 2005.

Past experience in the deployment of E9-1-1 has shown that a lack of legal clarity on important topics, such as liability parity and non-discriminatory access to E9-1-1 capabilities, has led to a delay in the provisioning of E9-1-1 service. Therefore, NENA wholeheartedly supports both of these provisions as we believe they are essential to ensure the timely deployment of E9-1-1 for IP-enabled services.

Next Generation E9-1-1

As noted earlier, NENA believes that planning now for the future 9-1-1 system is of paramount importance and is why we have launched the NG E9-1-1 Program. NENA plans to release a comprehensive report on the findings and recommendations of that initiative in early 2006 and will communicate the results with Congress. Therefore, NENA fully supports section three of the IP-enabled Voice Communications and Public Safety Act requiring the national 9-1-1 Implementation and Coordination Office to provide a plan for the migration from today's 9-1-1 system towards an IP-enabled emergency network.

Timeframe for Action
We hope that telecom reform will be done this year and will include the important 9-1-1 provisions identified here. However, past experience has shown that this type of reform can become bogged down in negotiations and take longer than expected to complete. Should this happen, NENA believes it is very important that the 9-1-1 provisions discussed here be included in a stand alone bill, such as a slightly modified version of the IP-Enabled Voice Communications and Public Safety Act of 2005, and considered by Congress before the session ends this year.

Conclusion
Our nation's 9-1-1 system is a homeland security asset. Everyday 9-1-1 callers are the eyes and ears of our defense. It is also a system that citizens depend on daily in times of need. Modern communication capabilities offer an opportunity to improve the system as we know it, but they also offer challenges. The 9-1-1 community must embrace and react to change quickly, to better serve the American public, industry, and the mobile consumer in all emergencies. We need help from Congress in doing so.

NENA fully supports each of the provisions in the IP-enabled Voice Communications and Public Safety Act as they pertain to VoIP E9-1-1 but asks Congress to broaden the scope of the bill to include any service that provides a communications capability in which a customer can reasonably expect to be able to reach a PSAP when dialing 9-1-1.

With some modifications, the legislation will make great contributions toward public safety and security. On behalf of thousands of NENA members, the 9-1-1 professionals and all involved in supporting their work, I thank you for your support and the opportunity to be here today.