

**ISSUES IN EMERGENCY COMMUNICATIONS: THE
911 MODERNIZATION AND PUBLIC SAFETY ACT
OF 2007**

HEARING
BEFORE THE
SUBCOMMITTEE ON TELECOMMUNICATIONS AND
THE INTERNET
OF THE
COMMITTEE ON ENERGY AND
COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

ON

H.R. 3403

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**ISSUES IN EMERGENCY COMMUNICATIONS:
THE 911 MODERNIZATION AND PUBLIC
SAFETY ACT OF 2007**

WEDNESDAY, SEPTEMBER 19, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TELECOMMUNICATIONS
AND THE INTERNET,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2322, Rayburn House Office Building, Hon. Edward J. Markey (chairman) presiding.

Present: Representatives Doyle, Inslee, Gordon, Eshoo, Stupak, Green, Upton, Hastert, Deal, Shimkus, Wilson, Pickering, Bono, and Walden.

Staff present: Amy Levine, Tim Powderly, Mark Seifert, David Vogel, Colin Crowell, Philip Murphy, Neil Fried, and Courtney Reinhard.

OPENING STATEMENT OF HON. EDWARD J. MARKEY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS

Mr. MARKEY. Good morning, ladies and gentlemen. Thank you so much for coming today to this very important hearing.

Today's hearing focuses upon emergency communications and, more specifically, the provisions of H.R. 3403, legislation introduced by our colleagues Representative Bob Gordon of Tennessee and cosponsored by Mr. Shimkus of Illinois, Ms. Eshoo of California, Mr. Pickering of Mississippi, and other colleagues.

[The bill appears at the conclusion of the hearing.]

Mr. MARKEY. The proposed bill is designed to ensure that a consumer calling 911 in an emergency from an Internet phone, using so-called VoIP service, can do so with a degree of confidence matching that of traditional phone service and wireless service. The bill seeks to achieve this goal through two key provisions.

The first provision extends liability protections to VoIP service providers. The Federal Communications Commission lacks authority to grant liability protection to VoIP service providers, and therefore, Congress must take action to achieve this policy objective. This is similar to action this subcommittee took in 1999 when such liability protection was accorded to wireless providers.

The second key provision in the bill establishes the right of VoIP providers to access the parts of the 911 infrastructure they need in

order to complete 911 calls for our consumers. This is an important provision because, while the FCC has acted to require VoIP providers to meet enhanced 911 service obligations, the Commission did not order that such VoIP providers had a legal right to the components of the 911 infrastructure they would need to fulfill their E-911 obligations under the Commission's own rules.

As we consider this bill, our job, in my view, should be to assure the public that the simple act of picking up a phone, any phone, including a traditional phone, a wireless phone or an Internet VoIP phone, and dialing 911 and successfully reaching the appropriate dispatch operator should not hinge on the type of technology a consumer uses. This straightforward public policy mission should be achieved in a timely and in a common-sense fashion, and this is what we need to focus on.

If a 911 call fails in an emergency, in a moment when a loved one may be in dire circumstances or when many lives may hang in the balance, a consumer will not stand for long-winded explanations on the fine points of interconnection rules or the implications of liability protection. When they ask why the call did not go through, they are going to be very angry at whoever was responsible for blocking that from happening.

Today's hearing will permit Members to hear testimony on the legislation and to weigh any adjustments that may be necessary to fine-tune the language in the bill. It is my intention that the subcommittee obtain such testimony, as well as input from other stakeholders, and work in a bipartisan, consensus fashion to see if we might be able to move this bill through the legislative process in the coming weeks.

I want to commend Mr. Gordon for his fine work on this bill, as well as commend the other cosponsors. And I also look forward to working with Ranking Member Upton, Chairman Dingell, full committee ranking member Mr. Barton, and our other colleagues as we move forward.

The time for the opening statement by the Chair has expired. The Chair will now recognize the gentleman from Michigan, Mr. Upton.

Mr. UPTON. Well, thank you, Mr. Chairman.

First, I would ask unanimous consent that all Members be allowed to submit their opening statements for the record.

Mr. MARKEY. Without objection.

OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. UPTON. I want to say good morning. Thank you for calling this hearing, an important hearing for sure.

We are holding a legislative hearing on H.R. 3403, the 911 Modernization and Public Safety Act of 2007, which was introduced by our colleague Mr. Gordon. And I want to publicly commend and thank Mr. Shimkus and Ms. Eshoo for their outstanding leadership on this issue as we move forward.

Just last night, leaving the office, I heard a story on national radio, highlighting the importance of E-911. A mother in Washington State was playing with her 2-year-old daughter, Elena, one night last week when a migraine suddenly hit her. She collapsed,

became dizzy. Her 2-year-old daughter—2-year-old daughter—Elena, while watching her mom collapse, walked over to the coffee table, picked up the phone, called 911, and simply said, “Mother, ouch.”

Those two words alone were enough to send the paramedics to their home, where they found her on the floor and Elena in the other room, getting a blanket for her mom, who was shivering. Thank goodness it is a good story; she was released from the hospital the same day. But without the technology, who knows where the situation would have taken us. This is a 2-year-old figuring out how to dial 911.

Just in the last 2 weeks, I have made two 911 calls in my district, as I have traveled on interstate I-94, reporting accidents. The system works. It continues to evolve. Much progress has been made, but we need to make sure that we can do better.

The FCC helped move the ball forward in June of 2005 by requiring that VoIP providers provide the 911 services to their customers. And while technologically it is more complicated for VoIP providers to provide that service, it is of equal importance. We have all heard the horror stories in the past of folks trying to unsuccessfully use 911 from their home or mobile phones. And I am hopeful, with the leaps taken so far, along with this legislation, that all consumers, regardless of their phone service or location or even, perhaps, their age, will be better served in an emergency.

H.R. 3403 seeks to address a number of issues surrounding 911 service. And while there may be ways that we can improve the bill, it has some important provisions that certainly take us in the right direction. We must work to ensure that this life-saving technology is available for every call, whether it be over a landline, wireless or VoIP.

I look forward to working with you, the authors of this legislation and all of my colleagues. I look forward to the testimony from this morning’s panelists. Your input will be of great assistance as we move forward.

I yield back my time.

Mr. MARKEY. The gentleman’s time has expired.

The Chair recognizes the gentleman from Pennsylvania, Mr. Doyle.

OPENING STATEMENT OF HON. MIKE DOYLE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. DOYLE. Thank you, Mr. Chairman, for holding this hearing on this important bill.

When the FCC introduced themselves to the subcommittee earlier this year, Mr. Chairman, you might recall that I had some questions about the way the FCC has addressed what happens when a person picks up a phone and dials 911 in an emergency. I had uncovered an early version of a report that Chairman Kevin Martin had spiked from a respected expert on 911. One of the report’s conclusions was that the FCC should do more to ensure enhanced location information accuracy for 911 calls made from wireless and digital Internet calls.

Since then, Chairman Martin announced efforts to improve that accuracy for wireless calls. I am pleased that the wireless industry and public safety officials came together last week and struck a deal on new rules that will help the FCC keep its promise to the American public that their emergency operator will be able to locate them when they urgently need their help.

That was wireless. Now it is time for Congress to do its part to make sure that consumers who are choosing digital phone services from standalone providers like Vonage and EarthLink or in bundles from cable companies like Comcast and Time Warner have fair and appropriate access to the critical network elements that allow them to directly connect to the 911 system.

Mr. Chairman, before I came to Congress, one of the ways I made a living was in the insurance business. In that line of work, you did not sell a policy to a family unless all of their issues and whatever hopes and fears they had were laid out on the table and were able to be discussed. And that is all we are asking of each of you today.

No one is opposed to the bill. Everyone here has a lot they like about it. We all know that the bill needs to pass, and it needs to pass this year. I am not asking you to cast aside your worries and join hands and sing "Kumbaya." What I am asking you to do is to clearly raise your issues so that they can be addressed. Think of this hearing today as you would group therapy, and we are your psychotherapists. We want to help you, but we cannot do that unless you talk to us about your issues that affect you deep down.

In conclusion, Mr. Chairman, I want to thank my friend Bart Gordon from Tennessee, John Shimkus from Illinois and all of my colleagues for getting together for such an important public purpose. We need this bill, and I applaud you for your work.

With that, Mr. Chairman, I will yield back my time.

Mr. MARKEY. I thank the gentleman.

I am already married to a psychiatrist, so I welcome the rest of the committee to the program, and this bill will be our first project.

The gentleman from Illinois, Mr. Shimkus.

Mr. SHIMKUS. I will defer for questions, Mr. Chairman.

Mr. MARKEY. The gentleman from Illinois, Mr. Hastert.

OPENING STATEMENT OF HON. J. DENNIS HASTERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. HASTERT. Well, thank you, Mr. Chairman.

I would like to, certainly, welcome the panel today, and I look forward to hearing the comments that each of the witnesses has to offer.

H.R. 3403 brings another viewpoint on how we move forward on the 911 Modernization and Public Safety Act. We have come a long way since I remember, in 1965, when emergency calls were first made available to the public. It was Congress that implemented a universal 911 concept that made access to emergency services a reality for all Americans.

I think, if you are as old as I am and you go back to the party line system, it was the operator who used to be the 911. You hoped you had somebody responsible who would answer who would follow through on it, but today has changed.

As of 1965, things have changed also, and since then, technological advances in telecommunications have afforded consumers the choice to use wireless, wireline and IP-based technology. Nonetheless, when a consumer picks up a phone to dial 911, they expect to be able to reach an emergency operator, no matter what technology the phone utilizes. Moreover, we teach our children that dialing 911 on any phone will ensure access to emergency personnel.

It is unfortunate that tragic situations have occurred due to consumers' inability to access life-saving emergency services using VoIP. I understand that the FCC has taken the steps to extend 911 obligations to all phone providers, including VoIP providers. However, there may be more that needs to be done.

It was Congress that initially decided how to make 911 services in the United States available to all citizens. Therefore, we must continue that legacy and ensure that all telephone services have access to 911 infrastructure so that they have the ability to provide all consumers 911 service.

However, we must be cautious that our goals to provide 911 to all Americans does not give any provider a competitive advantage. And let us not let technological challenges hinder our goals to modernize our public safety system. Access to emergency services is vital to all Americans, and not until you have to or one of your children has to dial those three digits do you really appreciate the infrastructure that we have in place. We want to improve on it.

Thank you. Thank you, Mr. Chairman, especially. I yield back my time.

Mr. MARKEY. The gentleman's time has expired.

The Chair recognizes the gentleman from Tennessee, Mr. Gordon, the principal sponsor of this legislation.

OPENING STATEMENT OF HON. BART GORDON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. GORDON. Thank you, Mr. Chairman, for holding this hearing on this bipartisan bill, the 911 Modernization and Public Safety Act.

Drafting this bill has been a collaborative process, and I want to thank Representatives Shimkus, Eshoo and Pickering for the E-911 Caucus support but, more importantly, for their advice as we try to put this bill together.

I want to thank the committee staff, the National Emergency Number Association, the Association of Public-Safety Communications Officials, the Coalition of Organizations of Accessible Technologies, and a host of other groups that have worked for 2½ years on this bill to improve public safety.

Certainly, I want to thank Dana Lichtenberg on my staff. I think that she feels that she has been or should have her certification for psychiatry now, in that most of these folks in the room have been on the couch for quite a while as we have discussed this. But now it is time to move on and to get something done for public service and safety.

When Americans dial 911, they expect the call to go through, regardless of what phone they use. That is why Congress acted in 2004 to ensure all Americans had access to 911 services on their

wireless phones. Congress now needs to act to ensure that all Americans have access to 911 on their Internet or VoIP phones.

The FCC obligated VoIP companies to provide 911 and E-911 services to their customers in 2005. Since then, the VoIP industry has made good progress, reaching 70 percent of all public safety answering points. However, VoIP providers do not yet have access to the remaining 30 percent of the 911 network, mostly in hard-to-reach rural areas.

My bill will facilitate the rapid development of VoIP 911 to the rest of the country by giving VoIP providers direct access to the 911 system so they can provide full 911 service to their customers. Importantly, the bill will also extend liability protection to VoIP 911 calls and 911 calls made using nonvoice technologies used by the deaf and hard-of-hearing community. This is essential; otherwise, public safety answering points may be hesitant to take these calls.

In addition, the bill stops States from directing fees used to support 911 to other purposes, and it will help modernize the Nation's 911 system by requiring the National 911 Coordination Office to develop a plan to move the Nation to an IP-based emergency response network and to allow the new PSAP grants to be used for IP equipment. Events like 9/11 and Hurricane Katrina have highlighted why a robust, IP-based 911 system that can handle a range of technologies—digital or analog, wireless phone, video, text-messaging, data, satellite or VoIP—must be a priority.

Again, thank you, Mr. Chairman, for holding this hearing, and I look forward to hearing the witnesses on this pending legislation.

Mr. MARKEY. The gentleman's time has expired.

The gentleman from Georgia, Mr. Deal.

Mr. DEAL. I waive my statement.

Mr. MARKEY. The Chair recognizes the gentleman from Texas, Mr. Green.

**OPENING STATEMENT OF HON. GENE GREEN, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. GREEN. Thank you, Mr. Chairman. I appreciate your calling and holding this hearing on emergency communications legislation to facilitate 911 and E-911 service for IP-voice service providers.

Improving public safety is a constant struggle, and I have learned from working on improving 911 in the Houston area and in the entire State of Texas as a State legislator.

It is interesting, though. This morning, you have been invited to tell us your deepest thoughts and fears and hopes. Mr. Chairman, we lost our only member of the committee who was a psychologist. He was elected Governor of Ohio, Congressman and now Governor Ted Strickland. In a private, earlier life, I did mental health work, and I did mainly involuntary commitment. So I guess we ought to explain to our witnesses that, if you do not tell us your deepest thoughts and fears and hopes, then you may get a 90-day commitment in an institution of our choosing, maybe in the FCC.

But our subcommittee has had numerous hearings on the future of wireless and the importance of broadband and a number of other issues, but the life-saving services that 911 and E-911 provide are among the most important telecommunications issues we deal with.

I would like to thank my friend Mr. Gordon for his work on the bill after trying to address this issue for several years, because I remember, in 1997, in Houston, with a now-defunct cell company, trying to do locator services, at least in a certain part of our community. So it has been a long-running battle, and maybe this legislation will move us down that road even further.

Voice-over-Internet Protocol is a growing service, and we need to ensure that it is on par with wireless and wireline when it comes to the E-911 regulations. And I am pleased to hear that there is broad collaboration on the bill from all entities involved. And I know that there are small adjustments that specific parties would like to see made. I think it is a good bill, and I hope that we continue to work out the few remaining differences.

Everyone agrees on the importance of providing E-911 service, and the liability protections of this bill would extend to the Voice-over-Internet Protocol providers. It is necessary that we extend the same protections to Voice-over-IP providers that wireless and wireline have. I want to ensure, however, that language in the bill does not have unintended consequences, which should be addressed outside the context of public safety and not in this bill. Voice-over-IP providers should have access to the parts of the network necessary to protect their customers, which is provided by the statutory authority given to the FCC in title I of the bill.

We need to ensure Voice-over-Internet Protocol customers calling 911 are connected to the correct public safety answering point just as other users in the public telephone switched network are. I do not think we need to go beyond that. However, I have concern that the bill could be interpreted otherwise.

First and foremost, the aim of 911 legislation should be to protect the public, and I think that this legislation does that. And I hope language that could be construed as vague or unclear will be shored up. And I will look forward to further committee action on the issue, so we can send the legislation to the full House and to the President.

Again, I want to thank my colleague for introducing the bill, and I want to thank its cosponsors.

I yield back my time.

Mr. MARKEY. I thank the gentleman very much.

We had, in Massachusetts, a very famous involuntary commitment where there was a State senator, about 35 years ago, and he was dressed as the head of the Knights of Columbus and was in his full uniform and in all of his regalia. And at the end of the parade, as the parade came to an end, one of his constituents came up to him and said, "They have put my husband in the mental institution. You have to help me." he said, "Let's go." So they arrived at the front door of the mental institution, and he said to the person at the door, "You have one of my constituents in here, and I am the State senator from this district." The attendant said, "Sure, you are, Senator. Come on in."

So, under Massachusetts State law, once you have been committed, you cannot get out until you have been given a certificate of sanity. Then, for the rest of his career on the 40-person Senate floor in Massachusetts, at the height of a debate, he would hold up that certificate, and he would say, "I am the only certifiably sane

person in this institution. This is the craziest debate I have ever heard.”

The Chair recognizes the gentlelady from California, Ms. Eshoo.

Ms. ESHOO. I do not have any mental health stories, so——

Mr. MARKEY. Serve in Congress here a while longer.

Ms. ESHOO. I am going to keep this very sane.

OPENING STATEMENT OF HON. ANNA G. ESHOO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. ESHOO. Thank you, Mr. Chairman, for having this hearing. I think that every hearing you have had since the beginning of this year has really packed a real punch, important issues that we not only need to examine and drill down on, but also to take action on. And the action part of this is what I think is so important.

Mr. Gordon has done a terrific job on this E-911 legislation. E-911 is something that I am familiar with. I have been on it for a long time, going back to 1996. I remember grilling Reed Hundt and trying to get the administration, at that time, interested in the issue, because I saw that there was a great need that we were not addressing on behalf of the American people.

And this bill really brings together all of the aspects that need to be brought together so that 98 million Americans who live in areas where VoIP providers do not yet have access to the 911 network—they are really unable to receive reliable services. So there will be a lot that will be corrected when this bill is passed.

So I welcome it. I salute Mr. Gordon for the work that he has done, and I salute all of the stakeholders who are a part of it.

In this effort to promote E-911 across our country and to have a ubiquitous system, Mr. Shimkus has really been a terrific leader in this, with our E-911 Caucus, and I recognize him for the work that he has done. We have really worked closely together to pass legislation that would provide the Federal grants that are needed to enhance the emergency communication system.

All Members should know that, so far, there has been no funding, though, appropriated for this purpose. But we were successful in the Commerce/State/Justice legislation to pass an amendment to that appropriations bill to add \$5 million for the grant program. So this bill is going to do a lot, and we need to shepherd this through and make sure that it gets to the President’s desk, but there is always a tag line in these things. We need to make sure that appropriations fit the passion that we have about this issue, so that we can stay on a path, or create a path, so that every single community, the PSAPs, everyone who is involved in this, that we have a commitment in terms of dollars.

So this is a terrific bill. It is not overly broad. Obviously, I strongly support it.

To all of the stakeholders who have worked with Mr. Gordon and with his staff and with all of us, and certainly to the chairman, let us get this one done. And I look forward to hearing from the witnesses today, asking questions and, moreover, taking today and making it a reality. Thank you.

Mr. MARKEY. The gentlelady’s time has expired.

The Chair recognizes the gentleman from Michigan, Mr. Stupak.

OPENING STATEMENT OF HON. BART STUPAK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. STUPAK. Thank you, Mr. Chairman, and thank you for holding today's hearing.

I appreciate our witnesses appearing here today and look forward to Congress weighing in on this important issue.

I have been working for years on ways to improve the emergency communications between first responders. I appreciate the opportunity to look at the other side of emergency communications, ensuring that Americans have access to reliable and efficient 911 service.

Just as important as interoperable communications for our first responders is ensuring that everyone has the ability to contact those first responders. Once a call is made, we need to make sure that the appropriate emergency personnel can locate those in need regardless of what type of phone service they use.

The FCC has taken the first step in requiring interconnected VoIP providers to provide E-911 service to their customers. However, more must be done to ensure that VoIP providers can do so in an effective and in a reliable manner.

VoIP providers should have access to the 911 infrastructure on the same rates, terms and conditions as wireless providers. Without these assurances, it can be extremely difficult for them to ensure that they can effectively and reliably provide emergency services to their customers. VoIP should also have the same liability protections that are already in place for landlines and cell phones. This is important to eliminate any legal issues that may prevent or delay 911 access.

As we address these issues, I hope we can rise above the competitive battles between VoIP and wireline. The importance of providing the American people with reliable 911 service should overcome any differences between these providers. Neither traditional nor VoIP providers should be working to gain a competitive advantage on an issue as serious as emergency assistance.

As this legislation moves forward, I look forward to addressing any concerns regarding title III, which prohibits the use of 911 information to be used for any purpose other than for emergency services. I understand that Government agencies and other entities depend on this information. While we should do everything possible to prevent individuals' information from being used by outside sources, it is my hope that we can modify this language to protect consumers' information without blocking legitimate users.

As a former first responder myself, I understand the importance of ensuring that Americans have access to emergency 911 services. This bill strikes the right balance by allowing VoIP providers the same access and the same liability protections that cellular and wireline providers are afforded.

Mr. Chairman, this is an important issue, and I hope Congress can provide the support needed to ensure that all Americans have access to reliable 911 service, no matter what type of phone they use.

I have another hearing, and I will be bouncing in and out, but I look forward to hearing from our witnesses.

Thank you, Mr. Chairman, for holding this hearing and bringing this bill up.

And congratulations to Mr. Gordon.

Mr. MARKEY. The gentleman's time has expired.

And all time for opening statements from members of the subcommittee has expired.

Any additional statements will be included in the record.

[The prepared statements follow:]

PREPARED STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MICHIGAN

Few things are more important than the public safety of our citizens, and one critical component of our Nation's public safety network is 911 service. When faced with any threat or emergency, Americans expect to be able to pick up the phone, dial 911 and obtain an immediate response no matter what kind of phone or technology they use to make the call.

As the ways people make phone calls have changed, Congress has been mindful to ensure that the 911 system also evolves. For example, in 1999, recognizing the widespread and growing use of wireless phones, Congress passed legislation to ensure that consumers could reach 911 from their cell phones.

An increasing number of Americans now use a technology called "Voice over Internet Protocol," or VoIP, to make phone calls. It is therefore appropriate to once again update our laws so that consumers can be confident of receiving emergency assistance when they dial 911 from a VoIP connection.

I commend those companies that control access to the 911 system for not using their dominant position to profit from the safety of the public. This is consistent with my strong belief that when it comes to the 911 infrastructure, our focus should be on ensuring consumer access to public safety rather than on using the 911 system for competitive advantage. I am confident that as we examine the important piece of legislation before us, this wise course of focusing on the safety of our citizens will continue.

I want to express my appreciation to Rep. Gordon for his tireless efforts to bring H.R. 3403, the 911 Modernization and Public Safety Act of 2007, before the Subcommittee. Rep. Gordon, along with his staff, has labored long and hard over the last several years to ensure 911 access for VoIP customers, and we commend his dedication and hard work.

I want to also commend the other members of the 911 Caucus, Representatives Eshoo, Shimkus, and Pickering, for their ongoing work in this important area. Their efforts continue to raise awareness about the ongoing need to improve and advance our 911 system.

I look forward to the testimony of our witnesses about how we can ensure that all consumers using any technology have the best possible access to our Nation's emergency 911 system.

PREPARED STATEMENT OF HON. ELIOT L. ENGEL, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW YORK

Mr. Chairman, thank you for holding this hearing today, and I would like to welcome the witnesses and thank them for coming to testify.

I am excited to see that we are acting to update our telecommunications laws to keep up with the constant change in technologies. Just as new technologies replace old ones, so have the laws and regulations by which we govern the industry.

The introduction of Voice over Internet Protocol—VoIP—has made a profound change in this industry. It has rapidly introduced a new level of competition into the voice market.

One of the companies which provides services to about 90 percent of my district, Cablevision, is fully compatible with the 911 systems with their VoIP service. They accomplish this by handing off all their calls to a CLEC who then transfers these calls to the public safety answering points. I applaud them for their efforts. They are serving as an example of a VoIP provider doing the right thing.

I would argue that to solve what are more regulatory problems than technical problems, Cablevision has set up its CLEC so that it would have a clear framework in law and regulation to operate within. In terms of compliance with 911, this provides an interconnect guarantee. However, if they were just a VoIP provider, they would not enjoy the benefit of a right to interconnect.

Thus, we in Congress expect and will soon legislate that VoIP be 911 compatible. But, right now they do not have the legal right to fulfill this responsibility.

Before we can finalize any legislation, I think that there are some questions we should explore. I am curious to learn from the witness testimony of the costs and challenges VoIP providers incur by having to obtain access to the wireline 911 network through a CLEC as compared to the costs that VoIP providers already incur to obtain access to the public switched telephone network.

VoIP should work seamlessly with the emergency 911 systems and be accessible by people with disabilities, and we as a Committee should make it easier, not harder, for VoIP to provide these services. VoIP has the potential to revolutionize the telephone industry by making it far more efficient.— However, we have an obligation to ensure that criminals and terrorists do not use this as a way to plan their crimes and attacks while integrating it with our existing emergency and disabled communications systems.

I look forward to hearing the testimony from these witnesses.

PREPARED STATEMENT OF HON. LOIS CAPPS, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF CALIFORNIA

Thank you, Chairman Markey, for holding this important legislative hearing on H.R.3403, E-911, and the future of our Nation's emergency communications network.

As we will hear today, the incredible advances in communications devices that consumers have enjoyed for over a decade have not necessarily translated into advanced emergency communications services.

Most of us have, at some point, experienced a situation that required us to dial 911.

If we were calling from a landline, the operator on the other end received automatic information detailing the location of the caller.

This bill takes us one step closer to ensuring that automatic location identification is the standard across all communications technologies.

This is especially important as the use of VoIP technology among American consumers has nearly doubled in 1 year to 11.5 million.

Also, the number of households with wireless-only phones has surpassed the number of households with wireline-only phones for the first time.

I additionally want to comment on the transition that hearing and speech-impaired individuals are making from traditional TTY services to text messaging, IP-relay and video-relay services that may not be currently able to connect directly to 911.

This shift further underscores why the prompt dispatch of emergency services to individuals in distress should be available regardless of the technology used to call or dial 911.

Part of the solution to this problem, as I am sure we will hear today, involves moving toward an IP-based Next Generation 911 system.

This system could allow for the transmission of voice, data, and video to 911 public safety access points regardless of the technology used to call or dial 911.

The ability to send more complete information about an emergency situation—and the ability of our 911 network to receive and process that information—should be something we strive for and enable through our public policies.

I am pleased that H.R. 3403 includes provisions on Next Generation 911 that will move us closer to achieving a more robust emergency communications service.

Consumers have come to reasonably expect that institutions of public trust like the 911 system will keep pace with the technological advancements in their everyday lives.

Both elected representatives and private sector actors have a responsibility to hasten this development by setting aside partisan and industry differences to assure that everyone has access to reliable E-911 services.

I again want to commend Chairman Markey for holding this hearing and look forward to hearing from the witnesses.

Thank you.

PREPARED STATEMENT OF HON. JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF TEXAS

Thank you Chairman Markey for holding this legislative hearing on H.R. 3403, the 911 Modernization and Public Safety Act of 2007. I want to praise the work of my colleague Bart Gordon who has provided strong leadership in addressing the

VoIP E-911 challenge. I also commend the House Co-Chairs of the Congressional E-911 Caucus, Ms. Eshoo and Mr. Shimkus, for their tireless work to advance all 911 issues.

Voice-over-Internet-Protocol is revolutionizing the way we communicate by adding the flexibility and innovation of the Internet to the traditional phone call. VoIP also creates challenges, however, and bringing 911 into the Internet age is one of them. When someone calls 911 today, the system relies on traditional phone lines and the person's phone number to try to identify who and where help is needed. The ability to identify the who and the where turns critical when the caller cannot speak or the call is suddenly disconnected. VoIP calls use data networks and Internet addresses instead of the traditional phone lines and phone numbers that can be related to a specific physical location. Until recently, only a handful of 911 centers were prepared to receive VoIP calls. This left VoIP providers with no easy way to deliver 911 service to their subscribers.

A couple of years ago in Florida, a mother could not reach 911 over her VoIP service when her 3-month-old girl stopped breathing. The baby died. I wish I could tell you this is the only case in which someone had difficulty reaching 911 on a VoIP phone, but I can't.

The FCC responded in June 2005 by requiring VoIP providers to incorporate 911 capability into their service. Since then, VoIP providers have come a long way, and 911 access is now almost universally available to VoIP subscribers. There may still be a few more things that need to be done, however, which is why we have this bill before us. I look forward to hearing from our witnesses about what challenges remain and whether we have the right language before us to solve them.

I understand there is still some controversy over parts of this bill. I hope that this hearing will help us identify how we can resolve that controversy and get on with the business of saving lives.

PREPARED STATEMENT OF HON. MARY BONO, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF CALIFORNIA

Mr. Chairman and Ranking Member Upton, I would like to thank you both for your leadership on this very important issue.

Additionally, I would like to thank our distinguished panel for joining us today. In 2002, the FCC hired Mr. Dale Hatfield to conduct an independent inquiry and to produce a report discussing the hurdles that stood in the way of effective Automatic Numbering Identification deployment. Mr. Hatfield's report concluded that the public and private stakeholders needed to coordinate and cooperate with each other in order to have an effective 911 system. It is my hope that all of you are here today in that spirit of cooperation; and hopefully that same spirit will be interwoven in the next generation of 911 service trends as well.

Since the 1960s, 911 services have saved countless lives by enabling emergency personnel to respond to crises as quickly as possible. Each year, an estimated 200 million calls are made to 911. That is why I believe it is appropriate at this time for us to thank the people who receive these calls and talk to people in their hour of need. These operators, like the emergency personnel rushing to these emergencies, are truly American heroes.

Technological developments in communications such as VoIP and the growth of the wireless industry in the telecom sector are taking the place of traditional landline phones. This requires us to continuously adapt our 911 laws and regulations. For instance, recent statistics offered by the National Emergency Number Association state that as much as one-third of 911 calls are made by wireless phones.

As we evaluate H.R. 3403 today, I will be looking at specific issues such as access to facilities and pricing, the role of states versus the Federal Government in terms of regulating 911, the extension of liability protections to VoIP carriers and emergency communications providers that the Wireless Communications and Public Safety Act of 1999 gave to wireless providers, and the use of 911 databases for non-emergency purposes.

Again, I look forward to hearing your positions on the state of 911 in the United States and how we can improve the system to help it perform at its maximum level and fulfill its promise to the American citizenry.

Thank you again Chairman Markey and Ranking Member Upton for holding this hearing.

Mr. MARKEY. We will now turn to our very distinguished panel.

We will begin with Mr. Jason Barbour, who is the president of NENA, the National Emergency Number Association. And he is also here today on behalf of APCO, the Association of Public-Safety Communications Officials. Mr. Barbour also has real-world experience in the 911 infrastructure, as the director of the 911 system for Johnston County, North Carolina.

Welcome, sir. Whenever you are ready, please begin.

**STATEMENT OF JASON BARBOUR, PRESIDENT, NATIONAL
EMERGENCY NUMBER ASSOCIATION, 911 DIRECTOR, JOHN-
STON COUNTY, NC**

Mr. BARBOUR. Thank you, Mr. Chairman and members of the committee. Thank you very much for providing me the opportunity to appear before you today.

As you said, my name is Jason Barbour. I am a national certified emergency number professional, serving Johnston County, NC, as their 911 director. I am also a volunteer firefighter, as well as a deputy sheriff. I am currently the president of the National Emergency Number Association, a nonprofit organization consisting of nearly 7,000 members dedicated to the advancement of 911 and emergency communications. Finally, I am also a member of the Association of Public-Safety Communications Officials, and I am pleased to be here today on behalf of both NENA and APCO.

Chairman Markey and Ranking Member Upton, thank you for holding this hearing today. I appreciate your initiative and, in particular, the leadership of Representative Gordon and the House E-911 Caucus cochairs, Representatives Eshoo and Shimkus, for continuing to move this important legislation forward. On behalf of NENA and APCO, I am here to testify in support of the goals of the 911 Modernization and Public Safety Act of 2007.

While there are differences of opinion over the details of some of the aspects of the bill, I encourage all of you who will testify today and the members of this committee to focus on the title of this bill, 911 Modernization and Public Safety. That is the intent of the bill's sponsors and will be the focus of my testimony today. I urge all parties involved to ensure that this bill remains focused on improving 911 today and into the future. We must not allow the bill to become hostage to a broader communications debate among competing industries.

NENA and APCO support the FCC's VoIP E-911 order in section 6 of H.R. 3403, making it clear that IP-enabled voice service providers must provide E-911 in accordance with the FCC's regulations. Moreover, we urge the inclusion of a savings clause in the bill, making it clear that nothing in this bill in any way alters or modifies actions the FCC has already taken in this regard.

We will also wish to make sure that no aspects of the bill tie the hands of the FCC from any future actions placing 911 obligations on other services in which consumers have a reasonable expectation of 911 service. We also believe it is important that VoIP providers are given access to the 911 components necessary to complete 911 calls in accordance with the FCC rules in this bill. Past experience in the deployment of E-911 has shown that a lack of legal clarity on the issue of liability can lead to the lack of E-911

deployment and delays in the provisioning of E-911 service. Therefore, we wholeheartedly support the liability provision of H.R. 3403.

We are particularly pleased that the bill's language is forward-thinking to ensure that every time a new service is given 911 obligations or voluntarily elects to connect to the 911 system with the appropriate approvals we do not need to return to Congress and ask for future extension of liability protections.

Maintaining current funding levels and providing funding for the development of next-generation 911 is one of the most important issues facing 911 today. Thus, while we have suggested a very slight change in the structure of the funding section, we strongly support the current language in H.R. 3403, confirming the State and local authority to impose and collect 911 fees on IP-enabled voice services. State and local authority over 911 fees is important. So, too, is ensuring the central role for the States in managing the system. Recent debates in Washington have focused on Federal authority versus State authority over IP-enabled services. There is room for a debate on the optimal regulatory environment for IP-enabled services, but nothing in this bill should alter the current State role over 911 service.

Finally, NENA and APCO are strong proponents of the need to modernize today's 911 system. Migration to an IP-based next-generation 911 system is not just a luxury; it is essential. Advancing to a fully IP-based next-generation 911 system will certainly require some legislative and regulatory change. Therefore, we fully support section 102 of H.R. 3403, requiring a plan for the migration from today's 911 system toward an IP-enabled emergency communications system.

In conclusion, NENA supports the goals of H.R. 3403 because it addresses the current VoIP E-911 needs, including the issues of 911 funding and the liability parity, and it also addresses the critical need for 911 to advance to an IP-based next-generation capability.

On behalf of the thousands of NENA and APCO members, I thank you for your support and opportunity to be here.

[The prepared statement of Mr. Barbour follows:]

STATEMENT OF JASON BARBOUR

Mr. Chairman and Members of the committee, thank you very much for providing me the opportunity to appear before you today. My name is Jason Barbour, and I am a nationally certified Emergency Number Professional (ENP), serving Johnston County, North Carolina, as the 911 Director. I am also a volunteer fire fighter and a Deputy Sheriff. I have been working in the field of public safety communications for the better part of two decades and know firsthand the importance of our Nation's 911 system.

I'm also the president of the National Emergency Number Association (NENA), an organization consisting of nearly 7,000 members in 48 chapters across the U.S., Canada and Mexico representing public officials, fire, EMS, law enforcement and equipment and service vendors of the 911 community. Finally, I am also a member of our sister organization, the Association of Public-Safety Communications Officials (APCO) International, and I am pleased to be here today on behalf of both NENA and APCO.

Today I appear before the committee representing NENA and APCO but also on behalf of the thousands of 911 professionals in America who work tirelessly to help those people who dial 911 in times of need. Admirable colleagues like those on my team in Johnston County and others across the country continue to find ways to get the job done in the face of staffing, funding and technology challenges. I would

like to thank the national leadership of the House, co-chairs of the Congressional E-911 Caucus, both members of this committee, Representatives Eshoo and Shimkus, and other leaders of this committee for working with NENA and APCO to promote policy to advance and improve our Nation's 911 system.

Chairman Markey and Vice-Chairman Upton, thank you and your staff for holding this hearing today. I applaud your initiative and, in particular, the leadership of Representatives Gordon, Eshoo and Shimkus for continuing to move this important legislation forward. On behalf of NENA and APCO I am here today to testify in support of the goals of the 911 Modernization and Public Safety Act of 2007. While there may be some differences of opinion over details of some aspects of the bill, I encourage all of those who will testify today and the Members of this Committee to focus on the words in the title of the bill: 911, Modernization and Public Safety. That is the intent of the bill's sponsors and will be the focus of my testimony today. I urge all parties involved to ensure that this bill remains focused on improving 911 today and into the future. We must not allow the bill to become hostage to a broader communications debate among competing industries.

My comments will focus on four areas: First, codifying the FCC's VoIP E-911 Order and requiring IP-enabled Voice Service Providers to provide 911 and E-911 in accordance with FCC regulations; second, liability parity; third, preserving state authority to impose 911 fees on IP-enabled voice service providers and maintaining state authority to manage the 911 system and enforce Federal E-911 requirements; fourth, modernization of the 911 system.

Before addressing each of these points, I believe it is important to understand the overall status of the 911 system today, the challenges we currently face, the need to transition to an IP-enabled Next Generation (NG) 911 system and how this legislation addresses these issues.

THE CURRENT STATE OF 911 AND E-911 SERVICE

Since its inception, the 911 system has been THE first responder in times of individual and mass emergencies. Every day, Americans call 911 at the time of their greatest need. Today we are averaging over 200 million 911 calls per year. Ninety-seven percent of the Nation's geography is covered by at least some basic 911; ninety-nine percent of the American public has access to 911. For the caller and the public, the successful completion of a 911 call can mean the difference between danger and security, injury and recovery, or life and death.

In the past year alone tremendous strides have been made regarding a number of critically important issues facing the 911 industry. One year ago in September of 2006, less than 80 percent of the population of the United States resided in areas covered by Phase II wireless E-911. Today, that number has jumped to over 85 percent, representing an increase in coverage for nearly 25 million Americans who previously were not protected by this vital aspect of our 911 system. Additionally, the percentage of counties that are covered by Phase II wireless E-911 has increased from 52 percent to 65 percent from a year ago, a 13 percent increase. Progress is being made. At the same time, there is still a 911 divide between densely populated and low population areas. As of today there are still nearly 225 counties, mostly rural, that lack E-911 for their landline telephone service, let alone wireless or VoIP service. It is important that the U.S. population is increasingly being covered by wireline and wireless E-911, but we are truly a mobile society, so we must consider not only where people live, but also where they may travel. And thus, we need to continue to strive for 100 percent E-911 deployment for all areas and all technologies. This legislation is a step in the right direction to make this goal a reality.

Of course the last 2 years have also seen a tremendous amount of progress on the issue of 911 and E-911 for VoIP. We applaud the continued leadership of FCC Chairman Martin and his colleagues at the Commission for adopting the VoIP E-911 Order and their focus on improved emergency communications. FCC action and the steps taken by the public safety community working together with VoIP providers and their vendors have led to the fastest-ever national rollout of E-911 service. Like the early days of wireless, it has been no easy task to retrofit an existing 911 system that was not designed for a new technology. But we have stepped up and largely met the challenge. The system currently being employed for VoIP is not perfect, and it requires significant cooperation among numerous parties to work. We have only touched the surface on where we need to be concerning IP-enabled services.

I would like to take this opportunity to commend the diligent work of the all-volunteer NENA Technical, Operations and Regulatory Committees who have done an amazing amount of work developing standards, deployment checklists and policies to assist with VoIP E-911 implementation. Still, many areas lack E-911 for VoIP

service for many of the same reasons that E-911 is not universally available for wireline or wireless service. Primarily, those reasons can be boiled down to a lack of funding, a lack of cooperation among key parties in some instances and a failure of leadership at the state and local level in some areas where 911 service has not been made the priority it needs to be. Additionally, there has been a lack of Federal action in certain areas that we are confident will be addressed through the passage of H.R. 3403 and in other measures by this Congress.

NEEDED TOOLS FOR VoIP E-911 AND NEXT GENERATION (NG) 911 IMPLEMENTATION

NENA and APCO support the goals of the 911 Modernization and Public Safety Act of 2007 because it strengthens the FCC's VoIP E-911 Order by codifying the obligation of all IP-enabled voice service providers to provide 911 and E-911 in accordance with FCC regulations. Additionally, the bill provides needed tools to assist in the completion of E-911 deployment for VoIP service in all parts of the United States and addresses the issue of NG911. Having said that, we believe that a few modifications to the bill will fine-tune its effectiveness.

H.R. 3403 provides several key elements to enable nationwide VoIP E-911 deployment, including the following:

- liability parity for PSAPs, service providers and their third party vendors equivalent to existing liability protections already in place for wireline and wireless service. Liability protections are extended to VoIP and any other technologies obligated by the FCC to provide 911 in the future and any services voluntarily providing 911 calls and information to PSAPs that are approved by state and local 911 authorities;
- confirmation of state and local authority to impose and collect 911 fees from IP-enabled voice service providers;
- a requirement on the National 911 Implementation and Coordination Office (ICO) to produce a report to Congress on the migration to an IP-enabled emergency network; and
- a statutory requirement that owners of the E-911 infrastructure provide access to VoIP providers who require such access to provide E-911 service.

Each of these items will assist with current VoIP E-911 implementation and 911 service for future technologies.

CODIFYING FCC VoIP E-911 REQUIREMENTS

With the growing adoption of Internet telephony, NENA and APCO continue to believe it is critical for VoIP companies to provide 911 and E-911 for their customers. We therefore support the FCC's VoIP E-911 Order and section 6 of H.R. 3403 making clear that IP-enabled voice service providers must provide 911 and E-911 in accordance with FCC regulations. Moreover, we urge the inclusion of a Savings Clause in the bill making it clear that nothing in this bill in any way alters or modifies actions the FCC has already taken in this regard. We also wish to make sure that no definitions in the bill tie the hands of the FCC from any future actions placing 911 obligations on other services in which consumers have a reasonable expectation of 911 service.

NENA and APCO also believe it is important that VoIP providers are given access to the 911 components necessary to complete 911 calls in accordance with FCC rules. We do not wish to insert ourselves into a debate among competing industries over the specific language needed to achieve this goal. We simply wish to ensure that all elements needed to comply with 911 requirements are made available to VoIP providers and that such access is based on accepted industry standards that promote open and secure access to the 911 system. For example, it is the preference of public safety for MSAG (Master Street Address Guide) validated addresses. In order for VoIP providers to comply with this request they must have access to this information which is traditionally maintained by the local 911 System Service Provider (typically an ILEC).

LIABILITY PARITY

H.R. 3403 provides immunity from liability for PSAPs, service providers and their third party vendors equivalent to existing liability protections already in place for wireline and wireless service. Liability protections are extended to VoIP and any other technologies obligated by the FCC to provide 911 in the future and any services voluntarily providing 911 calls and information to PSAPs that are approved by state and local 911 authorities.

Past experience in the deployment of E-911 has shown that a lack of legal clarity on the issue of liability parity can lead to a lack of E-911 deployment and delays

in the provisioning of E-911 service. Therefore, NENA and APCO wholeheartedly support the liability provision of H.R. 3403, which only Congress can provide at the Federal level. We are particularly pleased that the bill's language is not just limited to currently-defined IP-enabled voice services. The bill is appropriately forward-thinking to ensure that every time a new service is given 911 obligations or voluntarily elects to connect to 911 with appropriate approvals, we do not need to return to Congress and ask for a further extension of liability protections.

PRESERVING STATE AUTHORITY OVER 911 FEES, MANAGING THE 911 SYSTEM AND ENFORCING FEDERAL E-911 REQUIREMENTS

Maintaining current funding levels and providing funding for the development of the next generation 911 system is one of the most important issues for 911 today. The public safety community is extremely concerned by the immediate and growing impact of changes in the communications landscape that are leading to a loss of conventional 911 revenue through 911 fees and surcharges. Fourteen percent of households have abandoned their wireline service, relying only on wireless service, and millions are turning in their traditional telephone service for VoIP service, leading to uncertainty in the states as to how the traditional revenue from 911 fees on wireline service, collected at the local level, will be replaced.

NENA and APCO are keenly aware of the limitations of the current 911 system funding model and that changes will be needed to sustain service while also advancing toward an IP-based NG911 system. While that may be the case, it is essential that Congress do nothing to compromise current state and local authority to impose and collect 911 fees on all services regardless of the type of technology involved. Some parties advocate for sweeping Federal action to replace the layered funding approach in the states. We have initiated a dialogue in a variety of forums on funding issues to sustain high quality 911 service today and advance 911 into the next generation. This issue needs to be thoroughly discussed and debated to identify effective solutions, but changes to 911 funding models are best handled within the states that know the intricacies of individual state and local 911 systems and funding needs. Thus, while we have suggested a very slight change in the structure of the funding section, NENA and APCO strongly support the current language in H.R. 3403 confirming state and local authority to impose and collect 911 fees on IP-enabled voice services. Conversely, NENA and APCO oppose any efforts to preempt state and local authority over 911 fees.

We also support the concern of the bill's sponsors of state diversion of 911 fees and believe an important aspect of the bill is the requirement of an FCC Fee Accountability Report. The bill directs the Commission to submit an annual report to Congress on the status of state fees and whether or not any of the fees were used for unauthorized purposes.

Finally, the bill is forward-looking and understands that Federal grant programs should allow funding for today's challenges but should also provide funds for the advancement of Next Generation solutions. H.R. 3403 takes an important step by broadening the eligible use of ENHANCE 911 Act grant funds to include not only wireless E-911 deployment, but also the development and implementation of an IP-based emergency communications network.

State and local authority over 911 fees is important. So too is ensuring a central role for the states in managing the system. State and local governments have traditionally played a significant role in overseeing the 911 system within the states and enforcing Federal E-911 requirements. An effective 911 system requires a number of moving parts to work together, including PSAPs, communications service providers, 911 vendors, 911 System Service Providers and government agencies. For such a system to work, policy makers must seek a regulatory scheme in implementing E-911 that embodies cooperative federalism between state and Federal Governments. Recent debates in Washington have focused on Federal authority versus state authority over IP-enabled services. There is room for a debate on the optimal regulatory environment for IP-enabled services, but NENA and APCO believe it is essential to maintain the appropriate role of the states in the management of the 911 system and enforcement of Federal E-911 requirements in the states. Nothing in this bill should alter the state role.

911 MODERNIZATION: THE FUTURE OF 911 AND EMERGENCY COMMUNICATIONS

Advancements in communications and network technologies are quickly blurring the lines of familiarity in the world of emergency communications and 911. No longer can we discuss 911 solely in the context of the public switched telephone network (PSTN). No longer can we discuss the routing of 911 calls as being dependent on the use of the existing analog, circuit-switched telephone network. NENA started

with “One nation—One number,” and now we add, “any device, from anywhere, at anytime.” As 911 and emergency communications continue to advance, it is critical that communications regulation at all levels of government evolve in a parallel fashion and is flexible enough to accommodate future advancements that have yet to be considered.

Already, nearly 100 million Americans are using some form of broadband Internet access offering exciting new communications possibilities. Voice over IP is no longer just coming, it is here. Wi-Fi and WiMax networks continue to expand. 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 emergency communications.

An NG911 system is not just a luxury, it is essential. Let me provide one example to explain why: Ensuring direct access to 911 for those who are deaf and hard of hearing and those with speech disabilities. A large and growing number of deaf individuals are replacing their traditional TTYs in favor of text messaging, IP-Relay Services and Video Relay Services. These text and video based technologies are very popular among deaf users, but they are not currently able to connect directly to 911 over the existing E-911 system due to limitations in the current system. This causes delays in access to 911 and could inevitably lead to unnecessary death or injury, which is unacceptable in today's world of modern technology. So too are younger Americans increasingly communicating with text messaging and instant messaging. These technologies continue to gain in popularity, and users will have a reasonable expectation that our 911 system will be able to accept communications to 911 from these devices.

There are other information and communications services currently available that 911 is ill-equipped to handle as well. Automatic crash notification (ACN) data from telematics service providers like OnStar; bio-chemical information from sensors in a subway system; video from bank cameras or video taken by a bystander to a vehicle crash; photos from a cell phone capturing the identity of a criminal. The data is available, but the 911 system simply is not equipped to receive it, much less seamlessly share the data with appropriate emergency response agencies. However, increasing public expectations are beginning to demand that we be able to receive text and multi-media messages over a system that was not designed to handle such data. With that reality in mind, NENA and APCO continue to make NG911 one of our top priorities. NENA and APCO are pleased to be working together on this important issue through NENA's NG Partner Program, APCO's Project 41 and other supporting activities.

Migrating to a fully IP-based next generation 911 system will certainly require some legislative and regulatory change. Issues of funding, jurisdiction, cost sharing, interoperability, and automatic location requirements for IP devices and networks are only a few areas that have to be addressed. The Federal Government has a key role to play in providing overall system coordination and funding where appropriate to assist efforts in the states to implement standardized IP-based emergency communications networks, much like the Federal Government did in the 1950s in establishing the Federal highway system. Therefore, NENA and APCO fully support section 102 of the 911 Modernization and Public Safety Act requiring the National 911 Implementation and Coordination Office to provide a plan for the migration from today's 911 system towards an IP-enabled emergency network.

Our Nation's 911 system is a vital public safety and homeland security asset. Every day 911 callers seek critical emergency assistance and are the eyes and ears helping others during emergencies in local communities and assisting with our Nation's homeland security. Modern communication capabilities offer an opportunity to improve the system as we know it, but they also offer challenges. The 911 community must embrace and react to change quickly, to better serve the American public, industry, and the consumer in all emergencies. We need help from Congress to do so.

NENA supports the goals of H.R. 3403 because it addresses current VoIP E-911 needs, including the issues of 911 funding and liability parity and also includes language requiring a report on the migration to a fully IP-based NG911 system and would allow ENHANCE 911 Act grants to be used to fund the “migration to an IP-enabled emergency network.”

As previously mentioned we believe a few minor modifications will improve the bill that will make great contributions toward public safety and security. On behalf of thousands of NENA and APCO members, 911 professionals and all involved in supporting their work, I thank you for your support and the opportunity to be here today.

Mr. MARKEY. Thank you, Mr. Barbour, very much.

Our second witness is Catherine Avgiris. Ms. Avgiris is the senior vice president and general manager for voice services of Comcast, where she oversees the Comcast provision of VoIP service to over 3 million customers. Ms. Avgiris, as a CPA, brings particular expertise on the business side of VoIP service, having also served as vice president of finance for Comcast.

Welcome. Whenever you are ready, please begin.

STATEMENT OF CATHERINE AVGIRIS, SENIOR VICE PRESIDENT AND GENERAL MANAGER, VOICE SERVICES, COMCAST CORPORATION

Ms. AVGIRIS. Thank you.

Good morning, Mr. Chairman and members of the committee. Thank you for the opportunity to testify today on H.R. 3403, the 911 Modernization and Public Safety Act of 2007. My name is Catherine Avgiris, and I am the senior vice president and general manager of voice services for Comcast Corporation. I am responsible for all aspects of Comcast voice business, including the roll-out of our IP-based voice service, known as Comcast Digital Voice.

Today, our service is available in over 70 markets, reaching 37 million homes nationwide. More than 3 million customers are enjoying the savings from our competitive offering, and as a result of this phenomenal consumer demand, we are the largest facilities-based competitive provider of residential voice service in the United States.

Comcast also serves more than 24 million cable and 12 million high-speed Internet customers. Comcast Digital Voice is a key driver behind the success of our Triple Play bundle, which offers consumers digital voice, cable and high-speed Internet services from one company for one low price with innovative features. Comcast Digital Voice has also helped spur the adoption of broadband services throughout the Nation.

Before being required to do so, we designed Comcast Digital Voice to include the same 911 and E-911 functionalities that customers expect from traditional telephone companies. Unlike some other IP-based voice services, Comcast Digital Voice calls originate and travel over a privately managed network and not the public Internet, and we have spent more than \$45 billion to make that network robust and reliable.

We are very pleased that the committee called this hearing today, and we urge Congress to enact H.R. 3403. As Congress and this committee have long recognized, the ability to access emergency services by dialing 911 any time from anywhere is vital to the Nation's public safety and emergency preparedness. Our Nation's 911 system must keep pace with advances in technology and competition. As new technologies and services, including IP-enabled voice services, are used to transmit voice communications via wireless cable and traditional wireline infrastructure, it is critical to update 911 regulations. H.R. 3403 will advance public safety and spur additional competition by addressing three anomalies with the current law and regulations.

First, the legislation requires that every interstate provider of IP-enabled voice service offer 911 and E-911 services. All Ameri-

cans expect that, when they pick up their home phones, they will be able to call for help in an emergency regardless of which technology is being used to transport those calls. Comcast Digital Voice was architected with 911 and E-911 as central features, and we think it is reasonable for Congress to require every IP-enabled voice provider to provide these services, just as you would expect from wireless and traditional telephone companies.

Second, the legislation directs the FCC to issue regulations that grant IP-enabled voice providers access to the critical network components necessary to provide 911 and E-911 services and ensures that they are available at the same rates, terms and conditions that wireless carriers enjoy. Most of these network components are owned or effectively controlled by the incumbent telephone companies. This bill eliminates any question about our ability to gain access to these essential facilities. Not only do we need access to the critical network components, but we need access at rates identical to what other voice providers pay. Our entry into the market should not become an opportunity for the incumbent telephone companies to charge monopoly rates for facilities that cannot be duplicated as a means of preserving their overwhelming share of the residential voice market. This bill ensures that competitive issues do not get in the way of the paramount goal, which is the promotion of public safety.

Third, this bill extends to IP-enabled voice services the same liability protections already in place for wireless and traditional wireline services. The bill correctly updates the current law to recognize this new technology.

In conclusion, Comcast supports H.R. 3403. The legislation will advance public safety, promote the availability of 911 and E-911 services and stimulate more competition in the voice market.

We would like to thank Representative Gordon for his leadership on this issue, and we look forward to working with the committee on any technical issues that may arise as the bill moves through the legislative process.

Thank you for the opportunity, and I would be happy to answer any questions.

[The prepared statement of Ms. Avgiris follows:]

**Testimony of Catherine Avgiris
Senior Vice President and General Manager, Voice Services,
Comcast Corporation**

**BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET**

***Issues in Emergency Communications:
A Legislative Hearing on H.R. 3403,
the 911 Modernization and Public Safety Act of 2007***

September 19, 2007

Good morning Mr. Chairman and Members of the Committee. Thank you for the opportunity to testify today on H.R. 3403, the *911 Modernization and Public Safety Act of 2007*.

I. Introduction

My name is Catherine Avgiris and I am the Senior Vice President and General Manager of Voice Services for Comcast Corporation. I am currently responsible for overseeing all aspects of Comcast's voice business, including the roll-out of our IP-based voice service known as Comcast Digital Voice.[®]

Today, our voice service is available in more than 70 markets reaching more than 37 million homes nationwide. Already more than three million customers are enjoying the savings from our competitive offering and, as a result of this phenomenal consumer demand, we are now the largest facilities-based competitive provider of residential voice service in the United States. We also serve more than 24 million cable customers and more than 12 million high-speed Internet customers.

Comcast Digital Voice is a key driver behind the success of our "Triple Play" bundle, which offers consumers the advantage of receiving digital voice, cable, and high-speed Internet services from one company, for one low price, with innovative features. Also, in addition to enhancing voice competition and delivering significant savings for consumers, Comcast Digital Voice has helped spur adoption of broadband services throughout the nation.

In making the decision to offer competitive voice services, we were determined to give our customers the quality, safety, and reliability that are essential to meeting their needs, and essential to Comcast's ability to give consumers a true choice of providers. For that

reason, we designed Comcast Digital Voice to include the same 911 and E911 functionalities that customers expect from traditional telephone providers. Yet, unlike some other IP-based voice services, Comcast Digital Voice calls originate and travel over our privately managed network and not the public Internet – and we’ve spent more than \$45 billion to make that network robust and reliable.

II. The Vital Role of 911/E911 and the *911 Modernization and Public Safety Act of 2007* (H.R. 3403)

Regarding H.R. 3403, we are very pleased that the Committee called this hearing today and we urge Congress to enact the legislation. As Congress and this Committee have long recognized, the ability to access emergency services by dialing 911, anytime, from anywhere, is vital to the nation’s public safety and emergency preparedness.

Our nation’s 911 system must keep pace with advances in technology and competition. As new technologies and services, including IP-enabled voice services, are used to transmit voice communications via wireless, cable, and traditional wireline infrastructure, it is critical to update 911 regulations. H.R. 3403 will advance public safety and spur additional competition by addressing three anomalies with the current law and regulations.

First, the legislation requires that every interstate provider of IP-enabled voice service offer 911 and E911 services. All Americans expect that when they pick up their home phones, they will be able to call for help in an emergency. They don’t care which technology is being used to transport those calls, they just want the calls to go through. Comcast Digital Voice service was built with 911 and E911 as central features, and we think it is reasonable for Congress to require every IP-enabled voice provider to provide 911 and E911, just as you expect wireless and traditional telephone companies to provide 911 and E911.

Second, the legislation directs the FCC to issue regulations that grant IP-enabled voice providers access to the critical network components necessary to provide 911 and E911 services and ensures that they are available on the same rates, terms and conditions that wireless carriers enjoy. Most of these network components are owned or effectively controlled by the incumbent telephone companies. This bill eliminates any question about our ability to gain access to these essential facilities.

Not only do we need access to the critical network components, but we need access at rates identical to what other voice providers pay. Our entry into the market should not become an opportunity for the incumbent telephone companies to charge monopoly rates for facilities that cannot be duplicated. We are finally realizing one of the key goals of the Telecommunications Act of 1996, that is, promoting facilities-based competition in the voice market. Incumbent telephone companies should not be permitted to use 911 regulations as a means to preserve their overwhelming share of the residential voice

market. This bill ensures that competitive issues do not get in the way of the paramount goal, which is the promotion of public safety.

Third, H.R. 3403 extends to IP-enabled voice providers the same liability protections already in place for wireless and traditional telephone companies, and extends to public safety answering points and users the same protections for IP-enabled voice calls that are already in place for wireless and traditional wireline calls. The current law is unfair to providers and users of IP-enabled voice services, and thus the bill correctly updates the law to recognize this new technology.

III. Conclusion

In conclusion, Comcast supports H.R. 3403. We believe the legislation will advance public safety, promote the availability of 911 and E911 services, and remove unjustified hurdles to the provision of 911 and E911 services by IP-enabled voice providers. We also believe that it will stimulate more competition and consumer choice in the voice market.

We would like to thank Representative Gordon for his leadership on this issue and we look forward to working with the Committee on any technical issues that may arise as the bill moves through the legislative process.

Thank you, and I'd be happy to answer any questions.

Mr. MARKEY. Thank you very much.

Our next witness is Mr. Robert Mayer, who is the vice president of industry and state affairs for the United States Telecom Association, where he is responsible for, among other things, U.S. Telecom's policy issues for safety and security issues that include provisioning of E-911. He had particular experience with these issues in his previous employment as the director of telecommunications for the New York PSC, addressing, among other issues, coordinating the efforts in New York related to E-911 provisioning efforts between VoIP providers and incumbent LECs.

We thank you. Mr. Mayer, whenever you are ready, please begin.

STATEMENT OF ROBERT MAYER, VICE PRESIDENT, INDUSTRY AND STATE AFFAIRS, UNITED STATES TELECOM ASSOCIATION

Mr. MAYER. Thank you, sir.

Chairman Markey, Ranking Member Upton and members of the subcommittee, thank you for this opportunity to appear before you today to discuss emergency communications and, specifically, our views on H.R. 3403, the 911 Modernization and Public Safety Act of 2007. It is a timely moment for the subcommittee to hold this hearing.

U.S. Telecom represents innovative companies ranging from the smallest rural telecoms in the Nation to some of the largest corporations in the United States economy. Our member companies offer a wide range of services across the communications landscape, including voice, video, data and broadband services over local exchange, long distance, Internet and cable networks. U.S. Telecom is the Nation's most established and largest association representing rural telecom providers.

U.S. Telecom and its member companies have been instrumental in providing emergency communication services to American consumers. For years, wireline customers have benefited from the fact that their telephones work even when they have no electricity during an emergency and that local dispatchers know the address of wireline customers who have dialed 911 and can provide the address to emergency personnel.

I am pleased to report that there has been substantial progress made in linking the public safety features of the wireline network to Voice-over-Internet Protocol technology. According to industry sources, 97 percent of VoIP customers are now supported with full 911 capabilities. This is a remarkable accomplishment, given the relatively short period of time, the untested nature of the technology and the numerous interfaces, standards and entities that were required to coordinate technical, operational and administrative activities.

As the recent director of telecommunications for the New York Public Service Commission and the State chair of the FCC Joint Federal/State VoIP Enhanced 911 Enforcement Task Force, I can attest to the magnitude of this accomplishment. And I can assure you that it could not have been accomplished without unprecedented levels of cooperation and coordination among all of the industry and government stakeholder organizations.

Mr. Chairman, we appreciate the opportunity to comment on H.R. 3403, the 911 Modernization and Public Safety Act of 2007.

Our members support the goal of this proposed legislation, namely, the full and complete access of every American to emergency communications.

Furthermore, there are a variety of provisions that our members can support without any reservation. For example, the legislation recognizes the need for a national IP-enabled emergency network that can accommodate emerging network architectures, platforms and devices and can coordinate the sharing of information among a variety of response entities. Our members continue to play an important role in the planning, design and construction of the emerging next-generation E-911 platforms. We also find the parity provisions that extend liability protections to IP-enabled voice service providers and other emergency communication providers to be helpful and appropriate.

As the committee continues to hone this bill, let me offer two areas where we would like to continue to work with the committee toward a bill that will truly move toward the committee's objectives. The first area deals with access to 911 components, and the second area deals with the current bill's proposal to limit the use of customer information.

With respect to access to 911 components, let me state emphatically that we support the notion that VoIP providers should be able to get the connectivity necessary to transmit 911 calls to PSAPs. U.S. Telecom members currently utilize a variety of mechanisms to ensure that VoIP calls are delivered to PSAPs: negotiating directly with VoIP providers, negotiating with CLECs that partner with VoIP providers, and making tariffs available to VoIP providers.

The legislation proposes to treat, for 911 purposes, VoIP providers in the same way as wireless carriers. However, the bill, as currently drafted, appears to grant additional access rights beyond those currently afforded to wireless carriers. We note that wireless carriers generally negotiate commercial agreements or use tariff services to obtain 911 connectivity, and VoIP providers should be afforded no less and no more than the wireless carriers.

While we recognize and value the role of States to engage in vital 911 matters, we believe that, in light of the FCC determination that VoIP is an interstate service, the FCC is the logical entity to enforce E-911 obligations. We think that Congress articulated the proper federalism model in the Enhanced 911 Act of 2004 when it noted that, "Enhanced 911 is a high national priority, and it requires Federal leadership, working in cooperation with State and local governments and with the numerous organizations dedicated to delivering emergency communication services." Accordingly, if authority is delegated to the States to review and to resolve disputes, we believe that the States should exercise such authority in accordance with FCC-established standards and procedures.

There is some commentary on the provision regarding customer information. Our concern is similar to the concern that the congressman mentioned, and that is that there are Federal regulatory agencies that use that information in ways that we believe promote good social policy.

Thank you very much.

[The prepared statement of Mr. Mayer follows:]

**Statement of
Robert Mayer
Vice President, Industry & State Affairs
U.S. Telecom Association
to the
House Committee on Energy and Commerce
Subcommittee on Telecommunications and the Internet**

September 19, 2007

Chairman Markey, Ranking Member Upton, members of the subcommittee: Thank you for this opportunity to appear before you today to discuss emergency communications and specifically our views on H.R. 3403, the 911 Modernization and Public Safety Act of 2007. It is a timely moment for the subcommittee to hold this hearing.

USTelecom represents innovative companies ranging from the smallest rural telecoms in the nation to some of the largest corporations in the U.S. economy. Our member companies offer a wide range of services across the communications landscape, including voice, video, data and broadband services over local exchange, long distance, Internet and cable networks. USTelecom is the nation's most established – and largest – association representing rural telecom providers.

USTelecom and its member companies have been instrumental in providing emergency communications services to American consumers. For years, wireline customers have benefited from the fact that their telephones work even when they have no electricity during an emergency, and that local dispatchers know the address of wireline customers who have dialed 911 and can provide that address to emergency personnel.

I am pleased to report there has been substantial progress made in linking the public safety features of the wireline network to Voice over Internet Protocol (VoIP) technology. According to industry sources, 97% of VoIP customers are now supported with full E911 capabilities. This is a remarkable accomplishment given the relatively short period of time, the untested nature of the technology, and the numerous interfaces, standards and entities that were required to coordinate technical, operational, and administrative activities. As the former state chair of the FCC's Joint Federal/State VOIP Enhanced 911 Enforcement Task Force, I can attest to the magnitude of this accomplishment and I can assure you that it could not have been accomplished without unprecedented levels of cooperation and coordination among all the industry and government stakeholder organizations.

Mr. Chairman, we appreciate the opportunity to comment on HR 3403, the "911 Modernization and Public Safety Act of 2007." Our members support the goal of this proposed legislation—namely the full and complete access of every American to emergency communications. Furthermore, there are a variety of provisions that our

members can support without any reservation. For example, the legislation recognizes the need for a national IP enabled emergency network that can accommodate emerging network architectures, platforms, and devices and coordinate the sharing of information among a variety of response entities. Our members continue to play an important role in the planning, design, and construction of the emerging next-generation E911 platforms.

We also find the parity provisions that extend liability protections to IP-enabled voice service providers and other emergency communications providers to be helpful and appropriate.

As the Committee continues to hone this bill, let me offer two areas where we would like to continue to work with the Committee toward a bill that will truly move towards the Committee's objectives. The first area deals with access to 911 components, and the second area deals with the current bill's proposal to limit the use of customer information.

With respect to access to 911 components, let me state emphatically that we support the notion that VoIP providers should be able to get the connectivity necessary to transmit 911 calls to PSAPs. USTelecom members currently utilize a variety of mechanisms to ensure that VoIP calls are delivered to PSAPs: negotiating directly with VoIP providers, negotiating with CLECs that partner with VoIP providers, and making tariffs available to VoIP providers. The legislation proposes to treat, for 911 purposes, VoIP providers in the same way as wireless carriers. However, the bill as currently drafted appears to grant additional access rights beyond those currently afforded to wireless carriers. We note that wireless carriers generally negotiate commercial agreements or use tariffed services to obtain 911 connectivity and VoIP providers should be afforded no less and no more than the wireless carriers.

While we recognize and value the role of states to engage in vital E911 matters, we believe that in light of the FCC determination that VoIP is an interstate service, the FCC is the logical entity to enforce E911 obligations. We think that Congress articulated the proper federalism model in the Enhance 911 Act of 2004 when it noted that "enhanced 911 is a high national priority and it required Federal leadership, working in cooperation with state and local governments and with the numerous organizations dedicated to delivering emergency communications services." Accordingly, if authority is delegated to the States to review and resolve disputes, we believe that states should exercise such authority in accordance with FCC established standards and procedures.

On the second item, involving the limited use of E911 customer data, we do not think there is any need for legislation, as the FCC's existing CPNI rules already protect the privacy of subscribers. These rules have been extended to VoIP Interconnected Service Providers and their customers now have all of the legal protections associated with those CPNI rules. Our primary concern with this provision involves the potential prohibition on the use of aggregate E911 data by various regulatory authorities to inform their public policy considerations. It is a well-established practice of the FCC and various state commissions to rely on E911 data in analyzing the extent of competition.

The use of E911 data dates back to the very first long distance entry application, and the Commission continued to rely on such data throughout the review process. More recently, the Commission relied on E911 data for a number of important rulemaking and enforcement actions. The Department of Justice and numerous state commissions are also on record as having utilized E911 data for similar purposes. We do not believe that Congress would want to prohibit government agencies from using this information at a time when precise measures of competition continue to be relevant in a variety of national and state proceedings.

Mr. Chairman, thank you for the opportunity to appear today. I can assure you and the committee that USTelecom members are dedicated to serving the entire 911 community with the highest levels of efficiency, functionality, and innovation. I would like to commend Representatives Gordon and Shimkus for their leadership on this issue. We look forward to working with the Committee and I am available to answer any questions from you or members of the Committee.

Mr. MARKEY. Thank you, Mr. Mayer, very much.

Our next witness, Mr. Christopher Putala, is the executive vice president of public policy at EarthLink, a VoIP provider, and he is here today representing the Voice on the Net, or VON, Coalition. Chris worked at CTIA and, before that, served as a senior staff member on the Senate Judiciary Committee.

Welcome back.

STATEMENT OF CHRISTOPHER PUTALA, EXECUTIVE VICE PRESIDENT, PUBLIC POLICY, EARTHLINK, INCORPORATED

Mr. PUTALA. Thank you, Chairman Markey, Ranking Member Upton and members of the subcommittee. Thank you for inviting me today.

EarthLink provides Internet access and services to more than 4 million subscribers nationwide. EarthLink also offers both fixed and nomadic interconnected VoIP services.

As Chairman Markey indicated, I am testifying today in addition to EarthLink on behalf of the VON Coalition, which consists of the leading VoIP companies on the cutting edge of developing and delivering voice innovations over the Internet.

I ask that my full statement be made a part of the record, and I will summarize.

At the outset, let me state that EarthLink and the VON Coalition are pleased with H.R. 3403. Congressman Gordon and the cosponsors—Congresswoman Eshoo, Congressman Shimkus, Congressman Pickering and others—have long worked on this and other 911 issues, and we commend their leadership.

Dialing 911 can be the most important call a person ever makes. That is why EarthLink and VoIP carriers have made providing 911 emergency service in an Internet world a fundamental priority.

In June 2005, the FCC's E-911 ruling set out an ambitious 120-day timetable for interconnected VoIP providers to develop and deploy E-911 capabilities, to provide callback and location information, and to deliver that information automatically to PSAPs. We are proud to tell you that interconnected VoIP services met the fastest-ever, widest-ever implementation of E-911, and we now provide 911 to all customers and E-911 to fully 97 percent of our subscribers. In EarthLink's case, we have 100 percent E-911 coverage, as we are deploying our VoIP products simultaneous of the FCC rules. So far, so good.

The issue is that the footprint where VoIP providers can deploy E-911 is limited. Inside the footprint, we have achieved E-911 compliance, but outside the footprint, E-911 is not available, and so, by FCC rule, VoIP providers cannot and do not offer VoIP services. This effectively denies VoIP services to around 20 percent of the U.S. population, 98 million consumers, as Congressman Gordon indicated, putting businesses and consumers in these underserved areas at a competitive disadvantage.

That is why, notwithstanding 97 percent inside-the-footprint success, H.R. 3403 is needed and needed urgently. Interconnected VoIP providers have done all we can to develop and to deploy E-911 solutions. We need this legislation to accelerate current-generation E-911 to bring E-911 services to areas where they cannot

be offered today and to try to pass the next-generation E-911 solutions. H.R. 3403 responds correctly to all of these challenges.

Importantly, H.R. 3403, as has been mentioned, gives public safety, interconnected VoIP providers and others involved in handling 911 calls the same liability protections whether that call comes from a cell phone, a landline phone or a VoIP service. The 911 network is essential, unique and cannot be replicated. As such, it is vitally important to give interconnected VoIP providers access to the same tools for implementing 911 and E-911 as mobile service providers and to do so on the same rates, terms and conditions. This prevents the use of critical 911 components as a tool to delay, disrupt or inhibit competition from interconnected VoIP. Again, H.R. 3403 responds appropriately.

H.R. 3403 also advances the deployment of next-generation IP 911 systems. It precludes the FCC from creating technology-specific 911 and E-911 solutions by utilizing the FCC's definition of "interconnected VoIP services" and maintains the focus of E-911 obligations on telephone replacement services. And it protects the 911 and E-911 databases from misuse for private gain.

Verizon and Qwest have told the FCC that CPNI protections do not apply to them when they operate 911 databases. They are seeking to treat 911 databases as their own private data, even with respect to information that their competitors are required to supply for 911 service. Interconnected VoIP providers are already providing 911 and E-911 service, along with contributing to universal service, meeting Federal disability access requirements and CPNI requirements, and paying FCC regulatory fees. At this point, we simply ask that we have the same tools and protections as all other communications providers when we, in public safety, implement E-911 and 911 service.

In closing, I reiterate our support for H.R. 3403. We thank the sponsors. And we are pleased to answer any questions you may have.

[The prepared statement of Mr. Putala follows:]

TESTIMONY OF CHRIS PUTALA ON BEHALF OF THE VON COALITION AND EARTHLINK
Before the
SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET of the
COMMITTEE ON ENERGY & COMMERCE
U.S. HOUSE OF REPRESENTATIVES
HEARING ON H.R. 3403, THE 911 MODERNIZATION AND PUBLIC SAFETY ACT OF 2007
September 19, 2007

Thank you, Chairman Markey, Ranking Member Upton, and members of the Subcommittee. My name is Chris Putala. I am Executive Vice President of Public Policy at EarthLink and thank you for inviting me to join you today. I am also representing the Voice on The Net or VON Coalition¹ – a voice for the VoIP industry and the policy framework that enables it. On behalf of the VON Coalition, I thank the Committee for the opportunity to testify on H.R. 3403, the 911 Modernization and Public Safety Act of 2007.

We want to especially thank Congressman Gordon and his staff for their tireless efforts to help craft legislation to accelerate both current and next-generation VoIP 911 solutions – protecting both public safety and innovation. We also recognize and appreciate the important contributions of the co-sponsors of H.R. 3403, Congressmen Pickering, Shimkus and Eshoo.

Dialing 9-1-1 can be the most important call a person ever makes. That is why VoIP providers have made providing 9-1-1 emergency service in an Internet world a paramount priority. We have gone to extraordinary lengths to make astonishing progress under a very ambitious timetable. We are proud to tell you that Interconnected VoIP services now provide E911 to more than 97 percent of their subscribers -- the fastest and broadest onetime implementation of E-911 in the history of public safety. And America is safer for it. As a result of this unprecedented effort, Americans who dial 911 using interconnected VoIP services can now rest assured they can reach help in an emergency. It is a particularly remarkable achievement considering that no underlying

¹ The VON Coalition is the voice for the VoIP industry and the policy framework that enables it. The Coalition includes: Yahoo, Cisco, Covad, EarthLink, Intel, Microsoft, Skype, USA Datanet, T-Mobile, iBasis, PointOne, New Global Telecom, CallSmart, Google, Openwave, AT&T, Intrado, Pulver.com, BT, BMX and Switch

network connectivity provider can yet offer VoIP providers like EarthLink the ability to connect to all selective routers nationwide.

Make no mistake about it – this is critical public safety legislation, but it is also allows consumers to take advantage of innovative new technology that puts the consumer in control of their communication. EarthLink's flagship service package, for example, offers consumers both ultrafast broadband service and VoIP, with unlimited calling within the U.S., Puerto Rico and Canada, and the call management and unified messaging capabilities that VoIP allows. These offerings improve the value *to consumers* of making the switch to broadband. Around the world, broadband take up is often inextricably linked to VoIP take-up.

Thus, we are here today to encourage this Committee to take necessary steps to further accelerate current generation 911 solutions in areas where it can't be offered and – just as importantly – to chart a path to next generation 911 services. It's no secret that America's 911 network is still providing 911 and E911 today using 1960s-era technology, and that is part of the difficulty in delivering E911 services for IP based interconnected VoIP everywhere. We need to get the whole country to a twenty-first century, IP-based 911 systems.

H.R. 3403 does both, and as a result will help unleash the full promise of Internet voice communications. With the right legal and regulatory framework, the potential for VoIP-led innovation is immense.

As this Committee is well aware, consumers and businesses are flocking to VoIP because VoIP it enables them to do much, much more than yesterday's analog POTS phones. By transforming voice communications from a network function into a software service, VoIP can integrate communications and data in entirely new ways. Families are gaining unprecedented independence as well as new flexibility and features not possible in yesterday's telephone network. With VoIP, a consumer can choose to direct work calls to their office or mobile phone, and personal calls to their home or mobile number, depending on the time of day. A VoIP consumer can specify

in what order his or her several phones should be rung and can integrate voice services in new ways -- bringing the power of the Internet to voice communications. At the same time, connectivity, quality and reliability have improved to equal if not surpass that of the legacy phone network². And to top it off, VoIP is cutting consumers' phone bills by as much as 40 percent.

In the workplace, businesses, small and large, are tapping into VoIP for breakthrough new features that enable businesses to function more efficiently and respond more effectively to the needs of consumers. More Americans can now work from home, allowing businesses to home-source rather than outsource jobs. Importantly, the mobility features of VoIP empower businesses to maintain continuity in an outage or disaster where offices could be inaccessible but employees will still need to communicate.

Economists now estimate that ensuring continued VoIP competition can save consumers an astounding \$100 billion over the next 5 years -- putting real money back into consumers' pockets through the power of competition. You don't even have to be a VoIP subscriber to benefit -- the resultant competition that VoIP engenders can help drive down phone bills by hundreds of dollars a year for nearly every American.

To accelerate these vast benefits, I wish to highlight today six 911 related barriers that must be removed -- five of which are addressed by H.R. 3403, and one which I hope can be addressed as the legislation moves forward.

- **First, make sure interconnected VoIP providers have the full toolkit available to provide current generation E911 to consumers throughout the country wherever**

² In a recent survey, nearly 90 percent of interconnected VoIP early adopter households claim the same or better voice quality and service reliability than traditional landline service (March 2006 survey by Telephia.) Another study found 85% of VoIP calls exceed PSTN quality, and that VoIP calls connect quicker than PSTN calls (Minacom's, August, 2006 Standards-Based, North American & Global VoIP Testing Study.)

possible. VoIP providers have made tremendous progress delivering E911 services. But they have had to do so without any assurances that they can get the tools necessary to do so. For example today, the FCC limits the distribution of critical p-ANI telephone numbers necessary to route VoIP 911 calls to certified telecommunications carriers. When the FCC issued its VoIP 911 rules, it also remarkably found that it lacked the authority to require other entities to provide VoIP providers direct access to the 911 network components. These limitations lead to unnecessary delays and gaps in the ability deliver full E911 service throughout the country. This legislation provides VoIP providers with the same access to the 911 network as cell phone (CMRS) providers enjoy today in order to mimic the current 9-1-1 infrastructure. By including reasonable access provisions in the legislation, the 9-1-1 system remains a public trust, not a tool to slow competition. By providing direct access to the 911 network, and increasing the number of selective routers that can be accessed, Congress can remove a critical barrier for consumer adoption of VoIP in new regions of the country, and help narrow the current "digital voice divide" between those who can enjoy the benefits of VoIP and those who cannot. To really close this divide altogether, however, the country needs to move PSAPs, especially those in the hard-to-reach rural areas, to a twenty-first century, IP-based 911 system.

- **Second, providing liability parity.** 911 calltakers are doing one of the most important jobs in the country, but lack the same liability safeguards when receiving a 911 call from a VoIP consumer as from a wireline and wireless consumer. Thus 911 calltakers and PSAPs are potentially exposed to liability and in some cases have refused to accept VoIP 911 calls -- potentially putting lives on the line and VoIP consumers at risk. Unfortunately, numerous jurisdictions across the country have indicated an unwillingness to receive VoIP emergency E911 calls because of the absence of this liability protection. We need your help in removing this ambiguity immediately. Throughout the life of a VoIP 911 call multiple parties (including carriers, VoIP service providers and their partners, and PSAPs and their network partners) touch the call to transfer it throughout the system. Because there are no liability protections

for this call, VoIP providers must often shoulder 100% of the liability with each and every carrier relationship in order to complete the call. This is not the case for any other carrier (wireline or wireless) that is obligated to complete emergency 911 calls. Providing liability parity has broad support among public safety and industry groups alike. We think it's a win win – and one of the most important aspects of this legislation.

- **Third, balancing the need to protect both public safety and innovation.** The VON Coalition commends Congressman Gordon for basing the definition of VoIP used in the bill upon the FCC's definition of interconnected VoIP. It helps to draw a bright definitional line allowing progress, without broadly expanding the FCC's current authority. The FCC's definition of Interconnected VoIP tracks VoIP services that serve as a telephone replacement services. Such clarity is needed to spur further investment and innovation in the next wave of communications technologies. However, the VON Coalition would strongly oppose any effort to expand the existing definition beyond telephone replacement services because it would effectively eliminate these services in their infancy and deprive consumers of new ways to communicate over the Internet without advancing access to emergency services. There are many emerging innovative VoIP services that are not replacements for traditional home phone telephone service, have PSTN connectivity, do not create a 911 expectation, yet provide immeasurable new opportunities for businesses and consumers. We look forward to working with the committee in report language to bring additional clarity to the definition provided.

- **Fourth, preventing specific technology mandates.** This legislation, like the 911 language passed by this committee last year, and the companion bill previously passed by the Senate, includes important language preventing the application of a specific technology mandate – thus helping protect innovation in addition to public safety.

- **Fifth, extending the reach of emergency access by providing flexibility in delivery method.** Unlike other 911 requirements for other types of phones, the FCC's VoIP rules require routing utilizing a specific technology (the selective router), rather than ensuring that all calls get to the correct PSAP regardless of delivery technology. We believe language should be added allowing providers to route 911 calls to the correct PSAPs using the method most likely to achieve accurate and reliable routing. While automated methods are preferable, in limited circumstances providers should be allowed to use human-assisted methods for routing of 911 calls and providing location and callback information when that method is likely more accurate or reliable than automated methods, only when the number of 911 calls routed in this fashion is minimal (e.g., 1% or less of the total 911 calls placed by subscribers to the service.) Like other types of voice service that utilize this technology, we believe it can save lives.

- **Sixth – but not least – advancing a next generation IP-based 911 network with VoIP in its core.** Trends in communications mobility and convergence have put our 9-1-1 system at a crossroads. The nation's 9-1-1 system, based on decades-old technology, cannot handle increasingly mobile and increasingly digital communications – let alone withstand disasters like Katrina. It also creates a barrier to delivering E911 service in sparsely-populated rural areas. It is based on a communications technology that most businesses have moved far beyond. There is now a growing consensus on the shortcomings of the present 9-1-1 system and the need for a new, more capable system. When we can harness the power of VoIP to transform the 911 network itself, we can help unleash a host of breakthrough emergency advances never

before possible. By migrating to such a VoIP based emergency network, 911 calls might one day include:

- **Automatic language preferences.** By pre-selecting a user's language preference, an emergency call could be automatically routed to a call taker that speaks the caller's native language, potentially saving time and saving lives.
- **Pictures and video.** Getting pictures and video from cell phones at the scene of a crime or in the midst of an emergency directly into the hands of first responders can further improve emergency response.
- **Information on a caller's medical status.** If consumers choose to pre-enter vital medical information (e.g., whether an Alzheimer patient lives at the registered location; the heart medicine a subscriber uses), call takers and emergency responders could access critical information that could make the difference between life and death.
- **Maps and other location specific information.** Call takers could access maps of commercial buildings or notes about hazardous on-site chemicals – data that could prove critical to emergency responders.
- **Ensure that all 911 calls can be answered.** Katrina underscored the limitations of the current 9-1-1 infrastructure. During Katrina, some 36 PSAPs went down and couldn't answer 911 calls after a single tandem failed. A VoIP enabled emergency network, using a network designed to withstand nuclear attack, allows calls to travel over any available network and for overflow calls to be rerouted just like a modern call center. For massive emergencies, such overflow could be critical. A VoIP network also allows nomadic 911 calltakers to take calls from a remote location in an emergency in the event that a primary sight is taken offline. And by converging communications over a single IP network, it means 911 can become another node in broader IP based emergency response network.

I want to close by highlighting the extent to which creating a next-generation, IP-based and VoIP-enabled 911 network needs to be a public safety priority, even surpassing attempts to jury-rig today's antiquated wireline 911 network for tomorrow's technologies and services. The advent of VoIP, including interconnected VoIP services, is ushering in a new era of disaster-proof communications systems. VoIP and other IP-based communications services increasingly serve as the foundation of "survivable" networks that provide reliable and efficient connectivity in emergency situations even when key infrastructure has been disabled or destroyed. Because it operates over decentralized IP networks with redundant paths between any two points, interconnected VoIP service mitigates the dire consequences that can otherwise result from single points of failure.

VoIP communications have proven their resilience repeatedly in emergency situations. In an assessment issued following the September 11th attacks, the National Academies concluded that the Internet had been far more reliable than other communications networks and that network operators turned to VoIP for communications when traditional networks failed.⁴ Likewise, the Katrina Panel, established by the FCC to prepare an independent study of the hurricane's impact on communications, issued a comprehensive report detailing the fragility and failures of traditional networks while lauding VoIP's robust capabilities and inherently redundant network design.⁵ In particular, the Katrina Panel reported that some of the storm's devastation – service failure for more than 3 million wireline customers and key infrastructure disruptions that isolated emergency

⁴ See National Academies, Computer Science and Telecommunications Board, *THE INTERNET UNDER CRISIS CONDITIONS: LEARNING FROM SEPTEMBER 11* (2003) ("As a whole, the attacks affected Internet services very little compared with other telecommunications systems. Telephone service was disrupted in parts of lower Manhattan, and cell-phone service suffered more widespread congestion problems. Nearly one-third of Americans had trouble placing a phone call on the day of the attacks. The Internet, however, experienced only a small loss of overall connectivity and data loss, the report says. With phone service impaired, some individuals used instant messages on their wireless handheld devices and cellular phones to communicate instead. Web sites were created to distribute lists of missing persons and other information to help people try to locate loved ones.").

⁵ See Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, Report and Recommendations to the Federal Communications Commission (June 12, 2006) (reprinted as Appendix B to *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, Notice of Proposed Rulemaking, 21 FCC Rcd. 7320 (2006)).

responders – could have been mitigated, and restoration facilitated, if public safety entities had redundant systems in place.⁶

Nomadic interconnected VoIP services also played a well-documented role during Katrina's immediate aftermath. The unique mobility and decentralized aspects of VoIP were utilized by FEMA, the Red Cross, the army, hospitals, emergency responders, for telethon call centers, and utility workers restoring service. Even in the eye of the storm, after the category 5 hurricane disabled completely the New Orleans city government's telephone network and all other communications systems, the New Orleans Mayor was able to utilize a nomadic interconnected VoIP phone to call to President Bush and to coordinate the efforts of state and local authorities. The Mayor's staff was able to deploy interconnected VoIP "virtually" by downloading software to several laptops and establishing several VoIP accounts. For five critical days following the storm, this interconnected VoIP connection provided the Mayor's only reliable outside contact.⁷

The success and promise of interconnected VoIP in the face of actual emergencies demonstrates the public safety advantages of nomadic VoIP. Indeed across the country states, local communities, and federal agencies have adopted interconnected VoIP communications systems since September 11th and Katrina in order to provide more capable emergency communications.

- In Tammany Parish, Louisiana – where Katrina destroyed the tandem serving the PSAP and virtually all other wireline infrastructure – parish officials have converted to an IP-based public safety communications system that, among other things, incorporates

⁶ See *id.* at 8, 23.

⁷ See Christopher Rhoads, Cut Off: At Center of Crisis, City Officials Faced Struggle to Keep in Touch, WALL STREET JOURNAL (Sept. 9, 2005) (available at http://www.von.org/usr_files/Katrina%20-%20WSJ%20-%20Cut%20off%20Mayors%20office%20uses%20VoIP%209-9-05.pdf).

network redundancies allowing the PSAP to connect with other PSAPs in the region independent of the 911 tandem.

- The state of Washington's Emergency Management Division has created a self-contained mobile command post that relies on satellite-connected nomadic interconnected VoIP to provide communications capability on a moment's notice in disaster recovery situations.⁸
- The Arizona state government implemented an interconnected VoIP communication systems in each of its 114 state agencies – and now has new capabilities in an emergency not previously possible.⁹
- The State of Georgia has launched a statewide interoperable public safety network based on VoIP to allow interoperability between radio, 911, and other public safety networks.¹⁰
- In southern Florida, not only does the state emergency management agency utilize VoIP for its disaster assistance, but small businesses in Florida¹¹ too have turned to nomadic VoIP because when phone lines go down in a hurricane, small businesses can maintain communications with clients simply by plugging their phone into any working broadband connection – or booting up a laptop in a Starbucks and be back in business.

Federal agencies are taking advantage of the innovative power and public safety potential of interconnected VoIP communications as well:

- The Department of Homeland Security has recognized the central role that VoIP can play in disaster response and recovery, and has put together an effort involving public safety

⁸ See Placing Cost Effective VoIP Satellite Communication in the Hands of our Emergency First Responders (Feb. 24, 2006) (available at <http://news.thomasnet.com/companystory/478586>).

⁹ See Dan Tynan, Arizona Hears the Call of IP Telephony, Government Computer News (Aug. 29, 2005).

¹⁰ The Georgia Office of Homeland Security/Georgia Emergency Management Agency (OHS/GEMA) asked the Georgia Tech Research Institute (GTRI) to help implement a statewide communications system that enables interoperability among public-safety agencies by taking advantage of VoIP's inherent advantages and enabling first responders to use their existing equipment.

¹¹ See "VoIP provides small business with a defense against hurricane damage", June 12 2006, Sun-Sentinel

and industry experts to explore the critical public safety communications needs that IP-based systems can serve.¹²

- In the wake of 9/11, the Department of Commerce converted its outdated analog phone system to an agency-wide interconnected VoIP system to enhance its ability to make emergency broadcasts similar to a "reverse 911"; depending on the nature of a particular emergency situation, Commerce officials can direct voice, text, or data information to all employees or to specified subgroups.
- From our nation's air craft carriers, to our troops in Iraq – VoIP has extended the reach of, and improved communications options for this country. Indeed, even Congress has recognized VoIP's fundamental role in interoperable communications for use in disaster-recovery by passing legislation signed into law earlier this year modifying NTIA's \$1 billion interoperable communications grant program by clarifying that IP-based solutions are eligible targets for funding.¹³

The VoIP communications industry is justifiably proud of the technology's achievements in the public safety arena, and it continues to make emergency services a key priority. Yet in light of interconnected VoIP's impressive track record and largely untapped public safety potential, VoIP providers need this committee's help in advancing legislation to remove the barriers that can make these vital public safety technologies available in more regions and in more ways.

¹² The Department of Homeland Security roundtable found that IP-based systems have several critical disaster-recovery applications, including: radio system connections (*i.e.*, connect communications center to a mountain top transmitter); radio system to radio system interface (*i.e.*, connecting two or more radio systems via a VoIP link); dispatch interface (*i.e.*, using VoIP to enable dispatchers to communicate with each other); bridging systems (*i.e.*, using VoIP to connect radio systems that do not support direct interconnection); system and subscriber unit interfaces (*i.e.*, communications from radio system to radios, PDAs, wireless laptops, or direct communications among such devices, in the event of infrastructure failure). See Department of Homeland Security, Office for Interoperability and Compatibility, Roundtable on Public Safety Interoperability and Voice Over Internet Protocol (2007) (available at <http://www.safecomprogram.gov/NR/rdonlyres/F5097180-FD4C-463A-8050-F24489853ED7/0/2ndRoundtableonPublicSafetyInteroperabilityandVoIPmeetingreport.pdf>).

¹³ See Pub. L. No. 110-53, Implementing Recommendations of the 9/11 Commission Act of 2007, § 2201 ("Nothing in this section shall be construed or interpreted to preclude the use of funds under this section by any public safety agency for interim or long-term Internet Protocol-based interoperable solutions.").

This legislation would help further accelerate VoIP 911 solutions by providing direct access to the 9-1-1 network, enabling equivalent liability relief for call-takers, maintaining a bright-line on covered services, and requiring a national plan for a next generation 9-1-1 system. It represents an important recognition that fostering complete and comprehensive solutions for the delivery of 9-1-1 calls by VoIP providers is important for consumers and industry alike. Given the urgency of the issue, we are calling on this committee to act quickly to ensure workable 911 and E911 solutions for VoIP.

The VON Coalition would again like to thank this Committee for its leadership on VoIP. With continued leadership from this Committee, the VON Coalition believes that the potential for an immense new wave of VoIP-led technological innovation is at your doorstep. The VON Coalition looks forward to working with you to achieve this bright future.

Thank you very much. I am happy to answer questions.

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Mr. MARKEY. Thank you, Mr. Putala, very much.

Our final witness, Mr. Craig Donaldson, is the senior vice president for regulatory and government affairs at Intrado, Incorporated. Intrado is one of a handful of companies that plays a critical role in the 911 infrastructure by providing the technical fix that allows the 911 system to identify the locations of wireless and VoIP callers through a series of databases. Prior to his work for Intrado, Mr. Donaldson was a trial and appellate lawyer in private practice.

We thank you so much for being here. Whenever you are ready, please begin.

STATEMENT OF CRAIG DONALDSON, SENIOR VICE PRESIDENT, REGULATORY AFFAIRS, INTRADO, INCORPORATED

Mr. DONALDSON. Thank you, Mr. Chairman. Good morning. I am Craig Donaldson, the senior vice president of regulatory and government affairs at Intrado, Incorporated.

Intrado commends Representative Gordon and his staff, along with others, for their efforts in pressing this important legislation. We appreciate the invitation to testify.

For those not familiar with our company, Intrado provides the core of America's 911 data management and call-routing infrastructure, and it is a central figure in the integration of multiple technologies that interoperate with that infrastructure. We employ many former first responders, public safety communications professionals, law enforcement and EMT professionals, and leading-edge engineering and operations experts. We therefore have a unique vantage point for evaluating the issues facing 911 today and for envisioning how and why the system must evolve.

Americans have come to expect a highly reliable 911 system and perhaps more notably in recent years, one that is fortified against manmade and natural disasters. Intrado's very existence centers on meeting these expectations.

Intrado supports the vast majority of House bill 3403. Chief among its many objectives should be preserving the efficacy of the 911 infrastructure, and we believe this would be best accomplished by continuing to maintain a cooperative Federal and State construct which, as it has for decades, relies heavily on local public safety agencies and State regulators.

Our country's 911 system is migrating to an IP-based platform that will permit the delivery of critical life-saving data, such as medical information, building blueprints, photos and videos. With this functionality comes the broader use of and access to the system, which will increase the technical complexity of the system and will require more oversight if we are to maintain high performance standards, but more importantly, operational and security risks are likely to increase dramatically.

This is not a theoretical concern. The system will be more vulnerable to attack by poorly managed or illegitimate enterprises, which could include hostile foreign governments. The system could be inadvertently or intentionally flooded with phantom calls that prevent the handling of actual emergencies, or the entire system could be made inoperable.

Such risk can be mitigated by ensuring that States continue to have oversight of basic 911 components mentioned in the bill.

For nearly four decades, State and local governments have been the guardians of America's emergency communications and data infrastructure. They have done this successfully because they have had authority to ensure that service providers are at least minimally qualified to interconnect with public networks, including 911 networks and their related databases.

Virtually all of the operational and administrative oversight of the 911 system is performed by State and local governments. By comparison, the FCC plays a tiny role in overseeing 911 operations, although the Commission has done its part by shaping 911 policy and implementing high-level performance mandates. There is no reason to overhaul the joint model. And most notably, States and local governments give America its only meaningful chance to mitigate risks of attack on the 911 system.

What will not work well, however, absent some adjustment, is the manner in which VoIP 911 is regulated. States should not apply typical CLEC regulations, which have limited applicability in an IP-based environment. Yet states should avoid disparate regulatory regimes based on differences in technologies while moving toward a model that is technology-neutral.

This will take time, thoughtful policy-making and effort. So what is needed from the Federal Government is a road map for the transition and for the long run that strikes a balance between three principal interests: First, States must continue to be permitted to maintain high standards and to institute appropriate safeguards for 911. Second, States must avoid so-called legacy regulation and legislation while migrating to a 21st-century model. And third, in the meantime, Federal and State Governments must not unnecessarily tip market conditions in favor of one kind of provider over another.

Somewhat complicating these issues are pending FCC proceedings relative to the preemption of VoIP services in general, which involve determinations that bear directly on this bill. These unresolved matters, coupled with the bill's current language, leave states somewhat in limbo relative to their jurisdiction over the administration and deployment of VoIP 911.

One final point: Fundamental to keeping the 911 infrastructure secure are the safeguards currently in place that prevent disclosure of 911 data to entities that are unqualified or not legitimately involved in delivering 911 service. This includes such data as information from which the locations of switches and related transport elements can be extrapolated, call routing codes, testing procedures and so on.

The bill would give the FCC discretion to release this information to the general public. Intrado strongly believes that simply releasing such data to the general public would be reckless, as it could easily fall into the hands of enemies of the United States and be used to sabotage the 911 system.

Again, thank you for the opportunity to testify here today, and I would be happy to answer questions.

[The prepared statement of Mr. Donaldson follows:]

Testimony of Craig Donaldson
Senior Vice President, Regulatory and Government Affairs
Intrado Inc.

Before the Subcommittee on Telecommunications and the Internet
United States House of Representatives

Issues in Emergency Communications: A Legislative Hearing on H.R. 3403, the 911
Modernization and Public Safety Act of 2007

September 19, 2007

Good morning - and thank you Chairman Markey. I'm Craig Donaldson, Senior Vice President of Regulatory and Government Affairs at Intrado Incorporated. Intrado commends Representative Gordon and his staff, along with you, your staff and others, for their tireless efforts in pressing this important legislation; and we appreciate the invitation to testify.

Intrado provides the core of North America's 9-1-1 data management and call routing infrastructure and is a central figure in the integration of multiple technologies that interoperate with that infrastructure. We are unique in that we employ many former first responders, public safety communications professionals, law enforcement and EMT professionals, and leading-edge engineering and operations experts. We have a unique vantage point for evaluating the issues facing 9-1-1 today and for envisioning how and why the system must evolve. Americans have come to expect a highly reliable 9-1-1 system and, perhaps more notably in recent years, one that is fortified against man-made and natural disasters. Intrado's very existence centers on meeting these expectations.

Intrado supports the vast majority of House Bill 3403. Among the many federal policy objectives to be achieved in this critical legislation, we believe Congress, along with the FCC, must give utmost consideration to preserving the efficacy of the 9-1-1 infrastructure. We believe this would be best accomplished by continuing to maintain a cooperative federal and state construct which, as it has for decades, heavily relies on state regulators and public safety agencies.

Our country's 9-1-1 system is migrating to an IP-based platform that will permit the delivery of critical life-saving data such as medical information, building blueprints, photos and videos. With this functionality comes broader use of – and access to – the system. This will result in exponential, technical complexity; but more importantly for our discussion today, operational risks are likely to increase dramatically. This is not a theoretical concern. With these technological changes, the 9-1-1 network will become increasingly more vulnerable to attack by poorly managed or illegitimate enterprises which could include hostile foreign governments. America's 9-1-1 infrastructure could inadvertently or intentionally be flooded with phantom calls that prevent the handling of actual emergencies, or the entire 9-1-1 system could be made inoperable. Such risks can be greatly mitigated by ensuring that states continue to have oversight of 9-1-1 components in this new IP-based environment.

For nearly four decades, state and local governments have been the guardians of America's emergency communications and data infrastructure. They've done this by having authority to ensure that service providers are at least minimally qualified to interconnect with public networks, including 9-1-1 networks and their related databases, in order to maintain the high standards for 9-1-1 service our citizens have come to expect. Virtually all of the operational and administrative oversight of America's 9-1-1 infrastructure is overseen by state and local governments. Comparatively, the FCC plays virtually no role in 9-1-1 operations although it has done its part by shaping policy implementing high-level performance mandates. State and local governments give our

country its only meaningful opportunity to mitigate risks of attack on the 9-1-1 system. So, to coin a phrase: "If it ain't broke, don't fix it."

What's not broken but needs some adjustment is the manner in which VoIP 9-1-1 is regulated. Particularly, states should not apply typical CLEC regulations to new technologies. On the other hand, states will need to try to avoid perpetuating disparate regulatory regimes based on the kind of technology being deployed and should move toward a model that is technology neutral. This will take time, so what is needed from the federal government is a road map that strikes a balance between three principle interests: First: ensuring that states continue to be permitted to institute appropriate safeguards relative to new technologies; second: ensuring that states avoid so-called "legacy regulation and legislation" which has limited applicability in an IP-based environment; and third: do not unnecessarily tip market conditions in favor of one kind of provider over another.

Somewhat complicating these issues are pending FCC proceedings relative to preemption of VoIP services which involve determinations that bear directly on this bill. These unresolved matters, coupled with the bill's current language, leave states somewhat in limbo relative to their jurisdiction over the administration and deployment of VoIP 9-1-1, and we will continue to work through these issues with Congress, the FCC and stakeholders.

One final point: fundamental to keeping the 9-1-1 infrastructure secure are the safeguards currently in place that prevent disclosure of 9-1-1 data elements to entities that are

unqualified or not legitimately involved in delivering 9-1-1 service. This data includes: information from which the locations of switches and related transport elements can be extrapolated; call routing codes and other information used to determine call routing; testing procedures; specific capabilities of individual PSAPs; and so on. The bill would give the FCC discretion to release this information to the general public if the Commission determines that doing so would “improve public safety.” Intrado strongly believes that releasing such data to the general public would be reckless, as it could fall into the hands of enemies of the United States and used to sabotage the 9-1-1 system.

Thank you again for the opportunity to testify here today. I’d be happy to answer any questions.

Mr. MARKEY. Our time for opening statements from witnesses has expired, and now we will turn to questions from the subcommittee members.

And the Chair will recognize himself. And I would ask for brief answers to my questions.

And the first to you, Mr. Mayer: Do you think it is appropriate to consider 911 or E-911 services as a marketplace, or is it more properly understood as a nonmarketplace, public interest, public safety mission? Mr. Mayer?

Mr. MAYER. Chairman Markey, I think that is a great question. I think emphatically the answer is it should not be treated as a marketplace. It is a public service, a public safety obligation. That is how our members treat it. And I think it is very important that it not be confused with a market-based product.

Mr. MARKEY. Mr. Putala?

Mr. PUTALA. Thank you, Mr. Chairman.

I believe the 911 system is a public trust, not a tool for competitive gain. And I think H.R. 3403 strikes exactly the right balance in specifying that the rates, terms and conditions offered to VoIP providers will be the same as wireless, as well as providing the comprehensive list of all the 911 elements that come from a variety of players—PSAPs, ILECs, CLECs, whatever—a comprehensive list of those activities to make sure that 911 remains a public trust and not a tool for competitive gain.

Mr. MARKEY. Great.

Ms. Avgiris?

Ms. AVGIRIS. Thank you, Mr. Chairman.

We do not believe that 911 should be a marketplace event. This bill protects that. It is the necessary facilities interconnection and databases that are required for every phone provider, competitive phone provider, to provide 911 and E-911 service, regardless of technology.

Mr. MARKEY. Thank you.

Mr. Mayer, at the New York Public Service Commission, did you ever encounter a situation where a phone company refused interconnection for a VoIP provider for 911 services? And how did you resolve it?

Mr. MAYER. We encountered one situation where one provider did not appear to us to be going fast enough with implementation. We then looked at our rules and regulations. We stepped in immediately, and we told the provider that our expectation was that they would facilitate the interconnection necessary. And, within 24 hours, it was handled.

Mr. MARKEY. It was handled?

Mr. MAYER. Yes, sir.

Mr. MARKEY. OK, great.

I am particularly pleased with the steps this bill takes to ensure access to people with disabilities to 911 and enhanced 911 services. The bill requires the NTIA to develop a plan and to consult with groups representing people with disabilities and with industry to identify solutions in an IP-based context for 911 and E-911 services.

Do you support, yes or no, the provision in this bill? Mr. Barbour?

Mr. BARBOUR. Yes, we do. We believe that that part of our community should have equal access to the 911 system. It is sad that, today, they are communicating amongst themselves with video and messaging devices, but unfortunately, they cannot use those same devices to communicate to today's 911 system.

Mr. MARKEY. OK.

Ms. Avgiris?

Ms. AVGIRIS. Yes, we do believe that all Americans with disabilities should have the same access to 911 and E-911.

Mr. MARKEY. Mr. Mayer?

Mr. MAYER. Absolutely.

Mr. MARKEY. Mr. Putala?

Mr. PUTALA. I second that, absolutely.

Mr. MARKEY. Mr. Donaldson?

Mr. DONALDSON. Yes, Mr. Chairman, we do agree.

Mr. MARKEY. Great.

So this is really a very good piece of legislation. I commend all of you for your work on this issue.

My time has expired. I will turn and recognize the gentleman from Michigan, Mr. Upton.

Mr. UPTON. Thank you again, Mr. Chairman.

Are any of you aware of any VoIP providers that, because of liability concerns, the PSAPs refuse to receive VoIP calls? Is that an issue that is out there?

Mr. Putala?

Mr. PUTALA. Mr. Upton, we do understand it is not an issue with EarthLink, but I understand that other VON Coalition members have had some concerns expressed to them by some PSAPs, I believe in Illinois, where their lawyers were looking at the system and saying, "Look, where is the liability protection for us?"

And I think that the testimony of Mr. Barbour underscores the point that public safety answering points need this same liability priority no matter what flavor of call they are taking, whether it is cell phone, wireline or VoIP.

Mr. UPTON. Mr. Barbour, do you want to—

Mr. BARBOUR. Yes, we totally agree that all public safety is asking here is the same liability that has already been afforded to us in wireline and wireless related calls. We would like the same protection in VoIP calls. It is not dealing with negligence; that is not what we are asking for. We are asking for liability protection as it relates to call setup and delivery.

Mr. UPTON. Ms. Avgiris and Mr. Putala, is there anywhere in the Comcast or EarthLink system where your VoIP consumers don't have access to E-911 or 911 service?

Ms. AVGIRIS. With respect to Comcast, 100 percent of the footprint that we are deployed in have access to 911. The very small percentage of our footprint that is not available for E-911 is because the PSAP needs the modernization to be able accept it, not from our end.

Mr. UPTON. Right. Do you have a location?

Ms. AVGIRIS. We can get you the details. It is a very small percentage.

Mr. UPTON. It is not my district, right?

Ms. AVGIRIS. No.

Mr. PUTALA. EarthLink is 100 percent compliant, where we have access. The issue is, how do we move outside of that roughly 80 percent footprint where there is competitive infrastructure coverage? The PSAPs are ready. They have the right routers and the right trunking system so they can get the E-911 callback and location information automatically. The issue is, how do we get access to the elements that would allow it?

Mr. UPTON. How long do you think it would take those PSAPs to actually get within a footprint, in fact, where they will have 100 percent?

Mr. PUTALA. First off, it is important to recognize that inside this 98 million Americans who are not covered by VoIP and E-911, there are today PSAPs that have the technical capabilities to accept E-911 information from VoIP providers. That is not 100 percent of that 20 percent, but there is a significant share. The PSAP community continues to upgrade so we can get to 100 percent.

But, again, the issue is there are PSAPs today who are ready and have the infrastructure available to accept 911 information from VoIP providers, but we don't have the access through either vendors or competitive options to be able to reach those E-911-capable PSAPs. And that is where H.R. 3403 is so important.

Mr. UPTON. I would like to hear from each of you. Would you say that is probably the overwhelming concern, in terms of why we don't have 100 percent? Is there anything else that we can do to try and encourage that to end up happening?

Mr. PUTALA. I think the other important provisions relative to liability protection—

Mr. UPTON. No, no, but I mean outside of this bill. Is there anything that is not in this bill that would be helpful, that we ought to add in, to end up ultimately with 100 percent?

Mr. PUTALA. I think that my good friend Mr. Mayer would express concerns if we were to go into some of the other issues relative to interconnection that are not related to 911. I think those are important, but again, I think the scope of this bill is purely about 911 infrastructure, and I think that is how we have to keep it.

Mr. UPTON. Ms. Avgiris.

Ms. AVGIRIS. There are some local jurisdictions in which we offer service that have not implemented the addressing scheme that is necessary to comply with Master Street Access Guide requirements. It is a small percentage but to give them the ability to update their systems, whatever they need, so that they can identify and comply with MSAG.

There are also a couple of local communities that don't have the funding, have not been given the funding, to implement E-911. So they should be given the funding so that there is uniform and ubiquitous availability.

Mr. PUTALA. Just one quick comment on that. I think the inclusion in the bill of making sure that 911 funds are not diverted away from the PSAPs is a very important addition and will bring more resources to our Nation's PSAPs.

Mr. MARKEY. The gentleman's time has expired.

The gentleman from Tennessee, Mr. Gordon.

Mr. GORDON. Thank you, Mr. Markey.

You, better than most folks, know that when you deal with technology issues, oftentimes the bill you start off with can be outdated by the time the President signs it. That is the reason, in this bill, in title II, we try to look to the future.

And, Mr. Barbour, you mentioned that. And would you tell us a little more about next-generation 911?

Mr. BARBOUR. Yes. Next-generation 911 is transitioning today's 911 infrastructure into an IP-based infrastructure into where we have an emergency communication network, not just involving 911, but it could also be push-to-talk conversations between the first responders. It could also be the public also communicating on such an IP-enabled solution.

So we need to get today's 911 system into an IP solution so that we can take advantage of all the technologies that are being afforded to a lot of the public today. It is sad that, in today's environment, teenagers or the public can take pictures of crimes in progress, but they cannot transmit them straight to the responding units, with today's 911 system.

Mr. GORDON. What kind of time frame, would you say, is involved in getting to this next generation?

Mr. BARBOUR. I think, with the provisions set forth here and with some funding, we could get this in the next couple of years, 3 to 5 years.

Mr. GORDON. Good.

There was quite a bit of unanimity in support for the bill.

Mr. Mayer, you said you generally supported the bill but had a couple of concerns. I guess it boils down to the fear that your competitors might have a back-door access to other elements that are not directly related here or that they would be treated differently.

Let me just assure you that, upon reading this bill, you will see that it says very specifically that VoIP will be treated the same as wireless, the same rates, terms and conditions. It says very specifically that it is limited to the elements necessary to completion of 911.

This will be in the report language. I don't see how the FCC, a court or anyone else could misinterpret the intention of this Congress. We have said it over and over, and I wanted to be sure it was said again today.

I yield back my time.

Mr. MARKEY. The gentleman's time has expired.

The Chair recognizes the gentleman from Illinois, Mr. Shimkus.

Mr. SHIMKUS. Thank you, Mr. Chairman.

I want to really congratulate Mr. Gordon on his great work. And appreciate my friend Anna and the staff. It has really been a good work product, especially the 911 Caucus and working with you all. And it has really been a team as we have moved forward to really amazing percentages of coverage, versus how quickly technology rolls out and a couple of bad stories. And we move as a team to try to correct those.

So I want to thank you all for being here and really thank you for the great effort we have done to be very, very successful.

Now we are trying to codify issues, and FCC has done some stuff to help us move down the road, but we want to get some stuff into the statutory language. And Bart has been shepherding a pretty

good process; it has been pretty open. And so we appreciate—and this is a continuation of that.

So, Bart kind of mentioned this earlier, but really, the elephant in the room is costs, compensation, as Bart said, what is access and what is the cost for doing that.

So let me go to Mr. Mayer, then Chris, if you would, kind of talk about how and why do you feel that the VoIP providers should be charged for their access, and what is necessary?

I don't want to cause a big—but that is what we have a legislative hearing for. That is, kind of, what we are trying to work out.

Mr. MAYER. Well, here is where the therapy, I guess, starts.

Mr. SHIMKUS. Everybody has been so nice.

Mr. MAYER. I think what we are hearing here is that we have a system that has to migrate to a next-generation platform. And there is a lot of unknowns about the technology, but one thing we know is that the next 911 system has to be very different, and it is going to require a substantial amount of investment. And it is going to require investment that not only our members are going to have to make but the PSAPs are going to have to make and all the entities, essentially, that are going to have to interconnect with this next-generation system.

So in terms of costs, what would be of concern to us is a cost mechanism that doesn't allow our members to, frankly, recover the cost that is required for that investment. And we want to be in a situation where we embrace this migration to next-generation technologies. We firmly believe in it. But we also want to make sure that the mechanism is in place that there is no risk that the costs are—

Mr. SHIMKUS. If I could jump on that point, next generation, do we feel that moving to a next generation, that there will still be, in essence, piggybacking on the LECs, basic service provider, so there is always going to be this relationship which everybody has to work together to provide this stuff?

Mr. MAYER. It is a very complex relationship right now, as you know, and it is probably only going to get more complex. There is going to be, I think, a continuing major role for our members as 911 service providers. And I think that we are going to have to work together, as we have done recently, to evolve the concepts, in terms of how this all works going forward.

I think the notion that we have to all be committed to 911 and make this happen in a way that does not benefit one industry versus another—because, at the end of the day, I am firmly convinced that we really believe that citizens need access to the best 911 system they can get in the country.

Mr. SHIMKUS. A very symbiotic relationship. That is the word I was looking for.

Chris?

Mr. PUTALA. I think, as Congressman Gordon pointed out, all this bill says is the same rates, terms and conditions as wireless. This is just about parity; this is not about advantage for VoIP providers. It is not about advantage for ILEC's.

I think it is also important to recognize that it is not just ILECs infrastructure that is involved here. The PSAPs will control elements of some of the databases, the street address guide. The FCC

is in charge of the pseudo-ANIs, the numbers that you have to back up the numbers to make sure that a system where a location is a variable can work.

So I do not see any competitive advantage here. That is properly so for this bill. Chairman Markey underscored it. We all agreed E-911 is a public trust, not for competitive advantage, and H.R. 3403 adheres to that goal.

Mr. SHIMKUS. Great. Thank you.

Mr. Mayer, and the bill confines itself solely to 911 purposes. Do you agree with that?

Mr. MAYER. I think there is some opportunity to refine some of the language, especially with respect to some of the components that are enunciated. We would be comfortable with language that makes a complete analogy to the CMRS and wireline capabilities. There are some words in here that speak to equipment and networks that could potentially go beyond what we think are the existing rights of the carriers, of the other industries. We don't think there should be a sector-specific set of requirements.

Mr. SHIMKUS. OK. Thank you.

Let me go to the next, I think, little elephant in the room, which is the 911 database issue and the fact that the 911 database issue is used to help us define through what is a competitive market in particular areas.

So talk to me about—and let us go Mr. Mayer first and then Chris, if you would, and then we can let anybody else chime in.

Mr. MAYER. I think if you go back to probably the late nineties, 1999, we know that the 911 data, at an aggregated level, without consumer information, was very instrumental in furthering the process whereby companies got entry into long distance. I know, as a State regulator, we often found that the 911 database, again, on an aggregated level, was the most reliable source of information for us to make assessments about the nature of competition in our markets.

So we very strongly believe that Government regulatory agencies that are making important policy considerations—have in the past and going forward—that hinge on matters related to competition should have access to this reliable information, again, at the aggregate basis, stripped of any customer information.

Mr. SHIMKUS. OK. If you all could follow up—my time is running out, and I would like everyone to get a chance to answer this.

Mr. PUTALA. Nothing in this bill prevents the FCC or State regulatory authorities from reviewing the aggregated 911 database information. All it states is that the incumbent LECs who get this information from competitors, because we have to provide it so the 911 system can work, cannot themselves decide that CPNI does not apply to them.

This is not about whether regulators have access to this information. This is about whether the information we are required as competitors to give to our competitors does not give them a leg up in terms of regulatory proceedings.

Mr. SHIMKUS. And obviously, with heads shaking, there is still disagreement here. That is OK; that is what this is about.

Anyone else want to chime in?

Ms. AVGIRIS. We support the provision that is in the bill, as it is stated. We respect and protect the privacy rights of our customers. And we do not use the information that is obtained for the purposes of provisioning 911 for any other purpose. And we don't believe that it should be for any other purpose other than 911.

Mr. SHIMKUS. My time is up, but if the chairman would allow—

Mr. MARKEY. If I would indulge in a conversation with the gentleman, there are roll-calls that are going to go off in just a minute or so, and I would like to have the other Members have questions, if that is all right. Thank you.

Mr. SHIMKUS. You are the chairman.

Mr. MARKEY. The gentlelady from California, Ms. Eshoo.

Ms. ESHOO. Thank you, Mr. Chairman.

Thank you to all of the witnesses. I think this has been instructive.

Mr. Mayer, am I correct that you are the only one on the panel that is not ready to support the bill?

Is there anyone else—I should just ask the question, does everyone on the panel support the bill?

Mr. PUTALA. We do.

Mr. BARBOUR. Yes.

Ms. AVGIRIS. Yes.

Mr. MAYER. We support the bill with some minor modifications, yes.

Ms. ESHOO. So the USTA has endorsed the bill?

Mr. MAYER. With minor modifications, yes.

Ms. ESHOO. Let me ask you this. At the end of the day, we know that these fights are about money. Money drives everything, who has a leg up, how much money they are going to make, whose ox is gored. And I think that that just needs to be an acknowledgment that is on the table.

To Mr. Mayer, are there certain wireless components that are different from VoIP components that are necessary for VoIP carriers to interconnect with 911?

Mr. MAYER. I am not a technology expert, but I can say I think you would have to distinguish between fixed VoIP providers, like the cable industry, and the nomadic VoIP providers. I think there are distinctions there. Beyond that, I am not aware of any technical distinctions.

Mr. PUTALA. Just very briefly, wireless does not require access to the Master Street Access Guide. The nomadic VoIP does require access to that database, different from wireless, because the location we have to give to the PSAP is the home address, so therefore it is different than the wireless. So that is a very different element that wireless does not require but nomadic VoIP does.

Ms. ESHOO. Now, Mr. Shimkus raised, I think, a very important issue here, and that is, should carriers be permitted to use information from 911 databases? And Ms. Avgiris answered very clearly and succinctly what Comcast's position is on that. Do you all agree with that?

Mr. PUTALA. EarthLink does.

Ms. ESHOO. Yes.

Mr. Donaldson?

Mr. DONALDSON. I have a sort of modified view of it.

Ms. ESHOO. How do you modify it?

Mr. DONALDSON. Somewhere in between.

Ms. ESHOO. Use some of it?

Mr. DONALDSON. What we have to do is distinguish the role that the ILECs, the incumbents, play as local exchange carriers versus their role as a 911 service provider, where they are still a monopoly situation in their territories where they are the aggregators of traffic and the keepers of the data.

What I would say I would agree with is that there is an absolute need for, sort of, a firewall, if you will, so that the LEC part of the company does not get to go over to the 911 provider and say, "Give me the ALI data so I can use it for competitive reasons."

Ms. ESHOO. Very excellent point. I think it would be particularly insidious if a carrier used this information because no other competitive carrier has access to the 911 database.

Mr. Mayer?

Mr. MAYER. Congresswoman, we agree with that.

Ms. ESHOO. You agree?

Mr. MAYER. Absolutely. We don't think that our members should use information in the 911 databases—

Ms. ESHOO. Have your members all adhered to that?

Mr. MAYER. Absolutely. I think it is covered under the CPNI requirements, where, business and marketing, we cannot use that information, and we do not.

Mr. PUTALA. Qwest and Verizon specifically filed recently at the FCC, stating that the CPNI rules did not cover the use of 911 databases as they chose fit in a regulatory proceeding.

Ms. ESHOO. So that is in direct contrast to—

Mr. PUTALA. Direct contrast.

Ms. ESHOO. So how do you respond to that?

Mr. MAYER. Let me respond to it this way. We think that government agencies that are making determinations of policy based on competition can benefit from having reliable and credible information from 911.

And we have to realize that the entire industry was restructured, in large part, the whole long distance approval process, the 271 review process, relied heavily on 911 information. 911 information has been used by the Department of Justice; it has been used by States. And we think it is all about informing them to make good policy.

And it is not customer information. It is aggregated information that gives them a very good indication of who owns the customer. It is reliable. That is why we used it in New York; we trusted it.

Ms. ESHOO. Well, I think if this information is used, especially in forbearance petitions at the FCC, this whole issue, I think it is a violation of section 222. But, that is my call on it. And I have to tell you, I think it is a real misuse of information if someone does that.

And it puts a provider in a position of a real leg up against other people. There has to be equity across the board in this, so that everything is on the level, so that there is a real integration and an assurance that everyone is directed to do and provide this service for the American people.

The chairman is banging his gavel, so thank you, everyone. I think this has been a good hearing.

Mr. MARKEY. The gentlelady's time has expired.

The gentleman from Illinois, Mr. Hastert.

Mr. HASTERT. I thank the chairman.

Let me come at this from a different angle. I go back to my constituency, and I have a small county. It is about 18 miles square, the old-style sections. And they were really kind of the pioneers, small county, 40,000 people. And they, really, kind of figured this thing out. And you could pick up the phone and, no matter what corner of the county you are in, you get a central agency. They will take you right to where the information is. And whether you had a very, very terrible accident in front of you in an automobile or you are calling about your lost dog, they can get you the right people right away. It happens.

However, the county to the north is a large county. It is probably about 60 miles by 20 miles in proportion. And, actually, there are three separate spheres to that county, where the influence is and where emergency services are. And you could almost divide them up to the southern part of the county and middle part and the northern part. As a matter of fact, the northern part has influence in, actually, another county; the middle part has influence to the county to the east; and the bottom part has influence to the other little county that is underneath it, as far as services and fire departments and help. So it is a difficult thing to figure out. As a matter of fact, the northern county still hasn't quite figured out how 911 is really supposed to work.

My question to Mr. Mayer and to Mr. Putala and Ms. Avgiris, do you agree with Intrado's claim that more State and local control over VoIP providers is needed to protect an IP-based E-911 system? Very quickly.

Mr. MAYER. No. I think, sir, that the States have all the authority right now to implement all of the 911 functionality, and I think that has been clearly demonstrated.

And I think when you hear what Mr. Donaldson suggested, in terms of some of the risks associated as we go forward in building next-generation platforms, if you exponentially think about 50 States developing different standards to control for that, I think we are looking at potentially a very complicated problem.

So I think the Congress, when they talked about Federal leadership, I think is the right model, and the States can be very effective with implementation. They certainly can be effective with facilitation. But I don't think they should be able to independently direct different solutions at a time when we are going into great vulnerability and uncertainty.

Mr. HASTERT. Thank you.

Mr. PUTALA. I completely agree with Mr. Mayer. And I would point out that the legislation underscores the right of States to collect 911 fees from VoIP providers.

Ms. AVGIRIS. I agree, as well, that there should be a balance between Federal and State enforcement. And you need the States in the operation of the local public service answering points.

Mr. BARBOUR. We agree that the Federal Government can play a huge role in the implementation and coordination effort of this

next-generation 911 system but continuing to allow the States to be able to handle the funding control issues and set the rates.

Mr. DONALDSON. Mr. Hastert, I have to tell you that if you are going to have a bill that says that the States are allowed to collect fees for VoIP and not let them touch all the de facto regulations at the local safety agencies as well as the State level, I don't know how that works.

Mr. HASTERT. Thank you. I don't either. But I see differences in local entities and the leadership they have and the ability they have to put things together. And it is not necessarily the biggest, most powerful counties that figure this thing out first. Sometimes it is the smaller communities that can do that.

So I want to congratulate, first of all, the chairman of this committee for allowing this thing to come forward and also the work of Mr. Gordon and Mr. Shimkus, who have done yeoman's work in moving this forward.

And I yield back my time.

Mr. MARKEY. And the gentleman's time has expired.

The Chair recognizes the gentleman from Michigan, Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman.

Mr. Barbour, does this bill provide the Federal guidance necessary while allowing the State and local governments the appropriate authority to set guidelines, especially the segment numbers for 911?

Mr. BARBOUR. We feel that it does, yes.

Mr. STUPAK. OK. Are there any improvements you would make upon that?

Mr. BARBOUR. We could get back with you, but we feel that it addresses the issues that we talked about today, the liability parity, the coordination of 911, and having the national 911 office report back to you all on the progress of a next-generation 911 system.

Mr. STUPAK. OK.

Mr. Mayer, in response to Ms. Eshoo's questions about you supporting the bill with modifications, so you will not support the bill unless the modifications are made? Or do you support the bill, wishing there were modifications? Is it wish or want?

Mr. MAYER. I don't think I am authorized to answer that question right now, sir. I think we would prefer to see the bill with some modifications which we think would align very much with what the objectives are of the committee.

Mr. STUPAK. In your testimony, you state that the bill grants additional access rights beyond what is provided to wireless carriers. Do you want to explain that a little bit?

Mr. MAYER. There is some language in the bill that lists a variety of components, and it goes—I don't have the bill in front of me. I can get it. But my recollection is that there are, like, 11 or so components that are identified here.

Some of them—and this is what is called necessary components. For example, we are not sure what "equipment" is, because we don't generally use equipment in terms of provisioning 911 interconnection. We think that the "network" term is a little bit too broad.

But I want to emphasize that we are not opposed—and I think this is the most important point here—to granting access to any element that is essential to support 911 functionality. So it may be a little nuanced, but I think it is just giving us some assurances that we are not going to go beyond those elements that are required.

Mr. STUPAK. Well, let me ask you this. You also mention in your testimony that E-911 data is legitimately used by the FCC, State commissions and other Government entities.

Do you believe the provisions in title III of the bill regarding protecting individual information are restrictive enough on that use? Would you like to see it expanded?

Mr. MAYER. No. I think Mr. Putala indicated that he thought there was nothing in the bill that would prevent, for example, the Department of Justice using aggregated 911 data for them to make certain determinations. We would just like to see some assurances that Government agencies could use aggregated data stripped of customer information, both in the State and Federal arena. It has served a lot of very important policy considerations. And, by the way, it does not always benefit our members. There are many times when you have accurate information that can just as easily benefit a competitor.

Mr. STUPAK. Mr. Putala, do you want to—

Mr. PUTALA. The question goes to whether it is at a Government agency's request, which I think is appropriate. We do not think it is appropriate that, because there is monopoly access—necessarily so—to these 911 databases, those should not be used by other portions of a corporate entity to advantage them in their regulatory proceedings.

Mr. STUPAK. Just because the Government requests it, do you think they should just automatically have access to it? Or should we put some limitation even on what the Government should request?

Mr. PUTALA. Obviously, there should be some limitations on the inquiries that the Justice Department could make, the cases in front of them. I think there would also be, and are in place, similar restrictions on the FCC or any other administrative agency about when they could go asking for that information.

Mr. STUPAK. Mr. Barbour?

Mr. BARBOUR. I just want to make sure that we point out that there are some public safety uses for this database, other than just receiving the call. Last week, in my jurisdiction, we had five tornado warnings in 2 hours.

We can take this database and then, in turn, call the public back and give them an emergency notification of such an event.

So we need to make sure that we don't restrict this data to just being able to get the call into the 911 center. The 911 center can use this data for other purposes.

Mr. STUPAK. I recognize that, but there are also times when the Government crosses the line too. We want to make sure that does not happen.

Mr. BARBOUR. Yes.

Mr. STUPAK. Mr. Donaldson, you talked about the importance of preserving the State and local governments' ability to manage the

system to prevent possible terrorist attacks. Do you believe this bill strikes the right balance to preserve State and local governments' abilities?

Mr. DONALDSON. I think that the current language is a little bit ambiguous that we have mentioned to staffers about. It could be a little bit more clear. I think we just need to work on nuance. I don't think, generally, it is a problem, but I think it is an important fact that we need to recognize. And we need to make sure the language is trimmed up.

Mr. STUPAK. My time has expired. Thank you.

Mr. MARKEY. The gentleman's time has expired.

The gentleman from Michigan, it is "Mr. Putala" is testifying before us. "Mr. Polluter" is testifying before the Environment Committee this morning.

We have 15 minutes for a roll-call. What I would ask is unanimous consent—there are three members remaining—that each member be given 3 minutes, if that would be all right with the members.

And we will begin by recognizing the gentleman from Oregon, Mr. Walden.

Mr. WALDEN. Thank you, Mr. Chairman. I will try and make this quick.

Mr. Putala, do nomadic VoIP providers have different 911 needs than fixed VoIP providers?

Mr. PUTALA. Yes.

Mr. WALDEN. And, if so, do the differences warrant treating fixed and nomadic VoIP providers differently for purposes of access to E-911 service? And, if so, elaborate.

Mr. PUTALA. No. I think it just highlights the importance of having, as H.R. 3403 does, a comprehensive list of the databases and the network elements that go there. Nomadic VoIP needs access to the P-ANIs but also to the street access guides. So it is just a different set. And we have to make sure that we have hit it all, so that we can get the comprehensive solution we need.

Mr. WALDEN. Yes?

Ms. AVGIRIS. As a fixed IP-based phone provider, we believe that the clarity that is presently in the bill is what is necessary for the provision of 911 services and access to the databases and the information, the network facilities that are important. You don't want to have any ambiguity when it comes to 911.

Mr. WALDEN. Does anybody disagree with that? OK. Fine.

This question is for the entire panel. To date, VoIP has been classified as an interstate service subject to Federal but not State jurisdiction. VoIP, so far, has not been classified as a telecommunications service.

What implications does this have for VoIP 911 service, and what impact would this bill have on those issues, as currently drafted?

I have a total of a minute and a half combined here for all of you. Yes, sir?

Mr. DONALDSON. First of all, the premise that the FCC has, in final conclusory form, decided that VoIP services, including 911, are entirely interstate, I think is—maybe that is not what you said, but this is a 911 context here in this hearing. So I want to be care-

ful to not sweep away 911 with whatever Federal preemption has occurred at the Federal level on general VoIP.

With respect to the impacts, I would tell you that what we are facing here is the prospect of multiple regulatory schemes. We are already operating under three: traditional wireline, wireless and VoIP. Traditional wireline has the highest standards of all with respect to call routing, caller location accuracy. Wireless and VoIP are below that standard somewhat.

So if we jump to an IP-based standard and regulatory scheme ultimately, without considering what it takes to get there, we are going to be in big trouble. We will be opting for the standards at the Federal level that are not as high as the standards at the State level.

Mr. WALDEN. OK. I am down to about 16 seconds.

Mr. PUTALA. As we stated before, the Federal jurisdiction is the appropriate level, and the bill strikes the appropriate balance.

Mr. WALDEN. All right. Any other comments?

Ms. AVGIRIS. I agree with that.

Mr. WALDEN. All right. Thank you.

Mr. INSLEE [presiding]. The interim Chair will recognize himself. This is not the end of the Markey era, I want to assure you.

I want to ask you about access for folks with disabilities. I am told that a number of deaf and hard-of-hearing people are jettisoning their TTY devices and are relying on text and video services. And I would just ask you to address how you see this legislation assuring provision for the disabled.

I note that there is some provision about requiring plans, but I wonder about the legal obligation to continue these services as we migrate to these IP-enabled networks. Could any of you give us confidence about this?

Mr. BARBOUR. Well, we think this bill helps move along the next-generation 911 system, because, as you said, this part of our community already has the technology and is communicating amongst themselves using this technology. And we have to get our 911 system up to speed so that we can do messaging back and forth and video-messaging back and forth.

Because it is sad that the deaf and hard-of-hearing community is not using the TTY devices or they are not buying them or purchasing them like they should. And unfortunately, right now, that is the only way they can communicate with 911.

Mr. PUTALA. We support the bill legislation. In addition to that, the VON Coalition and the VoIP industry is working together with the disability community at the FCC to try and solve these very practical issues. I know there are a variety of working groups going on under ambitious timetables, and we are working forward on that, outside the scope of this bill.

Mr. INSLEE. Do you all support this as being a binding legal obligation, as opposed to working groups? Does the industry support that?

Mr. PUTALA. I think we are under—it is just a question of what exactly the time of the FCC obligation—I think right now it is 60 days? Right now we are under a 60-day obligation to meet these standards.

The only thing we have looked at is whether we can extend that for a short amount of time, just to make sure that it all technically works and is feasible. It is not a question of “if”; we agree with the legal protections. It is just a question of a few weeks, literally, extra, to make sure we have it done it right.

Mr. INSLEE. Well, we appreciate that, because those of us who are lucky are temporarily abled. So we all have a potential stake in this. And we appreciate your efforts to provide leadership on that.

I would like to recognize Mrs. Bono.

Mrs. BONO. Thank you, Mr. Interim Chair.

And to the panel, thank you for your time. And something strange might happen. I am going to ask my question; I might leave during your answer. I apologize for that. But remember that we will look at what you said later on in the record.

So to each of you, Intrado was concerned that, once we move to an IP-based E-911 platform, that our entire 911 system will be more vulnerable to attack. Do you share this concern?

And 2 minutes and 37 seconds is all yours. Go.

Mr. MAYER. I don't think we should ever ignore that kind of risk. So I think we should all be concerned about that. And whatever we do, going forward, with respect to developing standards and procedures, I think we have to be very vigilant about what the risk is, with respect to security and risk. And I think that is part of the next-generation construct, is to include that.

Mr. BARBOUR. And through our committee work—I mean, through our next-generation program partner, we are definitely looking at this through our technical expertise, because we need to ensure the integrity and safety of our next-generation 911 networks. We definitely believe that it is something that we need to keep in the forefront of our thinking as we transition toward this type of infrastructure.

Mr. PUTALA. We believe that the legislation does make clear, the regulatory structures already make clear, that VoIP providers have to, in essence, register with the FCC. I think that is one important step we can do, but we always need to be vigilant to those very important kinds of concerns.

Mr. DONALDSON. If I could just add, there is a role for States to play here as well. This is not an appropriate situation just for the FCC to oversee. Because of the way the 911 operates at a local and State level, it would be inappropriate to carve them out of this situation.

Ms. AVGIRIS. Likewise, I think the 911 system needs to keep up with the technology. That does not mean that we sacrifice the safety and security of the system to advance the technological opportunities that exist there.

Mrs. BONO. Thank you all very much.

Mr. INSLEE. Thank you.

With that, I would ask unanimous consent to enter into the record material submitted by Mr. Tim Lorello of TCS Company and ask that all Members' statements be included in the record as well.

Hearing no objection, so ordered.

I thank the witnesses for trying to help Congress keep speed with the geniuses in the private sector. Thanks a million.

With that, we are adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

110TH CONGRESS
1ST SESSION

H. R. 3403

To promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E-911 services, encouraging the nation's transition to a national IP-enabled emergency network and improve 911 and E-911 access to those with disabilities.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2007

Mr. GORDON of Tennessee introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E-911 services, encouraging the nation's transition to a national IP-enabled emergency network and improve 911 and E-911 access to those with disabilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "911 Modernization and
5 Public Safety Act of 2007".

1 **TITLE I—911 SERVICES AND IP-**
2 **ENABLED VOICE SERVICE**
3 **PROVIDERS**

4 **SEC. 101. DUTY TO PROVIDE 911 AND E-911 SERVICE.**

5 The Wireless Communications and Public Safety Act
6 of 1999 is amended—

7 (1) by redesignating section 6 (47 U.S.C. 615b)
8 as section 7;

9 (2) by inserting after section 5 the following
10 new section:

11 **“SEC. 6. DUTY TO PROVIDE 911 AND E-911 SERVICE.**

12 “(a) DUTIES.—It shall be the duty of every IP-en-
13 abled voice service provider engaged in interstate commu-
14 nication to provide 911 service and E-911 service to its
15 subscribers in accordance with the regulations of Federal
16 Communications Commission (in this section referred to
17 as the ‘Commission’), as such orders may be modified by
18 the Commission from time to time.

19 “(b) ACCESS TO 911 COMPONENTS.—

20 “(1) REGULATIONS.—Within 90 days after the
21 date of enactment of the 911 Modernization and
22 Public Safety Act of 2007, the Commission shall
23 issue regulations granting IP-enabled voice service
24 providers right of access to 911 components that are
25 necessary to provide 911 service, including enhanced

1 911 service, on the same rates, terms, and condi-
2 tions that are provided commercial mobile services
3 providers. In promulgating the regulations, the Com-
4 mission shall take into account any technical, net-
5 work security, or information privacy issues that are
6 specific to IP-enabled voice services.

7 “(2) DELEGATION OF ENFORCEMENT TO STATE
8 COMMISSIONS.—The Commission may delegate au-
9 thority to enforce the regulations issued under para-
10 graph (1) to State commissions or other State agen-
11 cies or programs with jurisdiction over emergency
12 communications.

13 “(c) IMPLEMENTATION.—

14 “(1) DEADLINE.—The Commission shall pre-
15 scribe regulations to implement this section within
16 90 days after the date of enactment of the 911 Mod-
17 ernization and Public Safety Act of 2007.

18 “(2) LIMITATION.—Nothing in this section
19 shall be construed to permit the Commission to issue
20 regulations that require or impose a specific tech-
21 nology or technology standard.

22 “(3) ENFORCEMENT.—The Commission shall
23 enforce this section as if this section was a part of
24 the Communications Act of 1934. For purposes of
25 this section, any violations of this section, or any

1 regulations promulgated under this section, shall be
2 considered to be a violation of the Communications
3 Act of 1934 or a regulation promulgated under that
4 Act, respectively.

5 “(d) STATE AUTHORITY OVER FEES.—

6 “(1) AUTHORITY.—A fee or charge applicable
7 to commercial mobile services or IP-enabled voice
8 services specifically designated by a State, political
9 subdivision thereof, or Indian tribe for the support
10 or implementation of 911 or E-911 services that are
11 subject to or authorized by this Act, the Commu-
12 nications Act of 1934 (47 U.S.C. 151 et seq.), the
13 911 Modernization and Public Safety Act of 2007,
14 or any Federal Communications Commission regula-
15 tion or order may be obligated or expended only in
16 support of 911 and E-911 services, or enhance-
17 ments of such services, or other emergency commu-
18 nications services as specified in the provision of
19 State or local law adopting the fee or charge. For
20 IP-enabled voice services, the fee or charge may not
21 exceed the amount of any such fee or charge applica-
22 ble to telecommunications services

23 “(2) FEE ACCOUNTABILITY REPORT.—To en-
24 sure efficiency, transparency, and accountability in
25 the collection and expenditure of 911 fees, the Com-

1 mission shall submit a report within 1 year after the
2 date of enactment of the 911 Modernization and
3 Public Safety Act of 2007, and annually thereafter,
4 to the Committee on Commerce, Science and Trans-
5 portation of the Senate and the Committee on En-
6 ergy and Commerce of the House of Representatives
7 detailing the status in each State of the collection
8 and distribution of 911 fees, and including findings
9 on the amount of revenues obligated or expended by
10 each State or political subdivision thereof for any
11 purpose other than the purpose for which any fee or
12 charges are presented.”; and

13 (3) in section 7 (as redesignated by paragraph
14 (1) of this section) by adding at the end the fol-
15 lowing new paragraphs:

16 “(7) IP-ENABLED VOICE SERVICE.—The term
17 ‘IP-enabled voice service’ has the meaning given the
18 term ‘interconnected VoIP service’ by section 9.3 of
19 the Commission’s regulation (47 CFR 9.3).

20 “(8) NECESSARY 911 COMPONENT.—The term
21 ‘necessary 911 component’ means any equipment,
22 network, databases (including automatic location in-
23 formation databases and master street address
24 guides), interface, selective router, trunkline, non-
25 dialable p-ANI numbers, or other related facility

1 necessary as determined by the Commission for the
2 delivery and completion of 911 or E-911 calls and
3 information related to such calls.

4 “(9) IP-ENABLED 911 SERVICES.—The term
5 ‘IP-enabled 911 service’ means any 911 service pro-
6 vide by an IP-enabled voice service provider, includ-
7 ing enhanced IP-enabled 911 service.

8 “(10) ENHANCED IP-ENABLED 911 SERVICES.—
9 The term ‘enhanced IP-enabled 911 service’ means
10 any enhanced 911 service so designated by the Fed-
11 eral Communications Commission in its Report and
12 Order in WC Docket Nos. 04–36 and 05–196, or
13 any successor proceeding.”.

14 **SEC. 102. MIGRATION TO IP-ENABLED EMERGENCY NET-**
15 **WORK.**

16 (a) IN GENERAL.—Section 158 of the National Tele-
17 communications and Information Administration Organi-
18 zation Act (47 U.S.C. 942) is amended—

19 (1) in subsection (b)(1), by inserting before the
20 period at the end the following: “and for migration
21 to an IP-enabled emergency network.”;

22 (2) by redesignating subsections (d) and (e) as
23 subsections (e) and (f), respectively; and

24 (3) by inserting after subsection (e) the fol-
25 lowing new subsection:

1 “(d) MIGRATION PLAN REQUIRED.—

2 “(1) NATIONAL PLAN REQUIRED.—No more
3 than 270 days after the date of the enactment of the
4 911 Modernization and Public Safety Act of 2007,
5 the Office shall develop and report to Congress on
6 a national plan for migrating to a national IP-en-
7 abled emergency network capable of receiving and
8 responding to all citizen activated emergency com-
9 munications and improving information sharing
10 among all emergency response entities.

11 “(2) CONTENTS OF PLAN.—The plan required
12 by paragraph (1) shall—

13 “(A) outline the potential benefits of such
14 a migration;

15 “(B) identify barriers that must be over-
16 come and funding mechanisms to address those
17 barriers;

18 “(C) include a proposed timetable, an out-
19 line of costs, and potential savings;

20 “(D) provide specific legislative language,
21 if necessary, for achieving the plan;

22 “(E) provide recommendations on any leg-
23 islative changes, including updating definitions,
24 to facilitate a national IP-enabled emergency
25 network;

1 “(F) assess, collect, and analyze the expe-
2 riences of the PSAPs and related public safety
3 authorities who are conducting trial deploy-
4 ments of IP-enabled emergency networks as of
5 the date of enactment of the 911 Modernization
6 and Public Safety Act of 2007;

7 “(G) identify solutions for providing 911
8 and E-911 access to those with disabilities and
9 needed steps to implement such solutions, in-
10 cluding a recommended timeline; and

11 “(H) analyze efforts to provide automatic
12 location and recommendations on needed regu-
13 latory or legislative changes that are necessary
14 to achieve automatic location for E-911 pur-
15 poses.

16 “(3) CONSULTATION.—In developing the plan
17 required by paragraph (1), the Office shall consult
18 with representatives of the public safety community,
19 groups representing those with disabilities, tech-
20 nology and telecommunications providers, IP-enabled
21 voice service providers, Telecommunications Relay
22 Service providers, and other emergency communica-
23 tions providers and others it deems appropriate.”.

24 (b) AVAILABILITY OF PSAP INFORMATION.—The
25 Federal Communications Commission may compile a list

1 of public safety answering point contact information, se-
 2 lective router contact information, testing procedures, and
 3 classes and types of services supported by public safety
 4 answering points, or other information concerning nec-
 5 essary 911 components, for the purpose of assisting pro-
 6 viders in complying with this section, and may make any
 7 portion of such information available to the public if such
 8 availability would improve public safety.

9 **TITLE II—PARITY OF** 10 **PROTECTION**

11 **SEC. 201. LIABILITY.**

12 (a) AMENDMENTS.—Section 4 of the Wireless Com-
 13 munications and Public Safety Act of 1999 (47 U.S.C.
 14 615a) is amended—

15 (1) by striking “**PARITY OF PROTECTION**
 16 **FOR PROVISION OR USE OF WIRELESS SERV-**
 17 **ICE**” and inserting “**SERVICE PROVIDER PARITY**
 18 **OF PROTECTION**”;

19 (2) in subsection (a)—

20 (A) by striking “wireless carrier,” and in-
 21 serting “wireless carrier, IP-enabled voice serv-
 22 ice provider, or other emergency communica-
 23 tions provider,”;

24 (B) by striking “its officers” the first place
 25 it appears and inserting “their officers”;

1 (C) by striking “emergency calls or emer-
2 gency services” and inserting “emergency calls,
3 emergency services, or other emergency commu-
4 nications services”;

5 (3) in subsection (b)—

6 (A) by striking “using wireless 9–1–1 serv-
7 ice shall” and inserting “using wireless 9–1–1
8 service, or making 9–1–1 communications via
9 IP-enabled voice service or other emergency
10 communications service, shall”; and

11 (B) by striking “that is not wireless” and
12 inserting “that is not via wireless 9–1–1 serv-
13 ice, IP-enabled voice service, or other emer-
14 gency communications service”; and

15 (4) in subsection (c)—

16 (A) by striking “wireless 9–1–1 commu-
17 nications, a PSAP” and inserting “9–1–1 com-
18 munications via wireless 9–1–1 service, IP-en-
19 abled voice service, or other emergency commu-
20 nications service, a PSAP”; and

21 (B) by striking “that are not wireless” and
22 inserting “that are not via wireless 9–1–1 serv-
23 ice, IP-enabled voice service, or other emer-
24 gency communications service”.

1 (b) DEFINITION.—Section 7 of the Wireless Commu-
2 nications and Public Safety Act of 1999 (as redesignated
3 by section 101(1) of this Act) is further amended by add-
4 ing at the end the following new paragraphs:

5 “(11) OTHER EMERGENCY COMMUNICATIONS
6 SERVICE.—The term ‘other emergency communica-
7 tions service’ means the provision of emergency in-
8 formation to a public safety answering point via wire
9 or radio communications, and may include 911 and
10 enhanced 911 services.

11 “(12) OTHER EMERGENCY COMMUNICATIONS
12 SERVICE PROVIDER.—The term ‘other emergency
13 communications service provider’ means—

14 “(A) an entity other than a local exchange
15 carrier, wireless carrier, or an IP-enabled voice
16 service provider that is required by the Commis-
17 sion consistent with the Commission’s authority
18 under the Communications Act of 1934 to pro-
19 vide other emergency communications services;
20 or

21 “(B) in the absence of a Commission re-
22 quirement as described in subsection 8(A), an
23 entity that voluntarily elects to provide other
24 emergency communications services and is spe-
25 cifically authorized by the appropriate local or

1 State 911 governing authority to provide other
2 emergency communications services.”.

3 **TITLE III—AUTHORITY TO PRO-**
4 **VIDE CUSTOMER INFORMA-**
5 **TION FOR 911 PURPOSES**

6 **SEC. 301. AUTHORITY TO PROVIDE CUSTOMER INFORMA-**
7 **TION.**

8 Section 222 of the Communications Act of 1934 (47
9 U.S.C. 222) is amended—

10 (1) by inserting “or the user of an IP-enabled
11 voice service (such as the term is defined section 7
12 of the Wireless Communications and Public Safety
13 Act of 1999 (47 U.S.C. 615b))” after “section
14 332(d))” each place it appears in subsections (d)(4)
15 and (f)(1);

16 (2) by striking “WIRELESS” in the heading of
17 subsection (f); and

18 (3) in subsection (g)—

19 (A) by inserting “or a provider of IP-en-
20 abled voice service (as such term is defined in
21 section 7 of the Wireless Communications and
22 Public Safety Act of 1999 (47 U.S.C. 615b))”
23 after “telephone exchange service”;

24 (B) by striking “Notwithstanding sub-
25 sections (b)” and inserting the following:

1 “(1) IN GENERAL.—Notwithstanding sub-
2 sections (b)”; and.

3 (C) by adding at the end the following new
4 paragraph:

5 “(2) USE OF AUTOMATIC LOCATION INFORMA-
6 TION AND MASTER STREET ADDRESS GUIDES EX-
7 CLUSIVELY FOR EMERGENCY SERVICES.—No tele-
8 communications carrier or provider of IP-enabled
9 voice service (as such term is defined in section 7 of
10 the Wireless Communications and Public Safety Act
11 of 1999 (47 U.S.C. 615b)) that provides 911, E-
12 911, or other emergency communications service,
13 and no administrator of any database used for the
14 purpose of facilitating the provision of emergency
15 services, may use specific or aggregated information
16 contained in or gathered from automatic location in-
17 formation databases and master street address
18 guides that are utilized for the specific purpose of
19 providing emergency services for any purpose other
20 than providing emergency services.”.

○

TESTIMONY OF TIM LORELLO

SENIOR VICE PRESIDENT, TELECOMMUNICATION SYSTEMS, INC.

I appreciate the opportunity today to provide testimony on the importance of H.R. 3403 to the advancement of 911 and public safety.

I want to thank Representative Gordon and his Legislative Director, Dana Lichtenberg, for their work on this legislation. Additionally, I would like to thank Chairman Markey, the E-911 Caucus, and the entire Committee for their commitment to improve emergency communications. TCS would like to express our deep appreciation for the time and effort that has been put into moving this bill forward in a way that will hopefully ensure passage of this important legislation in the very near future.

Telecommunication Systems, Inc. (TCS) is a leading innovator in Enhanced 911 solutions and extracts and transmits the location data needed to support almost half of all cellular and nomadic Voice Over Internet Protocol, or VoIP, 911 calls. We have been responsible for developing the technologies necessary to bring E-911 capabilities to the VoIP community and are currently looking for new ways to use data such as text and video to provide improved alternative E-911 solutions. We believe that this bill under consideration by this committee today both completes a task set in motion by the FCC over 2 years ago and establishes the framework for continued progress and improvement for E-911.

Over 10 years ago, the 911 community faced similar challenges as it has over these past two years. A new technology, cellular communications, was becoming immensely popular. Yet it was impossible to place a 911 call from this technology. This is because the entire 911 infrastructure of over 6,100 Public Safety Answering Points was built around the concept of fixed landline communications. The phone number of the caller was used to look up the fixed street address of the caller. But a cellular caller was not at a fixed location, and a fixed database of street addresses could not be used to find a cellular caller's location. Ten years ago, on September 5 in fact, TCS introduced and demonstrated the innovation that today delivers the mobile location of over 100 million cellular E-911 calls every year.

Two years ago, TCS brought this same spirit of innovation to the VoIP marketplace and introduced the techniques now in use across the nation. In 2 short years, TCS has succeeded in deploying the capability of handling E-911 calls for nomadic VoIP users into over 5,000 PSAPs across the Nation.

Yet TCS, and many companies like us and even smaller, entered into this environment without the liability protection afforded to companies providing such solutions for cellular and landline communications. As such, we have all taken great risks to meet the FCC's mandate. We did so because we believed it was right and necessary. We believe that this Committee has similarly understood that correcting this liability disparity through this legislation is also right and necessary.

TCS fully supports the objectives of H.R. 3403 to improve emergency communications and foster public safety innovation. Today, I would like to specifically focus my testimony on two sections of this bill that I believe are essential to advancing new technologies and E-911 services long into the future: liability protection and access.

PARITY OF LIABILITY PROTECTION

As a location data provider to VoIP Service Providers, known as VSPs, TCS is very concerned about the lack of liability protection to vendors like us that operate on behalf of a VSP to provide 911 services. Traditional telephone and wireless carriers, their employees and vendors currently have liability protection if something should go wrong during a 911 call. Liability protection limits lawsuits to those that suggest gross negligence. Without liability protection like that afforded to traditional telecommunications and wireless carriers, all involved in a VoIP E-911 call are put at risk for frivolous legal action. In fact, even the Public Safety officials answering these VoIP E-911 calls are exposed to the risks of such legal action. We have no intent to defend negligence, but we do need assurance that we are equally afforded liability protection.

We also agree with the principle of the legislation that extends liability protection to entities defined as "other emergency communications service providers," but we have concern that the ambiguity of this definition as currently written could inadvertently exclude some viable emergency communications providers. TCS serves as an example of such a provider. As a data communications company that serves as an aggregator and intermediary for 911 services, and being a proven innovator in this field, TCS believes we are developing technologies that will significantly im-

prove current and future 911 services. We are finding new ways to use data such as text and video to improve public safety. As we like to say, this is not your father's telecommunications network any longer! We believe that the committee fully understands this truth and that it is the intent of the bill to include emerging technologies, including future uses of text and video. Thus, we feel it is important to recognize the new types of companies that will participate in these new solutions and that the Committee should clarify the bill's definition of the term "other emergency communications service provider" so that traditional certification is not the only method of achieving authorization to provide 911 services. Rather, by acknowledging that these other emergency communications service providers exist and should be equally afforded liability protection, we believe it would be helpful to allow such a provider to meet one of the following criteria: (1) establish itself as a viable entity through testing with PSAPs; (2) obtain recognition as a viable entity from a national or Federal Public Safety organization such as from NENA, APCO, or NASNA; (3) receive a letter from a PSAP agreeing to purchase services; or (4) obtain another form of approval as designated by the State or local governing authority, such approval which could of course be the traditional form of certification. This distinction is important to ensure this legislation looks to the future and recognizes all viable providers that are volunteering to provide E-911 services but that may not fit into traditional voice carrier certification criteria.

ACCESS TO 911 COMPONENTS

TCS understands that access has been a difficult issue while developing this legislation. We recognize the bill's authors were inclusive of all interested parties and as a result the language in H.R. 3403 granting access to necessary 911 components is the minimum to ensure VSPs can provide the service effectively. In order for companies like TCS to provide the information necessary to complete an E-911 call, VSPs must have access to the basic 911 components. If they do not have this access or interconnection, it is impossible to complete a 911 call. Some may tell you that telecommunications companies are already providing this access. To some extent, this is true, but not in all cases. Perhaps more important, without legislative directive there is no guarantee that access will be provided in the future as the 911 infrastructure evolves while embracing these new internet-based technologies. With wireless, legislation was required to ensure access to the 911 components. Likewise, we believe VSPs require the same legislative action. We cannot afford to have a request for connectivity be refused due to the lack of a mandate.

TCS would like to note that as the Committee looks to future legislation, we would encourage you to include other emergency communications service providers such as voice and video into the mandate for interconnection access. As the industry moves forward with new data-based technologies, it will be important that other providers have the same access. TCS is working with entities that provide important communications services but which would not meet the current definition of a traditional landline or wireless carrier or the added definition of a VoIP Service Provider. Telematics companies and those providing services for the disabled, deaf, or hard of hearing are similarly looking for access to the 911 infrastructure in order to provide life-saving services to their customers and constituents. In the spirit of this legislation, we hope that the committee will continue to look to the future. Allowing access sooner rather than later will permit development and implementation of these modern technologies.

Again, I would like to thank you for your time and look forward to answering any questions. You may contact me at (410) 280-1275, tlorrello@telecomsys.com.

