

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Wireless E911 Location Accuracy Requirements) PS Docket No. 07-114

PETITION FOR RECONSIDERATION OF APCO INTERNATIONAL

Pursuant to Section 1.429 of the Commission’s rules,¹ the Association of Public-Safety Communications Officials-International, Inc. (APCO)² seeks reconsideration of the Sixth Report and Order in the above-captioned proceeding.³ Specifically, APCO requests reconsideration of the way in which the dispatchable location requirements were revised to take into account termination of the National Emergency Address Database (NEAD). The new rule lacks a basis in the record, fails to chart a course for achieving real progress with the delivery of dispatchable location, and risks creating a way for carriers to comply with the location accuracy requirements without actually providing improved location information with 9-1-1 calls.⁴

Prior to the Order, carriers electing to comply with the vertical accuracy requirements by deploying dispatchable location solutions would have had to ensure the NEAD was populated with a number of reference points equal to at least 25% of the CMA population.⁵ Because the

¹ 47 C.F.R. § 1.429.

² Founded in 1935, APCO is the nation’s oldest and largest organization of public safety communications professionals. APCO is a non-profit association with over 35,000 members, primarily consisting of state and local government employees who manage and operate public safety communications systems – including 9-1-1 Emergency Communications Centers (ECCs), emergency operations centers, radio networks, and information technology – for law enforcement, fire, emergency medical, and other public safety agencies.

³ Wireless E911 Location Accuracy Requirements, PS Docket No. 07-114, *Sixth Report and Order and Order on Reconsideration*, FCC 20-98 (rel. July 17, 2020) (“Order”).

⁴ APCO continues to have broader concerns with the location accuracy rules, as described in a Petition for Clarification and letters submitted prior to the Order’s adoption, but this Petition for Reconsideration is focused on the change to the NEAD-based benchmark.

⁵ 47 C.F.R. § 9.10(i)(2)(ii)(C)(I) (before adoption of the Order) (“In each CMA where dispatchable location is used: nationwide CMRS providers must ensure that the [National Emergency Address Database] is populated with a sufficient number of total dispatchable location reference points to equal 25 percent of the CMA population.”).

carriers abandoned the NEAD, this benchmark is no longer appropriate.⁶ The Commission amended the rules to delete the reference to the NEAD but retained the metric for measuring a carrier's deployment of dispatchable location reference points.⁷ For any CMRS provider that relies on dispatchable location to meet the 2021, 2023, or 2025 benchmarks, the Commission continues to require the provider to provision a total number of dispatchable location reference points (e.g., Wi-Fi access points or Bluetooth beacons) equal to 25% of the CMA population. Reference point data may be stored in "any database," provided that certain privacy and security requirements are met.⁸

The decision to convert the NEAD benchmark to an ambiguous "any database" benchmark was arbitrary and capricious. This was not contemplated in the Further Notice of Proposed Rulemaking,⁹ and the Commission does not cite any public input or otherwise explain how the rule is a logical outgrowth of the record.

The Commission should not allow carriers to comply with the dispatchable location option by counting reference points in "any database." This approach presumes that carriers would provide dispatchable location only by using solutions like the abandoned NEAD-based approach, and it creates confusion over whether reference points in crowd-sourced databases such as those maintained by Apple and Google – which have not been demonstrated as capable of providing dispatchable locations – could be used to satisfy the requirement. Furthermore, even for dispatchable location solutions that are based upon use of reference points that reside in a

⁶ See Order para. 49.

⁷ 47 C.F.R. § 9.10(i)(2)(ii)(L) (after adoption of the Order) ("In each CMA where dispatchable location is used, nationwide CMRS providers must ensure that dispatchable location is supported by a sufficient number of total dispatchable location reference points to equal 25 percent of the CMA population.").

⁸ See Order n. 136.

⁹ See Wireless E911 Location Accuracy Requirements, PS Docket No. 07-114, *Fifth Report and Order and Fifth Further Notice of Proposed Rulemaking*, 34 FCC Rcd 11592 paras. 79-83 (2019), corrected by Erratum (PSHSB Jan. 15, 2020) ("Fifth Report and Order").

database, this approach does not go far enough. It permits carriers to demonstrate compliance with a raw number of reference points leveraged by a solution regardless of whether the solution can accurately estimate a dispatchable location or, more importantly, whether a carrier delivers dispatchable location information with 9-1-1 calls. It would be wrong to assume that the raw number of reference points will be representative of the solution’s ability to estimate dispatchable locations. This might have been the case with the NEAD, where public safety organizations had transparency and some degree of influence over how it was developed and used to estimate dispatchable locations, but this is not the case for other dispatchable location solutions.

Rather than basing compliance on the number of reference points in a database, the better approach would be to establish a specific minimum percentage of calls that must be delivered with a dispatchable location. The Commission declined to do so in the Order, citing the 2022 requirement for carriers to provide dispatchable location when “technically feasible and cost-effective,” as well as concern that a minimum percentage threshold would go beyond what is technically feasible and cost-effective.¹⁰ This explanation is unreasonable for the following reasons:

1. This reasoning implies that the 9-1-1 location rules should not be used to require carriers to invest in new solutions and overlooks the Commission’s recognition that dispatchable location is being provided for some calls already and that solutions are likely to become increasingly available.¹¹ The Commission’s reasoning is thus doubly incongruous with its decision to reject concerns that deploying z-axis technology nationwide is not technically feasible, noting that “at least [it] will be in the near future.”¹²

¹⁰ Order paras. 52-53.

¹¹ *Id.* para. 51.

¹² *See id.* n. 52 (rejecting arguments from CMRS providers that no solution has been demonstrated to meet the z-axis metric in all morphologies), para. 23 (“[D]eploying z-axis technology on a nationwide basis is technically feasible—or at least will be in the near future.”); *but see id.* para. 51 (“Dispatchable location is already being provided for some number of 911 calls, and dispatchable location solutions are likely to become increasingly available with the rollout of 5G networks and improved indoor mapping of large buildings and other structures.”).

2. The concern that the minimum percentages might exceed what's technically feasible could easily be addressed by starting with conservative percentages based on reasonable estimates of what's feasible. For example, the Commission already has record evidence of carriers providing dispatchable locations for certain calls and could have established benchmarks based on this information.
3. Because the Commission has not explained the meaning of "technically feasible and cost-effective" (despite concerns over ambiguity¹³), the 2022 benchmark fails to provide incentives for carriers to build on existing progress and continue to invest in dispatchable location solutions.
4. Establishing a minimum percentage threshold for dispatchable location would eliminate a significant loophole in the rules and be consistent with the Commission's horizontal accuracy requirements (which are based on providing compliant location information for a certain percentage of calls).¹⁴

Reconsideration of the Order is necessary to fix a gap in the rules and would be in the public interest. Fundamentally, the rules must be revised to provide a meaningful path to dispatchable location, even if this means requiring carriers to invest in current and new technologies and enter into contractual arrangements with a variety of partners.¹⁵ The Commission can solve several problems with the rules, get 9-1-1 professionals the location information they've asked for,¹⁶ and better promote public safety by establishing a minimum percentage of 9-1-1 calls that must be delivered with dispatchable location information.¹⁷

¹³ Letter from Jeffrey S. Cohen, Chief Counsel, APCO International, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 07-114 (filed July 7, 2020) at 2-3 (explaining that allowing qualifying language rather than requiring minimum percentage thresholds will allow carriers to exploit the ambiguity without working towards any established benchmark for dispatchable location.).

¹⁴ APCO has previously explained the danger of the rules requiring *deployment* of technology rather than the *delivery* of location information. *See id.* at 2. The Order did not reflect an understanding of this concern. *See, e.g.*, n. 186 (responding to APCO's request for clarification of the rules so PSAPs know when they may seek enforcement of the location accuracy rules pursuant to 47 C.F.R. § 9.10(i)(2)(iv) by noting that PSAPs can seek enforcement of the location accuracy rules pursuant to 47 C.F.R. § 9.10(i)(2)(iv)).

¹⁵ APCO Comments at 5-7.

¹⁶ *See* Order n. 144; *see also* Fifth Report and Order n. 142.

¹⁷ For example, a revised rule could read, "By April 3, 2021: In each of the top 25 cellular market areas (CMAs), nationwide CMRS providers shall ~~deploy~~ provide either dispatchable location for xx% of calls or ..." APCO previously provided recommendations on minimum percentage thresholds, based on an estimate of what would be technically feasible. Letter from Jeffrey S. Cohen, Chief Counsel, APCO International, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 07-114 (filed Oct. 25, 2019) at 8.

Respectfully submitted,

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