

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Wireless E911 Location Accuracy  
Requirements

911 Requirements for IP-Enabled Service  
Providers

PS Docket No. 07-114

WC Docket No. 05-196

**COMMENTS OF T-MOBILE USA, INC.**

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**I. INTRODUCTION AND SUMMARY**

T-Mobile agrees with the Association of Public-Safety Communications Officials-International (“APCO”) that the location information provided with wireless 911 calls should be as accurate as reasonably possible and commends the Commission for now moving forward to address the issues involved in ensuring that this is the case.<sup>1</sup> Under Chairman Martin’s leadership, the Commission has demonstrated a strong commitment to public safety and the improvement of wireless E911 services. T-Mobile shares those objectives.

As noted by the Chairman, one issue that needs to be resolved is the geographic area over which accuracy compliance should be assessed. OET Bulletin No. 71, Network Reliability and Interoperability Council (“NRIC”) VII deliberations, and APCO’s petition all showed that the area at which location accuracy is to be measured is an important as

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<sup>1</sup> *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Association of Public-Safety Communications Officials-International, Inc. Request for Declaratory Ruling, CC Docket No. 94-102 (filed Oct. 6, 2004) (“APCO Request”).

yet unspecified dimension of E911 accuracy standards. And, as NRIC VII reported, “all parties agree that it is not technically possible today for every carrier to meet the FCC location accuracy requirement at every PSAP.”<sup>2</sup> While T-Mobile supports better location performance, implementation of PSAP-level accuracy to all PSAPs even at today’s accuracy standards will require significant new technology advancements.

T-Mobile supports the Commission’s decision to review the state of accuracy technology and to determine how best to make further improvements. However, the objective of raising the bar for E911 accuracy<sup>3</sup> can best be achieved by considering the specification of a PSAP-level measurement and accuracy compliance area as part and parcel of the overall E911 accuracy changes being considered by the Commission. Specifying now for the first time that the current requirements must be met at the PSAP level, when the Commission is assessing many other fundamental revisions to the accuracy requirements, would push forward on a single factor without considering interrelated nature of the overall solution. As Commissioner McDowell cautioned, “many wireless carriers are not generally capable of measuring and testing location accuracy at the PSAP level, and ... require adequate time to achieve this measurement.”<sup>4</sup> Developing and then implementing new technologies to meet a PSAP-level accuracy requirement when the Commission may also require the development of technology to accommodate further changes to the location requirements could well be

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<sup>2</sup> NRIC VII, Focus Group 1A, Near Term Issues for Emergency/E9-1-1 Services, Final Report at 51 (Dec. 2005)(“NRIC VIII Report”).

<sup>3</sup> *See Wireless E911 Location Accuracy Requirements*, PS Doc. No. 07-114, *911 Requirements for IP-Enabled Service Providers*, WC Doc. No. 05-196, Notice of Proposed Rulemaking (May 31, 2007)(“*NPRM*”), Separate Statement of Chairman Kevin J. Martin (“the bar must be raised for E911”).

<sup>4</sup> *NPRM*, Separate Statement of Commissioner Robert M. McDowell, at 1.

counterproductive, unnecessarily consuming industry and PSAP resources to modify existing networks to meet an interim standard.

Instead, the Commission should consider this issue of the geographic area over which accuracy requirements must be met together with the issues of (1) what the specific accuracy requirements will be, (2) the transition period needed to implement to any new level of accuracy, including the time for industry to develop and standardize new location solutions, to incorporate those solutions into equipment (including possibly handsets) and test, optimize, and to deploy the new equipment, (3) technical feasibility, (4) economic reasonableness, and (5) a careful evaluation of the cost-benefit tradeoffs – both with respect to public safety objectives and overall public welfare. This thorough analysis would allow the Commission to consider options such as topographic or geographic-based standards, a possibility raised by Commissioner Adelstein.<sup>5</sup> It would also allow the Commission to better evaluate the precise capabilities and limitations of today’s emergency calling technologies, as Commissioner Copps suggests.<sup>6</sup>

Proceeding in this analytical manner better protects the Commission’s decisions from future legal challenges. To avoid being arbitrary and capricious, the Commission’s rules must be, among other things, technically feasible. Similarly, the Commission, like all other government agencies, is required to engage in cost-benefit and risk analyses of its proposed regulations, both as part of the reasoned decisionmaking required by the Administrative Procedures Act and through the express requirements of the Information Quality Act.

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<sup>5</sup> *NPRM*, Separate Statement of Commissioner Jonathan S. Adelstein, at 2.

<sup>6</sup> *NPRM*, Separate Statement of Commissioner Michael J. Copps.

**II. THE COMMISSION SHOULD CONSIDER PSAP-LEVEL ACCURACY ALONG WITH ALL OTHER CHANGES TO THE CURRENT ACCURACY STANDARDS.**

In the NPRM, the Commission appropriately initiated a broad reevaluation of the existing wireless E911 autolocation and accuracy standards, which were adopted in 1999.<sup>7</sup> In addition to seeking comment on whether accuracy should be determined at the PSAP-level, the Commission is considering whether the permissible range of results should be further tightened, specifically through unified performance requirements for both handset and network-based technologies. The Commission also is examining changes to industry agreed practices on the required amount of in-building compliance testing. Finally, the Commission is seeking information on the current capabilities of location technologies, including hybrid solutions that use both handset and network-based technologies.

Each of the major changes outlined by the Commission in the NPRM (taken together or separately) will require significant new autolocation technology development, involve substantial network, equipment, and most likely handset changes by the wireless carriers, and also involve a substantial increase in compliance testing. When the NRIC examined, at the Commission's direction, the question of the appropriate geography for accuracy testing and compliance, it concluded "the current limits of location technology do not allow precise location for all callers in all locations"<sup>8</sup> and, "[g]iven the current state of location technology, it is understood that the FCC accuracy rules will not be met

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<sup>7</sup> See generally *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Third Report and Order, 14 FCC Rcd 17388 (1999) ("*Third Report and Order*").

<sup>8</sup> NRIC VII Report § 3.2.1, page 18.

at every PSAP.”<sup>9</sup> In this context, T-Mobile urges the Commission to determine the ultimate technically feasible objective before taking steps, such as specifying PSAP-level accuracy compliance requirements, which might or might not be reasonable steps in an orderly transition from the current level of accuracy performance to any new mandated level of performance. Otherwise, industry, and possibly PSAPs, will have to devote resources to developing and implementing interim requirements that will necessitate network and operational changes but may not support the ultimate technical and operational solutions.

T-Mobile’s situation illustrates this dilemma. At the present time, T-Mobile cannot meet the rule 20.18 network-based accuracy standards on a PSAP-level basis everywhere within its footprint using its current Uplink-Time Difference of Arrival (U-TDOA) solution and current cellsites. T-Mobile meets these requirements in many areas, but there are areas where the current accuracy requirements cannot be met even when location monitoring units (LMUs) are placed at every cellsite – as T-Mobile has done in the areas where accuracy is most challenging.<sup>10</sup> Although in theory further accuracy could be gained by building more sites solely to create additional accuracy monitoring points (*i.e.*, not because the additional sites are needed to support the provision of the underlying service), this not a reasonably available option. In some instances, it will not

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<sup>9</sup> *Id.* at § 4.1.2, page 21. Indeed, NRIC recommended, “FCC compliance will be measured at the State level.” *Id.* As contemplated by the NRIC Report, statewide compliance testing would occur once a carrier deployed Phase II to 50 percent of its cell sites and again at the 90 percent deployment benchmark. *Id.* at § 4.1.2, page 22. In addition, NRIC recommended ongoing maintenance testing to ensure continued system performance. *Id.* The various recommendations set forth in the NRIC report were designed to be complementary and inseparable, representing an integrated approach to E911 accuracy. *See id.* at § 1.1, page 2, § 4.1.2, page 21. Nothing in the record since NRIC VII indicates that technological changes have rendered NRIC VII’s conclusions obsolete.

<sup>10</sup> Adding LMUs to additional cellsites would not significantly increase the number of PSAPs for which T-Mobile could meet the current accuracy standards at the PSAP-level.

be possible to build such sites given geographic and other constraints on tower siting. Moreover, even in areas where additional tower deployments otherwise would be technically feasible, some local jurisdictions have opposed new sites (the “Not In My Back Yard” phenomenon) even if they understand that they could improve E911 performance.

Furthermore, the costs of building and operating additional sites are substantial. When additional sites would only be added to accommodate additional LMUs, a carrier will have to consider dropping coverage in some hard-to-serve areas. In addition, the cost of building and operating these location-only sites detracts from the ability to build and operate sites that would enhance coverage and/or service, with associated safety benefits for consumers. Given the limitations of U-TDOA technology, this factor comes into play most acutely in underserved rural areas, where the economic case for entry by new carriers already is the most tenuous. Thus, the Commission’s new rules could have an unintended consequence of less coverage, less competition and less ability to use mobile 911 and E911 in rural areas. In short, to be able to meet a PSAP-level accuracy reporting and compliance mandate even at the existing accuracy thresholds requires a major change (enhancement or replacement) of T-Mobile’s location technology solution.

Further, because the Commission is considering additional changes to the accuracy performance requirements, carriers will not be able to select the most appropriate new technologies that would support those new accuracy performance requirements until they are finalized. The ultimate performance requirements will necessarily dictate the choice of available solutions, assuming that there are actually available technologies that could meet the Commission’s new requirements. Likewise,

because the technologies will have to be integrated with the rest of the network and handset components by the network and handset equipment vendors, the technology solutions adopted by the largest industry players will drive the solutions available to all others.<sup>11</sup> And, if handset changes are part of the technological solution, as in the case of hybrid technologies (for example), experience has shown that it can take at least eight years for carriers to comply with the Commission's handset penetration requirements.<sup>12</sup>

For T-Mobile to be compelled to build additional cell sites to attempt to achieve PSAP-level accuracy at every PSAP today, only later to be required to migrate to a technical solution in which such added investments may be wholly unnecessary, would waste resources, and potentially would delay a more complete solution. Thus, the better and ultimately faster path would be to determine where the Commission seeks to end up – on a technically and operationally feasible and economically reasonable basis – and

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<sup>11</sup> This is essentially what occurred in the implementation of the current Phase II technologies. T-Mobile, for example, initially started down the road of deploying a hybrid network/handset solution. However, as it did so, U.S. GSM carrier support (particularly from Cingular and AT&T Wireless, which were at that time the two largest GSM carriers) moved away from that solution, in part because they sought to leverage the TDOA investment they were making for their TDMA networks and in part because of concerns both in being able to meet the handset-based accuracy thresholds and in being able to achieve the required handset penetration under the then-applicable timelines. (Those concerns were validated when handset penetration deadlines were extended. Even today, many carriers do not yet meet the 95% handset penetration requirement.) T-Mobile, which at the time had less influence than Cingular and AT&T on the technologies adopted and implemented by manufacturers in the GSM equipment market, ultimately adopted the same U-TDOA solution as the two much larger GSM carriers.

<sup>12</sup> As the Commission recognized in 1999, “For any of several reasons, (*e.g.*, a recession, declining growth rates, or early deployment of non-ALI-capable digital phones that customers elect not to replace), the actual pace of ALI-capable handset deployment could lag and may take several years. Some customers will undoubtedly elect to economize by keeping their handsets for much longer than average, despite the advantages of ALI-capable handsets.” *Third Report and Order*, 14 FCC Rcd at 17412. Indeed, it appears that no major CDMA carrier was able to meet the Commission's deadline for 95% penetration of location-capable handsets by December 31, 2005. *See Request for Waiver of Location-Capable Handset Penetration Deadline by Sprint Nextel Corporation*, Order, 22 FCC Rcd 400, 412 (2007) (referring Sprint Nextel to Enforcement Bureau for failure to meet handset penetration requirement notwithstanding that “but for Sprint's acquisition of Nextel, Sprint would have been the only major handset-based carrier to have timely achieved compliance with the December 31, 2005 deadline”); *Request for Waiver of Location-Capable Handset Penetration Deadline by Verizon Wireless*, Order, 22 FCC Rcd 316 (2007). Many handset-based carriers are still working to meet the 95% handset penetration requirement.

then determine the progress milestones that best move toward that goal. Proceeding in a more integrated manner allows the Commission to perform the necessary due diligence and to establish a transition schedule and progress benchmarks that do not waste PSAP or carrier resources.

As the NPRM recognizes, and as Commissioner Copps emphasized, part of determining any new accuracy standard requires a careful evaluation of the actual technical capabilities in real-world operating environments and conditions of network technologies. Technology vendors will make a wide variety of claims, but the Commission should insist upon more than vaporware promises; it needs to know how those technologies actually perform in the field. Moreover, technologies must be compliant to existing deployed standards-based interface points, be able to be integrated into existing networks without degrading network performance, and will have to be tested against other network functions. Furthermore, as Commissioner Adelstein posited, the accuracy thresholds themselves may vary based on topographic or demographic considerations, which could affect the appropriate geographic area for measuring and reporting compliance. The Commission could also sort out the issue of who the PSAP is for measurement and compliance purposes in the case when a request is made by one entity for a group of PSAPs, as well as how to address situations (such as in California, where the California Highway Patrol is the PSAP for the highways, but individual cities, counties and towns are the PSAPs for areas that abut the highways). An integrated approach, rather than implementing on a standalone basis a PSAP-level accuracy measurement and compliance rule, would help ensure realistic accuracy and reliability requirements that are achievable.

Moreover, in fashioning both its requirements and the transition path, the Commission needs to consider the net impact of any change, both on its public safety interests and on consumer welfare as a whole. The costs of all these new requirements are certain to be substantial. As the National Association of State 911 Administrators has explained, “the cost to improved accuracy and compliance testing cannot be viewed in a vacuum. If not used for improvement of accuracy or testing the funding, be it public funds in a cost recovery state or the private funds of the carrier, could be used to benefit other public safety needs such as expanding wireless coverage into an area without service so a 9-1-1 call can be completed at all.”<sup>13</sup> In addition to the alternative beneficial uses of the same capital budgets, if T-Mobile or other similarly-situated carriers drop service in some areas as an alternative to adding cellsites solely to improve U-TDOA performance, public access to 911 and E911 will also be reduced.<sup>14</sup> Public access to 911 and E911 likewise will diminish if carriers’ prices increase across the board because of implementation costs or state cost recovery fees: demand for wireless service is elastic, and thus increased prices can be accompanied by an offsetting fall in subscription. The Commission needs to weigh these trade-offs.

The Commission also should seriously consider implementing any new accuracy requirements, including a PSAP-level measurement and requirement specification, as wireless Phase III, rather than a change to Phase II requirements. It serves no public safety purpose to require the carriers to test each and every PSAP area for compliance if the individual PSAPs lack the financing, staff or operational concern about accuracy to

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<sup>13</sup> Letter from Steve Marzolf, President, National Association of State 9-1-1 Administrators to Chairman Martin, CC Docket No. 94-102, at 2 (Sept. 19, 2005).

<sup>14</sup> In many cases, these may be consumers that are just passing through the area, such as consumers driving down the highway.

actually review the resulting reports. Thus, any future testing requirements should be attached to requests by specific PSAPs for such testing. This approach would also allow proper sizing of the testing activity since a 911 authority could request testing on an appropriate scale (*i.e.*, county or state level testing versus stringent requirements for PSAP-level testing which must then be rolled up to county or state levels to be meaningful to the requesting agency).

Finally, although T-Mobile favors an integrated analysis and solution, the Commission could adopt the NRIC VII recommendations on accuracy as an appropriate near-term achievable step to provide increased assurances that all stakeholders are working toward PSAP-level accuracy to improve accuracy performance. NRIC VII set PSAP-level compliance as the objective, where technically feasible and economically reasonable, and outlined an optimization process to help ensure that the best achievable performance is actually provided in a given area. While such a step may not necessarily be the endpoint, it would provide a better assurance of accuracy without spurring network or other technology changes that may be incompatible with the final standards that are established. Implementing NRIC VII accuracy recommendations, including the optimization process, would also provide an additional base of experience with accuracy technologies to inform any further regulatory changes.

**III. AN INTEGRATED APPROACH TO ALL ACCURACY STANDARD CHANGES AND A REASONABLE AND TECHNICALLY FEASIBLE TRANSITION PLAN WOULD HELP ADDRESS POTENTIAL LEGAL ISSUES.**

Approaching all changes to the accuracy standards in a unified manner not only makes practical and policy sense, but would also help the Commission assure that its new requirements meet all legal standards. In particular, the law requires that the ultimate

accuracy requirements, as well as the transition path, be technically feasible, and that the Commission undertake a cost-benefit review of its proposed changes.

**A. The Commission’s 911 Accuracy Rules, and Its Transition Path, Must Be Technologically Feasible.**

Absent express statutory authorization, it is arbitrary and capricious for an agency to issue requirements that are not technologically feasible.<sup>15</sup> As the D.C. Circuit has found, “[i]mpossible requirements imposed by an agency are perforce unreasonable.”<sup>16</sup> Similarly, the Ninth Circuit has held, “[t]he record must establish that the required technology is feasible, not merely *possibly* feasible.”<sup>17</sup>

The Commission lacks express statutory direction to adopt technically infeasible E911 accuracy requirements. First, the Communications Act does not address 911 requirements at all. And, the Wireless Communications and Public Safety Act (“911 Act”)<sup>18</sup> expressly did not authorize any new requirements. Section 615 of the 911 Act, which authorizes the Commission to “encourage and support” efforts to make 911 available, concludes, “[n]othing in this subsection shall be construed to authorize or

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<sup>15</sup> Notwithstanding some of the discussion in the NPRM, any requirement of PSAP-level accuracy measurement and compliance would be a new rule, rather than a mere clarification. The *Third Report and Order* specifically decided not to set forth required methods measuring compliance with location accuracy requirements, delegating that task instead to OET and the Wireless Bureau. *Third Report and Order*, 14 FCC Rcd at 17427. Moreover, OET Bulletin No. 71 not only did not specify PSAP-level accuracy requirements, but also specifically included metropolitan area testing as a possibility. Federal Communications Commission, OET Bulletin No. 71, Guidelines for Testing and Verifying the Accuracy of Wireless E911 Location Systems, at 4 (Apr. 12, 2000), available at [http://www.fcc.gov/Bureaus/Engineering\\_Technology/Documents/bulletins/oet71/oet71.pdf](http://www.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet71/oet71.pdf). Indeed, as OET explained, the Bulletin was “*not intended to establish mandatory procedures,*” and “*other methods and procedures may be acceptable if based on sound engineering and statistical practices.*” *Id.* at 2.

<sup>16</sup> *Alliance for Cannabis Therapeutics v. DEA*, 930 F.2d 936, 940 (D.C. Cir 1991); *cf. Edison Electric Institute v. EPA*, 996 F.2d 326, 337 (D.C. Cir. 1993)(“the fact that technology may not be able to keep up with timetables established by Congress does not mean that courts are at liberty to ignore them, however burdensome the resulting enforcement.”).

<sup>17</sup> *Bunker Hill Co. v. EPA*, 572 F.2d 1286 (9<sup>th</sup> Cir. 1977).

<sup>18</sup> Pub. L. 106-81, codified at scattered sections of 47 U.S.C.

require the Commission to impose obligations or costs on any person.”<sup>19</sup> Finally, the ENHANCE 911 Act,<sup>20</sup> which made federal grants available to expand and improve E911 capabilities, only authorized the creation of the E911 Implementation Office along with the Phase II E911 Grant program. Thus, none of the relevant statutes authorize the Commission to promulgate technology-forcing wireless E911 accuracy rules.

The Commission also may not adopt technically infeasible requirements by holding out the possibility that it may later waive or forbear from the enforcement of those requirements. As the courts have made clear, “the Commission cannot escape judicial review of wholly arbitrary action by instituting a waiver procedure that would allow it to correct in the future at its discretion the arbitrary results of that action.”<sup>21</sup> Instead, what the Commission must do is make its rules effective when, but only when, they become technically feasible.

Such forbearance would not be necessary, and legal issues of the Commission’s authority would not be raised, if the Commission integrates the question of PSAP-level accuracy measurement and compliance into an overall, technically feasible plan for new accuracy standards with a technically feasible transition path. Such an approach would best put the Commission on the road to “realistic accuracy and reliability requirements that are achievable,”<sup>22</sup> but that also “raise[s] the bar” for E911 location accuracy.<sup>23</sup>

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<sup>19</sup> 47 U.S.C. 615. *Cf. Union Elec. Co. v. EPA*, 427 U.S. 246, 257 (1976) (“[T]he 1970 Amendments to the Clean Air Act were a drastic remedy to what was perceived as a serious and otherwise uncheckable problem of air pollution. The Amendments place the primary responsibility for formulating pollution control strategies on the States, but nonetheless subject the States to strict minimum compliance requirements. These requirements are of a “technology-forcing character,” and are expressly designed to force regulated sources to develop pollution control devices *that might at the time appear to be economically or technologically infeasible.*”) (emphasis added, internal citation omitted).

<sup>20</sup> Pub. L. 108-494, codified at 47 U.S.C. 942.

<sup>21</sup> *Alltel Corp. v. FCC*, 838 F.2d 551, 563 (D.C. Cir. 1988).

<sup>22</sup> *NPRM*, Separate Statement of Commissioner McDowell.

**B. An Integrated Approach to All E911 Location Accuracy Issues in the NPRM Also Permits the Commission To Conduct Its Required Cost-Benefit and Risk Analyses.**

An integrated approach to all accuracy requirements, rather than proceeding immediately with a standalone new requirement of PSAP-level accuracy, would allow the Commission to balance the societal costs and benefits with respect to its proposed action and take actions that will maximize public safety. To be sure, all stakeholders can and should provide the best E911 solution possible given technical and economic constraints, but perfect accuracy is not feasible even in the wireline world.<sup>24</sup> Similarly, the existing handset and network-based standards recognized the tradeoff between high accuracy but lower numbers of people initially with Phase II capability (under the handset rules) and coverage of all subscribers in an area, but with lower accuracy (under the network rules).<sup>25</sup>

Courts have determined that analysis of the costs and benefits relevant to a decision is a core component of reasoned decisionmaking.<sup>26</sup> Moreover, Office of

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<sup>23</sup> *NPRM*, Separate Statement of Chairman Martin.

<sup>24</sup> NENA Technical Committee Chairs, Data Standards For Local Exchange Carriers, ALI Service Providers & 9-1-1 Jurisdictions Issue 6, at 21 (Nov. 21, 2006) (“It is desirable that Jurisdictions, DBMSPs, and SPs have a 98% database accuracy (MSAG valid ALI records) prior to taking ‘LIVE’ Enhanced 9-1-1 calls.”). Indeed, if a wireline telephone is part of a Multi-line Telephone System such as a private branch exchange, the location information (particularly in the case of a campus setting with multiple buildings using a common telephone system) can be far less accurate than when using a wireless phone—a problem that is well known to the Commission. See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 25340, 25361-62 (2003); *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Further Notice of Proposed Rulemaking, 17 FCC Rcd 25576, 25605-07 (2002); *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Notice of Proposed Rulemaking, 9 FCC Rcd 6170, 6170-73 (1994).

<sup>25</sup> *Third Report and Order*, 14 FCC Rcd at 17391-2 (¶ 8).

<sup>26</sup> See, e.g., *American Petroleum Institute v. EPA*, 216 F.3d 50, 57-58 (D.C. Cir. 2000) (“EPA makes no attempt to balance the costs and benefits of primary treatment, or otherwise to explain why the Clean Water Act requirements are the real motivation behind primary treatment. . . . If the non-Clean Water Act benefits of the initial treatment are enough to justify firms’ incurring the costs . . . , the EPA would

Management and Budget Guidelines promulgated pursuant to the Information Quality Act create a separate independent duty for the Commission to make use of the best available information “conducted in accordance with sound and objective scientific practices” as well as “data collected by accepted methods or best available methods,” and to undertake a risk analysis when it engages in analysis of risks to human health, safety, and the environment.<sup>27</sup> Risk analysis necessarily involves considerations of all the trade-offs of new requirements, including the incremental public safety benefits to be gained from the additional accuracy specification and the possibility that such new requirements may lead to reduced service availability and thus less public access to any form of 911. These requirements apply to the Commission’s health and safety determinations.<sup>28</sup> Indeed, it is hard to imagine Commission actions that affect human health and safety as directly as its regulation of 911 services. Accordingly, the Commission is required to consider social costs and benefits when making any determinations with respect to changing the location accuracy measurement requirements for wireless E911.

With 25 percent of PSAPs still lacking wireless Phase II,<sup>29</sup> it is questionable whether resources are better spent with incremental improvements in those areas with Phase II service already, or in enabling these remaining PSAPs to achieve Phase II service. While these tasks are not mutually exclusive, fewer communities will have

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have to reconcile that fact with any conclusion that the Clean Water Act purpose was primary.”) (emphasis added).

<sup>27</sup> *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*, Final Guidelines (corrected), 67 Fed. Reg. 8452 (Feb. 22, 2002). See generally Section 515 of the Consolidated Appropriations Act, 2001 (Pub. L. 106-554)

<sup>28</sup> See, e.g., The Information Quality Act: The Little Statute that Could (Or Couldn’t?) Applying the Safe Drinking Water Act Amendments of 1996 to the Federal Communications Commission, 59 FED. COMM. L. J., 215 220 (2007).

<sup>29</sup> See 9-1-1 Fast Facts, NENA 9-1-1, available at <http://www.nena.org/pages/Content.asp?CID=144&CTID=22> (last visited Jul. 5, 2007).

Phase II service if the Commission adopts accuracy requirements that lead carriers to drop service altogether.<sup>30</sup> Along the same lines, as discussed above, public safety is enhanced when carriers deploy coverage in underserved areas and extend coverage in existing areas, but added coverage and network deployment are far less likely if there are substantial additional E911 costs associated with doing so (particularly given that carriers also would have to allocate significant resources to meet accuracy requirements for existing deployments). Again, these assessments can best, and legally must, be accomplished within the overall assessment of potential changes to wireless E911 accuracy requirements, rather than by considering PSAP-level measurement and compliance on a standalone basis.

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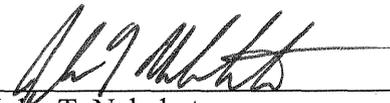
<sup>30</sup> The decision to degrade or drop service affects neighboring communities as well, as served communities often rely on deployments in adjacent communities to provide service to a complete coverage area.

#### IV. CONCLUSION

T-Mobile commends the Commission for initiating its comprehensive review of the nearly nine-year-old E911 accuracy requirements, including the geographic areas to be used for accuracy measurement and compliance, and looks forward to working with the Chairman and Commission as they seek to improve wireless E911 accuracy performance. Given the wide range of changes being considered and the practical difficulties of implementing any PSAP-level requirements for all PSAPs, the Commission should consider PSAP-level measurement requirements only in the broader context of wireless E911 accuracy and, in so doing, acknowledge the practical realities involved with implementing any proposed changes.

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