

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

In the Matter of	)	
	)	
Wireless E911 Location Accuracy Requirements	)	PS Docket No. 07-114
	)	
Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems	)	CC Docket No. 94-102
	)	
Association of Public Safety Communications Officials-International, Inc. Request for Declaratory Ruling	)	
	)	
911 Requirements for IP-Enabled Service Providers	)	WC Docket No. 05-196
	)	

To: The Commission

**REPLY COMMENTS OF RURAL CELLULAR ASSOCIATION**

Rural Cellular Association (“RCA”)<sup>1</sup>, by its attorney, respectfully submits these reply comments in response to comments submitted by numerous parties regarding the Commission’s *Notice of Proposed Rulemaking* in the above-captioned proceeding seeking input on issues relating to 9-1-1 location accuracy and reliability requirements for commercial mobile radio service carriers.<sup>2</sup> At the request of the Association of Public-Safety Communications Officials – International (“APCO”) the Commission proposes to require licensees subject to the rule to satisfy the standards at a geographic level defined by the coverage area of each respective Public Safety Answering Point (“PSAP”).

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<sup>1</sup> RCA is an association representing the interests of nearly 100 small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide service in more than 135 rural and small metropolitan markets where approximately 14.6 million people reside. RCA was formed in 1993 to address the distinctive issues facing wireless service providers.

<sup>2</sup> These Reply Comments specifically address Section III.A of the *Notice* regarding whether the Commission should clarify Section 20.18(h) of the Commission’s rules, specifying standards for wireless E911 Phase II location accuracy and reliability. *See Notice of Proposed Rulemaking*, PS Docket No. 07-114, CC Docket No. 94-102, WC Docket No. 05-196, released June 1, 2007 (“*Notice*” or “*NPRM*”).

## I. Introduction and Overview

A review of the Comments reveals a clear dichotomy in positions and recommendations: Those who would have no direct responsibility to meet a PSAP-level accuracy standard support the APCO-Commission proposal,<sup>3</sup> while those who own, operate or supply the networks recognize that the proposal is not achievable and suggest, in one form or another, further study by the stakeholders or alternative accuracy standards.<sup>4</sup>

Also notable is the fact that RCA and other Commenters that do not support a PSAP-level accuracy rule at this time do in fact support the goal of improved public safety through wireless communications. Each Commenter offers recommendations including one or more of the following to further progress toward improved E911 location accuracy: (A) develop E911 location accuracy standards by a consensus of stakeholders, including Commission staff, Public Safety, telecommunications industry (wireless and local exchange carriers), infrastructure vendors, location vendors (with proven, deployed technology) and handset vendors – working together as an independent E911 Accuracy Forum (“Forum”);<sup>5</sup> (B) adopt the recommendations in the NRIC Focus Group 1A Final Report;<sup>6</sup> (C) develop new testing protocols before new rules are adopted;<sup>7</sup> (D) consider new location accuracy requirements based on areas larger than the

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<sup>3</sup> See Comments of APCO; The Independent Telephone and Telecommunications Alliance (“ITTA”); King County E911 Program (“King County”); The National Association of Telecommunications Officers and Advisors, The National Association of Counties, The National League of Cities, and The U.S. Conference of Mayors; National Emergency Number Association (“NENA”); New York City Police Department; RCC Consultants, Inc.; and Texas 9-1-1 Alliance.

<sup>4</sup> See Comments of AT&T, Inc. (“AT&T”); Cincinnati Bell Wireless LLC; Corr Wireless Communications, LLC (“Corr Wireless”); CTIA – The Wireless Association (“CTIA”); Motorola, Inc. and Nokia, Inc. (“Motorola-Nokia”); Nsightel Wireless, LLC ; Polaris Wireless (“Polaris”); Qualcomm, Incorporated (“Qualcomm”); RCA; Sprint-Nextel Corporation (“Sprint”); T-Mobile USA, Inc. (“T-Mobile”); United States Cellular Corporation (“USCC”); and Verizon Wireless.

<sup>5</sup> See Comments of RCA at 8-10, AT&T at 3-6; CTIA at 6-7; Polaris at 8; and Qualcomm at 7.

<sup>6</sup> See Sprint Comments at 6-8.

<sup>7</sup> See Motorola-Nokia Comments at 10-11.

PSAP level;<sup>8</sup> and/or (E) if, despite significant prospective harms, the Commission adopts location accuracy at the PSAP level, the rule should not take effect until a future time,<sup>9</sup> or the Commission should stay the effectiveness of the new rule rather than defer enforcement while wireless carriers attempt to come into compliance.<sup>10</sup>

It is also noteworthy that NENA, as a public safety organization, is among the Commenters that recognize that the "...idea of an FCC convened 'E9-1-1 Accuracy Forum', or something similar, as proposed in the letter of May 8, 2007 submitted by Verizon Wireless, T-Mobile, Dobson Communications Corp. and the Rural Cellular Association to establish a "technical solutions body" is a worthy idea."<sup>11</sup> That the wireless industry Commenters and NENA largely agree on this point is significant in that it provides the Commission with a consensus that favors, at a minimum, a Forum concept to develop solutions to the issues raised in the NPRM.<sup>12</sup> If new location accuracy rules are adopted without the benefit of a Forum's recommendations, RCA members would be harmed by their inability to comply and by the direct effects that such non-compliance would have on their ability to finance new construction and deploy wireless broadband services to rural areas.<sup>13</sup> RCA respectfully urges the Commission to refrain from adopting standards that cannot be immediately and uniformly met by carriers, and instead permit representatives of E911 stakeholders to develop the next generation of location accuracy testing and compliance standards.

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<sup>8</sup> See, for example, Comments of Corr at 3-6; and USCC at 5-7.

<sup>9</sup> See AT&T Comments at 13-14.

<sup>10</sup> See Comments of RCA fn. 19; Sprint at 15.

<sup>11</sup> See NENA Comments at 5, fn. omitted.

<sup>12</sup> See CTIA Comments at 6.

<sup>13</sup> RCA's wireless carriers operate in rural markets and in a few small metropolitan areas. No member has as many as 1 million customers, and the vast majority of RCA's members serve fewer than 500,000 customers.

## **II. PSAP-Level Location Accuracy Does Not Further the Commission’s Core Goal, Is Counterproductive, and Fails to Give Sufficient Consideration to Testing and Reporting over Other Areas.**

When public safety is at issue, the end result is paramount. Commenters reiterate that the core goal of the Commission is to “provide meaningful automatic location information that allows first responders to render aid.”<sup>14</sup> The Commission should not disrupt the functioning of the existing wireless network and E911 services, nor prevent even basic mobile 911 services from reaching more users. One extrapolated estimate places the possible cost of PSAP-level testing implementation at \$700M nationally.<sup>15</sup> These costs are borne by carriers, PSAPs, and ultimately the rate-paying consumer. Funds used on expensive testing to confirm that the required level accuracy is not available in many PSAP areas are funds that are not spent on network improvements that will benefit customers and improve availability of E911 services. Carriers will have to delay or cancel plans to expand wireless coverage into areas without any service, eliminating the opportunity for a distressed individual to make any 911 call at all.<sup>16</sup> PSAPs, many of which are not themselves prepared for Phase II testing,<sup>17</sup> will require funding that may place state agencies in a manner of budgetary limbo. As Corr Wireless observed, the Commission cannot allow the best to be the enemy of the good.<sup>18</sup> Location identification that finds an individual within larger parameters is much more effective to first responders – and the caller -- than the result of having no signal at all.

Current technology does not allow carriers to achieve the proposed accuracy requirements. King County recognizes that “[g]iven the magnitude of problems and the serious

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<sup>14</sup> Motorola and Nokia Comments at 3-4.

<sup>15</sup> Sprint Comments at 12-13.

<sup>16</sup> A point made by the National Association of State 911 Administrators (“NASNA”). Letter from Steve Marzolf, President, NASNA to Chairman Martin, CC Docket No. 94-102, at 2 (Sept. 19, 2005).

<sup>17</sup> NENA estimates “twenty five percent of PSAPs, in approximately forty percent of U.S. counties still are not capable of receiving Phase II wireless E9-1-1 data.” NENA Comments at 6.

<sup>18</sup> Corr Wireless Comments at 3.

flaws in the location determination technologies that are currently deployed, it will take some time for new technologies to be developed and deployed.”<sup>19</sup> As noted by several carriers, if the APCO proposal is adopted every wireless carrier in the United States will most likely be non-compliant in some part of its network.<sup>20</sup> As discussed in Section III, *infra*, this would be destabilizing to this nation’s emergency response network as a whole.

If the Commission allows a Forum to study the issues there may be reason to conclude that a larger geographic testing and compliance area would be an achievable standard. While RCA and others believe it is premature to settle on a specific measurement and compliance area, Corr Wireless offers the idea that compliance be measured on an MTA basis.<sup>21</sup> USCC suggests that a MSA/RSA geographic metric could be more appropriate. Specifically USCC notes that testing at the MSA/RSA level more closely corresponds to the geographic area in which the typical wireless customer uses his or her handset; additionally these delineations are widely accepted and easily identified.<sup>22</sup> As noted by Sprint, “PSAPs can cease to exist and be absorbed into other governmental authorities, or new PSAPs can be carved out of existing coverage areas.”<sup>23</sup> Whether MTA, MSA or RSA, these divisions would likely be more reliable, less complex, and thus less costly, than PSAP level testing. At this time the Commission should not arbitrarily select a geographic area but should await the recommendations of a stakeholder Forum.

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<sup>19</sup> King County Comments at 7. King County recommends that the Commission set an enforcement schedule that would result in progress toward improving location accuracy “...while allowing the carriers sufficient time to develop and deploy new technologies.” *Id.* RCA agrees with the latter statement, provided that a stakeholder Forum is convened to develop appropriate standards before the Commission adopts any new rules.

<sup>20</sup> Sprint Comments at 3 (“every carrier in the United States would be required to seek a waiver of the rule or risk being out of compliance with an FCC regulation.”); U.S. Cellular Comments at 4 (“most, if not all, carriers will presumably violate [the rule] as soon as it becomes effective...”)

<sup>21</sup> *Id.*

<sup>22</sup> USCC Comments at 5-6.

<sup>23</sup> Sprint Comments at 5.

### **III. Deferred Enforcement of Unattainable Mandates Presents Significant Problems**

Though refraining from enforcement may appear to be a convenient solution to a new rule that carriers cannot meet, it can also trigger a domino effect with serious consequences for carriers and their customers. Noncompliance with the Commission's rules can (i) disqualify carriers for license renewal expectancy, (ii) cause carriers to breach covenants and default on loans, and (iii) result in breach of terms of roaming agreements. Whether or not the Commission elects to enforce a rule does not mitigate the potential problems for carriers. Breach of loan terms, for example, can trigger scenarios that present "a classic case of mushrooming unintended consequences"<sup>24</sup> and result in foreclosure, bankruptcy and service shutdowns. Compliance issues would be pervasive and would cause crisis on an industry-wide scale. These disruptions would further intensify the economic burden posed by the testing, resulting in financial instability within the wireless telecommunications sector.

Aside from contract problems, a deferral of enforcement of newly adopted accuracy standards while the Commission waits for technology and testing methodology to catch up with new rules is a patently backwards approach to an avoidable problem.<sup>25</sup> The Commission should refrain from revising Section 20.18(h) to require location accuracy at the PSAP level before it is technically feasible and practical for carriers to locate callers within the accuracy tolerance at the PSAP level. A much more reasoned and pragmatic approach could be taken by formation of a stakeholder Forum to develop reasonable and achievable standards for testing and reporting of Phase II data by wireless carriers. RCA endorses the call from USCC that "[r]egardless of the geographic area the Commission ultimately selects for location accuracy compliance, the

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<sup>24</sup> Corr Wireless Comments at 9.

<sup>25</sup> Nevertheless, if the Commission were to pursue this backwards approach it should stay the effective date of the new rule, not defer enforcement of the new rule.

Commission should allow PSAPs and wireless carriers to modify the requirement by separate agreement.”<sup>26</sup> When considering life-saving actions by first-responders, those that have experience on the ground should be permitted to tailor programs for maximum efficacy and responsiveness.

#### **IV. A Stakeholder Forum Should Develop Standards for Testing and Reporting**

Many Commenters agree – more tellingly, none initially object – to the formation of a technical solutions body that would report to the Commission.<sup>27</sup> Specifically, a technical advisory group modeled after the WARN Act Advisory Committee would be the best and most reasonable approach to forming a well-considered and well-balanced solution.<sup>28</sup>

Because most carriers have deployed Phase II services it makes sense to conference on the feasibility and desirability of related rules governing automatic location identification (“ALI”) formatting, database queries, and the network redundancy concerns addressed at NRIC VII.<sup>29</sup>

A Forum principally staffed by engineers and technical experts would be geared towards advancing technological solutions and would be less susceptible to partisan delays. Knowledgeable personnel from Commission staff, Public Safety groups and several facets of the telecommunications industry could be tapped for their expertise and could focus the direction of the conversation.<sup>30</sup>

Most importantly, the Forum would build upon, not repeat, the work already undertaken

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<sup>26</sup> USCC Comments at 7.

<sup>27</sup> AT&T, CTIA, NENA and Qualcomm all specifically mention the need to engage all stakeholders in the process of improving E911 Accuracy.

<sup>28</sup> AT&T Comments at 3 (“The best approach for improving location accuracy would be to convene an advisory committee modeled after the WARN Act Advisory Committee,” citing to statement of Commissioner Jonathan S. Adelstein); CTIA Comments at 6 (the Commission should model the forum after the WARN Act).

<sup>29</sup> See NRIC VII Report at Sections 4.3-4.5, pages 24-38.

<sup>30</sup> All participants would sign Non-Disclosure Agreements to access confidential data necessary to drive technical solutions.

at NRIC, and APCO's Project LOCATE.<sup>31</sup> The technical personnel, mindful of Commission queries from an *NPRM*, would be able to address the practical implications of ALI standards. Notwithstanding the time needed for the Forum to do its work, the end-goal of assistance to first responders with more accurate location information would be realized.

## V. Conclusion

All stakeholders believe E911 location accuracy is an important and worthy goal and wish to continue pursuing it. However, it is critical that the method of reaching that goal does not bring about unintended consequences which would be counterproductive to the overall success of location identification improvement. It is vital that technical and commercial feasibility be considered Gestalt factors – inseparable from the objective as a whole. As such, it would be most constructive to convene a Forum of stakeholders to analyze the issues and define actionable solutions for improved location accuracy results. It is essential that public safety be improved and the surest path to that end is to take a well-reasoned approach that will not penalize carriers before they have a reasonable opportunity to improve location accuracy.<sup>32</sup>

Respectfully submitted,

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*[filed electronically]*

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<sup>31</sup> In this regard, NRIC's recommendations expressly recognized the desirability of optimizing ALI accuracy at the individual PSAP level and provided a mechanism for individual carriers and PSAPs to address that goal. *See* NRIC VII Report at App. E, pages 52-54.

<sup>32</sup> These comments were prepared with the assistance of W. Adam Thomas, law student at the University of Pittsburgh.