

**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 SOUTHERNLINC WIRELESS

By:

Christine M. Gill
David D. Rines
McDERMOTT WILL & EMERY LLP
600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096
T: 202.756.8000
F: 202.756.8087

Holly Henderson
External Affairs Manager
SouthernLINC Wireless
5555 Glenridge Connector, Suite 500
Atlanta, Georgia 30342
T: 678.443.1500

Michael D. Rosenthal
Director of Legal and External Affairs
SouthernLINC Wireless
5555 Glenridge Connector, Suite 500
Atlanta, GA 30342
T: 678.443.1500

Attorneys for SouthernLINC Wireless

Dated: July 11, 2007

EXECUTIVE SUMMARY

SouthernLINC Wireless hereby submits its reply comments opposing the Commission's proposal to substantially change its location accuracy rules to require that compliance with the location accuracy standards of Section 20.18 of the Commission's rules be measured at the PSAP level, without first evaluating the myriad technical, logistical, and economic ramifications. The public interest requires that these issues be appropriately considered before any decisions are made, and SouthernLINC Wireless accordingly joins with numerous other parties in this proceeding in urging the Commission to address the issue of wireless E911 location accuracy through the creation of a forum or technical advisory group

As a regional Tier III carrier, SouthernLINC Wireless has found the challenges of providing the most accurate location information possible to be daunting. SouthernLINC Wireless is concerned that the Commission's proposed new testing regime will place an enormous strain on Tier III carriers in particular, draining and diverting vital resources from these carriers' efforts to roll out Phase II services and achieve full compliance with the Commission's Phase II requirements. SouthernLINC Wireless is also concerned that the Commission's proposal will require the investment of millions of dollars in new technologies that haven't been developed and which may not even work – meaning that the Commission may once again be setting ambitious goals for wireless E911 that ultimately may not be realistic. If this should prove to be the case, SouthernLINC Wireless is concerned that, as before, there will be a disproportionate impact on the regional and rural carriers that many Americans rely on for access to mobile wireless service, including access to wireless E911.

The Commission's proposal also raises a host of practical and logistical issues affecting the country's PSAPs, such as the problem of defining what a PSAP area is for purposes of the proposed new rule, as well as the problem of the enormous impact that implementation of this rule would have on already-strained PSAP resources. Instead, SouthernLINC Wireless submits that the public interest would best be met by using the resources available to bring E911 Phase I and Phase II capabilities to as many PSAPs – and to as much of the public – as possible, rather than diverting these resources to refine services in areas where wireless users already receive the most accurate location service that existing technology can provide.

The Commission's proposal also raises significant legal and public policy concerns, including the Commission's compliance with the Administrative Procedure Act in adopting its proposed new requirements. This proposal is a substantive rule change that would impose substantial, new obligations on wireless carriers, and it must therefore be based on a record far more complete than the one the Commission presently has before it. Moreover, if the Commission should nevertheless adopt its proposed new rule, it must stay the effective date of such a rule to provide carriers with sufficient time to come into compliance without imposing on them the liabilities and burdens that would result from a "deferred enforcement" approach.

Finally, as stated above, SouthernLINC Wireless joins with others in this proceeding in calling for the creation of a forum that would allow all stakeholders to work together on the improvement of E911 location accuracy. As the comments in this proceeding demonstrate, there is a broad consensus in favor of finding a mutual solution to this question.

TABLE OF CONTENTS

	PAGE
I. INTRODUCTION	
A. About SouthernLINC Wireless	2
B. The Impact of the Commission’s Proposals on Regional and Rural Carriers	3
II. DEFINING PSAPS AND THE IMPACT ON PSAPS	6
A. Defining the Appropriate PSAP or PSAP Area	6
B. The Impact on PSAP Resources	8
III. THE COMMISSION’S PROPOSAL RAISES SIGNIFICANT LEGAL AND PUBLIC POLICY CONCERNS	11
IV. THE COMMISSION SHOULD STAY THE EFFECTIVENESS OF ANY NEW REQUIREMENTS AND NOT PLACE CARRIERS IN REGULATORY “LIMBO”	13
V. SOUTHERNLINC WIRELESS SUPPORTS THE CREATION OF A FORUM ON IMPROVING E911 LOCATION ACCURACY	15

**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 SOUTHERNLINC WIRELESS

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless

("SouthernLINC Wireless") hereby submits its reply comments in the above-captioned proceeding regarding E911 location accuracy requirements for providers of commercial mobile radio services (CMRS).¹ Because the Commission has bifurcated this proceeding and is at this time considering only those proposals set forth in Section III.A. of the *NPRM*, SouthernLINC Wireless' reply comments respond to these proposals and do not necessarily address additional issues raised elsewhere in the *NPRM*.

¹ / *Wireless E911 Location Accuracy Requirements; 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; 911 Requirements for IP-Enabled Service Providers*, PS Docket No. 07-114; CC Docket No. 94-102; WC Docket No. 05-196, Notice of Proposed Rulemaking, FCC 07-108 (rel. June 1, 2007) ("*NPRM*").

I. INTRODUCTION

A. About SouthernLINC Wireless

SouthernLINC Wireless is a wholly owned subsidiary of Southern Company. SouthernLINC Wireless operates a commercial digital 800 MHz ESMR system using Motorola's proprietary Integrated Digital Enhanced Network (iDEN) technology to provide interconnected voice, dispatch, Internet access, and data transmission services over the same handset.

SouthernLINC Wireless provides these services to approximately 300,000 subscribers in a 127,000 square mile service territory covering Georgia, Alabama, southeastern Mississippi, and the panhandle of Florida. SouthernLINC Wireless offers the most comprehensive geographic coverage of any mobile wireless service provider in Alabama and Georgia, serving the extensive rural territory within its footprint as well as major metropolitan areas and highway corridors. Because of its expansive and reliable coverage within the region, SouthernLINC Wireless' service is widely used by local and statewide public safety agencies, school districts, rural local governments, public utilities, and emergency services such as ambulance companies. It is also utilized by commercial entities and other government entities in both urban and rural areas.

As the Commission is aware, SouthernLINC Wireless has been working hard to fully comply with the Commission's E911 requirements and has already devoted substantial time and resources towards making E911 Phase II service available throughout as much of its service area as possible. However, as a regional Tier III carrier, SouthernLINC Wireless has found the challenges of providing the most accurate location information possible to be daunting.

SouthernLINC Wireless' first significant challenges arose during its efforts to deploy a technology solution that would provide the best possible location information throughout its system. SouthernLINC Wireless initially pursued a network-based solution (since there were no handset solutions available for iDEN at the time), but after expending significant amounts of money and resources and conducting exhaustive research, SouthernLINC Wireless concluded that this solution could not satisfy the Commission's location accuracy requirements in the real world, despite the vendor's representations. A handset-based solution for iDEN then became available, and SouthernLINC Wireless immediately began devoting substantial resources towards the deployment of this solution. These efforts are ongoing, and even today E911 Phase II deployment and compliance efforts make up a significant portion of SouthernLINC Wireless' overall budget. These experiences have provided SouthernLINC Wireless with certain insights regarding the Commission's proposal to change Section 20.18 of the Commission's rules, 47 C.F.R. § 20.18, to require E911 location accuracy to be measured at the PSAP level.

B. The Impact of the Commission's Proposals on Regional and Rural Carriers

First, SouthernLINC Wireless is concerned that the Commission's proposed new testing regime will place an enormous strain on Tier III carriers in particular, draining and diverting vital resources from these carriers' efforts to roll out Phase II services and achieve full compliance with the Commission's Phase II requirements. The deployment of E911 Phase II service to a requesting PSAP is anything but "routine" – rather, it is a complex and time-consuming process that demands substantial effort and resources on the part of both the carrier and the PSAP. Even with repetition, this process does not

become any easier, since every PSAP has its own unique set of issues that must be addressed in order for the carrier to successfully deploy the service within the six-month timeframe required by the Commission's rules.

These efforts already place a significant strain on Tier III carriers – who, despite their more limited resources, are expected by the Commission to meet the same performance standards as the largest nationwide carriers with respect to PSAP deployment and implementation. The additional demand of having to conduct PSAP-level testing for every PSAP (assuming such a level of location accuracy were technologically feasible in the first place) could strain these carriers' resources beyond what they can bear. Not only would carriers' ability to deploy E911 service to additional PSAPs be affected, but, as some commenters have noted, such strains could effectively prevent carriers from rolling out new services (such as advanced data services), prevent carriers from expanding their network coverage (particularly in rural and underserved areas), or compel carriers to stop providing wireless service to some areas altogether.²

In addition, most, if not all, Tier III carriers (and likely many larger carriers as well), lack the internal resources to conduct PSAP-level testing themselves and would thus be compelled to turn to outside vendors to carry out the required tests. However, in

² / See, e.g., Comments of the Rural Cellular Association (“RCA”) at 6; Comments of T-Mobile at 9 and 14 – 15; Comments of SunCom at 4; Comments of Cincinnati Bell Wireless at 4 – 5; Comments of Corr Wireless.

It should be noted that the costs of achieving Phase II compliance already appears to have had the effect of driving some small carriers out of the wireless marketplace entirely. See *Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, Petitions for Waiver of Cellular Phone of Kentucky, Inc., Litchfield County Cellular, Inc. d/b/a Ramcell of Kentucky, and Litchfield County Cellular, Inc. d/b/a Ramcell of Oregon*, CC Docket No. 94-102, Order, FCC 07-77, ¶¶ 11 – 12 (rel. May 2, 2007) (denying the waiver requests of two rural Tier III carriers who sold their systems after determining that they could not afford the network conversion necessary to comply with E911 Phase II requirements).

addition to the costs involved in engaging an outside vendor to conduct testing, it is the experience of SouthernLINC Wireless – and many others – that outside vendors will be focused almost entirely on the large carriers, especially during the first few years, and will ignore the needs of smaller regional and rural carriers entirely.³

SouthernLINC Wireless is also concerned that the Commission’s proposal will require the investment of millions of dollars in new technologies that haven’t yet been developed and which may not even work. Carriers have already made enormous investments to purchase and deploy the newest and best location technologies available, and they have tested and proven the capabilities of these technologies according to the Commission’s current standards. Yet, despite all the good faith best efforts of the industry, public safety, and federal, state, and local governments and agencies, the goal of E911 Phase II deployment has still not been fully achieved.

SouthernLINC Wireless’ concern is heightened by the fact that wireless carriers participating in this proceeding have flatly stated that they cannot meet the location accuracy standards at the PSAP level everywhere within their footprints with their existing technology.⁴ Moreover, Motorola and Nokia, two of the world’s largest manufacturers and providers of CMRS handsets, have stated that “the best practical technology available ... cannot necessarily meet PSAP-level accuracy” and that “wireless providers and manufacturers may be required to develop and deploy new solutions that

³ / See, e.g., Comments of SunCom at 5; Comments of Corr Wireless (stating that “its past experience with the initial E-911 rollout was certainly that small carriers were shunted to the end of the vendor line when it came to industry-wide mandates...”).

⁴ / See, e.g., Comments of T-Mobile at 5; Comments of Verizon Wireless at 21; Comments of SunCom at 3; Comments of RCA at 7.

will greatly exceed the capabilities of the existing handset or network-based technologies, or even a combination of these technologies.”⁵

SouthernLINC Wireless is therefore concerned that the Commission is once again setting ambitious goals for wireless E911 that ultimately may not be realistic.⁶ If this should prove to be the case, SouthernLINC Wireless is concerned that, as before, there will be a disproportionate impact on the regional and rural carriers that many Americans rely on for access to mobile wireless service, including access to wireless E911.

II. DEFINING PSAPS AND THE IMPACT ON PSAPS

The Commission’s proposal to require E911 location accuracy to be tested and measured at the PSAP level raises a host of practical and logistical issues affecting the country’s PSAPs. First, there is the problem of defining what a PSAP area is for purposes of the Commission’s proposed new rule. Second, there is the problem of the significant impact that implementation of the proposed new rule would have on PSAP resources.

A. Defining the Appropriate PSAP or PSAP Area

Several commenters have addressed the wide array of difficulties involved in determining what a PSAP area is for purposes of the Commission’s proposed location

⁵ / Comments of Motorola and Nokia at 8 – 9.

⁶ / SouthernLINC Wireless repeats T-Mobile’s advice that the Commission should view promises from technology vendors with a jaundiced eye. As T-Mobile noted, “[t]echnology 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.” Comments of T-Mobile at 8. It was certainly SouthernLINC Wireless’ experience during the initial deployment of location technology that much of what was promised by vendors couldn’t be delivered.

accuracy measurement requirement.⁷ SouthernLINC Wireless' own experience further illustrates this problem.

SouthernLINC Wireless' service area encompasses 298 PSAPs of varying size, shape, and configuration in four states. This number includes PSAPs that serve populous, yet geographically concentrated urban and suburban areas, as well as single PSAPs serving multiple counties in expansive, sparsely-populated rural areas. Some, but not all, of these PSAPs are contiguous with a city or county boundary, while several others overlap with or are even contained entirely within the geographic area of another PSAP.

For example, Fulton County, Georgia, has a PSAP that covers the entire unincorporated portions of the county. Fulton County also contains cities such as Atlanta, Alpharetta, and Roswell that each have their own PSAPs separate from, and independent of, the Fulton County PSAP, even though their service areas are partially, if not totally, encompassed by the geographic area of the Fulton County PSAP. The relationships these individual PSAPs have with each other and with Fulton County are covered by individual agreements that can change from year to year. Further adding to the dynamics of this situation, new cities and towns are continually being established within Fulton County, such as Milton, a recently-formed town that is currently outsourcing its 911 emergency dispatch services to the Fulton County PSAP, but which may eventually establish its own PSAP just as others in the county have done. Under the Commission's proposed new rule, it is far from clear whether SouthernLINC Wireless would be able to demonstrate compliance by satisfying the location accuracy requirements for Fulton County as a whole, or whether it would also be expected to

⁷ / See, e.g., Comments of AT&T; Comments of Sprint Nextel; Comments of Verizon Wireless.

undertake separate testing and measurement in order to demonstrate compliance for each of the individual PSAPs within the county.

A similar situation can be found in Alabama, where the boundaries of Jefferson County (which includes the city of Birmingham) encompass the service areas of seventeen different PSAPs. By contrast, in central Georgia, seven rural counties have come together to establish the Middle Flint Regional E911 Center, a single PSAP that covers all of the participating counties, resulting in a single, multi-county PSAP service area.

B. The Impact on PSAP Resources

A further problem with requiring location accuracy to be tested and measured at the PSAP level is the strain that such a requirement would place on the resources of the PSAPs themselves, many of which are already overstretched financially and operationally. The actual extent of individual PSAP involvement required to carry out PSAP-level testing is unclear, and the Commission itself does not plan to consider this important question until the second notice and comment round of this bifurcated *NPRM*.⁸ Nevertheless, it is clear that the practical aspects of PSAP-level testing will place a huge burden on the PSAPs.

For example, Motorola and Nokia described many of the steps that would likely be necessary if PSAP-level testing were to be required, including the need for PSAP personnel to handle live wireless 911 test calls from as many as 200 (or more) test points.⁹ Sprint Nextel estimated that the number of test calls required for each PSAP test would be at least 250, but it also stated that the need to achieve statistical validity could

⁸ / See *NPRM* at ¶¶ 14 – 15.

⁹ / Comments of Motorola and Nokia at 7 – 8.

in some cases push this number substantially higher.¹⁰ When the number of test calls required by each carrier is multiplied by the number of wireless carriers in a PSAP's service area, the resulting burden on PSAPs becomes clear – and this is the impact of just one aspect of accuracy testing that would require PSAP involvement.

Of all those who filed comments, only APCO has actually conducted location accuracy testing at the PSAP level, and its resulting “Project LOCATE” report contains revealing information regarding the costs and burdens that such testing could impose.¹¹ According to APCO, it required the expenditure of \$820,000 “and immeasurable volunteer and staff time” to carry out its Project LOCATE accuracy tests at only seven PSAPs, all of which were already Phase II capable.¹² As Sprint Nextel pointed out in its comments, this is equal to \$117,000 per PSAP,¹³ and even this already substantial sum does not account for the “immeasurable” person-hours required to conduct these tests. This clearly demonstrates that the implementation of PSAP-level accuracy testing will demand significant resources. Yet PSAP deployment of Phase II capability has been delayed throughout the country precisely because of a lack of sufficient resources.

For example, of the 298 PSAPs in SouthernLINC Wireless' service territory, approximately 180 of them are still not capable of receiving Phase II service, in large part

¹⁰ / Comments of Sprint Nextel at 13; *See also* Comments of Verizon Wireless at 25 (stating that it conducts “hundreds” of test calls in a test area in order to achieve statistically valid testing).

¹¹ / *See* APCO, *An Assessment of the Value of Location Data Delivered to PSAPs with Enhanced Wireless 911 Calls (Project LOCATE)*, Final Report, April 2007, CC Docket No. 94-102 (filed April 10, 2007; corrected version filed April 30, 2007) (“APCO Project LOCATE”).

¹² / *Id.* at 11 and 13.

¹³ / Comments of Sprint Nextel at 13.

because they lack the resources necessary to become Phase II-capable.¹⁴ Furthermore, of these PSAPs, approximately 104 are not yet capable of receiving Phase I location data, and some parts of SouthernLINC Wireless' service area lack the capability to provide even basic 911 emergency service. SouthernLINC Wireless submits that the public interest would best be met by using the resources available to bring E911 Phase I and Phase II capabilities to as many PSAPs – and to as much of the public – as possible, rather than diverting these resources to refine services in areas where wireless users already receive the most accurate location service that existing technology can provide.¹⁵

Along these lines, SouthernLINC Wireless urges the Commission to pay particular heed to the comments submitted by the State of Montana, where only seven out of fifty-seven PSAPs have deployed E911 Phase II service.¹⁶ In their comments, state officials warn that the Commission's proposals could, if adopted, "have the unintended [sic] consequence of causing Phase II delivery of service to halt in Montana because of financial constraints."¹⁷ Montana urges the Commission to focus instead on what is actually achievable by current location technologies, emphasizing that "E-911 programs need to understand and assess the fiscal impact of any new location technologies *before* the decision is made to implement them."¹⁸

¹⁴ / As its E911 Quarterly Reports to the Commission show, SouthernLINC Wireless has a strong record of timely provisioning PSAP requests for E911 services.

¹⁵ / SouthernLINC Wireless agrees with T-Mobile's observation that, given the number of PSAPs still lacking Phase II capability, "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." Comments of T-Mobile at 14.

¹⁶ / Comments of the State of Montana.

¹⁷ / *Id.*

¹⁸ / *Id.* (emphasis added).

III. THE COMMISSION'S PROPOSAL RAISES SIGNIFICANT LEGAL AND PUBLIC POLICY CONCERNS

As numerous commenters have pointed out, the Commission's proposal to immediately adopt a new PSAP-level accuracy requirement raises significant legal and public policy concerns, including the Commission's compliance with the Administrative Procedure Act.¹⁹ These concerns arise from the Commission's plan to establish a new E911 accuracy requirement *before* gathering any evidence on what is technically feasible.²⁰ SouthernLINC Wireless agrees with AT&T's statement that this proposal "is particularly problematic because the evidence to date makes clear that it is not possible to satisfy the existing wireless E911 requirements on a PSAP-level basis."²¹ SouthernLINC Wireless further agrees with AT&T, Verizon Wireless, and T-Mobile that the adoption by the Commission of requirements that are not technologically feasible is arbitrary and capricious and thus impermissible, and SouthernLINC Wireless supports and endorses the legal analyses advanced by these commenters.²²

In particular, SouthernLINC Wireless agrees that the Commission's proposal to require location accuracy to be measured at the PSAP level is not a "clarification" of the

¹⁹ / See, e.g., Comments of Verizon Wireless; Comments of AT&T; Comments of Corr Wireless Communications.

²⁰ / See, e.g., Comments of SunCom; Comments of Motorola and Nokia; Comments of the State of Montana; See also Comments of NENA at 3 (urging the Commission to issue any decision on Section III.A. of the *NPRM* as a "tentative opinion" only, because "sound answers to the two Section III.A. questions of accuracy measurement area and timing of compliance necessarily depend on the sharing of responses to the multiple questions posed in Section III.B." of the *NPRM*.)

²¹ / Comments of AT&T at 7.

²² / See Comments of AT&T at 6 – 13; Comments of Verizon Wireless at 4 – 14; Comments of T-Mobile at 10 – 15.

existing rule, but rather a substantive rule change.²³ When the Commission first adopted the accuracy standards set forth in Section 20.18, it expressly declined to adopt specific methods for measuring compliance and instead directed OET to work with the industry to develop appropriate guidelines.²⁴ As a result of this decision by the Commission, carriers relied on these guidelines in configuring their networks and technology solutions to meet the location accuracy requirements of Section 20.18 – and nearly every carrier, including SouthernLINC Wireless, currently meets these criteria as established. Accordingly, the Commission’s proposal to now require location accuracy to be measured at the PSAP level represents a substantial change that would impose substantial, new obligations on wireless carriers.²⁵

In addition to the legal issues discussed above, SouthernLINC Wireless is concerned that any rush by the Commission to require PSAP-level accuracy testing without first determining whether such testing is even technically feasible runs a very serious risk of causing public confusion regarding the actual, real-world capabilities of wireless E911. There is already substantial confusion among the public regarding the availability of E911 Phase II service, despite the best efforts of public safety officials and the industry to inform them of the inherent limitations of wireless E911 (even the most industry-savvy users generally do not know at any given time whether the area they are calling from is served by a Phase II-capable PSAP). By promising increased location

²³ / See Comments of AT&T at 10 – 13; Comments of Verizon Wireless at 7; See also Comments of Corr Wireless.

²⁴ / See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Third Report and Order, 14 FCC Rcd 17388, 17426 (1999).

²⁵ / See Comments of AT&T (citing *Sprint v. FCC*, 315 F.3d 369, 374 (D.C. Cir. 2003)).

accuracy – especially when the limits of current technology are known – the Commission risks increasing the level of confusion and giving the public the mistaken impression that they can expect and receive a service today that is, in fact, not possible to provide.

IV. THE COMMISSION SHOULD STAY THE EFFECTIVENESS OF ANY NEW REQUIREMENTS AND NOT PLACE CARRIERS IN REGULATORY “LIMBO”

Should the Commission ultimately decide to require E911 location accuracy to be measured at the PSAP level, it must ensure that carriers are provided sufficient time to undertake the extensive measures necessary to comply with such a requirement. Sufficient time cannot be provided, however, by simply deferring enforcement, as the Commission has proposed. Instead, the Commission must either formally stay enforcement of this new requirement or declare a future effective date that provides carriers sufficient time to come into compliance.

As Sprint Nextel stated, once the Commission adopts the new standard, “all carriers in the United States will be out of compliance with FCC rules – whether or not the FCC chooses to ‘defer enforcement.’”²⁶ This would instantly expose every wireless carrier in the country to significant potential liabilities, including possible civil tort liability.²⁷ As several commenters pointed out, being out of compliance with the Commission’s rules – even if enforcement is “deferred” – can also threaten the financing and credit agreements on which many carriers rely, resulting in punitive increases in interest or even declarations of default for existing agreements and severe restrictions on carriers’ ability to secure new funding.²⁸ The perverse result could very well be that

²⁶ / Comments of Sprint Nextel at 15.

²⁷ / *Id.*; *See also* Comments of CTIA at 5 – 6; Comments of US Cellular at 4.

²⁸ / *See, e.g.*, Comments of Corr Wireless.

carriers are effectively cut off from access to the substantial amount of initial capital that would be necessary to implement the network and technology changes that the Commission's new location accuracy rule would require. Being considered out of compliance with the Commission's rules can also have significant negative effects for carriers during commercial negotiations or when undergoing audits, thus further impacting their ability to continue to do business and provide service.

Accordingly, if the Commission ultimately decides to adopt a new PSAP-level accuracy requirement, the effective date of this requirement must be stayed in order to allow carriers to come into compliance. Furthermore, in determining the appropriate compliance dates for any new E911 requirements, SouthernLINC Wireless agrees with SunCom that the Commission should recognize the particular difficulties that small and mid-size regional and rural carriers could face in achieving compliance, given that – as occurred when location technology was first being deployed – such carriers will likely not have immediate access to the equipment, technology, and resources necessary to achieve compliance.²⁹

Thus, to the extent any new wireless E911 requirements (such as PSAP-level accuracy standards) should require the development and deployment of new technologies, equipment, and/or infrastructure, the Commission should establish staggered compliance dates for small and mid-size Tier II and Tier III carriers – an approach that has already been proven sound and successful during the initial stages of E911 Phase II deployment.

²⁹ / Comments of SunCom at 5; *See also* Comments of T-Mobile at 7; Comments of Corr Wireless.

V. SOUTHERNLINC WIRELESS SUPPORTS THE CREATION OF A FORUM ON IMPROVING E911 LOCATION ACCURACY

Finally, SouthernLINC Wireless joins AT&T, the Rural Cellular Association, T-Mobile, Verizon Wireless, and others in this proceeding in calling for the creation of a forum that would allow all stakeholders to work together on the improvement of E911 location accuracy.³⁰

In particular, SouthernLINC Wireless supports the proposals set forth by AT&T and CTIA to establish a technology advisory group modeled after the WARN Act Advisory Committee.³¹ According to AT&T, the committee – the E911 Technical Advisory Group (“ETAG”) – would include key representatives from the public safety community, the wireless industry, local exchange carriers, technology vendors, and government officials.³² The ETAG would be responsible for determining the appropriate geographic area for measuring location accuracy and the technically feasible level of accuracy to be achieved within that area.³³ SouthernLINC Wireless agrees that this approach would provide an appropriate and reasonable method for identifying and testing new technologies and “providing the Commission with critical evidence regarding the technical and economic feasibility of various wireless E911 requirements.”³⁴

SouthernLINC Wireless submits, however, that such a group must include not only representatives from the major wireless interests but should also include

³⁰ / Comments of AT&T at 3 – 6; Comments of RCA at 8 – 10; Comments of Qualcomm at 7 – 8; Comments of NENA at 5.

³¹ / Comments of AT&T at 3 – 6; Comments of CTIA at 6 – 7.

³² / *Id.* at 3.

³³ / *Id.* at 4.

³⁴ / *Id.* at 6.

representatives from smaller regional and rural carriers as well. These carriers – who are often the sole source of wireless E911 service in many parts of the country – have operational needs and circumstances that differ significantly from those of the larger nationwide carriers, and these unique needs and circumstances must be appropriately taken into consideration in the development of any new E911 standards or requirements.³⁵

SouthernLINC Wireless would also support a similar proposal presented in a joint filing by Dobson Communications, the Rural Cellular Association, T-Mobile, and Verizon Wireless for the Commission to convene an “E911 Accuracy Forum” similar to the TTY Forum, which played a key role in the development of technical solutions for digital wireless technologies and TTY devices.³⁶ As proposed, this forum would “be principally staffed by engineers and technical subject matter experts, not policy advocates” and would include participants from Commission staff, public safety, telecommunications providers (including wireless carriers and local exchange carriers), and manufacturers and vendors of infrastructure, handsets, and location technologies.³⁷ SouthernLINC Wireless agrees that such a forum, like the “ETAG” proposal, would also provide an opportunity for all wireless E911 stakeholders to better understand the

³⁵ / The mix of representatives from smaller regional and rural carriers should also ensure that all types of air interfaces and Phase II solutions are included.

³⁶ / *Ex Parte* Presentation of Dobson Communications, RCA, T-Mobile, and Verizon Wireless, CC Docket No. 94-102 (filed May 8, 2007).

³⁷ / *Id.* at 8. As with the “ETAG” proposal, such a forum should ensure appropriate representation and participation by smaller regional and rural carriers.

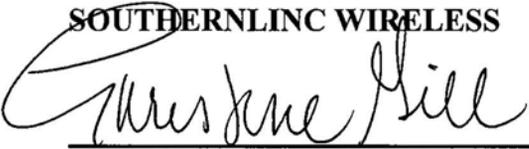
complex issues involved in developing, deploying, and improving wireless E911 location accuracy.³⁸

These are just two of several recommendations that the Commission has received urging the establishment of a forum or similar advisory body to bring together all stakeholders in an effort to work together to achieve a workable and feasible solution for improving wireless E911 location accuracy. As these recommendations demonstrate, there is a broad consensus in favor of finding a mutual solution to this question. SouthernLINC Wireless submits that such an approach will far better address the public interest in improved location accuracy than would a Commission mandate premised on unproven and/or non-existent technologies and adopted in contravention of the clear standards established under the Administrative Procedure Act.

³⁸ / *Id.* at 9.

WHEREFORE, THE PREMISES CONSIDERED, SouthernLINC Wireless respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

SOUTHERNLINC WIRELESS


Christine M. Gill
David D. Rines
McDERMOTT WILL & EMERY LLP
600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096
T: 202.756.8000
F: 202.756.8087

Michael D. Rosenthal
Director of Legal and External Affairs
SouthernLINC Wireless
5555 Glenridge Connector, Suite 500
Atlanta, GA 30342
T: 678.443.1500

Its Attorneys

Holly Henderson
External Affairs Manager
SouthernLINC Wireless
5555 Glenridge Connector, Suite 500
Atlanta, GA 30342
T: 678.443.1500

Dated: July 11, 2007