

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

PETITION FOR RECONSIDERATION

The Rural Telecommunications Group, Inc. (“RTG”)¹ and the National Telecommunications Cooperative Association (“NTCA”)², by their attorneys and pursuant to Section 1.429 of the Rules and Regulations of the Federal Communications Commission (“Commission”), hereby submit this Petition for Reconsideration (“Petition”) of the Commission’s Second Report and Order in the above-captioned proceeding.³ The *Location Accuracy Order* permits carriers using handset-based location technology to comply with the 150 meter E911 accuracy requirement to exclude up to 15 percent of counties or PSAP service areas

¹ RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education in a manner that best represents the interests of its membership. RTG’s members have joined together to speed delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG’s members are small, rural businesses serving or seeking to serve secondary, tertiary and rural markets. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies.

² NTCA is an industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 576 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service rural local exchange carriers, and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended. NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

³ *Wireless E911 Location Accuracy Requirements*, Second Report and Order, PS Docket No. 07-114, FCC 10-176, rel. Sept. 23, 2010 (“*Location Accuracy Order*”).

based on heavy forestation, in recognition of “the geographical and topographical differences that characterize different counties and PSAP service areas.”⁴ This Petition seeks reconsideration of the Commission’s decision to limit its exclusion to only 15 percent of such counties or service areas served by a carrier. This arbitrary 15 percent cap on the forestation exclusion discriminates against small carriers, contravenes the purpose for the exclusion, undermines the public interest, and should therefore be eliminated or modified as discussed below.

RTG and NTCA members serve rural areas of the country, including many of the most heavily forested lands. In such areas, it can be difficult or impossible to meet the 150 meter accuracy requirement for carriers utilizing a handset-based E911 solution. Absent a categorical exclusion within the rule establishing the 150 meter requirement, such carriers must incur the additional expense and uncertainty of preparing, filing and prosecuting a waiver request with the Commission. For the small rural carriers who comprise RTG’s and NTCA’s membership, the expense of a waiver request can impose a substantial financial burden, and the uncertainty associated with obtaining a waiver can be disruptive to business planning and operations.

While the intent of the 15 percent exclusion is to allow carriers to be exempt from the 150 meter accuracy requirement in areas with heavy forestation⁵, the arbitrary⁶ 15 percent cap prevents small carriers, *the very carriers who most typically serve rural areas with large areas of*

⁴ *Location Accuracy Order* at par. 27.

⁵ As the Commission has recognized, the two public safety groups that proposed the 15 percent exclusion did so based “on the expectation that it would apply in most cases to very sparsely populated counties.” *Id.* at par. 24.

⁶ As United States Cellular Corp. has noted, “[t]o date, neither APCO, NENA nor Verizon Wireless have explained the rationale for setting the exclusion limit at 15 percent.” *See Id.* at par. 24. Nor has the Commission explained a basis for setting the exclusion limit at 15 percent other than that it was proposed by APCO, NENA and Verizon (none of whom represent small wireless carriers). The lack of any record basis for the 15 percent cap is the very definition of arbitrary and capricious.

forestation, from ever qualifying for the exclusion. For a nationwide carrier such as Verizon, a 15 percent cap may be entirely reasonable. However, for a carrier with a service area comprising six counties or less, it is mathematically impossible to qualify for the exclusion, even if forestation is limited to a single county. Such a result is arbitrary, entirely inconsistent with the purpose of the exclusion, and discriminates against small carriers without any factual basis for doing so.⁷

Because of the predominance of heavy forestation areas in the service areas of small, rural carriers, the exclusion afforded to such carriers should account for the geographic differences in the areas served by RTG and NTCA members and those served by larger carriers like AT&T and Verizon Wireless. As RTG noted in its earlier filed comments, “the county exclusion provided to Tier II and Tier III carriers based upon ‘heavy forestation’ should be significantly larger than that afforded to generally urban-focused carriers, like AT&T and Verizon Wireless.”⁸ Indeed, a large carrier is likely to be able to exclude every single heavily forested county it serves while a small carrier serving only a handful of counties, most or all of which are heavily forested, would be prevented from excluding any of them.

Accordingly, RTG and NTCA propose that carriers serving six counties (or PSAP service areas)⁹ or fewer be allowed to exclude any or all of these counties from the 150 meter

⁷ In its reply comments, U.S. Cellular pointed out the need to modify the exclusion level to accommodate smaller carriers that serve forested areas but do not have large enough overall service areas to comply with the 15 percent limit. The FCC’s failure to address this issue in its *Location Accuracy Order* requires reconsideration.

⁸ *Wireless E911 Location Accuracy Requirements*, Comments of T-Mobile USA, Inc., Rural Cellular Association and the Rural Telecommunications Group, Inc., PS Docket No. 07-114, filed Nov. 20, 2009, at p. 22, n. 47.

⁹ References to counties herein in the context of the exclusion should also be read as applying to PSAP service areas consistent with the existing standard.

requirement based on heavy forestation. If the Commission continues to insist on application of the arbitrary 15 percent standard, it should at a minimum adopt a sliding scale for carriers serving six counties or fewer so that such carriers may rely on the exclusion with respect to at least one county.¹⁰ Only by allowing small carriers serving heavily forested areas to rely on the exclusion will the Commission allow it to be applied as intended.

Respectfully submitted,

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¹⁰ Under a sliding scale approach, a carrier serving six counties or PSAP service areas would be allowed to exclude up to 17 percent of counties or PSAP service areas from the 150 meter requirement based on heavy forestation; carriers serving five counties, 20 percent; four counties, 25 percent; three counties, 33.3%; two counties, 50 percent; and one county, 100 percent.