

**THE COMMISSION SHOULD NOT MANDATE NETWORKWIDE
ACCURACY RETESTING EVERY FIVE YEARS
(PS Docket No. 07-114, WC Docket No.05-196)**

There is no basis in the record for concluding that networkwide accuracy retesting is necessary every five years, when trending of confidence and uncertainty data and monitoring other related key performance indicators (such as phase 2 yield rates) provides a way of better targeting areas where remedial measures may be needed.

- Although in initial comments APCO supported periodic retesting and NENA supported re-testing every five years, neither articulated any reason why accuracy would be expected to degrade over time, other than in a specific area due to “re-homing.” Neither addressed the adequacy of the *Second Report & Order’s* confidence and uncertainty data requirements to monitor accuracy on an ongoing basis.
- In fact, accuracy tends to increase over time. (T-Mobile Comments at 23; AT&T Reply Comments at 7)
 - Accuracy generally improves as network-based carriers add cell sites. (*See* APCO at 4)
 - A-GPS accuracy has improved as the algorithms have improved, and will improve further as it becomes possible to use additional satellite constellations. (T-Mobile Comments at 9; *see* APCO at 4)
 - Specific area degradation can be addressed on a targeted basis. (*See* SouthernLINC Reply Comments at 7; ATIS ESIF Comments at 7-8)
- The *Second Report & Order* already provides a means to identify potentially problematic areas that need retesting, which should have the opportunity actually to work and be evaluated before mandating networkwide retesting. (T-Mobile Comments at 23; T-Mobile Reply Comments at 7-8), AT&T Comments at 10; ATIS ESIF Comments at 8; SouthernLINC Reply Comments at 6)
 - 47 C.F.R. § 20.18(h)(3).

“Two years after January 18, 2011, all carriers subject to this section shall be required to provide confidence and uncertainty data on a per-call basis upon the request of a PSAP. Once a carrier has established baseline confidence and uncertainty levels in a county or PSAP service area, ongoing accuracy shall be monitored based on the trending of uncertainty data and additional testing shall not be required.” (emphasis added)

- There is no basis in the record for discarding this method of determining when retesting is necessary – when the Commission-adopted requirement to provide confidence and uncertainty has not yet even become effective.
- SouthernLINC and ESIF also proposed narrower and more targeted retesting requirements. (SouthernLINC Reply Comments at 7; ESIF Comments at 7-8)

- The Commission cannot, consistent with rational decisionmaking, simply ignore reasonable alternatives, nor can it make a predictive judgment unfounded on any basis in the record. *City of Brookings Mun. Tel. Co. v. FCC*, 822 F.2d 1153, 1169 (D.C. Cir. 1987) (“It is well settled that an agency has ‘a duty to consider responsible alternatives to its chosen policy and to give a reasoned explanation for its rejection of such alternatives.’”) quoting *Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486, 1511 (D.C.Cir.1984)); *BellSouth Telecoms., Inc. v. FCC*, 469 F.3d 1052, 1060 (2006) (“We cannot overlook the absence of record evidence ... simply because the Commission cast its analysis as a prediction of future trends.”); *AT&T Corp. v. FCC*, 236 F.3d 729, 737 (D.C. Cir. 2001), quoting *Arco Oil & Gas Co. v.FERC*, 932 F.2d 1501,1504 (D.C. Cir. 1991) (“the FCC’s ‘conclusory statements cannot substitute for reasoning that is wanting in [the] decision.’”)

Networkwide accuracy retesting is a costly and unnecessary burden absent any clear evidence of need.

A networkwide accuracy retesting requirement cannot pass Paperwork Reduction Act standards for federal information collection. (T-Mobile Comments at 23)

Any new non-targeted periodic retesting requirements should only take effect after the end of the *Second Report & Order* transition in order to avoid requiring providers to conduct networkwide testing in a compressed period.