

**Before the
Federal Communications Commission
Washington, DC 20554**

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

COMMENTS OF NTCA–THE RURAL BROADBAND ASSOCIATION

I. INTRODUCTION AND SUMMARY

NTCA–The Rural Broadband Association¹ (“NTCA”) hereby submits these comments in response to the Public Safety and Homeland Security Bureau’s Third Further Notice of Proposed Rulemaking (“third FNPRM”)² that proposes updates to the wireless Enhanced 911 (“E-911”) location accuracy rules of the Federal Communications Commission (the “Commission”).

NTCA’s members support the goal of this proceeding, and appreciate the Commission’s efforts to improve the ability of emergency responders to locate 911 callers, and, therefore, the public’s overall safety and security. Unfortunately, the third NPRM seeks to impose standards on Commercial Mobile Radio Service (“CMRS”) providers that are not reasonably achievable today. A proven, certified, and standardized technology is not yet commercially available, accessible, and affordable for small, rural wireless providers. The Commission should refrain

¹ NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers and broadband providers, and many provide wireless, video, satellite, and/or long distance services as well.

² *In the Matter of Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114 (February 21, 2014).

from imposing any new E-911 location accuracy requirements until such time as Tier III wireless carriers can realistically comply with new proposed standards.

However, if the Commission adopts its tentative conclusions regarding location accuracy, it should, at the very least, establish a streamlined waiver process for small, rural wireless carriers, with clear guidelines and procedures, based upon established barriers to compliance. The Commission should consider factors such as the availability of equipment, the cost to providers, and, if the solution is based on new handset technology, the cost and timeline for the majority of rural subscribers to adopt new handsets.

On a related matter, the Commission should revise its Time to First Fix proposal, creating one consistent standard for how long carriers have to make and deliver a location fix to a Public Safety Answering Point (“PSAP”). Thirty seconds is the accepted industry standard. Although several vendors have suggested a shorter time frame, the record has not been fully developed to support their claims.

II. THE COMMISSION SHOULD REFRAIN FROM IMPOSING ANY NEW E-911 INDOOR LOCATION ACCURACY REQUIREMENTS ON SMALL CMRS PROVIDERS UNTIL SUCH AS TIME AS TECHNOLOGY AND MARKET CONDITIONS ENSURE THAT COMPLIANCE CAN BE REASONABLY ACHIEVED

Improving E-911 indoor location accuracy is a laudable public policy goal. However, in the third FNPRM, the Commission acknowledged that proven commercial technology is not yet available to meet the proposed regulations for indoor location accuracy. Rather, the Commission has pinned its standards proposal on the suggestion that technology is “likely” to be developed soon.³ The promise of a future solution is not functionally equivalent to the presence of a tested

³ Third FNPRM at ¶3.

and proven technological solution available today, and such speculation as to potential future availability represents an insufficient basis upon which to impose such a regulatory mandate.

Moreover, the availability of compliant technology is just the beginning. The technology will then need to be standardized; commercially manufactured; readily accessible and affordable to small and rural wireless providers; and, in the case of an E-911 handset-derived technology, adopted by an overwhelming majority of rural mobile wireless subscribers. Each of these steps will likely take significant time, effort, and cost to accomplish.

Small and rural CMRS providers face unique challenges, operating in some of the nation's most rural and remote high-cost areas with extremely limited resources. As such, it is likely that any emerging and cutting-edge technology will be prohibitively expensive to small companies such as NTCA's members. Assuming that affordable equipment is made available, equipment vendors typically fill the orders from larger carriers first. Tier III carriers are typically last on the list to receive it.

Further, if consumers must upgrade handsets so that their wireless service providers comply with these new regulatory requirements regarding 911 service, the Commission's implementation timetable should recognize rural consumers' reluctance to swap existing operational equipment for new, more expensive handsets.⁴ Rural America is home to segments of the overall U.S. population that may not regularly upgrade their handsets every two years, and, as such, for any new technology to reach critical mass, it will likely take longer for rural subscribers to adopt.

⁴ CSRIC III WG 3 Report at 54: "*Many positioning methods require handset modifications. Integration of these modified handsets into the subscriber base, once the location technology is commercially available, will take years to complete.*"

The Communications Security Reliability and Interoperability Council III Working Group 3 (“CSRIC III WG 3”) identified many of these same barriers to improved E-911 location accuracy positioning. The CSRIC III WG3 March 2013 Report notes that although technology has improved in recent years, “even the best location technologies have not proven the ability to consistently identify the specific building and floor,” which corresponds to the proposed accuracy measurements that the Commission is now attempting to impose.⁵ The council also noted that this is not likely to change in the next 12 to 24 months,⁶ and, once technology has been tested and proven effective, significant standards work will need to be completed before a commercial solution will be available.⁷

Experience confirms that it is problematic to mandate that CMRS providers meet new E-911 standards of care before a technological solution is tested, proven, and commercially available to CMRS providers of all sizes and varying resources.⁸ As evidenced by earlier stages

⁵ CSRIC III, Working Group 3, “E9-1-1 Location Accuracy Indoor Location Test Bed Report,” March 14, 2013, at 54.

⁶ *Id* at 55.

⁷ *Id* at 54.

⁸ The history of this proceeding is replete with instances of mandated location accuracy standards based on speculation that technology will evolve to make compliance possible.

See Statement of Commissioner Michael O’Rielly, Approving in Part and Concurring in Part, *Re: Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114, which comments on the importance of setting realistic deadlines for CMRS carriers’ compliance with new E-911 regulations:

“We learned these important lessons with the Phase II location accuracy rulemaking. There, the Commission established requirements and deadlines based on representations of emerging, as opposed to proven, technologies. It is fair to say that implementation did not go smoothly. A year after these rules were adopted, the Commission had to modify its benchmarks to ‘provide carriers with a reasonable prospect of meeting the [Phase II] accuracy and reliability requirements.’ Despite this relief, the Commission still had to issue approximately 40 waivers, extensions or stays and a dozen enforcement actions.”

Also see Letter from Brian M. Josef, CTIA-The Wireless Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 1 (Feb, 14, 2014) (citing *Revision of the*

of this proceeding, this regulatory approach forces carriers to file unnecessary and expensive waivers and extension requests, or places the Commission in the position of re-examining and frequently modifying its rules to extend the timetable at the last minute.⁹ For the small rural carriers who comprise NTCA's membership, the expense of a waiver can impose a substantial financial burden, and the regulatory uncertainty can be disruptive to business planning and operations.

As such, the Commission should refrain from imposing any new E-911 indoor location accuracy requirements on CMRS providers until such a time as technology and market conditions ensure that compliance can be reasonably achieved. However, should the Commission decide to proceed forward despite the overwhelming record of technological, industry, and economic barriers to compliance, it should, at the very least, establish revised requirements for small and rural CMRS providers, enabling these companies to upgrade their equipment over a longer phase-in period during the normal course of their business planning and operations. In addition, the Commission should establish a streamlined waiver process with clear guidelines and procedures. Small and rural CMRS providers should be able to apply for and obtain a waiver based upon established impediments to adoption such as technology limitations, lack of access to equipment, or compliance expense.

Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442 ¶ 23 (2000)).

⁹ *Id.*

III. THE COMMISSION SHOULD REVISE ITS TIME TO FIRST FIX STANDARDS PROPOSAL TO ALLOW CMRS PROVIDERS TO EXCLUDE CALLS LASTING LESS THAN 30 SECONDS FROM THE REGULATORY REQUIREMENTS

The Commission also has proposed new Time to First Fix (“TTF”) standards, suggesting that CMRS providers should be allotted a set amount of time to provide a PSAP with the location of a 911 caller. Under the proposal, CMRS providers must deliver E-911 location information, with the specified degree of accuracy, within a maximum of 30 seconds in order for the 911 call to be counted towards the carrier’s compliance with the outdoor and, if enacted, also the indoor location accuracy requirements.¹⁰ However, 911 calls lasting 10 seconds or less would be excluded from the requirements.

Under the proposed standards, for 911 calls lasting anywhere from 11 to 30 seconds, if the CMRS provider is unable to make a location fix before the call is dropped or disconnected, the service provider could be penalized for not delivering an accurate location, even though the carrier was not provided with 30 seconds to do so. As several commissioners have already noted, this is nonsensical.¹¹ The Commission should instead strive to have one consistent standard for how long carriers have to make and deliver a location fix to the PSAP.

As the Commission has noted, 30 seconds is accepted as the “*de facto* standard” and an “acceptable time limit.”¹² The Commission has noted that a few location accuracy vendors have suggested shorter time periods for delivering location information, but the record has not been fully developed on this point, and an industry standard different than 30 seconds has not been

¹⁰ Third FRNPRM at ¶5 and ¶144.

¹¹ Statement of Commissioner Ajit Pai, Approving in Part and Concurring in Part, Re: Wireless E911 Location Accuracy Requirements, PS Docket No. 07-114. *Also see* Statement of Commissioner Michael O’Rielly, Approving in Part and Concurring in Part, Re: Wireless E911 Location Accuracy Requirements, PS Docket No. 07-114.

¹² Third FNPRM at ¶142.

established. As such, the Commission should revise its TTFF standards proposal to allow CMRS providers to exclude calls lasting less than 30 seconds from the regulatory requirements.

IV. CONCLUSION

NTCA commends the Commission for its continuing efforts to update 911 services and ensure that first responders can quickly and accurately locate callers in distress. However, the Commission should not create legal requirements based on the speculative hope that technology might evolve. The Commission should refrain from imposing any new E-911 indoor location accuracy requirements on CMRS providers until such a time as technology has developed, equipment is available, and compliance can be reasonably achieved. If the Commission decides to proceed forward with new regulations, it should, at the very least, establish revised procedures and timelines for small rural carriers to meet the requirements, as well as a streamlined waiver process based on known barriers to compliance by small carriers, such as technology limitations, access to equipment, or financial hurdles.

In addition, with respect to the TTFF standards proposed in the Third FNPRM, the Commission should exclude 911 calls lasting less than 30 seconds from the regulatory requirements placed on CMRS providers.

Respectfully submitted,



By: /s/ Jill Canfield
Jill Canfield
Director – Legal & Industry

/s/ Jesse Ward
Jesse Ward
Industry & Policy Analysis Manager

4121 Wilson Boulevard, Suite 1000
Arlington, VA 22203
jcanfield@ntca.org
703-351-2000 (Tel)
703-351-2036 (Fax)

May 12, 2014