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Leaders in Public Safety Communications®

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**Re: Notice of *Ex Parte*, PS Docket No. 07-114, WP
Docket No. 07-100**

On December 29, the undersigned and Mark Reddish spoke by phone with Austin Bonner of Commissioner Starks's office to discuss APCO's pending Petition for Reconsideration¹ of the July 2020 Order² on wireless 9-1-1 location accuracy.

APCO's petition seeks to correct a technical error with the way in which the dispatchable location requirements were revised to take into account termination of the National Emergency Address Database (NEAD). The petition has support from other public safety organizations, including the International Association of Chiefs of Police, Major Cities Chiefs Association, Major County Sheriffs of America, National Association of State EMS Officials, National Public Safety Telecommunications Council, and National Sheriffs' Association.³ APCO is unaware of any parties expressing disagreement that the revision at issue appears to constitute a technical error that should be reconsidered.

¹ APCO International Petition for Reconsideration, PS Docket No. 07-114 (filed Sept. 23, 2020).

² Wireless E911 Location Accuracy Requirements, PS Docket No. 07-114, *Sixth Report and Order and Order on Reconsideration*, FCC 20-98 (rel. July 17, 2020) ("Order").

³ Joint response of APCO International, International Association of Chiefs of Police, Major Cities Chiefs Association, Major County Sheriffs of America, National Association of State EMS Officials, National Public Safety Telecommunications Council, and National Sheriffs' Association to Petitions for Reconsideration, PS Docket No. 07-114 (filed Nov. 2, 2020).

Carriers have two options for complying with the upcoming vertical location accuracy benchmark: deploy z-axis technology or deploy dispatchable location technology. Prior to the July 2020 Order, carriers electing to comply by deploying dispatchable location solutions would have had to ensure the NEAD was populated with a number of reference points equal to at least 25% of the CMA population.⁴ Because the carriers abandoned the NEAD, this benchmark required revision.⁵

The Commission obviously made a mistake when it attempted to address the termination of the NEAD. This began with an error in the draft Order.⁶ The draft Order eliminated the NEAD-based requirement but failed to include a deployment benchmark to replace populating the NEAD.⁷ By a plain reading of the rules, carriers would have needed to go no further than deploying any dispatchable location technology. Thus, a carrier that had deployed dispatchable location technology that only worked for certain devices or circumstances would have been compliant with the vertical location requirements regardless of how many 9-1-1 calls were delivered with a dispatchable location, and regardless of whether the carrier took further action to provide dispatchable location or z-axis information.

APCO pointed out this error, among others, with the draft Order, but the Commission adopted language in the final Order that created a different problem. The Commission re-inserted the metric for measuring a carrier's deployment of dispatchable location reference points, essentially reusing the old rule without a reference to the NEAD.⁸ For any CMRS provider that relies on dispatchable location to meet the 2021, 2023, or 2025 benchmarks, the Commission continues to require the provider to provision a total number of dispatchable location reference points (e.g., Wi-Fi access points or Bluetooth beacons) equal to 25% of the CMA population. But now, reference point data may be stored in "any database," provided that certain privacy and security requirements are met.⁹

The decision to convert the NEAD benchmark to an ambiguous "any database" benchmark was not contemplated in the Further Notice of Proposed Rulemaking,¹⁰ and the Commission does not cite any public input or otherwise explain how the rule is a logical outgrowth of the record.

The Commission should not allow carriers to comply with the dispatchable location option by counting reference points in "any database." This approach is problematic for several reasons:

⁴ 47 C.F.R. § 9.10(i)(2)(ii)(C)(I) (before adoption of the Order) ("In each CMA where dispatchable location is used: nationwide CMRS providers must ensure that the [National Emergency Address Database] is populated with a sufficient number of total dispatchable location reference points to equal 25 percent of the CMA population.").

⁵ See Order para. 49.

⁶ Wireless E911 Location Accuracy Requirements, Sixth Report and Order and Order on Reconsideration, FCC-CIRC2007-04 (rel. June 26, 2020).

⁷ Letter from Jeffrey S. Cohen, Chief Counsel, APCO International, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 07-114, at 2 (filed July 7, 2020).

⁸ 47 C.F.R. § 9.10(i)(2)(ii)(L) (after adoption of the Order) ("In each CMA where dispatchable location is used, nationwide CMRS providers must ensure that dispatchable location is supported by a sufficient number of total dispatchable location reference points to equal 25 percent of the CMA population.").

⁹ See Order n. 136.

¹⁰ See Wireless E911 Location Accuracy Requirements, PS Docket No. 07-114, *Fifth Report and Order and Fifth Further Notice of Proposed Rulemaking*, 34 FCC Rcd 11592 paras. 79-83 (2019), corrected by Erratum (PSHSB Jan. 15, 2020) ("Fifth Report and Order").

- It presumes that carriers would provide dispatchable location only by using solutions like the abandoned NEAD-based approach. Maintaining a benchmark that was specifically tied to the NEAD could foreclose the use of more effective solutions and ignores approaches that have greater potential for widespread deployment.¹¹
- It creates confusion over whether reference points in crowd-sourced databases that were not designed for providing dispatchable location could be used to satisfy the requirement.
- It perpetuates a metric that is based on deployment of technology, regardless of whether the technology can accurately estimate a dispatchable location or, more importantly, whether a carrier delivers dispatchable location information with 9-1-1 calls.
- It is wrong to assume that the raw number of reference points will be representative of a solution’s ability to estimate dispatchable locations. This might have been the case with the NEAD, where public safety organizations had transparency and some degree of influence over how it was developed and used to estimate dispatchable locations, but this is not the case for dispatchable location solutions that would use “any database.”

With vertical location benchmarks in 2021, 2023, and 2025, and carriers disputing the z-axis requirements, the Commission should resolve technical errors that create loopholes and set a better course for long-term improvements in 9-1-1 location accuracy. APCO’s petition presents such an opportunity. The Commission can solve several problems with the rules, get 9-1-1 professionals the location information they’ve asked for,¹² and better promote public safety by establishing a minimum percentage of 9-1-1 calls that must be delivered with dispatchable location information.¹³

In addition to discussing 9-1-1 location accuracy, APCO expressed appreciation for Commissioner Starks’s support of public safety’s use of the 4.9 GHz band. The recent change to the 4.9 GHz rules introduces an ill-conceived approach to spectrum sharing that lacks a basis in the record. As Commissioner Starks noted, “there is no way commenting parties and the governments, public safety organizations and citizens that will be adversely impacted would have reasonably known to comment” on certain fundamental aspects of the new framework.¹⁴

Pursuant to Section 1.1206 of the Commission’s rules, this letter is being filed electronically with your office.

¹¹ See *Enhanced Emergency Data: Location and Medical ID Data for PSAPs*, Apple Inc. (Oct. 2020) (describing enhancements to the location information the iPhone and Apple Watch will provide for some emergency calls, enabling the delivery of the caller’s civic address – including apartment, suite, etc., if appropriate – along with coordinate-based location information)

¹² See Order n. 144; see also Fifth Report and Order n. 142.

¹³ For example, a better way of revising the rule would be: “By April 3, 2021: In each of the top 25 cellular market areas (CMAs), nationwide CMRS providers shall ~~deploy~~ provide either dispatchable location for xx% of calls or ...” APCO previously provided recommendations on minimum percentage thresholds, based on an estimate of what would be technically feasible. Letter from Jeffrey S. Cohen, Chief Counsel, APCO International, to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 07-114 (filed Oct. 25, 2019) at 8.

¹⁴ Amendment of Part 90 of the Commission’s Rules, WP Docket No. 07-100, *Dissenting Statement of Commissioner Starks* (Sep. 30, 2020).

Respectfully submitted,

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CC (via email):

Austin Bonner