CONCURRING STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN

Re: In the Matter of 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, Wireless E911 Location Accuracy Requirements (PS Docket No. 07-114); 911 Requirements for IP-Enabled Service Providers (WC Docket No. 05-196)

There is no higher calling or higher priority for us at the Commission than improving 911 and enhanced 911 (E911) emergency response services. Every day, we confront issues that have millions of dollars at stake; but this literally is a matter of life or death. My primary objective in promoting E911 services is to make sure that the Commission is always moving the ball forward – that we are making policy and enforcement decisions that will lead us to more advanced 911 and E911 services for all citizens and in the most effective and efficient manner possible.

Against that backdrop, I support the very timely launch of this proceeding to look at the current status of E911 Phase II location accuracy and to rightly consider how we can improve our nation's E911 network. While we have made great progress over the past several years in promoting the deployment of E911 Phase II services, recent reports that location data may not be sufficiently accurate to be of help to public safety answering points (PSAPs) warrant our full attention. It is time for a renewed commitment from all of the parties involved in E911 to provide first responders with the best data possible or, as was described to me, the right door to be kicked in.

But these answers don't always come quickly. As we begin this important initiative, it also is critical that the Commission commit to conduct this proceeding in a thoughtful and deliberate manner to ensure that the steps we take truly advance E911. No one will be well served by a proceeding that inevitably draws affected parties into unnecessary disputes and legal uncertainties that distract all of us from the real objective of improved E911.

I am concerned that this proceeding, while well-intentioned, rushes to judgment by issuing a series of tentative conclusions without even beginning to conduct the necessary due diligence. I am troubled that we are considering imposing a new compliance requirement that we know some carriers will be unable to meet in certain circumstances. To make matters worse, we are bifurcating the proceeding with the goal of setting a new accuracy compliance standard well in advance of making a determination of how we can actually achieve improved location accuracy. This is premature from both legal and policy standpoints.

We all share the goal of providing the best location data possible to public safety. I fully support the effort to require carriers to conduct testing on the PSAP level, particularly in response to requesting PSAPs. This information exchange is an important dialogue to improve accuracy and collaboration between PSAPs and carriers. PSAPs must know the quality of the data they are receiving so that they can deploy their scarce resources accordingly.

But I believe that it is premature to support the several tentative conclusions in this item before the Commission has been presented with a full record and conducted its own review of current data and future technology. At a minimum, we should put in place a series of hearings and reports that will guide us to develop benchmarks and targets that will pave the way to a new approach to accuracy compliance. Each of these can be done on an expedited basis.

Indeed, it is troublesome to advance the notable goal of PSAP location accuracy compliance without considering the disruption that may be caused in setting such a specific FCC rule. To gauge the

full implications of this approach, we should heed the words of those closer to the issue, like the National Association of State 9-1-1 Administrators:

> If the Commission adopts Phase II accuracy testing requirements that currently available location technologies cannot meet (such as a requirement for PSAP level testing), states with carrier cost recovery will be responsible for the cost of new technologies that have not yet been developed to meet those requirements. …
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> It is important to remember that the current accuracy requirement (distance measurement) was based on the promise of the location technology BEFORE it was actually developed as a solution. To hold a new technology solution to this same requirement would be highly inappropriate. We must instead determine the optimal accuracy to save lives and focus our efforts to achieving that goal. …
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> To adopt an accuracy testing process that cannot be achieved at this time not only puts the carrier in a compliance limbo, but also puts many states in a budgetary limbo until someone can figure out how to achieve the requirement.[1]

In launching this proceeding, we need to keep our eye on the prize – improving E911. So while we obviously should take a serious and considered look at location accuracy, we also need to take a step back from the issue and consider the future of E911 and how it will be used in an IP-based world. Fore example, we should gather evidence about those situations when callers cannot be located, or not quickly enough.

We also should carefully review the impact on E911 of the increasing use of wireless phones at home. Should we look beyond network-based technologies to provide E911 Phase II for subscribers using home-based wireless phones since we know that these users are at a fixed location for a large part of the day? We need to think creatively in considering this important shift in the increasing use of wireless communications as a replacement for wireline services.

As we look to new accuracy requirements, should we consider a topographic- or geographic-based standard to E911 that may better reflect the practicalities of trying to make a location determination in certain parts of the country? Should we consider population density or tower site density? And with improved accuracy, should we be taking a closer look at how privacy interests intersect with innovation in the E911 space? Finally, and not to be overlooked in this accuracy debate, how can we encourage Phase II deployment to the 30% of PSAPs who still rely on E911 Phase I or something even less?

I don't have the answers to these and the many other questions that need to be asked about the future of E911 and location accuracy. Fortunately, we have an abundance of resources, both inside and outside the Commission, that are well positioned to provide guidance on the many elements of E911. Indeed, we already have the work of NRIC 1A[2] and APCO's Project Locate[3] that specifically look at the accuracy location issue, and we should immediately put these and any other relevant documents out for public comment in this docket.

We also should leverage the expertise of those who have worked on E911 issues for some time to better inform our decision making process. Much like the WARN Act Advisory Committee, we could

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[1] *Ex Parte* Comments of the National Association of State 9-1-1 Administrators, CC Docket No. 94-102 (filed May 23, 2007) (emphasis in original).

[2] *See* http://www.nric.org/meetings/docs/meeting_20051216/FG%201A_Dec%2005_Final%20Report.pdf.

[3] *See* http://www.locatemodelcities.org/documents/LOCATE_Final_Report.pdf.

immediately convene a committee of industry and public safety experts to develop and submit recommendations to the FCC regarding technical standards and protocols for the next generation of automatic location services. In conjunction with such a committee, we should commit to hold hearings on specific E911 issues including (1) the challenges of accuracy compliance in rural areas; (2) the challenges of accuracy compliance in urban areas and in-building settings; and (3) the current and future state of location technology. I also support the efforts by Commissioner Copps to put in place specific goals for the Commission staff to develop our own internal analysis on the promise of future location technologies to help inform this important debate.

It is easy to say that we want something better for E911. No one disputes the goal of improved location accuracy. The harder question is how to get there. It is questionable that the best way is for the Commission to set a utopian standard before it even considers the full record. After much consideration, I think we need a more collaborative approach. I am unable to fully support our item because I am concerned the debate over compliance will create an unnecessary sideshow to the main event of improving E911 services.

For all of the reasons above, I concur in this item.