

ONE HUNDRED FIFTHTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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**MEMORANDUM**

**October 30, 2017**

**To: Subcommittee on Communications and Technology Democratic Members and Staff**  
**Fr: Committee on Energy and Commerce Democratic Staff**  
**Re: Subcommittee Hearing on “Oversight of FirstNet: State Perspectives”**

On Wednesday, November 1, 2017 at 10:15 a.m. in room 2322 of the Rayburn House Office Building, the Subcommittee on Communications and Technology will hold a hearing entitled “Oversight of FirstNet: State Perspectives.”

**I. BACKGROUND**

**A. Establishment of FirstNet**

The Middle Class Tax Relief and Job Creation Act of 2012 (the Act) established the First Responder Network Authority (FirstNet). FirstNet, an independent entity within the Department of Commerce’s National Telecommunications and Information Administration, is responsible for establishing a nationwide interoperable public safety broadband network (NPSBN) using 20 MHz of public safety spectrum. The Act requires that the NPSBN consist of a core network and a radio access network (RAN). The Act directed the Federal Communications Commission (FCC) to conduct spectrum auctions to fund the \$7 billion construction cost for the NPSBN. FirstNet received its full statutory funding in 2015 from the FCC’s AWS-3 spectrum auction. The Act also provides states and territories with the ability to “opt-out” of the RAN and to deploy their own RAN, which must be interoperable with the NPSBN.

**B. Status of FirstNet Implementation**

FirstNet continues to work towards the goal of deploying the NPSBN through coordination and education of stakeholders. It issued at least a dozen Requests for Information (RFIs) between 2013 and 2014 seeking comment on a variety of issues that resulted in a draft Statement of Objectives for the comprehensive Request for Proposal (RFP). FirstNet completed formal consultations with the states and territories in 2015. FirstNet issued the final RFP in January 2016, to construct and operate the NPSBN covering each of the 56 states and territories.

FirstNet awarded the 25-year contract to AT&T in March. AT&T will receive up to \$6.5 billion, depending on the participation of the states and territories in the program, and will be able to keep any fees charged to public safety end users who use the NPSBN. AT&T can also

derive revenue from the FirstNet license. Rivada Mercury (Rivada), which disputed award of the contract to AT&T and lost its appeal earlier this year, is currently attempting to win state-level contracts to build alternative RANs for states choosing to opt-out. The Government Accountability Office issued a review of FirstNet's progress earlier this year, finding that it has taken actions to address the challenges it faces, and the majority of stakeholders are satisfied these efforts.

FirstNet and AT&T delivered individual plans to the states and territories on June 19. States and territories had up to 45 days to review the plans and provide feedback to FirstNet. FirstNet provided official notice of the state plans on September 29, an action that started the 90-day clock for "opt-in/opt-out" decisions. Governors must make a decision by December 28 whether to accept the FirstNet state plan (except for Guam, American Samoa, and the Mariana Islands, which are on a separate time frame). If a state does not take any action by the deadline, it is automatically opted into the FirstNet network.

Twenty-seven states and territories have opted into FirstNet's NPSBN as of October 27. FirstNet and AT&T will be responsible for the costs to build, operate, and maintain the NPSBN in these states for the next 25 years. Eighteen states have issued an RFP for an alternative RAN plan, but three have since issued a letter of intent to opt-in. New Hampshire is the only state of these that has officially announced Rivada as its contractor for a state RAN. Governors of the remaining states have yet to make an announcement regarding "opt-in/opt-out." States that opt-out are responsible for the costs of building and operating their own RAN that must be interoperable with FirstNet. States that choose to opt out must also apply to the NTIA to use public safety spectrum with FirstNet and may apply for RAN construction grant funding.

FirstNet also is working with tribal governments on deployment of the NPSBN. It established a Tribal Working Group in 2015, and announced a formal Tribal Consultation Policy on October 23. The policy provides an approach to tribal coordination and outlines the core principles for tribal engagement. The policy provides that FirstNet works through the state points of contacts during the "opt-in/opt-out" decision period. FirstNet will consult directly with tribal government officials after a state makes a decision.

### **C. Role of the FCC**

The Act imposed several requirements on the FCC to consult, coordinate, and provide technical assistance, as well as to reallocate and license spectrum to FirstNet. The FCC provided FirstNet with its initial 10-year license term in November 2012. FirstNet has an expectation of license renewal for additional terms not to exceed 10 years, so long as it meets its duties and obligations under the Act.

The FCC's Technical Advisory Board for First Responder Interoperability developed minimum technical requirements for interoperability for FCC review as required by the Act. Those recommendations were approved and transmitted to FirstNet on June 2012. The FCC also has the ability under the Act to approve or disapprove any alternative state plan, if a state "opts out" of FirstNet. If the FCC disapproves a state's alternative plan, FirstNet is authorized to continue with construction within that state. The FCC adopted procedures in June for administering the state "opt-out" process, and finalized the standards for evaluation of state alternative plans in September.

## **II. WITNESSES**

**Michael Poth**

CEO

First Responder Network Authority

**Christopher Sambar**

Senior Vice President

AT&T

**John Stevens**

Statewide Interoperability Coordinator

State of New Hampshire

**Robert LeGrande, II**

Founder

The Digital Decision, LLC

**Brian Moran**

Secretary of Public Safety and Homeland Security

Commonwealth of Virginia