

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Procedures for Commission Review of State	)	PS Docket No. 16-269
Opt-Out Requests from the FirstNet Radio	)	
Access Network	)	

**COMMENTS OF SOUTHERN LINC**

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October 21, 2106

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Southern Communications Services, Inc. d/b/a Southern Linc (“Southern Linc”) submits comments in response to the Notice of Proposed Rulemaking (“NPRM”) concerning how to structure the Commission’s review of requests to opt out from the FirstNet radio access network deployment.<sup>1</sup>

**INTRODUCTION AND SUMMARY**

Southern Linc offers three principal suggestions regarding the Commission’s review of state opt-out requests.

First, the Commission should limit its review to interoperability of state-administered radio access networks (“RANs”), and should not foreclose any state plans that include both a RAN and a core network. Allowing states or their network partners to operate their own core networks, which would interoperate with FirstNet’s core network, is fully consistent with the Spectrum Act,<sup>2</sup> including the statute’s direction that FirstNet leverage existing wireless infrastructure. Such an approach would enable FirstNet to take advantage of existing core network elements, including highly resilient facilities such as Southern Linc’s redundant cores, to deploy public safety networks more rapidly and at lower cost than building a new network.

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<sup>1</sup> *Procedures for Commission Review of State Opt-Out Requests from the FirstNet Radio Access Network*, Notice of Proposed Rulemaking, PS Docket No. 16-269, FCC 16-117 (rel. Aug. 26, 2016).

<sup>2</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 §§ 6001-6303, 6413 (“Spectrum Act”).

Allowing state plans to include existing core network elements also would allow FirstNet to maximize the benefits of regional expertise in deploying networks to meet unique weather and topographic challenges in particular geographic areas, as well as leverage existing connections and relationships among public safety institutions, individuals, and organizations within each state. Indeed, the Commission's prior guidance on interoperability specifically contemplated the use of multiple cores, consistent with these acknowledged benefits and the Spectrum Act's goals. A core network operated by a state or its carrier partner is also necessary to vindicate other provisions of the Spectrum Act. For example, if states and their network partners are not able to use their own core networks, they will not have the visibility into usage and capacity of the networks that is necessary to offer commercial service or lease excess capacity to third parties, as the statute expressly authorizes.

Second, the NPRM makes several sensible suggestions for streamlining the Commission's review process of state opt-out plans. As the NPRM notes, the Commission's authority is limited to reviewing RAN interoperability, and other aspects of state proposals will be reviewed by other entities, such as NTIA and FirstNet. That approach makes sense and is consistent with the Spectrum Act, so long as the Commission recognizes that the statute and the Commission's prior guidance on interoperability also permit multiple cores within the network. Overall, the Commission should implement a flexible process that enables rapid review of state proposals and confirms simply that such proposals are workable and meet the statutory interoperability requirements.

Third, the Commission should not disapprove any state opt-out plan without giving the state the opportunity to address any Commission concerns. The NPRM suggests that, if the Commission disapproves a state alternative plan, the state has forfeited the ability to deploy its

own network, and the Commission is barred from entertaining an amended plan. Such an approach is not required by the statute. However the Commission structures its review process, its review should remain sufficiently flexible to give states the opportunity to amend their proposals or otherwise address any issues identified by the Commission.

## **BACKGROUND**

Southern Linc is a leading provider of wireless communications services in Alabama, Georgia, southeastern Mississippi, and the Florida panhandle. Southern Linc is wholly owned by Southern Company, the parent company of four electric utilities in the southeastern United States: Alabama Power, Georgia Power, Gulf Power, and Mississippi Power, which are also customers of Southern Linc.

In 1996, Southern Linc launched commercial service on a wireless network utilizing Motorola's Integrated Digital Enhanced Network ("iDEN") technology and using wide-area, geographic-based licenses consisting of contiguous spectrum in the Enhanced Specialized Mobile Radio (ESMR) portion of the 800 MHz band. Southern Linc's network covers approximately 120,000 square miles. Southern Linc initially designed and constructed the iDEN network to meet the wireless voice communication needs of Southern Company's electric utilities. Southern Linc currently is constructing a Long Term Evolution ("LTE") network across the same geographic area using its existing spectrum.

Southern Linc has focused on deploying a particularly resilient, hardened network that has proven reliable through numerous hurricanes and other severe conditions. For example, Southern Linc operates two geographically separate redundant Evolved Packet Cores ("EPCs"), and most of its cell sites have redundant backhaul facilities. Southern Linc has deployed hardened infrastructure designed to remain reliable based on Southern Linc's geographic

proximity to natural disaster zones. Southern Linc operates a secure communications network that uses advanced encryption standards and protocols to protect sensitive user plane and control plane traffic in over-the-air transmissions, and it employs extensive field-response teams for rapid restoration of services.

Southern Linc's robust infrastructure has proven that it can hold up under the harshest of conditions. Both during Hurricane Katrina and in its aftermath, Southern Linc's wireless network outperformed every other network in the area and all of Southern Linc's hardened towers remained intact. Southern Linc also provided reliable communications during and after hurricanes Erin, Opal, and Ivan, the 2011 Alabama tornado outbreak, and 2014 Winter Storms Leon and Pax. Based on its experience in Hurricane Katrina, Southern Linc intends to self-provision physically diverse, cross-connected redundant backhaul as part of its LTE deployment to ensure that its network is not vulnerable to a single point of failure.

Southern Linc also has a lengthy history of collaboration and experience working in-field with local and state officials. Approximately one-third of Southern Linc's subscribers are either first responders or other local, state, or tribal government employees, while another third are utility company employees. Southern Linc has years of experience collaborating with local and state public safety and disaster response agencies before, during, and after storms.

Southern Linc thus is well-positioned to partner with states that choose to opt out of the FirstNet deployment and deploy their own networks that interoperate with the nationwide public safety broadband network ("NPSBN"). Southern Linc's experience operating a highly resilient, hardened network also gives the company a unique perspective on the issues raised in the NPRM.

## DISCUSSION

### **I. The Commission Should Not Foreclose State Plans That Include both RANs and EPCs**

The NPRM implies in several places that the sole state deployment will consist of a RAN. But the Spectrum Act directs the Commission and FirstNet to take a holistic approach to deploying the NPSBN in an efficient and cost-effective manner, and specifically encourages FirstNet to leverage existing infrastructure. The Commission's own guidance on NPSBN interoperability contemplates the use of existing network components, including core network elements, and nothing in either the statute or the interoperability guidelines prohibits using existing core network elements. Moreover, allowing states to operate or administer their own existing cores will enable compliance with other provisions of the statute, will not require any funding from FirstNet, and will be fully interoperable with FirstNet's core (because LTE uses an all-IP, flat core network structure). At a minimum, the Commission should not disqualify any state-administered RAN merely because it is associated with a core network.

#### **A. EPCs Operated by States or their Carrier Partners are Consistent with the Spectrum Act**

The Spectrum Act directs FirstNet to take a comprehensive approach to deploying the NPSBN, and explicitly encourages FirstNet, among other things, to “leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network.”<sup>3</sup> The statute also directed the Commission to advise FirstNet on interoperability.<sup>4</sup>

Consistent with the statute's instructions, the Commission convened an expert Technical Advisory Board that issued guidance in 2012 on interoperability, and that guidance specifically

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<sup>3</sup> Spectrum Act § 6206(b)(1)(C).

<sup>4</sup> *See id.* § 6203.

envisioned multiple cores.<sup>5</sup> The guidance expressly acknowledged an obligation to “consider leveraging existing infrastructure,” and contemplated, among other things, the possibility that “existing EPC infrastructure deployed prior to operation of the NPSBN EPC may be integrated into the NPSBN Core.”<sup>6</sup> Indeed, all three of the proposed network configurations involve interoperating with at least some existing core network elements. Configuration 3, for example, explicitly incorporates multiple overlapping core network elements, including multiple Home Subscriber Servers.<sup>7</sup> And the other configurations likewise involve some overlapping core network elements.<sup>8</sup> These configurations appear to reflect the reality that multiple states and municipalities had sought waivers to deploy public safety networks in advance of the NPSBN, and had urged the Commission both to allow such deployments to continue and for FirstNet to leverage, rather than abandon, their network deployment efforts.<sup>9</sup> Existing carrier-operated core networks, such as Southern Linc’s EPC, are fundamentally no different than the state waiver deployments that the Commission previously authorized; in both instances, FirstNet can and should leverage existing core networks, when it is efficient to do so.

While FirstNet has indicated that it intends to rely on a single core and “does not anticipate” using a local back-up core,<sup>10</sup> any categorical *ex ante* decision against using multiple

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<sup>5</sup> See Technical Advisory Board for First Responder Interoperability, Final Report, *Recommended Minimum Technical Requirements to Ensure Nationwide Interoperability for the Nationwide Public Safety Broadband Network*, (May 22, 2012), <https://ecfsapi.fcc.gov/file/7021919873.pdf>.

<sup>6</sup> *Id.* §§ 4.1.4, 4.1.4.1.

<sup>7</sup> *Id.* § 4.1.4.4.

<sup>8</sup> *Id.* §§ 4.1.4.2, 4.1.4.3.

<sup>9</sup> See, e.g., Comments of City and County of San Francisco and the Bay Area Regional Interoperable Communications Systems Authority, PS Docket No. 12-94 (filed Apr. 20, 2012); Comments of City of Chesapeake, Virginia and Dallas/Fort Worth International Airport, PS Docket No. 12-94 (filed Apr. 20, 2012); Comments of LARICS, PS Docket No. 12-94 (filed Apr. 20, 2012); Comments of Nevada Department of Transportation, PS Docket No. 12-94 (filed Apr. 20, 2012); Comments of the Operators Advisory Committee to the Public Safety Spectrum Trust (“PSST-OAC”), PS Docket No. 12-94 (filed Apr. 20, 2012); Comments of State of New Mexico, PS Docket No. 12-94 (filed Apr. 20, 2012); Comments of City of Fort Worth, Texas, PS Docket No. 12-94 (filed April 20, 2012).

<sup>10</sup> *First Responder Network Authority; Final Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012*, 80 Fed. Reg. 63,523, 63,524 ¶ 3 (Oct. 20, 2015)

cores would be a significant mistake. FirstNet has previously recognized, for example, that technical limitations and individual network architectures could justify allowing some flexibility in the demarcation point between the state-run RAN and the FirstNet core.<sup>11</sup> And FirstNet has acknowledged the position of states such as Florida that FirstNet should “remain flexible when creating its network architecture to provide options for the various States to best meet their broadband needs in support of their public safety missions.”<sup>12</sup> At a minimum, neither the Commission nor FirstNet should foreclose a case-by-case assessment of the benefits of leveraging local core networks—especially given the very real and significant benefits of a fully-redundant, hardened core such as Southern Linc’s, at no cost to FirstNet.

Moreover, nothing in the statute’s interoperability requirements is inconsistent with a state or its carrier partner from operating a core network. As the NPRM correctly recognizes, the Spectrum Act contains only two requirements for state submissions to the Commission. State opt-out plans must demonstrate “(I) that the State will be in compliance with the minimum technical interoperability requirements developed under section 6203; and (II) interoperability with the nationwide public safety broadband network.”<sup>13</sup> Notably, nothing in these two requirements prohibits state-administered EPCs. States or their partners can operate both RANs and EPCs while fully complying with both requirements, and the NPRM does not suggest otherwise. Thus, state plans that include both RANs and EPCs are entirely consistent with the statute, so long as they demonstrate compliance with these two interoperability requirements.

The NPRM also proposed that “states seeking to opt out should be required to demonstrate to the Commission in their alternative plans that their state RANs will adhere to

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<sup>11</sup> See Further Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012, 80 Fed. Reg. 13,336, 13,345 (Mar. 13, 2015).

<sup>12</sup> *Id.* at 13,345 n.83.

<sup>13</sup> NPRM ¶ 58; Spectrum Act § 6302(e)(3)(C)(i).

FirstNet’s network policies relating to interoperability, to the extent that FirstNet has published such policies at the time that states submit their plans to the Commission.”<sup>14</sup> Moreover, a state plan also must not “adversely impact FirstNet’s ability to plan and deploy the NPSBN and establish nationwide network standards and policies.”<sup>15</sup> Again, nothing in these requirements prohibits states or their carrier partners from operating their own core networks. Multiple cores can comfortably comply with FirstNet network policies relating to interoperability, and so long as the state provides the physical or virtual interconnection point with the NPSBN, nothing about operating a separate core “would require alteration or changes to the FirstNet network.”<sup>16</sup>

Multiple core networks would also promote Congress’s directives in other portions of the Spectrum Act. For example, the Spectrum Act speaks specifically to a state’s ability to provide commercial service or to lease excess capacity through public-private partnerships.<sup>17</sup> But absent a core that is operated by the state or its carrier partner, the state would not be able to measure usage to know whether and how much excess capacity it may have, and therefore it would not be able to lease capacity or provide commercial service at all. The state therefore *must* be able to have visibility into the traffic on its or its partner’s network via its own core network elements, or else this key provision of the statute would be frustrated.

Finally, the Spectrum Act requires states to demonstrate to NTIA that their plans would provide “comparable security, coverage, and quality of service to that of the nationwide public safety broadband network.”<sup>18</sup> Again, allowing states to have visibility into the traffic on their network would promote their ability to ensure quality of service. For example, visibility into traffic via core network elements operated by the state or its carrier partner would enable states

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<sup>14</sup> NPRM ¶ 63.

<sup>15</sup> *Id.* ¶ 67.

<sup>16</sup> *Id.*

<sup>17</sup> Spectrum Act § 6302(g)(1).

<sup>18</sup> *Id.* § 6302(e)(2)(D)(iii).

to adjust operating parameters in response to changes in usage or capacity. It would be more challenging to attempt to ensure comparable quality to the NPSBN absent such visibility.

**B. EPCs Operated by States or their Carrier Partners Would Promote the Public Interest**

Allowing states or their carrier partners to operate their own core networks not only would promote Congress's objectives in the Spectrum Act, but it also would promote the public interest. One benefit of the Interoperability Board's technical requirements, which offer multiple potential configurations to integrate RAN and EPC elements, is that it leaves FirstNet with the flexibility to incorporate existing network elements, including core elements, when doing so would be the most efficient strategy and would promote the quality and resiliency of the network. When an existing state-run or carrier-owned EPC network would allow for the creation of a hardened, interoperable LTE network in less time, and at lower cost, than FirstNet could implement on its own, it is in the public interest for the Commission, NTIA, and FirstNet to have the flexibility to leverage that existing network.<sup>19</sup>

Southern Linc has successfully deployed a hardened, highly redundant network based on the specific weather patterns and topographical features of its geographic footprint. Indeed, Southern Linc operates two fully redundant cores, and it would be a significant lost opportunity to forego use of an unusually resilient and redundant core network—that is already in place and has a proven track record of availability and reliability—when deploying state public safety networks. Taking advantage of Southern Linc's existing redundant cores, by contrast, would facilitate the rapid deployment of an interoperable LTE network at lower cost, and with less risk, than relying exclusively on an NPSBN core. In addition, allowing states and their carrier

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<sup>19</sup> See Letter from Catherine W. Seidel, Motorola Solutions, to Marlene H. Dortch, FCC, PS Docket No. 12-74 (May 31, 2012) (emphasizing the value in the flexibility created by the Interoperability Board's configurations and citing multiple comments from states and municipalities urging the Commission to leverage existing and initial deployments as part of an efficient deployment of an NPSBN).

partners to monitor usage patterns and customer behavior via their own EPCs will enable states to target ongoing investments and improvements to their RANs, which again could lead to a better performing network.

Moreover, states and their locally-based partners likely will have unparalleled knowledge of the unique interrelationships among institutions, individuals, and organizations within the state. Effective public safety communications depends on comprehensive, years-long partnerships and information exchanges with a variety of public and private organizations to identify vulnerabilities and opportunities to improve customer service. Again, Southern Linc's experience is instructive. It has worked for years with state and local first responders and other local, state or tribal government employees, and has developed extensive knowledge about the different resources and practices of each entity within its footprint. These relationships and localized knowledge can be immensely valuable and directly affect the production, distribution, and consumption of services, and they can be maximized only when the state and its carrier partner are able to leverage existing knowledge across the entire user experience. Allowing such a state or its carrier partner to manage its own core network thus could substantially improve the customer experience.

Ultimately, the subject of state-operated core networks will be negotiated between opt-out states and FirstNet. The Commission at a minimum should not use its review of RAN interoperability to disqualify any RAN associated with a core network, or otherwise foreclose core networks operated by states or their network partners.

## **II. The NPRM’s Procedural Proposals Reflect the Limited Scope of the Commission’s Review in Approving State Plans**

The NPRM seeks comment on proposed processes for reviewing state plans.<sup>20</sup> Many of these proposals are eminently sensible, such as a shot clock for review, and protection of confidential information; however, the Commission should not reject any state opt-out plan without giving the state the opportunity to address any concerns that the Commission has.

### **A. The Commission’s Opt-Out Procedures Should Promote Rapid Review of State Plans**

Southern Linc agrees with many of the NPRM’s procedural proposals, such as requiring states to notify the Commission contemporaneously with their decision to opt out, and proposing 180 days for states to propose alternative plan.<sup>21</sup> These proposals are consistent with the Spectrum Act, reflect a reasonable time frame for states to opt out, and will prevent unnecessary delay.

With respect to state requests for proposals (“RFPs”), the NPRM asks what showing should be required for a state to demonstrate that it has “develop[ed] and complete[d]” an RFP consistent with the Spectrum Act.<sup>22</sup> The NPRM asks in particular whether a state plan should be deemed incomplete if the state has issued an RFP, but has not yet received bids or awarded a contract within the statutory 180 day period.<sup>23</sup> The Commission should require states only to have issued an RFP to comply with this mandate, not to have received bids or awarded a contract within the 180-day period. The statute speaks solely to the obligation to develop and complete the “request,” not to an obligation to award a contract within 180 days.<sup>24</sup> 180 days may be an unduly restrictive time period for a state to issue an RFP, review all proposals (which may be

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<sup>20</sup> NPRM ¶¶ 49, 67.

<sup>21</sup> *Id.* ¶ 52.

<sup>22</sup> *Id.* ¶ 51.

<sup>23</sup> *Id.*

<sup>24</sup> Spectrum Act § 6203(e)(3)(B).

highly technical in nature), and award a contract; the statute contains no such requirement, and the Commission should not impose one.

The NPRM correctly recognizes that rapid review of state proposals is important.<sup>25</sup> Accordingly, the Commission should adopt its proposed 90-day shot clock for review of state proposals.<sup>26</sup> But, as discussed below, the Commission should not implement procedures that permit it to reject state plans without the opportunity for the state to address any concerns the Commission has with the plans. The Commission therefore should not apply the shot clock in such a rigid manner that it is used to prevent states from amending their plans to address any Commission feedback. For example, the Commission could implement a shot clock in a manner that provides for a 60 day initial review period by the Commission, 20 days for states to respond to any issues identified by the Commission during its initial review, and ten days for final determination. Such a process would ensure rapid review while enabling states to respond to any legitimate Commission concerns.

The NPRM also seeks comment on “who should have access to and the ability to comment on state alternative plans,” and “the extent to which state alternative plans may contain confidential, competitive, or sensitive information or information that implicates national security.”<sup>27</sup> If the Commission permits or requires the plans to be publicly available or subject to public comment period, any such process should protect the proprietary and confidential information of states and their network partners, for example through the use of protective orders comparable to those implemented in merger proceedings.

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<sup>25</sup> NPRM ¶ 57 (The FCC “propose[s] that each alternative plan submitted to us should receive expeditious review”).

<sup>26</sup> *Id.* (The FCC “propose[s] to establish a ‘shot clock’ for Commission action on alternative plans to provide a measure of certainty and expedience to the process,” and seeks comment on what an appropriate shot clock period would be).

<sup>27</sup> NPRM ¶ 54.

## **B. The Commission’s Evaluation Criteria Should Reflect its Limited Role in Evaluating State Opt Out Plans**

The NPRM correctly recognizes that the Spectrum Act “closely circumscribes the review that the Commission is to undertake with respect to States that choose to ‘opt out’ of the nationwide network.”<sup>28</sup> As the NPRM notes, the statute requires only that states submit plans “for the construction, maintenance, operation, and improvements of the radio access network within the State to the Commission,” and that the plans “demonstrate” compliance with the two interoperability provisions in Section 6302(e)(3)(C)(i). The Commission should require opt out plans only to address those requirements, and the Commission’s review should be limited to those requirements.

The NPRM correctly proposes that “the Commission’s evaluation of the opt-out states’ alternative plans be limited to the RAN.”<sup>29</sup> This limited scope of review recognizes the multi-step process that a state proposal must undergo, including review by NTIA and FirstNet.<sup>30</sup> The Spectrum Act provides that the Commission should assess only whether a state plan is workable and whether a state-operated RAN meets the statute’s two interoperability criteria<sup>31</sup>; any further review of the viability of state proposals will be conducted by other entities.

That limited focus on the RAN remains appropriate even if state opt-out plans will include user equipment, applications, or core network elements. The NPRM correctly proposes to exclude from Commission review any user equipment or applications, on the ground that they fall outside the scope of the Commission’s review of RANs<sup>32</sup>; the same logic holds true for core network elements. Thus, the NPRM is correct that, under the first prong of the Commission’s interoperability review, state opt-out plans should address only the interoperability requirements

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<sup>28</sup> NPRM ¶ 58.

<sup>29</sup> *Id.* ¶ 64

<sup>30</sup> *Id.* ¶ 59.

<sup>31</sup> See Spectrum Act § 6302(e)(3)(C)(i).

<sup>32</sup> NPRM ¶ 65.

in the Interoperability Board Report that are RAN-related.<sup>33</sup> The NPRM also correctly proposes that, under the second prong, state plans must only show “compliance with those RAN-related network requirements specified by FirstNet that are necessary to ensure interoperability with the FirstNet network.”<sup>34</sup> To the extent that any additional assessment of non-RAN interoperability is appropriate under the Spectrum Act, that task falls to other entities.

Finally, the Commission sought comment on what type of compliance showing it should require opt-out states to make.<sup>35</sup> The Commission should not require any specific method of demonstrating compliance with the technical interoperability requirements or interoperability with the nationwide public safety broadband network. States have an intrinsic incentive to ensure their public safety networks are interoperable with FirstNet, and self-certification by a governmental entity should be sufficient method of showing compliance. Moreover, if the Commission approves a state plan, the Spectrum Act provides that the state must apply to NTIA to lease spectrum capacity, and must demonstrate to NTIA that the state “has the ability to maintain ongoing interoperability with the nationwide public safety broadband network.”<sup>36</sup> This provision of the statute suggests that NTIA, not the Commission, has the responsibility to evaluate interoperability over time. The Commission therefore should restrict its compliance showing to a certification, and should not require more extensive documentation.

### **C. The Commission Should Not Disapprove any State Plan Without Providing the State with an Opportunity to Address Any Commission Concerns**

The NPRM proposes that, if the Commission disapproves a state alternative plan, the state will have forfeited the ability to deploy its own network, and the Commission will be barred

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<sup>33</sup> *Id.* ¶ 69.

<sup>34</sup> *Id.* ¶ 70.

<sup>35</sup> *Id.* ¶ 71.

<sup>36</sup> Spectrum Act § 6302(e)(3)(D)(i)(II).

from entertaining an amended plan.<sup>37</sup> The Spectrum Act does not compel such an approach, and an unduly rigid application of such a proposal could inappropriately disqualify states that are entitled to opt out. While the Spectrum Act provides that FirstNet shall proceed with its plan in the state if the Commission disapproves a state proposal,<sup>38</sup> nothing prohibits the Commission from permitting multiple submissions before issuing a final disapproval. Indeed, the NPRM separately seeks comment on whether to allow states to “file amendments or provide supplemental information” once a plan has been filed.<sup>39</sup> Moreover, the Spectrum Act expressly provides for judicial invalidation of a Commission disapproval is if the Commission “refus[es] to hear evidence pertinent and material to the decision”<sup>40</sup>; the Commission can avoid running afoul of that prohibition, and avoid any due process concerns, by allowing states an opportunity to provide any additional information that the Commission deems to be “pertinent and material” to its decision. Given the potential benefits of bringing local expertise to FirstNet to improve the resiliency of the network, and the statutory mandate authorizing states to opt out of the national deployment, the Commission should not pursue an unduly restrictive process that could prematurely disqualify a state plan.

However the Commission structures its review process, it should ensure that states be given an opportunity to address any Commission concerns with their proposal. If the Commission insists that its initial disapproval forever disqualifies a state from deploying its own network, it should implement an iterative process that allows states to update their proposals in response to Commission feedback prior to any disapproval. Such an approach should include

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<sup>37</sup> NPRM ¶ 59.

<sup>38</sup> Spectrum Act § 6302(e)(3)(C)(iii).

<sup>39</sup> NPRM ¶ 53.

<sup>40</sup> Spectrum Act § 6302(h)(2)(C).

feedback from Commission staff, ideally in writing, along with an opportunity for states to file amendments and submit supplemental information to address any concerns.

Finally, if the Commission disapproves a state plan, it should explain its rationale for the rejection in writing. State opt outs were explicitly contemplated by Congress and FirstNet, and are an integral part of the national policy to protect public safety.<sup>41</sup> If the Commission intends to reject any state participation, it should explain its reasoning and permit rapid reformation of the plan or an appeal, as provided by the statute.

### CONCLUSION

Southern Linc looks forward to working with the Commission, NTIA, FirstNet, and opt out states to create a reliable, resilient public safety network that will promote the public interest and vindicate Congress's mandate.

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<sup>41</sup> See Spectrum Act § 6302(e)(2) (permitting a state either to “participate in the deployment of the nationwide, interoperable broadband network as proposed by the First Responder Network Authority,” or “conduct its own deployment of a radio access network in such State”).