Before the
Federal Communications Commission

In the Matter of

Procedures for Commission Review of State Opt-Out Requests from the FirstNet Radio Access Network	)	PS Docket No. 16-269
Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012	)	PS Docket No. 12-94
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band	)	PS Docket No. 06-229
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands	)	WT Docket No. 06-150

RESPONSE OF THE STATE OF ALABAMA

NOTICE OF PROPOSED RULEMAKING

The State of Alabama ("State" or "Alabama") submits the following response to the Request for Public Comment regarding the Opt-Out Procedures, Evaluation Criteria, and Content and Review of State Plan Elements for the First Responder Nationwide Public Safety Broadband Network (NPSBN) posted by the Federal Communications Commission (FCC) and published in the Federal Register on September 21, 2016.

I. Introduction

The formation of the First Responder Network Authority (FirstNet), and the Nationwide Public Safety Broadband Network (NPSBN), as described in the Middle Class Tax Relief and Job Creation Act of 2012 ("the Act"), created a significant opportunity for FirstNet to design and deliver to public safety a dedicated interoperable wireless broadband technology. The NPSBN will support critical mobile broadband communications for all public safety entities across the nation. In crafting the Act, Congress recognized the fundamental requirement to implement a NPSBN that ensured interoperable communications over standards based wireless technology. The NPSBN will be anchored on Long Term Evolution ("LTE", "4G LTE", "4G") technology, the most robust commercial wireless system available for mobile broadband communications.

Congress specifically enabled states and United States (U.S.) territories (hereinafter referred to as "states") with the ability for their governors to "opt-out" of the FirstNet plan for its state and to present an alternative state plan. The alternative plan approval process necessarily requires demonstration of capabilities and compliance with a variety of previously established and evolving requirements and obligations as developed by the National Telecommunications and Information

Administration (NTIA), the Federal Communications Commission (FCC) and FirstNet. The FCC's NPRM asks for feedback covering a wide range of issues with regards to the Commission's role in the opt-out process. The State of Alabama appreciates the opportunity to provide our feedback through comments to the NPRM, all of which we trust will assist the NTIA, the FCC and FirstNet in their individual and collective efforts to design a fair and equitable program.

The State of Alabama is committed to cooperating with FirstNet to advance the implementation of the NPSBN in the best interest of our State and in the best interest of all of our nation's first responders. The State hopes that FirstNet's State Plan for Alabama will not only meet, but exceed the State's public safety needs. However, we have an obligation to our first responders and citizens to thoroughly assess the State Plan, in the context of any alternatives that may be available, and to make a decision that results in the best outcome for the State. We applaud the efforts of FirstNet, the NTIA, the FCC and the nationwide public safety community supporting the NPSBN initiative. We look forward to continuing our State's participation in and contribution to this collaborative process.

II. The State of Alabama Response

The State of Alabama provides a comprehensive response to the Commission's NPRM. We note that many of the same general concepts were included in the State's response to the NTIA's State Alternative Plan Program (SAPP). The State of Alabama's high-level perspective on the opt-out process and the FCC's NPRM is anchored on the following key tenants:

A. Key Tenants

a. The transparency of the Opt-Out and SAPP process will result in the best outcome for the NPSBN and will mitigate avoidable delay and objection of states and territories

The State of Alabama believes that the NPSBN will provide substantial value to our public safety stakeholders. As such, unnecessary delays in the process to provide public safety's broadband service in Alabama is unacceptable. The State takes seriously its obligations to its public safety stakeholders and citizens, and therefore, its responsibilities regarding careful consideration of opt-out. Consequently, in the event the State decides its Alternative Plan is viable and superior to the FirstNet plan, the process must be clear and rapid. We applaud the Commission's efforts to create a process that is fast. However, all three governing entities (NTIA, FirstNet, and the FCC) must be transparent in how they will evaluate their statutory responsibilities such that the states can clearly address the evaluation factors if they choose to submit an alternative state plan. The Commission has proposed standardization of the Alternative Plans. The State believes that creation of standards, and the establishment of objective benchmarks the states must achieve to pass the statutory requirements for opt-out will be beneficial to a fair, transparent and speedy process. An objective standard could also serve to help states understand if they have a plan that will pass the tests of all three parties. Standardization and transparency will also assist in assuring good relations between the states and their Federal partners. Subjective evaluation that is deemed to be biased by the states could result in further delays that neither opt-in nor opt-out parties desire.

b. Collaborative partnership between the NTIA, the FCC and FirstNet in all matters regarding the interpretation of the Act, Opt-Out, and the SAPP review process is fundamental

The State of Alabama recognizes that the NTIA, FCC, and FirstNet all play important roles in the opt-out process. As such, the roles and responsibilities of the three parties must be clear. Each evaluator in the process must have clearly defined roles that neither overlap nor leave gaps to ensure our national objectives are met for public safety communications within the confines established by the law. It is important that the Federal partners collaborate, to the greatest extent possible, in defining their individual and collective roles and responsibilities, clarifying the evaluation criteria (FCC and NTIA) and in publishing the information that will be required in the Alternative Plan. While it is understood that the Commission and the NTIA will conduct independent, unbiased evaluations, such evaluations should be based on transparent and objective evaluation factors that are clearly defined well in advance of a state receiving its draft state plan

c. The process and rules must accommodate the realities of the time and the associated order of events

Time is of the essence in this process, however, the ordering of the law presents a potential problem. An opt out decision prior to receipt of proposals from a state initiated RFP process would be based on incomplete information. The State of Alabama wishes to waste no time in implementing the NPSBN, and therefore, if FirstNet's plan is superior to the State's Alternative Plan, our goal is to make that decision based on a determination of a better plan, not the hope of a better plan. Delaying the release of the RFP until that point in time is expected to be a major risk, since it is unlikely that the State would have the essential details of the Alternative Plan developed in the statutory 180 day period. Therefore, this forces states to conduct an RFP process prior to the opt-out decision. The State of Alabama has already issued its RFP due to this circumstance. The Commission, the NTIA, and FirstNet processes, evaluation criteria, and underlying rules must therefore allow for the RFP process to have been conducted in advance of the Commission's receipt of the Alternative Plan. Furthermore, the parties should be flexible on the exact status of a state initiated and ongoing RFP process and should not take any actions that interfere with a state's ability to prepare for the opt-in/opt-out decision or procurement processes.

- One state may wish to have entered into a contract that is contingent on opt-out approval prior to construction. They may choose this route to have a partner in place to help assemble the Alternative Plan, answer Federal agency questions, and provide additional, as needed, support.
- Another state may wish to simply select a partner and hold off on the award of a contract until an opt-out request is approved.

The Federal partners must allow for both scenarios. As a result, we agree with FirstNet's and the Commission's assessments that the RFP process "has progressed in such a process to the extent necessary to submit an alternative plan." But the Commission must be careful in establishing policies that would presume taking the procurement process further.

d. The requirements must be clear, achievable and lawful

All the stated Commission, NTIA, and FirstNet evaluation factors must be clear and achievable. The states cannot comply with unknown or moving requirements. The requirements must enable the states to set clear expectations for their opt-out Radio Access Network (RAN) partners, and for those partners to have an understanding of the cost, effort, and timing for achieving those expectations. Neither the RAN partners, nor the states, can sign blank checks of infinite commitment under a vague statement of requirements and processing timeline. The Commission's NPRM discusses ongoing interoperability between the opt-out RAN and the NPSBN. FirstNet must publish its interoperability plans by the end of 2016, so that all parties can properly plan for the costs associated with ongoing interoperability, or determine if the timelines or approach present business risks. For example, FirstNet's license covers the period of time where 5G technology is expected to be commercially available. When will FirstNet's vendor support the 5G RAN? When will FirstNet's vendor vacate the 4G LTE system? In other words, when will it mandate a migration? Or, how much advance notice will opt-out states and their vendors be given when a date certain is determined? How will interoperability testing (IoT) and migration to new vendor software releases be managed? Will new 3GPP features or functions become mandatory, and if so, how much advance notice will be granted for their implementation in opt-out RAN states? In other words, FirstNet must provide clear, reasonable and achievable requirements in the initial deployment of the NPSPN and its integration with opt-out RAN and clarity with regards to achieving ongoing interoperability.

Likewise, neither the Commission, the NTIA, nor FirstNet should have the latitude to evaluate elements of the State's plans that are not required under the law or are not currently technically feasible. For example, the law requires that "The State shall submit an alternative plan for the construction, maintenance, operation, and improvements of the radio access network within the State to the Commission, and such plan shall demonstrate" interoperability compliance. And, if the state seeks funding from NTIA, the state, must demonstrate, in its plan, it has the technical and financial ability to support the RAN as well as to support ongoing interoperability, timeliness, cost-effectiveness, and others. These requirements do not require that the state and its partner divulge a business plan, only that the state's alternative plan demonstrates financial capability. The three parties should develop a template for a single plan that allows for states to omit sections dealing with the additional scrutiny associated with grant funds. The template should identify which entity will evaluate each element of the plan.

e. FirstNet must provide details on its lease agreement

The Act grants FirstNet the spectrum license and the ability to lease spectrum to opt-out states. FirstNet would then be able to determine its requirements in the lease (e.g., fee structure, technical or operational requirements, etc.). These requirements will affect the state's relationship and expectations with its private partner secured through an RFP process. As a result, the states also need FirstNet's proposed lease in advance of the pursuit of an opt-out status to assure that the downstream requirements (i.e., to the state's RAN vendor) accommodate applicable lease terms and conditions. Again, a lack of clarity, transparency, and reasonable requirements for the FirstNet lease will delay the construction of the RAN in states that believe they have a superior plan. On the other hand, as with the requirements for other elements of the opt-out process, the predefined spectrum lease terms could also tip the decision against pursuing an Alternative Plan, again, speeding the process of public safety benefiting from the NPSBN in all states. FirstNet should publish a Public Notice describing its proposed lease terms (and other elements, such as "user fees" associated with the "core network") prior to

release of the draft state plans so that states and their perspective partners can understand the opt-out state's obligations to FirstNet. FirstNet should also include proposed fees for usage of the FirstNet core and any other agreements or integral elements to the state-FirstNet relationship for opt-out states. The PN should include FirstNet's proposed lease language to deliver a transparent review and comment process that would ultimately accelerate network deployment. Beginning this process prior to receipt of the draft state plan will allow time for states to provide feedback, develop a final lease, and incorporate downstream lease elements in state procurements with their RAN providers.

B. NPRM Response:

The following sections provide the State of Alabama's responses to the NPRM contents. Where applicable, the respective paragraph numbers from the NPRM are identified.

a. Opt-Out Procedures

¶49: Given the State's position regarding the timeliness of the opt-out process, all three parties must develop procedures that expedite the determination of opt-out status, and associated approval to use the FirstNet spectrum. As such, the State encourages a simultaneous review of the Alternative Plan by the Commission in conjunction with the review of the state's proposed amendments to the spectrum lease agreement by FirstNet (or earlier, if feasible)[1]. It is important to note that a notice to FirstNet and the NTIA is not required by the time the state presents its Alternative Plan to the FCC, however, such a simultaneous notification, and parallel review of appropriate documents, should be supported by the process. However, we note that the FCC, NTIA and FirstNet should have separate and distinct "jurisdictions" with regards to their respective reviews, and that the states should be free to provide divergent versions of the Alternative Plan that limit the information strictly to each evaluating entity's purview in assessing the Alternative Plan. Such reviews should be simultaneous and not dependent on one another[2].

¶51: The Commission's rules, as well as the rules of the NTIA, must be flexible with regards to the specific juncture in the contracting process the state has advanced with its opt-out RAN partner. As discussed above, there are a variety of valid approaches to this issue. A state's respective RAN partner is critical to the success of the NPSBN in opt-out states. The partner will need to make significant capital investments, and leverage excess spectrum in order to be successful. Therefore, we would encourage states to have received proposals, and to obtain the vendors' commitments of a RAN partner prior to the submission of an Alternative Plan. However, we concur with FirstNet's position that the process only be required to progress far enough to develop the Alternative Plan. The process should not be so strict as to prevent a state that is willing to accept more risk absent vendor partner's proposals. And,

---

[1] While the law requires the state to "apply to the NTIA to lease spectrum capacity" after Commission approval, it is advisable that FirstNet conduct its lease negotiation activities with the state in parallel to avoid any unnecessary delays. This will allow for a pre-negotiated lease with FirstNet by the time the state applies for a lease to NTIA. Furthermore, the earlier such "negotiations" and amendment reviews can occur (perhaps in advance of an opt-out decision), the earlier the state can fully assess its decision to opt-out, or continue with the opt-out process.

[2] As with the spectrum lease, while the states must apply for grant funds after Commission approval, nothing in the law prevents the state from providing its documentation to NTIA in parallel with Commission review and for NTIA to review these materials during the Commission's review.

given the argument regarding the opt-out procedural timetable, the parties should absolutely not require a state to have negotiated and executed a contract with the RAN vendor to be determined eligible. Therefore, simple issuance of an RFP should be sufficient within the 180 day window.

¶53: As discussed within our key tenants, clear and transparent requirements are critical for timeliness and avoidance of wasted taxpayer funds in this process. Therefore, the State of Alabama requests that the parties that have a statutory need to review the State's Alternative Plan provide a detailed template, and define key evaluation criteria and requirements that must be articulated in the potential Alternative Plan in a timely manner. Expectations have been made by FirstNet that the draft State Plan will be published during the second quarter of 2017, and to date, no clear guidelines guiding the opt-out process have been published. Consistent with the key tenants, this will help accelerate the opt-out process, and will clarify the intentions of the FCC and the NTIA (the law does not include any review of the Alternative Plan by FirstNet) with regards to their specific requirements.

Paragraph 53 also brings into question the ability to file amendments or provide supplemental information to the plan once filed with the Commission. The State of Alabama feels strongly that the State should have ample opportunities to secure the statutory approvals with opting out, should it proceed with such an option. Therefore, the Commission should have the latitude to seek additional information, and the State should have the opportunity to amend the Alternative Plan as necessary to demonstrate compliance with the legal right to opt-out based on the evolving statuary requirements. This right should be extended further, with the ability for the State to dispute a rejected Alternative Plan, and be provided the ability to cure the plan if warranted.

The Commission also seeks comment on if it should "condition approval on substantial compliance with the approved plan under the awarded contract, or should this be addressed by NTIA under its "ongoing" interoperability evaluation?" As previously discussed, the timing of the RFP process must be flexible allowing for opt-out states to be under contract with a vendor or awaiting execution of a contractual agreement. More fundamentally, the State of Alabama believes that neither the Commission nor the NTIA are provided the authority to judge the states in this manner. The Act calls for the state's plan to demonstrate Interoperability Board (IB) compliance and "interoperability with the nationwide public safety broadband network," reviewed by the Commission. NTIA's role, if grant funds are sought, is to assess if the state "has the ability to maintain ongoing interoperability" using the contents of the Alternative Plan. This review of "ongoing interoperability" by NTIA must be limited to contents conveyed in the Alternative Plan, and be based solely on FirstNet's published network policies. And, NTIA's assessment must only be based on the state's "ability" to achieve the network policies. However, we suspect that the FirstNet spectrum lease agreement will address ongoing interoperability (and operations) between the opt-out RAN and NPSBN core systems. But, neither the Commission, nor NTIA should "assess" ongoing interoperability. If FirstNet establishes initial network policies that address future network conditions, the Commission can review committed compliance with those future looking policies. However, any other ongoing interoperability compliance is limited solely to FirstNet's purview and only via the lease agreement between the state and FirstNet. And, as discussed in this document, FirstNet's ongoing compliance requirements must be clearly articulated with sufficient advance warning.

¶54: Paragraph 54 addresses the procedures for the Commission seeking comments regarding Commission's review process for its alternative plan evaluation. The State of Alabama contends that it is

regularly engaged with the Alabama stakeholders affected by the State's potential Alternative Plan submission. The State will seek its stakeholders' opinions and feedback prior to the submission to the Commission. Alabamians are the most substantially affected community with regards to the Alternative Plan (i.e., if first responders provide mutual aid in Alabama from neighboring states, it is Alabama that is affected most by their inability to communicate). The State prefers a direct dialog with its neighbors on its Alternative Plan rather than communicating through the Commission. In addition, the State expects that there will be sensitive portions of the Alternate Plan that are not appropriate for public disclosure. As a result, the Commission should not provide a comment period to the public. Such comments are unnecessary and would serve to prolong the process.

¶55: Paragraph 55 addresses how the Federal partners should work together in the opt-out process and what role should FirstNet and NTIA have in reviewing and commenting on "state plans". As indicated in our statement of key tenants, there are clear points of communication and collaboration that must exist far in advance of the Alternative Plan submission, or the spectrum lease negotiations. However, the State suggests that the FCC avoid conjoining the evaluations and responsibilities of the Federal partners. As discussed above, the evaluations must not be duplicative (or contradictory), and must not allow any gaps. As a result, NTIA's review should be simultaneous, but independent of the FCC's, and strictly be limited to its statutory authorities. While such reviews and feedback should be independent, the State of Alabama should have the right to respond to any comments or deficiencies noted by the Commission or NTIA. However, the FCC and NTIA do not have a role in crafting the State Plan (FirstNet's plan to the State), and therefore, it would be inappropriate for the Commission and NTIA to use taxpayer dollars for a review or comment on the plan until their respective roles are triggered with a potential opt-out evaluation. At that point, as allowed under the law (i.e., a comparison to FirstNet's plan according to the factors outlined in the law), the NTIA comments should be limited to only those factors that are non-compliant with the law. With regards to the state's Alternative Plan, NTIA's review should be independent and non-overlapping as discussed above, and FirstNet has no statutory role in reviewing the state's Alternative Plan, and therefore, the State contends that neither the NTIA nor FirstNet should have the ability to "review and comment" on the Alternative Plan submitted to the Commission. Regarding the Commission's question of ensuring that "it has heard all "evidence pertinent and material to the decision", the State of Alabama encourages FirstNet to provide the Commission with clear, measurable interoperability requirements to enable the Commission to conduct an objective review.

Furthermore, the State of Alabama does not agree with the Commissions assertion that the NTIA always has a "separate statutory role in reviewing state plans that are approved by the Commission." The law clearly stipulates that the NTIA only has such a role when the state seeks to use grant funds provided under the law. The NTIA review should not influence the Commission's review. The law allows for only the Commission, due to interoperability issues, to reject a request to opt-out. Under the law, a state could elect to not accept grant funds, and therefore, would not be subject to the NTIA evaluation criteria. As a result, the NTIA has no bearing on the ability to opt-out, just the ability to approve grant funds. At that point, the NTIA's only role is to forward the request to enter into a spectrum lease to FirstNet, and leave negotiations of such a lease between FirstNet and the state. Therefore, the Commission should not comingle others' reviews with its independent interoperability based review.

b. Evaluation Criteria

¶57: The Commission has wisely included a "shot clock" concept to help accelerate its review of the Alternative Plans. This concept is welcomed, however, the proposed public comment period will result in procedural delay, and the Commission's review should be straightforward, based on requirements from the IB and FirstNet. As a result, the Commission should employ a 90-day shot clock, but not adjust the clock due to a comment period. The states need to expedite the process, and further delays will be problematic. The shot clock should only be delayed to the extent that there are issues or questions for the state to address regarding its submission. The State of Alabama appreciates that multiple states may submit simultaneous plans, causing resource challenges at the Commission. This underscores the need to create standards, templates, and other materials to assist in the creation of plans that contain the required content. In addition, it is possible that state plans will mimic each other due to "reuse" of borrowed language from other states, and perhaps, from the same opt-out RAN vendor. Therefore, the content of the Alternative Plan could be substantially similar for many states.

¶59: The State of Alabama agrees that if the Commission disapproves the state's Alternative Plan, FirstNet will construct the RAN for the state. However, the Commission must provide the state with time to cure its plan and correct any deficiencies. The Commission should provide a dispute resolution process enabling the state to argue its case for compliance with the law, and its ability to opt-out. Therefore, final Commission "disapproval" should be considered complete only upon the state's failure to cure the deficient element of the plan in some time period. The State of Alabama hopes that such corrections are allowed during the 90-day "shot clock" period, however, a state may not be informed of a deficiency until the end of this time period, and, under this scenario, would not be provided sufficient time to correct actual deficiencies. Therefore, the State recommends a 30-day cure period, in the event of "initial disapproval" to allow for corrections to its plan. Should the state concede that it is unable to meet the Commission's requirements, it can immediately notify the Commission to allow FirstNet to proceed with construction.

¶62: Contrary to NTIA's perspective, the State of Alabama agrees with the Commission's view that NTIA's role should be limited to the "five categories" only with the objective to secure implementation funding from NTIA. Therefore, the "ongoing interoperability" test is limited only when a state requests funding from NTIA. The State agrees with the Commission that the five tests outlined in Paragraph 61 are outside of the Commission's purview, and that the Commission is right to limit its interoperability test to those elements required by the IB and FirstNet's "launch" interoperability requirements. The State presumes that "ongoing interoperability" requirements will be defined in the FirstNet spectrum lease with the states. But the law limits NTIA's role to the state's <u>ability</u> to maintain ongoing interoperability, and only at the time of review of the Alternative Plan, not on an ongoing basis. In other words, FirstNet must establish the network architecture, define standards use, versions, and the operational configuration that will establish the baseline for interoperability. In the absence of these parameters and operational standards, ongoing interoperability cannot be achieved between opt-in and opt-out states. The validation of interoperability, anchored on Interoperability Testing (IoT), can only be managed by FirstNet. NTIA has no role in "ongoing interoperability" compliance other than an initial review. As such, the State believes this task is best served by FirstNet, and not NTIA, and should be incorporated programmatically into the spectrum lease agreement between FirstNet and the states.

¶63: The State of Alabama concurs with the Commission's perspective that FirstNet should publish "network policies" to include policies relating to interoperability (many of which were identified as recommended by the IB). It is important to first understand that states cannot comply with

unarticulated requirements. The states and their opt-out partners cannot sign "blank checks" to continually react to ever changing requirements, interoperability focused or otherwise. The public safety community should be able to comment on specific network policies, and furthermore, as described above, key operational policies must be identified in the near term to ensure that opt-out states can integrate their RAN partners into their respective plans, and both are fully cognizant of their compliance obligations in advance of the state's receipt of the FirstNet State Plan. Therefore, as described above, FirstNet must publish these policies by the end of 2016 to meet the prescribed opt-out schedule proposed by FirstNet, NTIA, and the Commission. Fundamentally, "no later than the time of delivery of the State and Territory Plans" will be too late. Absent sufficient time for the states and their partners to comment on proposed policies, and to have sufficient time to develop a compliant plan, opt-out is infeasible, and the states' statutory right under the law is then rendered unachievable. The Commission, FirstNet, and NTIA must provide the requisite information, define the underlying rules and evaluation criteria, document comprehensive processes, publish other relevant factors and provide sufficient advance time to allow the States to develop meaningful plans. It has taken FirstNet over four years to advance the initiative to this current point in time, and to expect that the states achieve somewhat of an equivalent amount of work in three months is unreasonable. The State of Alabama requests that the Commission provide a deadline to FirstNet to provide its draft opt-out plan and requirements, and to then, finalize the network policies such that the states can have adequate time to comment on the draft policies, and, upon determination of the final policies, have their vendors (or offerors in an RFP process) provide a plan that complies with the final requirements. The State believes that the effort required to achieve this proper status will necessitate that FirstNet publish the draft network policies by the end of 2016, not April 2017 as FirstNet has suggested.

¶64: The State of Alabama agrees that the law contemplates that states deploy only RAN. RAN definition naturally includes backhaul from the eNodeB to the Evolved Packet Core ("EPC" or "Core"), and FirstNet has chosen to define RAN in this way. However, a number of challenges exist with such a definition. First, if the state deploys only RAN, it is entirely reliant on FirstNet to provide all Core services. This includes location services, roaming, billing, eMBMS, device provisioning, user equipment, applications (VoLTE, SMS, MCPTT), and possibly Operational Support Systems (OSS). Furthermore, with a definition of RAN to include backhaul, the states would be required to transport traffic from their local areas, to wherever FirstNet may choose to locate their Evolved Packet Gateways, only to "trombone" the traffic back to their original locations. This architectural requirement would prove to be very inefficient, and result in a highly ineffective design. Finally, if FirstNet (or its vendor) is not offering Core services to the state's Covered Lease Agreement (CLA) traffic (i.e., consumer traffic), then the state's RAN vendor will be forced to use nascent technologies (i.e., MOCN[3]) with an unclear path towards achieving FirstNet's objectives. The State is eager to see FirstNet's plans regarding opt-out architectures, services, and interfaces to address these factors. As a result, while the law implies that FirstNet deploy a Core network, it does not prohibit the state from deploying Core network elements to optimize backhauled traffic management or to address potential deficiencies in FirstNet's approach. Congress did limit the states in other areas (the ability to generate revenue, the requirement to issue an RFP, the requirement not to sell services directly to the public, and others), and therefore, the absence

[3] Multi-Operator Core Network (MOCN) supports the ability of two or more Core components to share RAN eNodeB facilities.

of a prohibition for states to deploy Core network systems and services is notable. In other words, the State of Alabama's interpretation is that the states can deploy "at least" their own RAN. Therefore, FirstNet's network policies, described above, must present a workable architecture for all necessary Core services, or to allow an architecture for multiple Cores. While we agree with the Commission that application interoperability is outside of the Commission's purview, we suggest that FirstNet remain flexible with regards to architectures that can fulfil the public safety mission, nationally, yet preserve the state's right to opt-out.

¶65: Ultimately, while the Commission's interoperability review can be fairly limited to determination of connecting to the network, passing traffic and signaling data, and other basic features, FirstNet and the states must work out far more operability elements and details to achieve the required interoperability. For example, the states (and their vendors) should be fully informed of all alarms and performance issues that occur on the Core to properly manage the RAN. However, all public safety entities require the ability to use the NPSBN throughout the country, and therefore, RAN to User Equipment (UE) interoperability will be critical in providing mutual aid across borders and dealing with major disasters such as hurricane Katrina. In other words, each state's RAN, whether provided by FirstNet or the state, must be capable of supporting all the features and functions needed by the UE operating in that State. For example, the RAN should be able to support the use of Proximity Services (ProSe)[4] in the state, as well as features such as Multimedia Broadcast Multicast Service (MBMS), location, and likely other features expected by public safety entities (PSEs) nationwide. Therefore, FirstNet must develop policies that span the entire ecosystem of communications capabilities. In the interest of expediency, the FCC's review should be limited to RAN, and should exclude the review of user applications.

C. Content and Review

¶68: The Commission asserts that "any alternate plan submitted by a state that would require alteration or changes to the FirstNet network to accommodate the state's proposed RAN would not meet the interoperability requirement under the Act." Such a requirement is impossible to achieve. FirstNet will most certainly have to make design and configuration changes to accommodate the borders between states. The FirstNet RAN will need to be redesigned to change neighbor lists, cell configurations, networking interfaces (e.g., X2 to S1 handovers), and other reasonable changes. Ultimately, the opt-out RAN would have to <u>exactly</u> mimic the same network FirstNet had intended to build in the State in order to require no "alteration or changes." However, the State concurs that the changes must be reasonable, not cause undue harm to FirstNet, or incur substantial costs to integrate the opt-out RAN.

¶69/70: The State agrees with the Commission that compliance with the Interoperability Board requirements should be limited strictly to those "SHALL" requirements identified in the Board's report. We note that there are numerous recommendations in that report that seem necessary for FirstNet to establish, but that are not necessarily required to achieve basic interoperability. Any Commission review should be limited to only those SHALL requirements in the IB regarding the RAN, and the FirstNet network policy document associated with interoperability, regarding the RAN.

---

[4] Proximity Services (ProSe) refer to the ability to provide direct mode, or device-to-device communications capabilities, a critical service for public safety, within the 3GPP standard.

¶71/72: As described above, the State believes that the Commission should provide specificity as soon as possible with regards to an Alternative Plan template such that it clearly articulates both the requirement and the information required to demonstrate compliance. Where appropriate, the Commission should ask the states to certify compliance, but should also ask for sufficient information to demonstrate that such compliance is achievable within the state's plan. Paragraph 71 seeks comment regarding the roadmap and planned life-cycle for the state's proposed RAN. As discussed above, it is FirstNet's responsibility to establish the timetable for its systems and for the states to be able to respond to that timetable. To the extent that the state requires additional time to adhere to certain FirstNet requirements, such plans should be clearly articulated, nonetheless, the states should develop plans around FirstNet's requirements, not the other way around. The State presumes that test plans will be developed and implemented by FirstNet to perform IoT between systems, and to field test the interfaces and functionality, however, it should be FirstNet's responsibility to establish leadership along these lines, and to define what activities the state and its vendors must undertake to achieve continual interoperability with the NPSBN. Furthermore, the State does not believe that third parties are necessary, or appropriate, to certify interoperability compliance. Again, FirstNet must establish the interoperability requirements, and the states must confirm compliance with these requirements, and likewise demonstrate their capabilities to meet the requirements. No further demonstrations should be required.

D. Documentation of Commission Decisions

¶73: As described throughout this response, the Commission should provide clear and specific feedback to the states in advance of a decision. Upon an initial decision, the states should have the ability to cure any deficiencies. In its decision, the Commission should be explicit with regards to objective reasons why the state's plan was rejected. The provisions of the Act limiting judicial review of the Commission's decision do not relieve the Commission of its obligations under administrative and due process law to provide a reasoned, rational explanation for its decisions. Indeed, the Act's high bar for judicial review argues for a more fulsome explanation of the Commission's decision, rather than a "limited notice of approval or disapproval in each case without a detailed explanation." Without a highly comprehensive and detailed explanation, it will be almost impossible to determine whether the decision was affected by the kind of corruption, fraud, prejudice or misconduct the Act specifies. Finally, as an independent agency, the Commission should strive to help states reach their self-determined public safety goals; the best way to do that is through a responsible and deliberate discussion between the state and the FCC striving for the success of the Alternative Plan.

III. Conclusion

The State of Alabama is committed to a productive collaboration with the NTIA, the FCC, and FirstNet to ensure the successful implementation of the NPSBN. We additionally respect the complexity of the undertaking, and recognize that the ongoing interpretation of the Act regarding Opt-Out and

Alternative State Plans will evolve over the coming months. The State seeks the best outcome for the State and the rest of the nationwide public safety community. We will continue to engage in the overall process to provide comments and recommendations that lead to a productive outcome and that directly advance the objectives and timely implementation of the NPSBN. The State is eager to further discuss and collaborate with the NTIA, the FCC and FirstNet regarding these comments to achieve both the State of Alabama and the national public safety objectives.

Respectfully submitted,

Ryan Burchnell

Executive Director

Alabama Law Enforcement Agency
FirstNet SPOC for the State of Alabama

(334) 517-2800
Ryan.Burchnell@alea.alabama.gov