

**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; Public Safety and Homeland)	
Security Bureau Seeks Comment on FirstNet)	
Ex Parte Submissions Proposing)	
Interoperability Requirements for State Opt-)	
Out Requests from the FirstNet Radio Access)	
Network)	
)	
Implementing Public Safety Broadband)	PS Docket No. 12-94
Provisions of the Middle Class Tax Relief and)	
Job Creation Act of 2012)	
)	
Implementing a Nationwide, Broadband,)	PS Docket No. 06-229
Interoperable Public Safety Network in the)	
700 MHz Band)	
)	
Service Rules for the 698-746, 747-762 and)	WT Docket No. 06-150
777-792 MHz Bands)	

COMMENTS OF AT&T SERVICES, INC.

AT&T Services, Inc. respectfully submits these comments on behalf of itself and its operating company affiliates (collectively, “AT&T”) pursuant to the Public Notice dated June 28, 2017 in the above-captioned proceeding.¹

I. Introduction

Congress’ delegation to the First Responder Network Authority (“FirstNet”) of the surpassing duty to create a successful National Public Safety Broadband Network (“NPSBN”),

¹ *Public Safety and Homeland Security Bureau Seeks Comment on FirstNet Ex Parte Submissions Proposing Interoperability Requirements for State Opt-Out Requests from the FirstNet Radio Access Network*, Public Notice, PS Docket No. 16-269, DA 17-625 (rel. June 28, 2017) (“Public Notice” or “PN”).

combined with FirstNet’s extraordinary actions to accomplish that duty, should carry dispositive weight with the Commission as it considers the interoperability compliance matrix painstakingly crafted and then filed with the Commission by FirstNet on June 16, 2017. It bears repeating that when Congress adopted the Public Safety Spectrum Act, it was primarily concerned with providing first responders access to a single, nationwide interoperable communications system. The tragedies of 9/11 and Hurricane Katrina (among others) made clear that first responders needed a network that was truly interoperable across the entire country, allowing first responders from different agencies, and even from different municipalities and states, to be able to communicate with one another. To ensure that this vital objective would be achieved, Congress created FirstNet, providing this “independent authority”² with funding and a 20 MHz nationwide spectrum license to produce a NPSBN. Thus, as further explained below, FirstNet’s conception of interoperability requirements must not be disturbed. In turn, the Commission should adopt and apply FirstNet’s interoperability compliance matrix, *as is*, and refrain from any action that conflicts with FirstNet’s assessment of what is necessary for any opt-out state integration.

II. The Commission Must Enforce FirstNet’s Interoperability Compliance Matrix, But Must Not Amend It.

The Commission has “stated its view that the statute calls for the Commission to independently and impartially evaluate whether alternative plans comply with the interoperability-related requirements established by FirstNet, but does not empower the Commission to impose network policies or interoperability requirements on FirstNet.”³ The

² 47 U.S.C. § 1424(a).

³ *Procedures for Commission Review of State Opt-Out Requests from the FirstNet Radio Access Network*, Report and Order, FCC 17-75 (rel. June 22, 2017) (“*Report and Order*”) at ¶ 56.

Commission’s view of the statute is correct: FirstNet – and FirstNet alone – *establishes* the interoperability requirements; and then the Commission determines whether any alternative plan submitted for review by any opt-out state *complies* with *FirstNet’s* interoperability requirements.⁴

This allocation of responsibilities flows ineluctably from the Act’s text. As FirstNet and AT&T have previously explained,⁵ the Act gives FirstNet exceptionally broad powers to implement the NPSBN in general. FirstNet “shall have the authority ...[t]o exercise ... all powers specifically granted by the provisions of this subtitle [47 USCS §§ 1421 *et seq.*], and such incidental powers as shall be necessary... [, and] ... [t]o take such other actions as [FirstNet] ... may from time to time determine necessary, appropriate, or advisable to accomplish the purposes of this title.”⁶ Similarly, FirstNet shall “take all actions necessary to ensure the building, deployment, and operation of the nationwide public safety broadband network [in “consultation” with the Commission, among many other entities] including by, at a minimum ... ensuring nationwide standards for use and access of the network ... [and] building, operating, and maintaining the network that use[s], without materially changing, [the TAB’s] minimum technical requirements....”⁷

⁴ See, e.g., Letter dated June 15, 2017 from Patrick Donovan, FirstNet, to Marlene Dortch, FCC, PS Docket No. 16-269 (“FirstNet’s June 15 Ex Parte”) at 5 (stating that “under the Act, the Commission’s role is to serve as a ‘neutral arbiter’ of whether an opt-out State’s alternative plan has demonstrated interoperability with the NPSBN, based on the interoperability criteria for the network established by FirstNet, and then either ‘approve’ or ‘disapprove’ the plan. The Act does not provide the Commission with the authority to play a role in overseeing FirstNet’s development of network policies”) (footnotes omitted).

⁵ See, e.g., FirstNet’s June 15 Ex Parte Letter; Letter dated June 16, 2017 from Patrick Donovan, FirstNet, to Marlene Dortch, FCC, PS Docket No. 16-269 (“FirstNet’s June 16 Ex Parte”); Letter dated June 15, 2017 from Alex Starr, AT&T, to Marlene Dortch, FCC, PS Docket No. 16-269 (“AT&T’s June 15 Ex Parte”).

⁶ 47 U.S.C. § 1426(a)(1),(6).

⁷ 47 U.S.C. § 1426(b)(1)(A)-(B). The acronym “TAB” refers to the Technical Advisory Board for First Responder Interoperability. 47 U.S.C. § 1423.

In addition, the Public Safety Spectrum Act gives FirstNet sweeping – and exclusive – powers to develop the NPSBN’s network policies in particular. Indeed, among FirstNet’s, and not the Commission’s, “specific duties and responsibilities” is “[e]stablishment of network policies”.⁸ Towards that end, FirstNet (and not the Commission) “shall develop ... requests for proposal with appropriate ... performance criteria[,] and other similar matters for the construction and deployment of the [NPSBN]....”⁹ Furthermore, FirstNet (and not the Commission) “shall develop ... the technical and operational requirements of the network [and] practices, procedures, and standards for the management and operation of such network.”¹⁰ And as the Act makes abundantly clear, there are neither any “technical and operational requirements of the network” nor any “practices, procedures, and standards for the management and operation of such network” that are more vital than those concerning interoperability.¹¹

To be sure, the Public Safety Spectrum Act assigns significant roles to numerous other entities to assist FirstNet in various ways in deploying the NPSBN. Indeed, this very proceeding is a prime example, with the Commission fashioning the framework for carrying out its statutory responsibility to review any alternative plan of any opt-out state for compliance with the TAB’s and FirstNet’s interoperability requirements.¹² But when it comes to the ultimate responsibility for developing, constructing, managing, maintaining, and operating the NPSBN, the buck stops

⁸ 47 U.S.C. § 1426(c)(1).

⁹ 47 U.S.C. § 1426(c)(1)(A)(iv)-(v).

¹⁰ 47 U.S.C. § 1426(c)(1)(B)-(C).

¹¹ Public Safety Spectrum Act, *passim*.

¹² 47 U.S.C. § 1442(e)(3)(C).

with FirstNet.¹³ As the Act clearly states: “[t]he First Responder Network Authority shall ensure the establishment of a nationwide, interoperable public safety broadband network.”¹⁴

FirstNet has carried out its profound responsibility with the great seriousness and effort required. As FirstNet has described, it “has spent years consulting – and continues to consult ... with all 56 states and territories and the Public Safety Advisory Committee in order to obtain feedback, guidance, information, recommendations, and subject matter expertise from a public safety perspective to ensure that user needs, requirements, and public safety operational capabilities are included in the network.”¹⁵ Surely, this extensive and comprehensive consultative process substantially shaped (among many other things) the content of its interoperability compliance matrix. Thus, FirstNet’s preeminent statutory standing, unique expertise, and exceptional endeavors warrant commensurately extraordinary deference to its interoperability compliance matrix.¹⁶

The *Public Notice* observes that FirstNet revised its interoperability compliance matrix between June 5 and June 16.¹⁷ In particular, FirstNet removed numerous requirements and highlighted that two requirements remained necessary for any Commission review under 47

¹³ See, e.g., FirstNet’s June 15 Ex Parte at 4 (stating that “FirstNet is the only entity statutorily responsible for both ensuring the establishment of the NPSBN and the network policies that govern the technical and operational requirements of the network”).

¹⁴ 47 U.S.C. § 1422(a) (emphasis added).

¹⁵ FirstNet’s June 15 Ex Parte at 2.

¹⁶ See, e.g., FirstNet’s June 15 Ex Parte at 2-3 (stating that “Congress made clear that its intent was for only one entity, FirstNet, to be held solely accountable to public safety for establishing the NPSBN’s network policies. Any suggestion that the FCC was tasked with overseeing FirstNet’s establishment of network policies is entirely inconsistent with the Act and could jeopardize Congress’s vision for the deployment of a nationwide interoperable public safety broadband network”).

¹⁷ *PN* at 1-2.

U.S.C § 1442 (e)(3)(C)(II) (“Prong 2”).¹⁸ FirstNet explained that its revisions were made solely to comport with the Commission’s tentative conclusion in its June 1 draft order to limit its review to RAN-related requirements. FirstNet further explained – correctly – that most, if not all, of the removed requirements will remain necessary for any opt-out state integration because, again, the removals occurred only to align with the Commission’s conclusion regarding the narrow scope of its review, and not to reflect any absence of necessity.¹⁹ The Commission lacks statutory authority to second-guess FirstNet on that point, for the same reasons explained above why the Commission lacks authority to alter FirstNet’s interoperability compliance matrix.²⁰

FirstNet also described why the two elements it designated as Prong 2 requirements are indispensable to the successful integration of any opt-out state’s RAN and the interworking of the RAN-to-Core interface.²¹ FirstNet’s description is accurate. FirstNet’s national network incorporates the use of several kinds of Access Point Names (“APNs”) (*e.g.*, general, specific, custom, emergency) applicable to numerous kinds of functionalities (*e.g.*, network data services; public internet access; IP Multimedia Subsystems (“IMS”) such as VoLTE and IP messaging; E911; access to enterprise intranets). Successfully using these very same multiple APNs – and

¹⁸ *See, e.g.*, FirstNet’s June 16 Ex Parte.

¹⁹ FirstNet’s June 16 Ex Parte at 1-3. *See generally* 47 U.S.C. 1442(e)(3)(D) (stating that, to obtain grant funds and spectrum capacity leasing rights, any alternative plan of any opt-out state must demonstrate to the National Telecommunications and Information Administration (“NTIA”) that a State has, among other things, “the ability to maintain ongoing interoperability with the [NPSBN]” and “comparable security, coverage, and quality of service to that of the [NPSBN]”); FirstNet’s June 15 Ex Parte at 4 n.13 (seeking to avoid the possibility that “[a]n opt-out State could receive FCC approval and be left with the false expectation that its alternative plan demonstrated interoperability with the NPSBN only to potentially discover at a later date in the opt-out process that its proposed RAN plan does not in fact demonstrate interoperability with the NPSBN”).

²⁰ *See, e.g.*, FirstNet’s June 15 Ex Parte at 2 (stating that “under no circumstances does the FCC have oversight authority over FirstNet’s network policies. The Act is clear that FirstNet, and solely FirstNet, has the authority to establish network policies for the NPSBN, including policies related to the technical and operational requirements of the network”).

²¹ FirstNet’s June 16 Ex Parte at 5.

thus facilitating nationwide interoperability – would require any opt-out state’s RAN and devices (“User Devices” or “UEs”) to support the instructions received from FirstNet’s core regarding bearer assignments/resources.

III. Conclusion

For the foregoing reasons, the Commission must adopt and apply – as is – the interoperability compliance matrix submitted by FirstNet on June 16, 2017. Moreover, the Commission must not otherwise attempt to second-guess what FirstNet believes are network policies necessary for successful opt-out state integration.

Respectfully submitted,

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