



# PUBLIC NOTICE

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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES 90-DAY DEADLINE FOR GOVERNOR OF PUERTO RICO TO ELECT WHETHER TO OPT OUT OF THE FIRSTNET RADIO ACCESS NETWORK

*Opt-Out Election Notification Due By December 28, 2017*

### PS Docket No. 16-269

On June 22, 2017, the Federal Communications Commission (Commission) adopted a Report and Order in this docket establishing Commission procedures for administering the state opt-out process as provided under the Public Safety Spectrum Act.<sup>1</sup> Under Section 6302(e)(2) of the Act, each state Governor has 90 days from the receipt of notice by the First Responder Network Authority (FirstNet) under Section 6302(e)(1) to choose whether to participate in the Nationwide Public Safety Broadband Network (NPSBN) or elect for the state to conduct its own state Radio Access Network (RAN) deployment.<sup>2</sup> In the *Report and Order* the Commission directed FirstNet to notify the Public Safety and Homeland Security Bureau (Bureau) when it had provided states the requisite “notice” under the Act.<sup>3</sup> The Commission also directed the Bureau to issue a Public Notice announcing the commencement of the 90-day period and specifying the deadline for states to file opt-out notifications with the Commission, FirstNet, and the National Telecommunications and Information Administration (NTIA).<sup>4</sup>

On September 29, 2017, FirstNet notified the Commission that 52 states and territories received the required statutory notice, commencing the 90-day opt-out decisional period for those states and territories.<sup>5</sup> In an *ex parte* letter filed on October 31, 2017, FirstNet notified the Commission that it provided the required notice to the Office of the Governor of Puerto Rico on the same date as the other 52 states and territories.<sup>6</sup> FirstNet states that due to Hurricane Maria, it was previously unable to confirm

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<sup>1</sup> See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 §§ 6001-6303, 6413 (codified at 47 U.S.C. §§ 1401-1443, 1457) (“Public Safety Spectrum Act” or “Act”). See also *Procedures for Commission Review of State Opt-Out Requests from the FirstNet Radio Access Network*, PS Docket No. 16-269, Report and Order, 32 FCC Rcd 5311 (2017) (*Report and Order*).

<sup>2</sup> Public Safety Spectrum Act, § 6203(e)(1-2).

<sup>3</sup> *Report and Order*, 32 FCC Rcd 5315 at para.11.

<sup>4</sup> *Id.*

<sup>5</sup> Letter from Patrick Donovan, Attorney, First Responder Network Authority, to Lisa Fowlkes, Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission (Sept. 29, 2017) (PS Docket No. 16-269).

<sup>6</sup> Letter from Patrick Donovan, Attorney, First Responder Network Authority, to Lisa Fowlkes, Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission (Oct. 31, 2017) (PS Docket No. 16-269).

Puerto Rico's receipt of the notice, but that it has now confirmed that the Puerto Rico governor's office received FirstNet's notice on September 29, 2017, commencing the 90-day clock.<sup>7</sup>

Based on this notice date, should Puerto Rico elect to opt out it must submit such notice to the Commission no later than December 28, 2017.<sup>8</sup> Opt-out notices must reference PS Docket No. 16-269 and must be filed via the dedicated email address: [opt-out@fcc.gov](mailto:opt-out@fcc.gov), or via certified mail to the Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington, DC 20554, ATTN: John Evanoff.

Further, we remind Puerto Rico that:

- Opt-out notices must certify concurrent notification to FirstNet and NTIA; and
- Notice must be made by the Governor or the Governor's duly authorized designee, and if made by the latter, evidence of such delegation must be included in the notice.<sup>9</sup>

For further information, contact Roberto Mussenden, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-1428 or [Roberto.Mussenden@fcc.gov](mailto:Roberto.Mussenden@fcc.gov); or John Evanoff, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-0848, or [John.Evanoff@fcc.gov](mailto:John.Evanoff@fcc.gov).

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<sup>7</sup> *Id.* We note that FirstNet has not yet provided notice to the territories of Guam, the Northern Mariana Islands, and American Samoa. We will announce the 90-day decision period for these territories by future Public Notice after FirstNet provides the required statutory notice to each territory and informs the Bureau it has done so.

<sup>8</sup> States choosing not to opt out are not required to file any notification.

<sup>9</sup> *Report and Order*, 32 FCC Rcd at 5315, paras. 11-12.

## APPENDIX

States and Territories that Received Statutory Notice of their State Plan on September 29, 2017

Alabama	Montana
Alaska	Nebraska
Arizona	Nevada
Arkansas	New Hampshire
California	New Jersey
Colorado	New Mexico
Connecticut	New York
District of Columbia	North Carolina
Delaware	North Dakota
Florida	Ohio
Georgia	Oklahoma
Hawaii	Oregon
Idaho	Pennsylvania
Illinois	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Maine	Vermont
Maryland	Virgin Islands
Massachusetts	Virginia
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	Wyoming