

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Procedures for Review of State Opt-Out Requirements 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

To: The Chief, Public Safety and Homeland Security Bureau

**PETITION FOR RECONSIDERATION, OR IN THE ALTERNATIVE, PETITION FOR
DECLARATORY RULING AND PETITION FOR RULEMAKING**

The Boulder Regional Emergency Telephone Service Authority (“BRETSA”)¹, by its attorney and pursuant to Section 1.106 of the Commission’s Rules, 47 C.F.R. §1.106, hereby petitions the Chief, Public Safety and Homeland Security Bureau (the “Chief”) to reconsider his October 23, 2018 Order (“Order”) dismissing the July 6, 2016 Request for Clarification (“Request”) filed by the Colorado Public Safety Broadband Governing Body (CPSBGB).² In the alternative, pursuant to Section 1.2 and 1.401 of the Commission’s Rules, 47 C.F.R. §§1.2, and

¹ BRETSA is a Colorado 9-1-1 Authority (a “Governing Body” pursuant to 29-11-101(4) C.R.S.) which (i) establishes the amount of the Emergency Telephone Charge (“ETC”) on telephony services billed within Boulder County, Colorado, (ii) collects remittances of the ETC, and (iii) disburses the proceeds of the ETC to partially fund the four PSAPs serving Boulder County, Colorado. BRETSA primarily funds the service charges of the SSP in Colorado, and purchase and maintenance of PSAP systems, equipment, and software pursuant to 29-11-104 C.R.S. The BRETSA Board consists of the Boulder County Sheriff, the Boulder Police Chief, a representative of the Longmont Division of Public Safety, a representative of the Boulder County Firefighters Association, and the fifth seat on the Board rotates annually among six smaller cities and towns in Boulder County.

² Order, DA 18-1082, released October 23, 2018.

1.401, BRETSA petition the Commission to Issue a Declaratory Ruling and a Notice of Proposed Rulemaking on the same grounds presented by the CPSBGB in the Request.

I. Background.

In the Request, the CPSBGB asked the Commission to issue a declaratory ruling to “clarify that ensuring interoperability is a fundamental responsibility of FirstNet, and that FirstNet must ensure that interoperability is supported at all levels, including network, services, applications and devices. Request, at 8-9. The CPSBGB also asked that the Commission initiate a rulemaking proceeding to (i) establish rules for all roaming arrangements to ensure interoperability, and that such rules accommodate the bidirectional nature of such roaming arrangements, and (ii) specifically address the critical issue of roaming and prioritization as it applies to applications such as push-to-talk and mission critical push-to-talk, as well as other applications that will face the same issues. Request at 9. Order, at 2.

Verizon,³ Cellular South, Inc. d/b/a C Spire (“C Spire”),⁴ Southern Communications Services, Inc. d/b/a Southern Linc (“Southern Linc”),⁵ and Competitive Carriers Association (“CCA”),⁶ each filed letters in support of the Request. C Spire, Southern Linc and CCA each specifically concurred that “the Commission should clarify that interoperability is a fundamental responsibility of FirstNet and that FirstNet must ensure interoperability is supported at all levels, including sharing priority and preemption protocols, applications, local control, non-mission

³ Ex Parte Letter of Robert Morse, Assistant General Counsel – Federal Regulatory and Legal Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 16-129 (filed July 12, 2018)(“Verizon Letter”).

⁴ Ex Parte Letter of Benjamin M. Moncrief, C Spire, to Marlene Dortch, Secretary, FCC, PS Docket Nos. 16-269, 12-94, 06-229, WT Docket No. 06-150 (filed July 26, 2018)(“C Spire Letter”).

⁵ Ex Parte Letter of Michael D. Rosenthal, Southern Linc, to Marlene Dortch, Secretary, FCC, PS Docket Nos. 16-269, 12-94, 06-229, WT Docket No. 06-150 (filed August 7, 2018)(“Southern Linc Letter”).

⁶ Ex Parte Letter of Rebecca Murphy Thompson, EVP & General Counsel, Competitive Carriers Association, to Marlene Dortch, Secretary, FCC, PS Docket Nos. 16-269, 12-94, 06-229, WT Docket Nos. 06-150, 12-69 (filed August 20, 2018)(“CCA Letter”)

critical and mission critical PTT communications and off air device-to-device communications.”
C Spire Letter, at 2; CCA Letter, at 2.

Both the Request and the Southern Linc Letter cited statements of Christopher Sambar, Senior Vice President, FirstNet, AT&T Business Solutions – Global Public Sector during an interview with *IWCE’s Urgent Communications* that “[AT&T’s] commitment has been FirstNet-to-FirstNet [interoperability] and FirstNet-to-LMR.”⁷ Sambar thus confirmed the statement of FirstNet CTO Jeff Bratcher at the “FirstNet Town Hall” session at APCO 2017 that “[i]f you are not on a FirstNet subscription, you will not have the same capabilities as the public-safety users on FirstNet—we need to be clear about that.”⁸

Sambar also stated that “[w]ith the LMR solutions, it’s not simple to get interoperability, as you know. Push to talk over LMR is not easy, but Motorola is one of our core teammates, and they’re experts at LMR and experts at interoperability. So, if anybody’s got a great shot at getting that right, we think it’s the team of AT&T and Motorola.”⁹ Sambar added that “P25 will be easier,” and “P25 should be a slam dunk, and that’s the majority of what’s out there.”¹⁰

On July 13, 2018, the Colorado Governor’s Office of Information Technology (“CO-OIT”) requested that the Commission not take further action on the Request. CO-OIT stated that it would work collaboratively with the CPSBGB and FirstNet to resolve the concerns raised regarding interoperability. Ex Parte Letter of Brian Shepherd, Chief Operating Officer – Colorado Broadband Office, to Marlene Dortch, Secretary, FCC, PS Docket Nos. 16-269, 12-94,

⁷ Donny Jackson, *AT&T exec discusses core-to-core interoperability, Verizon proposal, FirstNet differentiators, URGENT COMMUNICATIONS* (Aug. 17, 2017), <http://urgentcomm.com/public-safety-broadbandfirstnet/att-exec-discusses-core-core-interoperability-verizon-proposal-first>. Sambar also stated that while enabling interoperability between the FirstNet Public Safety LTE core and the LTE cores of Verizon and other carriers is technically feasible, doing so “would be a departure from the FirstNet RFP...” However this appears to be a red herring. *Core-to-core* network interoperability is *not* necessary to full-interoperability between public safety users, including Push-to-Talk (“PTT”) and Mission Critical Push-to-Talk (“MCPTT”) users, of different networks.

⁸ Id.

⁹ Id.

¹⁰ Id. The focus on P-25 makes clear that AT&T’s commitment to “FirstNet-to-LMR” is not for full-interoperability.

06-229, WT Docket No. 06-150 (filed July 13, 2018)(“No-Action Request”). The Chief, Public Safety and Homeland Security Bureau subsequently found the Request premature in light of CO-OIT’s July 13, 2018 filing, and dismissed the Request *without prejudice*. Order, at 1, 4.

II. Full Interoperability Of FirstNet Is Critical.

For decades, the BRETSA-supported PSAPs, the public safety agencies and First Responders they dispatch, and public safety agencies and First Responders nationwide have had to contend with non-interoperability and limited interoperability between public safety radio systems serving adjacent jurisdictions and agencies within a single jurisdiction. BRETSA and other Colorado public safety stakeholders have had to contend with non-interoperability and limited interoperability between the Colorado Public Safety Digital Trunked Radio (“Colorado DTR”) System and LMR systems. It was just such limited interoperability during the September 11, 2001 terrorist attacks on the World Trade Center in New York City that prompted the allocation of frequencies for nationwide interoperable use.

The lack of and limited interoperability of public safety radio systems which has plagued the public safety community for decades is in large part the result of public safety radio system vendors leveraging non-interoperability and limited interoperability to drive market share. Now FirstNet, created, federally funded and provided exclusive access to the 700 MHz D Block for the specific purpose of providing interoperable public safety communications; states its commitment is to provide “FirstNet-to-FirstNet interoperability” (interoperability among subscribers to *its* services), and that users who are not on FirstNet will not have the same capabilities. Under this interpretation, AT&T/FirstNet will by default leverage market share on interoperability. AT&T’s statement that it has the best shot at LMR interoperability and focus on P-25 falls short of a commitment to provide full interoperability with LMR.

A. Absent Full Interoperability, FirstNet Will Become Just Another Competitor In The Public Safety Radio Space Leveraging Market Share On Interoperability.

Full interoperability is a fundamental and ubiquitous requirement for FirstNet. It is not economically feasible for FirstNet to supply the coverage necessary to replace Public Safety LMR systems.¹¹ Nor in the near term can FirstNet fully replicate the coverage nationwide of other CMRS providers offering or developing public safety priority services. Even if FirstNet could replicate the coverage of existing LMR networks and other CMRS networks, operation of LMR networks may be more cost effective for certain uses. Public safety agencies have established investments in LMR networks, and may have relationships with other CMRS providers' and investments in their service offerings.

Absent support for interoperability at all levels, including network, services, applications and devices, *FirstNet will just become just another competitor in the public safety radio space leveraging market share on interoperability*; but doing so on frequencies and with funding granted for the purpose of providing interoperable communications.

As quoted above, at 3, AT&T states its commitment to provide FirstNet-to-LMR interoperability, and that LMR networks operating on the P25 standard should be a "slam dunk." AT&T also states that interoperability with PTT over LMR is *not* easy, "but Motorola is one of our core teammates, and they're experts at LMR and experts at interoperability."¹² As a provider of LMR systems, Motorola will be best positioned to provide *full* interoperability with *its* LMR systems to leverage market share, while providers of other LMR systems may well be limited to P25 interoperability with FirstNet. Absent Commission clarification of AT&T/FirstNet's

¹¹ Aside from the costs of providing border-to-border coverage for each public safety jurisdiction in the U.S., the 700 MHz D Block is not an efficient band for coverage of mountainous areas. For example, Boulder County extends from Colorado's Eastern Plains, through the Front Range, to the Continental Divide. The Boulder Sheriff's Department covers 100% of the County with *three* VHF LMR transmitter sites and a number of localized receiver sites, but would require *thirteen* fixed 800 MHz sites would be required to cover the county.

¹² *Id.*

interoperability requirements, the FirstNet initiative is likely to result in the team of AT&T and Motorola increasing their respective market shares as a result of perpetuation of the public safety interoperability problem rather as opposed to elimination of the problem.

B. The Nationwide Impact of Limited Interoperability Between FirstNet, LMR and Other CMRS Priority Public Safety Services Requires Commission Grant of the Request.

While the CPSBGB filed the Request, the filing of *ex parte* comments by other providers underscored the nationwide implications of the Request. Interoperability, or any lack thereof, will affect FirstNet as a whole, and all users of FirstNet, LMR and CMRS public safety priority services. It is thus most appropriate that the Commission address the issue in its full scope and scale, rather than for stakeholders in an individual state address the issue in the context of negotiation with FirstNet regarding service in that state.

In the Withdrawal Letter, CO-OIT acknowledged the interoperability concerns raised by the CPSBGB, and stated that it will work collaboratively with the CPSBGB and FirstNet to resolve the concerns. Notwithstanding CO-OIT's pledge, it is unclear what negotiating power CO-OIT, any other state, or all states, have to affect AT&T's commitment to full interoperability when (i) they have already opted-in to the NPSBN, and (ii) the 700 MHz D Block appears to have greater value for general commercial use than public safety use, particularly if the lack of interoperability reduces public safety subscription to and use of FirstNet services.

BRETSA understands that in a subsequent meeting between CPSBGB and AT&T, AT&T reiterated its position that its commitment and obligation is to provide FirstNet-to-FirstNet interoperability. AT&T said that it would work with other networks and providers but can only manage a call to the edge of its network. BRETSA further understands that AT&T views the interoperability concerns as premature before a problem arises.

It is rash to take a “wait until a problem arises” approach in the context of public safety. Problems affecting public safety systems tend to come to light during Emergency Response, when outcomes could be affected. The Commission should assure that FirstNet prudently addresses full interoperability *ab initio*, so that problems do not arise. This is the best way to minimize impacts of interoperability failures, avoid delays in remedying interoperability failures, and avoid kludged and partial solutions the effectiveness of which may be limited.

If AT&T is committed to interoperability, Commission clarification that ensuring interoperability is a fundamental responsibility of FirstNet, and that FirstNet must ensure that interoperability is supported at all levels, including network, services, applications and devices, will do no harm. If AT&T’s commitment falls short of that standard, Commission clarification of its obligations is essential.

III. The Chief Should Reconsider The Order And Grant The Relief Sought By The CPSBGB.

BRETSA respectfully submits that it was improvident for the Chief to dismiss the Request when other parties submitted letters in support of the request.¹³ The letters demonstrated the need for the relief sought by the Request, including statements of AT&T and the FirstNet CTO that FirstNet will not provide full interoperability, including with LMR and other CMRS public safety priority service offerings. The issues raised by CPSBGB and verified by other commenters go far beyond the boundaries of Colorado, and affect public safety agencies nationwide.

¹³ BRETSA is seeking reconsideration notwithstanding that it did not file comments on the Request as filed. Given that the concerns raised and actions requested in the Request were well-stated and well supported, ex parte support for the Request, the substantial public interest in the Request; BRETSA anticipated the Request would be granted notwithstanding the improvident request that the Commission not take further action on the Request. BRETSA anticipated that it, or the public safety agencies it supports, would file or join in comments in the requested rulemaking proceeding. BRETSA and the PSAPs and agencies it supports will be impacted by the failure of FirstNet to provide full interoperability of their systems with other public safety agencies with which they cooperate in Emergency Response and mutual aid.

Full interoperability is a fundamental requirement for FirstNet to achieve its purposes. It is essential that the Commission clarify in advance that FirstNet must ensure that full interoperability is supported at all levels, including network, services, applications and devices.

IV. In The Alternative, BRETSA Petitions The Commission For Declaratory Ruling and Rulemaking.

In the alternative, BRETSA petitions the Commission, by the Chief, to issue a declaratory ruling and to issue a notice of proposed rulemaking as sought by the Request, which was dismissed *without prejudice*. In addition to the foregoing, BRETSA incorporates the Request herein by reference.

A. The Commission Should Issue The Declaratory Ruling Sought By The Request

The Request seeks a declaratory ruling ensuring interoperability is a fundamental responsibility of FirstNet and that FirstNet is supported at all levels including network, services, applications, and devices.¹⁴ Should the Chief decline to grant reconsideration of the Order, the Chief should issue this declaratory ruling for the reasons stated above and in the Request.

B. The Commission Should Issue A Notice Of Proposed Rulemaking.

The Request seeks issuance of a Notice of Proposed Rulemaking to address the critical issue of roaming and prioritization as it applies to applications such as PTT and MCPTT, as well as other applications that will face the same issues. Should the Chief decline to grant reconsideration of the Order, the Chief should issue a Notice of Proposed Rulemaking to address this critical issue for the reasons stated above and in the Request.

¹⁴ Nor should users of LMR systems be limited in the choice of interoperability solutions available, but FirstNet should support alternative interoperability solutions to the extent feasible. For example, BRETSA understands the customer cost for the ISSI solution is \$100,000 for the interface and \$50,000 per 10 trunk groups, while other existing and anticipated solutions cost much less.

BRETSA submits that the Notice of Proposed Rulemaking (or Notice of Inquiry, since neither CPSBGB nor BRETSA has proposed specific rules) should also address (i) the responsibility of providers other than FirstNet (*i.e.*, providers of LMR systems or services and CMRS public safety priority services) to cooperate with FirstNet in the development of interoperability solutions, and to provide full interoperability with FirstNet, LMR and other CMRS priority public safety services (subject only to technological limitations of a specific service), (ii) the issue of roaming and prioritization as applicable to LMR and other CMRS public safety priority services, and (iii) the availability of Commission processes for dispute resolution as well as standards for dispute resolution concerning matters of interoperability, roaming and prioritization.

Respectfully submitted,

**BOULDER REGIONAL EMERGENCY
TELEPHONE SERVICE AUTHORITY**

By: 

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Its Attorney

November 21, 2018

Certificate of Service

I, Joseph P. Benkert, hereby certify that on this 21st day of November, 2018, I have caused a copy of the foregoing **Petition For Reconsideration, Or In The Alternative, Petition For Declaratory Ruling And Petition For Rulemaking** to be served by U.S. Mail, postage prepaid, upon the following:

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