

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

In the Matter of	)	
	)	
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
	)	

**COMMENTS OF THE COALITION OF WISPS FOR FIRSTNET**

The Coalition of WISPs<sup>1</sup> for FirstNet (“WISP Coalition”), a group of wireless Internet service providers, by counsel and pursuant to Sections 1.415 and 1.419 of the rules of the Federal Communications Commission (“Commission”), hereby submits these comments in response to the Commission’s Notice of Proposed Rulemaking (“*NPRM*”)<sup>2</sup> that seeks comment on certain proposals to implement the Middle Class Tax Relief and Job Creation Act of 2012 (“Public Safety Spectrum Act”)<sup>3</sup> and the nationwide public safety broadband network in the 700 MHz band.

The WISP Coalition includes small businesses who deliver broadband Internet access services and, in some cases, competitive local exchange services to their communities. The

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<sup>1</sup> “WISPs” are Wireless Internet Service Providers. The WISPs joining this filing are A Better Wireless, NISP, LLC; Aircado, Inc.; AirLink Internet Services, LLC; Aristotle, Inc.; aXess America, LLC; CellTex Networks, LLC; Digital Video Services; First Step Internet, LLC; Helix Technologies, Inc.; JAB Wireless, Inc.; M<sup>2</sup> Connections, a division of JKM Consulting, Inc.; New Wave Net Corp.; Rural Broadband Network Services, LLC; STL WiMax; Washington Broadband, Inc.; and Wireless ETC, Inc. A more detailed description is attached.

<sup>2</sup> Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, *Notice of Proposed Rulemaking*, PS Docket No. 12-94, PS Docket No. 06-229 and WT Docket No. 06-150, FCC 13-31 (rel. Mar. 8, 2013).

<sup>3</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012).

WISP Coalition sees great possibilities in the network that the First Responder Network Authority (“FirstNet”) will establish but urges the Commission to exercise its statutory oversight responsibilities to provide incentives to expedite efficient network buildout and to leverage existing infrastructure. Such incentives can help ensure that the network serves both rural and urban areas effectively.

### ***Background***

The WISP Coalition represents members who provide broadband access to customers using a variety of technologies. The members’ common thread is the use of fixed wireless broadband technology for all or part of the network. Using licensed, “license lite” and “license exempt” spectrum,<sup>4</sup> WISP Coalition members provide efficient last-mile service. In rural areas, operators have seized on the availability of unlicensed spectrum as a means to quickly deploy robust, high-bandwidth broadband networks. In rural and hard-to-serve areas with low population density, unlicensed spectrum can offer lower acquisition costs and barriers to entry and thus can be used cost effectively to deliver services.

These WISPs and others see an opportunity to work with FirstNet by leveraging existing wireless, tower and backhaul infrastructure as part of the “nationwide, interoperable public safety broadband network” that FirstNet has statutory responsibility for establishing and overseeing.<sup>5</sup> FirstNet is charged with taking “all actions necessary to ensure the building, deployment, and operation of the . . . network, in consultation with Federal, State, tribal, and local public safety

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<sup>4</sup> Among unlicensed spectrum bands, WISPs commonly use 900 MHz, 2.4 GHz and 5 GHz spectrum to provide services, along with newer options such as TV White Spaces spectrum. Other spectrum, such as “licensed lite” spectrum at 3.65 GHz, is used for point-to-point links, backhaul and other parts of networks. Some WISPs provide fixed broadband services using licensed spectrum at 2.5 GHz. In addition, many WISPs use fiber in parts of their network.

<sup>5</sup> *See, e.g.*, Public Safety Spectrum Act at §6202(a). *See generally id.* § 6206 (setting forth FirstNet’s powers, duties and responsibilities).

entities, the Director of NIST, the Commission, and the public safety advisory committee.”<sup>6</sup>

Leveraging existing infrastructure can be a key component of this effort, and in light of the \$7 Billion that FirstNet will be using to “establish,” not necessarily to “build,” the network, the use of such existing infrastructure may turn out to be “necessary” for FirstNet to meet its statutory obligations.

For its part, the Commission must “reallocate and grant a license to [FirstNet] for the use of the [FirstNet Spectrum at 700 MHz]”<sup>7</sup> and “may take any action necessary to assist [FirstNet] in effectuating its duties and responsibilities” under the statute.<sup>8</sup> The Public Safety Spectrum Act contemplates that the network “shall be based on a single, national network architecture” that includes a core network of national and regional data centers and a radio access network.<sup>9</sup>

As the Commission works to facilitate the transition of 700 MHz spectrum to FirstNet, many options exist for use of the FirstNet Spectrum to advance the capabilities of First Responders and other emergency personnel and to offer opportunities for new innovative networks and services. At its core, FirstNet should enhance network reliability, redundancy and ubiquity for these types of services and should promote expansion of networks to rural areas in a manner that provides meaningful support toward the development of a truly nationwide public safety network. To advance these goals, WISPs can play an important role.

***WISPs Should Be Afforded a Fair and Meaningful Opportunity to be Part of FirstNet’s Nationwide Network***

The *NPRM* seeks comment on technical and service rules that will govern the FirstNet Spectrum, on the exercise of the Commission’s oversight responsibilities for FirstNet and on the

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<sup>6</sup> *Id.* at §6206(b)(1). The spectrum comprises both the existing public safety broadband spectrum (763-769/793-799 MHz) and the spectrally adjacent D Block spectrum (758-763/788-793 MHz) (together the “FirstNet Spectrum”).

<sup>7</sup> *Id.* at §6201(a)

<sup>8</sup> *Id.* at §6213.

<sup>9</sup> *Id.* at §§6202(b)(1) and (2).

transition of incumbents occupying portions of FirstNet Spectrum.<sup>10</sup> In light of the Commission’s role in helping FirstNet establish this network and as wireless operators with a stake in the success of the network, the WISP Coalition seeks to ensure that the record reflects the valuable role that WISPs can play in promoting the success of the new nationwide public safety network. WISPs are stakeholders in the success of FirstNet as much as any service provider or private citizen. WISPs already provide extensive coverage to rural areas and, as a result, have a great deal to offer as part of the *nationwide* effort to build and maintain the new public safety network. Indeed, rural coverage is a linchpin of FirstNet, and the statute contemplates rural coverage deployment milestones.<sup>11</sup> For this reason, the WISP Coalition urges the Commission to adopt policies that will give WISPs a fair, meaningful opportunity to work with FirstNet to build the network in their communities.

One area where WISPs can contribute immediately is in partnering with FirstNet to provide cost-effective deployment options, particularly in rural areas. The Public Safety Spectrum Act contemplates “partnerships with existing commercial mobile providers” “[t]o the maximum extent economically desirable.”<sup>12</sup> WISPs can be good partners too. They are leaders in providing broadband service to underserved areas. Many WISPs currently operate fiber and microwave backhaul networks on licensed frequencies and have access to vertical assets such as towers and rooftop spaces. Fixed wireless systems also may be used to help restore destroyed services or to help supplement coverage by offloading data when networks become congested in the wake of an emergency. Stakeholders should be aware of these opportunities as efforts are made to make smart, economically rational use of limited resources.

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<sup>10</sup> *NPRM* at ¶16.

<sup>11</sup> Public Safety Spectrum Act, §6206(b)(3).

<sup>12</sup> *Id.*

WISPs also can be relied upon to help FirstNet build and operate the wireless network. In return for access to the 700 MHz spectrum for commercial purposes when the network is not needed to meet public safety needs, WISPs could be counted on in areas where few others serve.<sup>13</sup> By contrast, WISPs can reach the same rural and remote areas with “big pipe” solutions. WISPs are therefore in a good position not only to leverage their existing assets but also to partner with FirstNet to build the 700 MHz LTE network in those communities served by WISPs.

***Commission Licensing of FirstNet Spectrum Should Provide Incentives for Making Efficient, Effective Use of the 700 MHz Band Frequencies***

The *NPRM* seeks comment on how to assess FirstNet’s compliance with the duties, obligations and terms of its license.<sup>14</sup> By statute, the Commission is required to grant a license for an initial term of 10 years, and renewal of that license requires a demonstration by FirstNet that it “has met the duties and obligations set forth under” the Public Safety Spectrum Act.<sup>15</sup> The network “shall require deployment phases as part of each phase of the construction and deployment of the network.”<sup>16</sup> More specifically to these comments, the Commission states that “[w]e do not believe the Commission should specify rural milestones as a condition of FirstNet’s license at this time.”<sup>17</sup> The WISP Coalition urges the Commission to reconsider this tentative conclusion.

FirstNet will be most effective in serving certain areas if the FCC exercises its oversight responsibility to give FirstNet regulatory incentives to make the best use of its licensed spectrum. Therefore, the WISP Coalition urges the Commission to assess FirstNet’s compliance, in part, by

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<sup>13</sup> While satellite networks often are touted as a rural solution for FirstNet, in fact satellite-delivered broadband options raise more latency concerns than terrestrial fixed wireless networks.

<sup>14</sup> *NPRM* at ¶43.

<sup>15</sup> Public Safety Spectrum Act at §6201(b).

<sup>16</sup> *Id.* at §6206(b)(3)

<sup>17</sup> *NPRM* at ¶46.

reference to rural construction milestones that the Commission adopts at the earliest opportunity. While FirstNet is in its early stage, WISP Coalition members disagree with the Commission's tentative position that it would be premature for the Commission to specify rural milestones at this time for FirstNet's license. To the contrary, now is the time, during the planning process, to move toward setting expectations for those who would take on the obligations to meet the performance and construction requirements of the FirstNet license.

Adoption of rural construction milestones should happen sooner rather than later, with full input from FirstNet and from all interested stakeholders.<sup>18</sup> Commissioner Ajit Pai understands that the Commission has sufficient authority to take this step and shares our concerns that delays in setting rural milestones are at odds with the Commission's "responsibility to safeguard fellow citizens who live in rural areas."<sup>19</sup> Meaningful construction benchmarks, established early in the process, will give providers proper incentives to establish effective, efficient partnerships with existing service providers to leverage infrastructure in lieu of reinventing the wheel at great cost. The WISP Coalition agrees that FirstNet needs sufficient flexibility to do its job but that rural construction milestones are needed to ensure that this is truly a nationwide network.

One way to provide these incentives would be to adopt a "substantial service" approach keyed to specific deadlines where the service provider could meet the requirement by providing a minimum level of service to rural areas. "Rural areas" would be defined as a condition of the FirstNet license, and the definition could draw on existing precedents. For licensees in the

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<sup>18</sup> This way, potential providers and partners will be able to identify opportunities, allocate scarce resources and develop business plans to meet the statutory buildout objectives.

<sup>19</sup> "Because FirstNet must demonstrate to the Commission in its license renewal application that it 'has met the duties and obligations set forth under th[e] Act,'<sup>19</sup> I believe that the Commission has the statutory authority to impose rural coverage conditions on FirstNet's license." *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*, Statement of Commissioner Ajai Pai.

Educational Broadband Service (“EBS”) or the Broadband Radio Service (“BRS”) such “rural areas” are defined as counties (or equivalent) with a population density of 100 persons per square mile or less;<sup>20</sup> while for purposes of certain broadband grant and loan programs, USDA defines “rural area” as any area as confirmed by the Census Bureau that is not located within (i) a city, town or incorporated area that has a population of greater than 20,000 inhabitants; or (ii) an urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants.<sup>21</sup>

Construction milestones are common in FCC-licensed services. For example, the Commission could adopt a model where FirstNet is required to demonstrate compliance with minimum coverage to defined rural areas at the mid-point of the 10-year license term and “substantial service” at license renewal, consistent with Congressional mandate.<sup>22</sup> In the BRS and EBS, a “safe harbor” to meet substantial service is available for providing service to “rural areas” where a) for mobile services, coverage is provided to at least 75% of the geographic area of at least 30% of the rural areas within its service area, or b) for fixed service, where the BRS or EBS licensee has constructed at least one end of a permanent link in at least 30% of the rural areas within its licensed area.<sup>23</sup> In this proceeding, the Commission should examine the record closely and should adopt coverage, “substantial service” and “safe harbor” benchmarks consistent with a timetable that provides incentives for expeditious construction of the network.

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<sup>20</sup> 47 C.F.R. §27.14(o)(1)(iii).

<sup>21</sup> 7 C.F.R. §1738.2 (2013).

<sup>22</sup> In other contexts, the Commission has defined “substantial service” as “service that is sound, favorable, and substantially above a level of mediocre service that just might minimally warrant renewal.” 47 C.F.R. §27.14(a).

<sup>23</sup> 47 C.F.R. §27.14(o)(1)(iii).

For these reasons, the WISP Coalition urges the Commission in setting conditions on FirstNet's license to expedite the establishment of rural construction milestones to facilitate efficient and effective use of the spectrum and service to rural America. The Commission should give careful consideration to the role that WISPs can play in advancing the goals of the nationwide network, particularly in terms of leveraging efficient, cost-effective, existing WISP network architecture and providing incentives to FirstNet to partner with WISPs to build out the LTE network as part of the nationwide effort.

Respectfully submitted,

**WISP Coalition for FirstNet**

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## ***Attachment: Members of the WISP Coalition for FirstNet***

***A Better Wireless, NISP, LLC*** is a family-owned provider of broadband services to rural communities in Minnesota, as well as to police, fire and EMS.

***Aircado, Inc.***, is a privately held wireless broadband service provider headquartered in Redmond, WA.

***AirLink Internet Services, LLC*** connects rural Oklahoma with high-speed access in an around Sapulpa, Mounds, Kellyville, Kiefer and Beggs.

***Aristotle Inc.***, a provider of fixed wireless broadband and other services in and around Little Rock, AK.

***aXess America, LLC*** is based in Fort Wayne, IN and has plans to provide wireless Internet connection services to rural areas in northern and central Indiana.

***CellTex Networks, LLC*** is a wireless provider of ZipLink Internet service based in San Antonio, TX.

***Digital Video Services*** is a wireless Internet service provider based in Ocala, FL.

***First Step Internet, LLC***, a provider of fixed terrestrial broadband services, including dial up, DSL, fiber, cable Internet and fixed wireless broadband services to customers in eastern Washington and in Idaho.

***Helix Technologies, Inc.*** is based in French Link Indiana and provides a variety of services, including wired and wireless networking.

***JAB Wireless, Inc.***, a provider of broadband Internet and digital voice connectivity to residential and business customers in Colorado, Wyoming, Utah, Idaho, Nevada, Texas, Oklahoma, Iowa, Nebraska, Kansas, Minnesota, South Dakota, Illinois and Wisconsin. JAB is the nation's largest fixed wireless broadband service provider.

***M<sup>2</sup> Connections, A Division of JKM Consulting, Inc.***, based in Alabama, seeks to promote the growth of businesses, educational institutions and nonprofit organizations with a focus on enhancements through technology.

***New Wave Net Corp.***, a provider of Broadband services in Central IL serving Peoria/Bloomington-Normal and surrounding suburban & rural communities.

***Rural Broadband Network Services, LLC*** is based in Harrisonburg, Virginia and builds broadband network systems in rural Virginia communities.

***STL WiMax*** provides fixed wireless broadband services for businesses and home offices in areas in and around St. Louis county and St. Louis city.

***Washington Broadband, LLC*** is a fixed wireless broadband provider in Yakima, Washington and the surrounding suburban and rural areas. WB provides service to residential, educational, public safety and business customers that, in some cases, do not have access to DSL or cable broadband platforms.

***Wireless ETC, Inc.*** is a wireless Internet service provider based in Hot Springs, AR.