



October 24, 2014

First Responder Network Authority (FirstNet)
National Telecommunications and Information
Administration
U.S. Department of Commerce

Re: Federal Register Docket Number 140821696-4696-01

I am pleased to provide the attached comments on behalf of FloridaNet in response to the First Responder Network Authority's (FirstNet) Notice and Request for Comment per the above referenced Federal Register Docket Number. FloridaNet was established to work collaboratively with FirstNet on a network design that will meet Florida's unique public safety broadband data communications needs.

Thank you in advance for your consideration of information provided. Should you have any questions or need additional information, please contact Larry Gowen, FloridaNet Project Manager at (850) 617-2117 or via email at LarryGowen@flhsmv.gov.

Sincerely,

Terry L. Rhodes
Executive Director, Florida Department of Highway Safety and Motor Vehicles
State Point of Contact (SPOC)
Chair, FloridaNet Executive Committee

Attachment

CC: FloridaNet Executive Committee

**Before the
DEPARTMENT OF COMMERCE
FIRST RESPONDER NETWORK AUTHORITY
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
Washington, D.C. 20230**

In the Matter of the)
)
First Responder Network Authority) Docket No. 140821696-4696-01
Proposed Interpretations of Parts of)
The Middle Class Tax Relief and Job)
Creation Act of 2012)

COMMENTS OF THE STATE OF FLORIDA

Florida welcomes the opportunity to respond to the First Responder Network Authority (“FirstNet”), National Telecommunications and Information Administration (“NTIA”), U.S. Department of Commerce, Notice and Request for Comment (“Notice”). The Notice seeks comment on the proposed interpretations of parts of the Middle Class Tax Relief and Job Creation Act of 2012 (“Act”).¹ We believe that the Notice is a significant step towards implementing the National Public Safety Broadband Network (“NPSBN”).

Florida agrees the Act is essential to meet the long-standing priority of creating a single NPSBN that will allow first responders to communicate via an interoperable long term evolution (“LTE”) broadband network across multiple State, local, and tribal jurisdictions. The Act established FirstNet as an independent authority within NTIA.² FirstNet is authorized “to take all actions necessary to ensure the design, construction, and operation of the NPSBN, based on a

¹ Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112-96, 126 Stat. 156 (2012)(Act); see Department of Commerce, NTIA, Docket No. 140821696-4696-01, RIN 0660-XC012, *First Responder Network Authority Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012*, Fed. Reg. Vol. 79, No. 185, 57058 (September 24, 2012)(Notice).

² *Id.* At § 6206(b)(1).

single national network architecture.”³ In this proceeding, FirstNet seeks “comment on certain proposed interpretations of its enabling legislation that will inform . . . forthcoming requests for proposals, interpretive rules, and network policies.”⁴

I. Introduction

The Florida Department of Highway Safety and Motor Vehicles is the designated governmental body for coordination with FirstNet for the State of Florida. Florida consists of 67 counties and is the fourth most populous State in the nation with 19.3 million residents. There are 20 designated Metropolitan Statistical Areas within the State. The largest metropolitan areas are: Miami (+5.5 million), Tampa Bay (+2.7 million, Orlando (+2.1 million), and Jacksonville (+1.3 million).

Florida is ranked 22nd of the 50 states in geographic size, covering a total of 65,755 square miles. The state contains over 11,000 miles of highway, including over 1,400 miles of major highways and interstates (i.e. I-10, I-75, I-95, I-4 and Florida’s Turnpike).

Florida has a significant number of critical infrastructure facilities, including major electrical generation and distribution plants (coal and nuclear) several major theme parks, and petroleum refining facilities.

Combined, there are thousands of public safety agencies at the local, county, state, tribal, and federal levels that would be potential users of this network. Beyond the traditional law enforcement, fire and EMS first responders described above, the NPSBN would likely support non-traditional agencies such as those related to transportation, public works, and utilities (also

³ *Id.*

⁴ *Notice* at 57058.

known as Critical Infrastructure Industries). These agencies may be permitted to use the network on a secondary basis and would contribute to emergency response in the event of an incident that required their services, such as the clearing of roads or restoration of power.

Florida envisions deploying a public-safety grade 700 MHz LTE wireless broadband data network that is ultimately capable of transporting data, video, and voice, that conforms to both LTE standards and the architecture of the NPSBN. Thus, Florida welcomes the opportunity to respond to this Notice.

II. Elements of the Network

FirstNet has defined “the core network as including without limitation the standard Evolved Packet Core elements under the 3rd Generation Partnership Project (“3GPP”) standards (including the Serving and Packet Data Network Gateways, Mobility Management Entity, and the Policy and Charging Rules Function), device services, location services, billing functions, and all other network elements and functions other than the radio access network.”⁵ Florida agrees with FirstNet’s preliminary conclusion defining the core network and radio access network (“RANs”) and that each State network must connect to the FirstNet core to ensure nationwide interoperability.

Florida acknowledges that the Act requires FirstNet to build the core network. The Act, does not however, prohibit any other party from building and operating a core network, as long as it meets the interoperability and operational standards promulgated by FirstNet. Florida encourages FirstNet to remain flexible when creating its network architecture to provide options

⁵ *Id.* at 57060; “Section 6202(b) of the Act defines the “radio access network” as consisting of all cell site equipment, antennas, and backhaul equipment required to enable wireless communications with devices using the public safety broadband spectrum.”

for the various States to best meet their broadband needs in support of their public safety missions.

FirstNet must offer a complete end-to-end solution and we encourage flexibility in the network architecture design to allow for opt-in or out scenarios when distributing the core elements through-out the States. The NPSBN must also provide enhanced reliability, security, and privacy of public safety communications, while still maintaining interoperability. Florida and presumably other States will need to maintain control of its data and the ability to secure that data to meet State standards of confidentiality and security, while also making non-exempt data available to the public when requested under its long standing “sunshine laws.” Whether a State opts in or out of the FirstNet proposed RAN, it along with FirstNet must work collaboratively to ensure that State data is protected and deemed to be under State control and supervision. Florida is prepared to offer additional comments when FirstNet provides more detailed architecture and data management processes and procedures.

Florida notes that, without a network architecture, it is difficult to determine whether a core-to-core connection or a core-to-network connection is best considering such data management concerns.

Florida brings considerable network assets that will help build-out the NPSBN thereby defraying costs and should have “a seat at the table” regarding network design and architecture to ensure the State’s public safety mission is fully addressed. An opt-in approach would preserve State sovereignty and provide flexibility; giving Florida needed influence in the decisions made regarding the build-out of the network.

Finally, FirstNet should provide flexibility to States to opt in or out of the NPSBN. Each State should be allowed to make this determination as mandated by the Act. Florida is concerned about interoperability along the State's borders with Georgia and Alabama; if either or both of those States should opt-out, will their first responders have to compete with consumers for broadband coverage?

III. Public Safety Entities, Secondary Users, and Other Users

We agree that the Act grants FirstNet discretion to consider a broad range of users consistent with its mission. Florida opposes narrowing the scope of public safety users on the network and agrees that “public safety services” are services that are either defined by Section 337(f) of the Communications Act of 1934, as amended⁶ or services satisfying Section 2 of the Homeland Security Act.⁷ In order to achieve public safety “economies of scale”, a broad array of users is needed. The final decision determining the scope of users on the network should be made by the States to enable the greatest support for their public safety missions and needs.

Florida agrees that “secondary basis” is presumably “secondary” to use by public safety entities, which would be considered primary users. In addition, the policy and rules for priority and preemption for public safety should remain within the confines of the States and be handled through their respective governance models.

Florida accepts that FirstNet will enter into covered lease agreements (“CLA”) with secondary users being charged network user fees. However, the States should define the rules and methods for determining the amount of excess capacity that could be offered to a secondary

⁶ 47 U.S.C. 337(f).

⁷ 6 U.S.C. 101.

user under a CLA. Public safety should never be preempted and should never be placed in a secondary usage scenario. Public safety is always going to be a primary user whether a State opts- in or out. Commercial or other secondary uses must not impede the State’s public safety mission.

Florida is uncertain why FirstNet would classify opt-out States seeking use of the core network as a third user category under Section 6302(f) of the Act. Florida considers all public safety users “primary users” within the definition of “public safety” under Section 6208(a)(1) of the Act.

Under Section 6302(f) of the Act, “if a State chooses to build its own radio access network, the State shall pay any user fees associated with State use of elements of the core network.” If a State opts-out, it should pay the costs associated with using the core network and spectrum lease. States that opt-out should not have to pay a network subscription fee for use of NPSBN. No roaming fees should be assessed for Band 14 use in different jurisdictions whether an opt-in or out State.

Florida agrees with FirstNet’s interpretation Section 6302(g)(1) of the Act that “States cannot offer commercial services to consumers and can only lease network capacity through a public-private partnership for the purposes of in-state construction, maintenance, operation and improvement.” In addition, FirstNet is likewise prohibited from offering broadband services directly to consumers. Neither States nor the Federal government may offer broadband service directly to consumers.

IV. Requests for Proposals

The standards established in the Federal Acquisition Regulation (“FAR”) will promote a competitive, fair, and open process for acquiring goods and services. Some concern exists regarding the definitions of “rural,” “frontier,” and “wilderness” areas as such terms would be applied to Florida in connection with provisions of the Act. Wilderness areas could include Florida’s agricultural areas, which would potentially hamper the State's public safety mission. In addition, tribal lands, nuclear power plants and military ordinance facilities are located in rural or wilderness areas of the State. Thus, Florida (and each other State) should determine the coverage and capacity for all areas of the state including its urban, suburban, rural, agricultural or wilderness areas and how those areas are covered. FirstNet seeks comment on whether it or the supplier responding to a FirstNet request is intended to make the actual economic desirability assessment. Florida would point out that the assessment of economic desirability can only be made in the context of an entity performing an engineering design of a network focused on meeting a given set of requirements. This highlights the need for FirstNet to consult with Florida and other States, to ensure their specific requirements are factored into the Request for Proposal (RFP) process. These requirements are not likely to align with those of a historical, carrier-based network design that is built around potential for profit and user subscription. In addition, the economic desirability of an asset or group of assets cannot occur until a FirstNet network architecture assessment of that asset has been performed. This highlights the need for Phase 2 of the State and Local Implementation Grant Program (“SLIGP”) process, so Florida can identify and document the many assets available to FirstNet for use in the NPSBN build-out.

FirstNet is not limited to use of the FAR to enter into agreements to utilize the infrastructure described in Section 6206(c)(3). FirstNet could also make use of existing available State assets through Memoranda of Understanding (“MOU”), Memoranda of Agreement

(“MOA”) or other existing vehicles to enable transfer of government assets currently in use today. Florida would again emphasize the need to move forward with Phase 2 of the SLIGP process, in order to quantify existing State assets to assist in the build out of the NPSBN and to provide the ability to enter into necessary MOUs or MOAs with FirstNet.

V. User Fees

Florida’s position is that all public safety user fees should include nationwide coverage and should be for unlimited use of the NPSBN. In an opt-out scenario, fees should be limited to a core and spectrum use fee and should not include a FirstNet user fee either in State or while roaming to other States. A flat fee for unlimited usage (and no roaming fees) should be charged within each state each State, similar to today’s carrier billing model.

If FirstNet enters into multiple CLAs to coexist with and utilize FirstNet spectrum in a particular geographic area, Florida believes it would be necessary to have a single point of contact for maintenance and operations within the State.

Florida respectfully disagrees that all of the FirstNet Band 14 spectrum can be allocated for secondary use by CLAs simply because the phrase, “the spectrum allocated to such entity” does not appear to require any minimum amount of such spectrum to be allocated. The reference to “all” Band 14 spectrum creates serious concerns. At the end of the day, each State should determine how much capacity/spectrum is made available within its borders for CLAs.

VI. Conclusion

For the foregoing reasons, Florida urges FirstNet to interpret the Act consistent with comments provided herein that will reflect upon future forthcoming proposals, interpretative rules, and network policies.