

**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. 140821696-5400-03
Further Proposed Interpretations of Parts of)
The Middle Class Tax Relief and Job)
Creation Act of 2012)

COMMENTS OF THE STATE OF FLORIDA

Introduction

Florida welcomes the third opportunity to respond to the First Responder Network Authority (“FirstNet”), National Telecommunications and Information Administration (“NTIA”), and U.S. Department of Commerce, Notice and Request for Comment (“Third Notice”). The Third Notice seeks comment on FirstNet’s further interpretations of Middle Class Tax Relief and Job Creation of 2012 (“Act”), which governs its purpose and activities.¹ We believe this Third Notice is a significant step towards establishing the primary user base of the National Public Safety Broadband Network (“NPSBN”).

The Florida Department of Highway Safety and Motor Vehicles is the designated governmental body for coordination with FirstNet for the State of Florida. Florida is currently the third most populous State in the nation with an estimated 19.9 million residents. The large

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. 140821696-5400-03, 0660-XC012, *First Responder Network Authority Further Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012*, Fed. Reg. Vol. 80, No. 86, 25663 (May 5, 2015)(*Third Notice*)

population is spread throughout the State, with four metropolitan areas comprised of over one million Floridians. To ensure the safety of the entire population, Florida maintains, and continually improves, the capabilities of the thousands of public safety practitioners operating within the State.

It is our belief that FirstNet should establish the definition of “public safety entity” through a direct consultation with each State, Tribe, the “Public Safety Advisory Committee”, and various public safety associations. This holistic representation will be especially beneficial in a large and diverse State, such as Florida, that has a robust public safety mission. Such a direct avenue of information sharing will help both the State and FirstNet. FirstNet will understand what features, coverage, capacity, and devices are required by public safety entities, while States will gain insight on the elements that will make up the FirstNet State Plan. This reciprocal partnership will ensure that “public safety entities” will obtain a NPSBN that benefits their missions in both their daily activities, and in disaster situations.

III. Legal Scope Versus Discretion in Implementing the Definition of Public Safety Entity

Florida agrees that the NPSBN contains a finite amount of spectrum resources.² Florida also agrees that the access of different “public safety entities” on the NPSBN must be informed through direct consultations by States and Tribes.³ We also believe that the “Public Safety Advisory Committee” should be consulted as well.⁴

² *Third Notice* at 25664

³ Act §6206(c)(2)(A)(vi)

⁴ Act §6205(a)(1) “The First Responder Network Authority--(1) shall establish a standing public safety advisory committee to assist [FirstNet] in carrying out its duties and responsibilities...”

In this Third Notice, FirstNet addresses (and emphasizes) Section 6206(c)(2)(A)(iv) of the Act, “assignment of priority and *selection of* entities seeking access to or use of the [network]”⁵ as it relates to the required State consultations. Florida suggests that FirstNet emphasize both the “*selection of*” and “*assignment of priority*” clauses of this Section. We believe States, Tribes, and the “Public Safety Advisory Committee” should inform, through direct consultation, the default priority value of any determined “public safety entity”. Florida, however, encourages State control over a dynamic priority value modification.⁶

V. Requirement to Provide Public Safety Services

2. Overall Framework for Determining Public Safety Entities

Florida agrees that “public safety entities” should be determined through the required consultations between FirstNet, States, Tribes, and the “Public Safety Advisory Committee”.⁷ Florida also agrees that if “public safety entity” is defined beyond traditional first responders, a certification or other evidence of eligibility should be developed.⁸

We suggest that, if “public safety entity” is defined broader than the traditional scope, FirstNet should implement a methodology to establish different “types” of “public safety entities”. For example, a three category system could be created: 1). Traditional Public Safety; 2). Public Health; and 3). Public Infrastructure. Such a methodology would allow a defined

⁵ *Supra* note 2

⁶ See p. 76 of *Recommended Minimum Technical Requirements to Ensure Nationwide Interoperability for the National Public Safety Broadband Network, Final Report*. Technical Advisory Board for First Responder Interoperability. (May 22, 2012)

⁷ *Supra* note 4

⁸ *Third Notice* at 25667

“public safety entity” to be categorized into their routine function, which would establish their access, priority, and preemption at the local level.

VI. Non-Traditional First Responders as Public Safety Entities

Florida agrees with FirstNet’s conclusion, “that separate priority and preemption parameters must be established even among the various entities, including traditional and non-traditional entities, which may qualify as a public safety entity under the Act and be allowed to use the NPSBN.”⁹ Florida believes that FirstNet should determine the technical Allocation and Retention Priority (ARP) architecture, while States and Tribes determine which defined “public safety entities” are assigned to each. Such an arrangement would allow a State, or Tribe, to determine which “public safety entity” requires priority and preemption as it relates to the local public safety objective. Florida seeks consultation regarding the priority and preemption requirements of Federal “public safety entities” operating in a State.

Florida welcomes and eagerly anticipates not only FirstNet’s “additional, direct consultations with State points of contact regarding the selection of entities permitted on the network”¹⁰, but any additional required direct consultations regarding the formation of network policies as discussed in the Second Notice.¹¹

Florida believes that it is in the best interest of public safety for FirstNet to develop a definition of “public safety entity” through States, Tribes, the “Public Safety Advisory Committee”, and professional associations such as The Association of Public-Safety

⁹ *Supra* note 8 at Footnote 49

¹⁰ *Third Notice* at 25668

¹¹ *First Responder Network Authority Further Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012*, Fed. Reg. Vol. 80, No. 49, 13336 (March 13, 2015)

Communications Officials (APCO) and The National Public Safety Telecommunications Council (NPSTC). Once a holistically representative definition is established, local jurisdictions should determine the methods and durations of a “public safety entity’s” access to the network as it relates to emerging public safety situations.¹²

We believe that it was the intent of Congress to allow States, or Tribes, to decide such access, priority, and preemption determinations because a majority of emergency situations are local in nature.¹³ Therefore, the States, or Tribes, should determine which “public safety entities” are prioritized in relation to others. Such an arrangement will allow a State, or Tribe, to implement policies that are most appropriate for the public safety mission of each State or Tribe.

The interoperability goals of the Act will not be diminished through this local control, as the National Incident Management System provides guidance for multi-agency and/or State response. Temporary priority and preemption ARP assignments can be established through the Incident Command or Unified Command Systems, thus ensuring that any defined “public safety entity” from any State, Tribe, or territory can access the NPSBN.

Closing Remarks

For the foregoing reasons, Florida urges FirstNet to interpret the Act consistent with comments provided herein that will reflect upon future proposals, interpretative rules, and network policies. Specifically, FirstNet should determine the definition of a “public safety entity” through the required State, Tribal and “Public Safety Advisory Committee” consultations.

¹² *Supra* note 10

¹³ See Session No. 18. Course Title: National Incident Management Systems. Session Title: NIMS Policy and Practical Implications at 14-16 available at <https://training.fema.gov/hiedu/docs/nimsc2/nims%20-%20session%2018%20-%20nims%20policy%20and%20practical%20implications%20-%20final.doc>.

Once a definition has been determined, all States and Tribes, regardless of their radio access network (RAN) deployment option, must adhere to such a definition. This means that each State and Tribe will be required to give access to all determined “public safety entities”. States should then, on the local level, decide which defined “public safety entities” are assigned priority and preemption under the national ARP architecture, thus maintaining the interoperability goals of the Act.