

## **Public-safety groups disagree on 'public-safety entity' definition, including utility usage of FirstNet**

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Two key public-safety communications organizations—the [Association of Public-Safety Communications Officials](#) (APCO) and the National Public-Safety Telecommunications Council ([NPSTC](#))—express opposing views on the subject of whether critical-infrastructure entities such as utilities should be considered public-safety entities that could be eligible for priority access to the 700 MHz broadband system being built by [FirstNet](#).

In a proceeding designed to explore legal interpretations impacting FirstNet, APCO stated that it “must strongly disagree” with the notion that an electric utility could be considered a public-safety entity. In contrast, NPSTC—a coalition of public-safety communications groups, including APCO—expressed support for a broader interpretation of “public-safety entity” than the traditional definition of fire, EMS and law-enforcement departments.

“Some utility’s day-to-day operations—such as meter reading—may be more secondary, but during a major incident, utilities may rise up to an emergency-support level,” the NPSTC response states. “Even within the public-safety category, the same individual may warrant a higher priority at some times than at others. The requisite prioritization for a given user can vary across different incidents and even at different times within the same incident.”

This position aligns with the interpretation of a public-safety entity that was proposed by the FirstNet legal staff—the FirstNet board has not yet taken a position on the matter publicly—in the proceeding. In a public notice, the FirstNet legal staff proposed that an “entity may offer other services in addition to a non-de minimus amount of public-safety services and still qualify as a public-safety entity” and that “an electric utility could come within the definition of public-safety entity.”

But APCO officials believe such interpretations are incorrect, noting that Section 337 of the

Communications Act defines public safety services as services “the sole or principal purpose of which is to protect the safety of life, health or property” and that it was not the intent of federal lawmakers when they created FirstNet in 2012.

“An electric utility, or any equivalent entity, does not fall within the definition of public-safety entity,” the APCO filing states. “Any conclusion to the contrary would be a plainly wrong reading of the Act’s provisions, and a stark departure from Congress’s intent to create a dedicated network for first responders.

“If Congress intended a broad definition of the kinds of entities that would be considered ‘public-safety entities,’ it certainly could have mentioned groups like utilities, highway departments, or building inspectors, etc., rather than reference existing statutes with language like ‘sole or principal purpose of which is to protect the safety of life, health or property’ and ‘emergency-response providers.’

Public-safety representatives lobbied Congress for several years to reallocate 10 MHz of prime 700 MHz spectrum—known as the D Block—for public-safety use. In 2012, Congress reallocated the D Block, established FirstNet and dedicated \$7 billion in funding for the buildout of a nationwide broadband system.

Providing key political support to the public-safety lobbying effort at the time were Verizon and AT&T, commercial wireless giants that won most of the 700 MHz commercial spectrum auctioned by the [FCC](#) . While other commercial carriers wanted the FCC to conduct a commercial auction for the D Block spectrum, Verizon and AT&T officials were outspoken in their support of allocating the spectrum to public safety—a fact that should not be overlooked, according to [APCO](#) .

“Major communications carriers supported public safety’s efforts in part because they intended their efforts to result in a network that serves first responders, and not, for example, other customers of their commercial services, such as individual consumers and utilities,” the APCO filing states. “The prohibition in the Act against offering services directly to consumers supports this view.

“The term ‘consumers,’ in this case, is intended to be read broadly—essentially, any of those

typical customers of wireless service providers that are not first responders. [FirstNet](#) 's mission is providing an otherwise unobtainable service for first responders, not competing with wireless carriers.”

But a joint response from the Edison Electric Institute (EEI) and the [Utilities Telecom Council](#) (UTC) states the belief that utilities should qualify as a public-safety entity under both the traditional definition and the broader definition established by the U.S. [Department of Homeland Security](#)

. While some utility functions, such as automated meter reading, could be preempted by public safety during an emergency, core “mission-critical” applications that determine whether the utility can function properly should not be preempted, according to the filing.

“These mission-critical applications include, but are not limited to, voice services, [SCADA](#) , distribution automation, protective relaying and synchrophasors –all of which require high degrees of reliability in order to protect worker safety and operational safety for the benefit of the general public, as well,” the EEI and UTC response states. “Any interruption of these applications can significantly jeopardize the safety of life, health or property, such that utility mission-critical applications should have priority access on the network.

“As a technical matter, utility mission-critical applications consume relatively low bandwidth and can be easily accommodated on the network without impacting other important public safety applications. For example, an emergency in one area should not require that the network preempt or even throttle the bandwidth that is available for utility mission critical applications in other areas of the network or even other sectors served by a single site near the location of the emergency.”

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