

Written Testimony of John T. Stevens

United States House of Representatives Subcommittee on Communications and Technology Oversight of FirstNet: State Perspectives – November 1, 2017

Over the course of the last month, New Hampshire Governor Chris Sununu was presented with two FirstNet Plans - the FirstNet/AT&T State Plan and the New Hampshire FirstNet Alternative Plan. We remain the only State in the country to have completed an alternative plan. Eighteen states currently have Request for Proposals (RFP's) in various stages of development, but are now under a time constraint to actually develop a complete alternative plan. New Hampshire recognized early in the process that the 180 day time period offered by FirstNet would not give New Hampshire sufficient time to give this opportunity the care and due diligence that it requires.

Because New Hampshire has been out in front of this process for the past two years and has already created an alternative plan, New Hampshire is well positioned to assist other states who are considering an opt-out decision. That is why Governor Sununu created a FirstNet Opt-out Review Committee to further investigate regulatory and financial issues that would be associated with that decision. Our emphasis is primarily the following: 1) to ascertain from FirstNet and NTIA the necessary procedural requirements and achieve a full understanding of the regulatory agreements that must be in place for a state to construct its own network; 2) to understand the justification for what appear to be arbitrary and capricious fees and penalties provided for in the draft SMLA; and 3) to fully understand the feasibility, sustainability, and the financial obligations necessary to fully operate, empower, and enhance the FirstNet network in New Hampshire for the next twenty-five (25) years.

We are confident that, as a result of the process we have engaged in for the last two years, New Hampshire is now in receipt of an alternative FirstNet Plan that will address coverage on a statewide basis and will also deliver to our first responders a network that will be at little or no cost to the subscriber. Isn't that the very reason why the law was established and FirstNet was created, to provide the tools that will allow first responders to communicate in times of emergency? Unfortunately, states are now being threatened with outrageous and indefensible penalties that deter states from even considering an opt-out decision. It honestly makes one believe that the SMLA is fraught with fictitious and erroneous figures only to apply pressure on states to opt-in.

New Hampshire has been advised, through the SMLA, of a termination penalty, ranging from \$10,609,059-\$608,568,423, that will be imposed if for some reason the designed network should fail. Other states have been advised that their termination penalty payments will be in the billions and billions of dollars. Can we honestly expect that states could assume such risk, when all they are trying to do is represent their first responders by providing the best possible coverage? And if the penalty was to be assessed, where does that money go? To AT&T? These figures are absurd, and they are accompanied by spectrum payments in the tens of millions of

dollars, adoption disincentive payments, adoption payment levels at 5 years, and adoption payment levels at 20 years. What are we promoting here, public safety and the ability to provide better service to our citizens, or lining the pockets of corporate America?

We have a FirstNet alternative plan that we have great confidence in. If the plan passes the hurdles presented by the FCC, NTIA, and FirstNet, why then should we be subject to any penalty and why would FirstNet not want to work with the State to make the opt-out plan successful? We seem to have lost the meaning of why FirstNet was created in the first place. Corporate America (i.e. the AT&Ts, the Verizons, and major cell phone companies) were approached years ago and asked to provide public safety with priority preemption in cases of extreme emergencies. They declined. Now that FirstNet has been created, AT&T and Verizon (who only recently has jumped in to vie for the same business) say that their interest is in serving public safety. There is no better determiner of States needs then the States themselves, and who can better represent public safety than public safety?

Out of concern for all who will be adversely affected by the manner in which FirstNet has approached this issue, I ask this committee to consider the original intent of the law that created FirstNet – to allow states to build a dedicated wireless broadband network for first responders in a manner that is best each state's citizens. This is what New Hampshire is attempting to accomplish, and why we have spent the past two years working to put our state in a position of having two viable options. We therefore implore this Committee to hold FirstNet accountable and take steps to ensure that FirstNet provides a full explanation of the numbers it has released, complies with the intent of the law, and provides a fair pathway for each state to make its opt-in/opt-out decision free of undue duress.