

Written Testimony of Michael Poth
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Energy and Commerce Committee
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“Oversight of FirstNet: State Perspectives”
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Introduction

Chairman Blackburn, Ranking Member Doyle, and all Members of the Subcommittee, I would like to thank you for the opportunity to appear today to provide an update on the progress we are making at FirstNet toward the deployment of an interoperable, nationwide public safety broadband network (NPSBN or Network).

Progress towards a Network

FirstNet intends to provide a cutting-edge wireless broadband communications system, with priority and pre-emption, to millions of first responders at the local, state, tribal, and federal levels across all states, territories, and the District of Columbia, consistent with the vision laid out in the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) (Act). By enabling the Network’s deployment, FirstNet will provide a dedicated, ubiquitous solution that helps solve public safety’s decades-long interoperability and communications challenges, which includes advanced communications services, devices, and applications to help first responders and other public safety personnel make communities safer.

FirstNet’s goal of deploying the Network, and thereby meeting the needs of first responders, is a matter of critical importance for public safety, and today we are closer than ever before to accomplishing this goal. Since its inception, FirstNet has taken the necessary steps to build an organization, execute a vigorous consultation and outreach strategy, develop and release a comprehensive request for proposals (RFP), select an experienced and proven wireless industry leader for a first-of-its-kind public-private partnership, and lay the groundwork for a successful deployment of the NPSBN. Much has been accomplished.

However, as it is with any unprecedented undertaking, every step forward presents new challenges and requires identification of innovative solutions. The past three years have involved hundreds of thousands of working hours to solve the various challenges FirstNet has faced. I am proud to say that today we have an organization of people who have approached these challenges head on and advanced the mission with a clear and unwavering dedication to public safety. The organization is dedicated to fulfilling FirstNet’s responsibilities to the public safety community; creating a culture of hard work, openness, and transparency; developing a successful public-private partnership; and continuing to educate, inform, and obtain input from FirstNet’s partners in the states and public safety stakeholders.

The Selection of AT&T

At a signing ceremony on March 30, 2017, Secretary of Commerce Wilbur Ross announced FirstNet’s award of the nationwide NPSBN contract to AT&T. The attendees included AT&T CEO Randall

Stephenson, Federal Communications Commission (FCC) Chairman Ajit Pai, Chairman Blackburn and other Members of Congress and staff, FirstNet Board members, FirstNet leadership, and, most importantly, public safety representatives.

Prior to the ceremony, the FirstNet Board voted unanimously to authorize the award. With the Board's authorization, FirstNet and the Department of the Interior, which assisted FirstNet with the Network procurement, made the 25-year award to AT&T based on a careful evaluation of the proposals against the evaluation criteria articulated in our comprehensive RFP. Based on this rigorous review the determination was made that AT&T's proposal presented the overall best value solution for FirstNet and public safety.¹

The Benefits of a Public-Private Partnership

Before listing the details of the solution FirstNet and AT&T are delivering to public safety, it is important to understand the benefits of the public-private partnership. By leveraging private sector resources, infrastructure, and cost-saving synergies to deploy, operate, and maintain the Network, as directed by the Act, the NPSBN can be deployed quickly, efficiently, and far more cost-effectively than any other model.

Congress foresaw the benefits such a partnership could offer and gave FirstNet the tools necessary to engage the private sector, thereby allowing the private sector to do what it does best – i.e., leverage the market to determine the best deal at the best price, while ensuring that a dedicated, interoperable Network is built to public safety's requirements. The fact remains that neither party – FirstNet nor AT&T – on its own could build a network like the FirstNet Network. It would be too expensive and too burdensome. A public-private partnership ultimately will provide a Network that benefits public safety in a manner that would have been impracticable to achieve if left solely to the private sector or federal government.

FirstNet is confident that the Network will also provide many specialized features. In addition to priority, preemption, and robust rural coverage, public safety will have access to FirstNet-dedicated deployable equipment for use during disasters and pre-planned events, as well as in-building solutions – because FirstNet recognizes that first responders' communications do not stop at the curb.

The solution also includes a customer service center dedicated specifically to public safety – available 24/7, 365 days a year; a dedicated FirstNet core with built-in redundancy to provide end-to-end FISMA compliant cybersecurity; and an entire eco-system of devices, apps, and tools for public safety, including a FirstNet app store. Each of these features will be a first for public safety as they are not currently available on any network today.

How the Network Will Help Public Safety

The ability to communicate seamlessly across jurisdictions is critical for law enforcement, fire, and emergency medical services (EMS) during day-to-day operations, when securing large events, or responding to emergencies and disasters. In those instances, networks can become overloaded and

¹ We were able to move forward with an award to AT&T after a March 17, 2017, decision by the U.S. Court of Federal Claims to deny a protest filed by one of the unsuccessful bidders.

inaccessible, limiting responders' use of vital communication technologies, such as smartphones and applications dedicated to public safety services.

By providing unfettered, uninterrupted access to wireless spectrum, the NPSBN will help improve response times and situational awareness for public safety from coast-to-coast, every state, territory, and across tribal and federal land, in both rural and urban areas, leading to safer and more secure communities, and first responder safety.

The market certainty the Network will provide through a long-term commitment, scale, and capacity will enable private sector investment and innovation for advanced life-saving technologies, tools, and services, such as:

- Applications that allow first responders to reliably share videos, text messages, photos, and other information during incidents in near real-time;
- Advanced capabilities, like camera-equipped connected drones and robots, to deliver images of wildfires, floods, or other events;
- Improved location services to help with mapping capabilities during rescue and recovery operations; and
- Wearables that could relay biometric data of a patient to the hospital or an alert when a fire fighter, police officer, or paramedic is in distress.

Network technology will also be tested and validated through the FirstNet Innovation and Test Lab, located in Boulder, Colorado, to ensure first responders have the public safety grade, proven tools they need and can trust day-to-day and during disasters and emergencies.

State Plans

On June 19, FirstNet and AT&T delivered initial State Plans to the states and territories for review and comment three months ahead of schedule.² This marked a major milestone in the deployment of FirstNet.

Since 2013, FirstNet has worked hand-in-hand with the states, territories, localities, federal authorities, tribes, and the public safety community to make sure the Network is specifically built for their needs. FirstNet's consultation efforts included more than 140,000 engagements with public safety stakeholders nationwide, and the collection of data from states and territories that accounted for more than 12,000 public safety agencies representing more than 2 million public safety personnel.

Developed with this input, the customized State Plans outline the coverage, features, and mission-critical capabilities FirstNet and AT&T will bring to first responders and other public safety personnel. States have had the opportunity to identify priorities and concerns related to Network coverage

² The initial State Plans for three territories (Guam, Northern Mariana Islands, and American Samoa) were delayed. These plans have now been uploaded to their respective portals, and FirstNet met with representatives from each of the territories in Honolulu, Hawaii on October 24 and 25. At that meeting FirstNet discussed the unique characteristics of the territorial and geographic regional response goals. Governance models, and operational needs, along with future collaboration between the territories and FirstNet were also discussed.

(including in rural areas) and services. Consistent with the Act, FirstNet has also encouraged state-designated single points of contact (SPOCs) to include tribal stakeholders in FirstNet engagements and solicit feedback and collect data from the tribes in their states to ensure those priorities and concerns were incorporated in the State Plans. Based on this feedback, FirstNet and AT&T determined a path forward, where possible, to address these requirements.

Tribes sought a more formal consultation process where there was less reliance on States to convey Tribal priorities and concerns to FirstNet. Subsequently, FirstNet determined that once governors made their “opt-in/opt-out” decisions, FirstNet will conduct a formal Tribal consultation process. On October 23, 2017, FirstNet released its Tribal consultation policy.³

FirstNet and AT&T have created a public website: FirstNet.com. This website provides information about the FirstNet solution, the unique value of the FirstNet Network to public safety, and how public safety entities may subscribe to FirstNet once a state or territory opts in. The site will host information on quality of service, priority and preemption; local control features; the applications store; devices and accessories for FirstNet; and coverage and rate plans.

Official Notice

We are now in a critical decision-making time for the FirstNet project. On September 29, 2017, FirstNet provided official notice to governors, as required by the Act, which included notification of the completion of the RFP process for the state, the delivery of the State Plan, and the funding level for the state as determined by the National Telecommunications and Information Administration (NTIA).⁴ The official notice initiated the 90-day clock that the Act provides for each state or territory governor to make an “opt in/opt out” decision on its State Plan.⁵ The deadline for governors to make this decision is December 28, 2017.

FirstNet and AT&T will continue to actively engage with the states and territories to support their review of their respective State Plans and answer questions.

The Governors’ Decision

The decision that a governor faces is one that will have profound consequences on the ability of public safety in his or her state or territory to gain access to mission critical broadband.

³ <https://www.firstnet.gov/consultation/tribes>

⁴ See “NTIA Release of Funding Level Determination for Each State” (Sept. 29, 2017), available at: <https://www.ntia.doc.gov/other-publication/2017/ntia-release-funding-level-determination-each-state>.

⁵ As noted above, FirstNet is still working with Guam, the Northern Mariana Islands, and American Samoa on their State Plans, and thus did not provide official notice to the Governors of these territories on September 29, 2017. The 90-day decision period has not yet begun for these territories. With respect to Puerto Rico, due to the unique circumstances related to Hurricane Maria and the difficulty related to basic services operating in the wake of the storm, FirstNet has been unable to confirm the receipt by the Governor of the official notice, and therefore, the 90-day decision period for Puerto Rico has also not yet begun. The Governor, however, has previously pledged his support for the deployment of the FirstNet Network in Puerto Rico.

Opt in:

A governor's decision to opt in will enable FirstNet and AT&T to begin the process of delivering services to that state or territory's public safety community. It is a decision that will also drive infrastructure investments and job creation.

If a state affirmatively opts in or takes no action on the State Plan within 90 days of receiving notice, which under the Act is also a decision to opt in, FirstNet will be able to start the process of deploying the Radio Access Network (RAN) portion of the FirstNet Network in the state at no cost to the state. States do not have to wait the full 90 days to make an opt-in decision, and several states have already provided notice of their intention to opt in. The opt-in path is a low-risk option that will support faster delivery of services to the state's public safety community.

We anticipate a significant number of opt-in announcements over the weeks and months ahead now that the 90-day clock has started.

Opt out:

If the state elects not to participate in the FirstNet RAN deployment, pursuant to the Act, it must provide notice to FirstNet, the FCC, and NTIA within 90 days after receiving official notice from FirstNet, and within 180 days of such notice to FirstNet, the state must develop and complete an RFP for the state RAN. Subsequently, it must submit an alternative plan to the FCC for the construction, maintenance, operation, and improvement of the RAN in the state within 60 days of RFP completion. The state RAN must be interoperable with the Network and comply with FirstNet's requirements and standards for the Network. Before the state's RAN deployment can begin, the FCC must approve the alternative plan, and, if approved, the state must then apply to NTIA for the right to enter into a spectrum capacity lease with FirstNet, and ultimately agree to the terms of such a lease with FirstNet through a Spectrum Manager Lease Agreement. The state may also apply to NTIA for a state RAN construction grant under the State Alternative Plan Program.⁶

Opt out states will assume all technical, operational, and financial risks and responsibilities related to building, operating, maintaining, and improving their own RAN for the next 25 years. Given the statutorily mandated processes, it is possible a state pursuing opt out will be at least two years behind states that opt in.

It is important to note that if a state or territory wishes to opt out, FirstNet will do everything we can to make that opt-out process a success. Public safety cannot afford to have areas of no service throughout the country. We are encouraging states and territories to look at all the information in the State Plans to ensure that they fully understand the risks and requirements associated with opting out. We are confident that each State Plan will deliver the coverage, services, value, and experience states and territories expect for their first responders, bringing us closer to making the cutting-edge Network and technologies that public safety has been asking for a reality.

⁶ Additional information regarding the grant program will be available from NTIA in a forthcoming SAPP Notice of Funding Opportunity.

Spectrum Manager Lease Agreement

Congress created FirstNet to ensure the establishment of the NPSBN and made FirstNet the sole licensee of the Band 14 public safety spectrum. As mentioned previously, under the Act, a state that chooses the opt-out option and successfully completes the congressionally mandated approval process must enter into a Spectrum Manager Lease Agreement (SMLA) with FirstNet in order to use FirstNet's licensed spectrum. The SMLA is a binding agreement between the opt-out state and FirstNet establishing the terms and conditions for the state's use of the Band 14 public safety spectrum. The agreement reflects the requirements of the Act, standard telecommunications industry regulations, the NPSBN's critical role in supporting public safety communications, and the significant responsibilities involved with deploying a wireless broadband network for public safety.

In short, the SMLA sets forth requirements associated with the state building, operating, maintaining, and improving its own RAN, including the state's financial obligations to the federal government. These requirements are intended to ensure the ongoing operation of an interoperable, secure, and sustainable network that meets the needs of public safety across the nation, and they are similar to the requirements that FirstNet will deliver to opt-in states.

Conclusion

For more than three years, FirstNet has worked hand-in-hand with our partners in the states and territories to develop a Network that meets the needs and objectives of our nation's first responders and other public safety personnel. After thousands of meetings and countless discussions with the public safety community, we feel confident about the overall Network solution and individual plans that we have proposed for each state and territory because they have been driven by and reflect public safety stakeholders' input throughout the nation.

FirstNet has made a great deal of progress over the past year. We successfully completed a comprehensive nationwide RFP process; awarded a 25-year contract to AT&T - an innovative private sector technology partner who has nearly 140 years of experience serving the public safety community; and worked effectively and efficiently with AT&T to deliver State Plans three months ahead of schedule and update those plans based on stakeholder input. We are now focused on preparing for the deployment of the Network in opt-in states and territories and the next crucial phase of the project - public safety user adoption.

While there has been much success, we still have work to do. As the recent Government Accountability Office report highlighted, there are areas for improvement, and FirstNet is dedicated to continuing to strive for excellence in every area.⁷

Through cooperation with the Department of Commerce, NTIA, the FCC, the federal members of the FirstNet Board—the Secretary of Homeland Security, the Attorney General, and the Director of the Office of Management and Budget—and other federal partners, FirstNet has continued to meet our commitment to the States and public safety community. We have been able to achieve a great deal over the past year. Moving forward, we plan to continue to leverage these partnerships. Ultimately, the most important action that FirstNet must take is to continue to listen to public safety community. We at

⁷ U.S. Government Accountability Office, Public Safety Broadband Network: FirstNet Has Made Progress Establishing the Network, but Should Address Stakeholder Concerns and Workforce Planning (2017).

FirstNet have been entrusted by the public safety community to deliver what they need in order to keep us safe. It is this belief that drives us at FirstNet and will ensure that we accomplish what public safety community deserves – excellence in service, reliability, and performance.