

ARTICLE

FirstNet Releases Second Public Notice Seeking Comment On Its Legal Authority

March 9, 2015

On March 9, 2015, the First Responder Network Authority (FirstNet) Board released a Second Public Notice seeking comment on several legal interpretations of FirstNet's enabling legislation, the Middle Class Tax Relief and Job Creation Act of 2012. FirstNet, an independent entity housed within the U.S. Department of Commerce, National Telecommunications and Information Administration (NTIA), is charged with taking all actions necessary to build, deploy, and operate a high-speed, nationwide network dedicated to public safety.

In September 2014, FirstNet released a First Public Notice setting forth preliminary interpretations of the outer bounds of FirstNet's statutory authority to build, deploy, and operate the nationwide public safety broadband network. The First Public Notice sought comment on a range of statutory interpretation issues including: identifying permitted categories of FirstNet users, defining network elements, delineating permitted services, specifying the requests for proposal process, investigating the obligation to share existing infrastructure, and exploring the contours of permissible fees.

Picking up where the First Public Notice left off, the Second Public Notice focuses on how FirstNet can work with the states and territories that choose to construct and operate their own radio access network (RAN) (*i.e.*, "opt out states") rather than participating in FirstNet's nationwide RAN deployment. In particular, the Second Public Notice seeks feedback on FirstNet's preliminary interpretations of the Act regarding issues such as:

- Technical requirements for network equipment, including the requirement for open and non-proprietary standards for connectivity; that the equipment be capable of being used by

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any public safety entity and by multiple vendors; and that there is backward-compatibility with existing commercial networks;

- The nature and application of FirstNet network policies, including those that aim to preserve interoperability in opt-out states and territories;
- The process, roles and responsibilities of states and FirstNet as states decide whether to opt-out of the FirstNet RAN and assume responsibility for deploying their own RAN; and
- Customer, operational, and funding considerations applicable to opt-out states and territories.

Comments will be due 30 days after publication in the Federal Register. FirstNet does not anticipate providing additional opportunities to comment on the preliminary interpretations set forth in the Second Public Notice and thus urges interested parties to provide comments in this proceeding. A copy of the Second Public Notice is available [here](#).