

**Before the
U.S. Department of Commerce,
First Responder Network Authority (FirstNet)
Herndon, VA 20170**

Special Notice and
Draft Request for Proposals

)
) Solicitation Number:
) D15PS00295
)

**JOINT COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION,
DCN, LLC (DBA DAKOTA CARRIER NETWORK)
FORT MOJAVE TELECOMMUNICATIONS,
INDATEL SERVICES, LLC,
IOWA COMMUNICATIONS ALLIANCE,
IOWA NETWORK SERVICES,
MONTANA INDEPENDENT TELEPHONE SYSTEMS, LLC
MONTANA TELECOMMUNICATIONS ASSOCIATION,
SOUTH DAKOTA NETWORK, LLC (DBA SDN COMMUNICATIONS),
SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION,
TRI-COUNTY TELEPHONE ASSOCIATION, INC., AND
VISION NET INC.**

July 27, 2015

TABLE OF CONTENTS

| | Page |
|--|-----------|
| I. INTRODUCTION AND SUMMARY | 3 |
| II. TO FULFILL ITS STATUTORY OBLIGATION AND REMAIN FISCALLY PRUDENT, FIRSTNET SHOULD LEVERAGE EXISTING NETWORK ASSETS PARTICULARLY IN HIGH-COST RURAL AREAS | 8 |
| A. FirstNet has a Legal and Fiscal Obligation to Utilize Existing Infrastructure | 8 |
| B. Rural Providers Have a Vast Array of Existing Infrastructure and Assets that Should Be Leveraged by FirstNet | 11 |
| C. Rural Service Providers Have Unparalleled Technical and Operational Expertise in Rural and Remote Areas..... | 14 |
| D. Rural Networks Can Be Seamlessly Integrated with Other FirstNet Partners and Statewide Fiber Networks Can Serve as Central Communications and Negotiation Points within Each State..... | 16 |
| E. Large Mobile Network Operators Cannot Offer a Cost-Effective or Efficient Solution in Many Rural Areas, or Achieve the Degree of Coverage Specified for Rural Public Safety Needs | 18 |
| F. FirstNet Should Act as an Integrator, Leveraging the Existing Assets and Infrastructure of Rural Commercial Networks | 20 |
| III. TO COMPLY WITH ITS STATUTORY DIRECTIVE, FIRSTNET SHOULD CREATE A CLEAR, TRANSPARENT, AND COMPREHENSIVE MECHANISM FOR INVENTORYING AND THEN INCORPORATING EXISTING ASSETS INTO THE FINAL DESIGN FOR THE NPSBN | 21 |
| IV. FIRSTNET SHOULD PLACE CLEAR RESTRICTIONS ON OVERBUILDING EXISTING NETWORKS, AS IT WOULD BE WASTEFUL AND UNNECESSARY, AND QUICKLY DEplete FIRSTNET'S \$6.5 BILLION CONSTRUCTION BUDGET | 23 |
| V. FIRSTNET SHOULD PLACE PARAMETERS AROUND THE USE AND SALE OF EXCESS CAPACITY TO ENSURE THAT ITS NETWORK PARTNERS DO NOT UNDERMINE EXISTING HIGH-COST NETWORKS SUPPORTED BY FEDERAL FUNDS..... | 24 |
| VI. FIRSTNET SHOULD NARROWLY TAILOR THE DEFINITION OF 'PUBLIC SAFETY ENTITY' TO ENSURE THAT THE PRIMARY USERS OF THE NPSBN ARE FIRST RESPONDERS..... | 27 |
| VII. FIRSTNET SHOULD REVISE ITS NETWORK ACQUISITION PROCESS TO PROVIDE A MECHANISM FOR SMALL CARRIERS TO PARTICIPATE..... | 30 |
| A. FirstNet Should Incent Large Carriers to Partner with Small Businesses..... | 32 |
| VIII. CONCLUSION | 34 |

**Before the
U.S. Department of Commerce,
First Responder Network Authority (FirstNet)
Herndon, VA 20170**

| | | |
|-----------------------------|---|----------------------|
| Special Notice and |) | Solicitation Number: |
| Draft Request for Proposals |) | D15PS00295 |
| |) | |
| |) | |

**JOINT COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION,
DCN, LLC (DBA DAKOTA CARRIER NETWORK)
FORT MOJAVE TELECOMMUNICATIONS,
INDATEL SERVICES, LLC,
IOWA COMMUNICATIONS ALLIANCE,
IOWA NETWORK SERVICES,
MONTANA INDEPENDENT TELEPHONE SYSTEMS, LLC
MONTANA TELECOMMUNICATIONS ASSOCIATION,
SOUTH DAKOTA NETWORK, LLC (DBA SDN COMMUNICATIONS),
SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION,
TRI-COUNTY TELEPHONE ASSOCIATION, INC., AND
VISION NET INC.**

I. INTRODUCTION AND SUMMARY

NTCA–The Rural Broadband Association (“NTCA”)¹ and the signatories (collectively, “Rural Representatives”) hereby submits these joint comments in the above captioned proceeding.² NTCA represents nearly 900 small rural network service providers that use valuable wired and wireless networks, and other technical and operational assets, to serve the most

¹ All of NTCA’s members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended.

² See *Special Notice and Draft Request for Proposals, Solicitation No. D15PS00295, (rel. April 27, 2015)*, available online at <https://www.fbo.gov/>. (“Draft RFP”)

sparsely populated and remotely located areas of our country. As community-based organizations, rural service providers have an established history of working collaboratively with public safety agencies and first responders, and an ongoing commitment to supporting their communications needs.

The Rural Representatives understand first-hand the immense financial, technical, and logistical challenges related to operating advanced telecommunications networks in rural and remote areas. As such, they applaud the effort that has been devoted to the FirstNet project. However, the Rural Representatives have significant concerns related to FirstNet's current direction, as outlined in the Special Notice and Draft Request for Proposals ("Draft RFP") released on April 27, 2015,³ and the resultant implications for the ability of rural first responders to access the Nationwide Public Safety Broadband Network ("NPSBN").

Specifically, as detailed in the Draft RFP, FirstNet has placed all of its proverbial "eggs in one basket," as it plans to select one nationwide carrier and/or a limited handful of regional operators to partner with FirstNet to create the NPSBN. While providing perhaps some ease of administration, this is not the most efficient or effective solution for actual construction, operation, and use of the network. Rather, consistent with congressional intent, FirstNet itself should act as an integrator, seeking network deployment where it is needed while also leveraging a variety of pre-existing commercial, public, and private assets that have been subsequently upgraded and hardened to meet public safety-grade standards for resiliency and reliability.

Incorporating rural telecom providers' infrastructure and assets into the new NPSBN will allow FirstNet to speed infrastructure deployment in rural and remote areas of the country, and, therefore, hasten network availability for public safety officials. FirstNet also will benefit from

³ *Id.*

decreased implementation costs, as it will not have to construct, from scratch, brand new wireless towers and foundational backhaul infrastructure. In addition, by leveraging existing rural assets, FirstNet will create synergies with other Federal programs which support rural telecom infrastructure deployment and maintenance.

Rural service providers stand ready and are very interested to work with FirstNet to create the NPSBN. Rural service providers have a vast array of existing infrastructure assets that should be leveraged by FirstNet for the efficient construction of the NPSBN in rural areas, including statewide fiber transport connectivity in 28 primarily rural states; extensive copper and fiber infrastructure, including last-mile networks suitable for the speeds that will be required by FirstNet's network; utility poles; wireless networks and towers; secure data centers; rights-of-way; and local operational and technical resources. Rural service providers continually re-invest in their networks, and can upgrade their infrastructure more cost effectively and efficiently than a new entrant into the service area. Rural networks also can be seamlessly integrated with other FirstNet partners.

For their part, large mobile network operators ("MNOs"), who tend to provide service to the most populous locations and major byways, cannot offer a cost-effective or efficient solution in many rural areas. Even in rural areas where they do operate, the "national" MNOs often do not own their vertical assets; instead these assets are owned by companies that specialize in the construction and operation of these assets who lease the infrastructure to the MNOs. In rural areas, the MNO backhaul facilities and wired infrastructure often are supplied by rural providers.

Put quite simply, FirstNet's limited dollars cannot go far enough, and FirstNet cannot achieve its intended purpose, without leveraging existing networks in the nation's highest-cost areas. Fortunately, Congress had this foresight, and within the Middle Class Tax Relief and Job

Creation Act of 2012 (“the Act”) expressed its clear and unmistakable intent: FirstNet is directed to utilize existing assets and infrastructure *as a default* through the entire network planning, design, and construction process.⁴ Indeed, FirstNet was provided a limited \$6.5 billion network construction budget and tasked with creating a near ubiquitous nationwide network that meets public safety standards for coverage and quality of service parameters, while also providing service at an affordable price point. FirstNet has a clear legal and fiscal obligation to rely upon existing assets and infrastructure versus creating all aspects of the NPSBN from whole cloth.

As such, FirstNet should create a clear, transparent, and comprehensive mechanism for inventorying and then incorporating existing assets into its final network design. In addition, FirstNet should observe restrictions on overbuilding existing networks, as such practices would not only be wasteful and unnecessary, but also quickly deplete FirstNet’s network construction budget.

Rural service providers also remain concerned about the sale of excess capacity on the FirstNet network. The commercial use of excess capacity may have grave, unintended consequences in skewing the commercial marketplace, which would be particularly harmful for existing rural service providers who operate as carriers of last resort (“COLR”) in rural and remote areas of the country. To the extent FirstNet diverts traffic from existing networks, particularly in high-cost, low-density rural areas, commercial network providers would be deprived of their return on investment with which they maintain vital telecommunications services for business and residential customers. As such, FirstNet should place parameters around the use and sale of excess capacity to ensure that FirstNet, its network partners, and opt-out states

⁴ Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112-96, 126 Stat. 156, Sections 6206(b)(1)(c), 6206(b)(3), and 6206(c)(3), (2012) (“The Act”).

do not undermine existing commercial operations generally, and more specifically high-cost networks that are supported by Federal funds.

As NTCA has previously noted in its regulatory filings,⁵ consistent with FirstNet’s authorizing legislation, FirstNet should issue a final definition of the term “public safety entity” which will identify the primary user base for the NPSBN. The definition should be properly tailored to ensure that users with priority access to the NPSBN are, in fact, performing functions related to or in conjunction with the provision of a “public safety service,” consistent with the intention of the Act and the needs of public safety officials.

Given FirstNet’s proposed nationally driven or regionally focused acquisition process, there would appear to be little, if any, path forward for rural service providers who wish to partner with FirstNet on the creation of the NPSBN—and without the assistance of rural service providers, FirstNet may encounter challenges with ensuring efficient and effective network coverage in rural and remote areas. FirstNet should revise its RFP to ensure that rural service providers can compete meaningfully in the network acquisition process, thereby creating smaller service territories that enable rural service providers to adequately address coverage requirements. Further, the Rural Representatives are supportive of the National Rural Electric Cooperative Association’s (“NRECA’s”) proposal to address rural network coverage under a parallel track, perhaps as a separate stand-alone Category or RFP. Roaming is also a critical piece of the network design, and FirstNet should collaborate with existing service providers to create roaming agreements with network operators that are based upon competitive terms and rates.

⁵ Comments of NTCA–The Rural Broadband Association, In the Matter of First Responder Network Authority, Further Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012, Docket No. 140821696-5400-03, 80 Fed. Reg. 25663 (rel. May 5, 2015), available at <http://www.ntca.org/images/stories/Documents/Advocacy/FederalFilings/06.04.15%20ntca-comments-firstnetthirdlegalnotice.pdf>. (“Third Legal Notice”).

FirstNet has indicated that collaborative or “teaming” proposals would be preferred. However, for their part, large service providers may have little to no incentive to partner with smaller rural providers on a joint proposal. FirstNet should therefore clarify the small business contracting goals to provide an incentive for a large provider to partner with a smaller operator(s) and make more efficient use of existing assets and capabilities.

II. TO FULFILL ITS STATUTORY OBLIGATION AND REMAIN FISCALLY PRUDENT, FIRSTNET SHOULD LEVERAGE EXISTING NETWORK ASSETS PARTICULARLY IN HIGH-COST RURAL AREAS

Congress clearly intended in the Act that FirstNet should maximize, in all cases, its use of existing communications infrastructure. Given limited financial resources and a vast country to cover, FirstNet—and first responders—would be best served by leveraging the expertise and presence of existing rural service providers with deep experience and deployed network assets in hard-to-serve areas, in lieu of seeking to create all aspects of an interoperable 4G wireless network from whole cloth.

A. FirstNet has a Legal and Fiscal Obligation to Utilize Existing Infrastructure

As evidenced by the Act,⁶ Congress intended FirstNet to take every opportunity to utilize network infrastructure already in place. Indeed, meeting the challenge of creating a ubiquitous NPSBN at an affordable price point for public safety users leaves FirstNet with little choice but to do so.

Section 6206(b)(1)(C) of the Act requires FirstNet in issuing RFPs to “encourag[e] that such requests leverage, to the maximum extent economically desirable, existing commercial

⁶ The Act, Sections 6206(b)(1)(c), 6206(b)(3), and 6206(c)(3).

wireless infrastructure to speed deployment of the network.”⁷ In addition, Section 6206(b)(3), which addresses rural coverage and issuing RFPs, directs that “[t]o the maximum extent economically desirable, such proposals shall include partnerships with existing commercial mobile providers to utilize cost-effective opportunities to speed deployments in rural areas.”⁸ And finally, and perhaps most importantly, Section 6206(c)(3) of the Act additionally requires that “[i]n carrying out the requirements under subsection (b), the First Responder Network Authority shall enter into agreements to utilize, to the maximum extent economically desirable, existing (A) commercial or other communications infrastructure; and (B) Federal, State, tribal, or local infrastructure.”⁹ Each of these provisions, when taken together, clearly indicate that Congress intended consideration of the use of existing infrastructure *at each and every step*, from the creation of RFPs by FirstNet, to their submission by interested entities, to the final selection of entities with which FirstNet enters into agreements. As such, FirstNet has a statutory obligation to utilize existing commercial infrastructure and assets as it seeks to create the NPSBN.

Beyond that, one need only consider the potential “reach” of the \$6.5 billion FirstNet network construction budget when evaluating the use of existing assets and infrastructure. The construction of a ubiquitous NPSBN from scratch would be difficult, if not impossible to achieve on such a budget when an even larger sum for network deployment in the context of the American Reinvestment and Recovery Act of 2009 (“ARRA”)—itself a tremendous undertaking—merely filled in some (but hardly all) discrete gaps in national and rural broadband coverage.¹⁰ Likewise,

⁷ *Id.*, Section 6206(b)(1)(C).

⁸ *Id.*, Section 6206(b)(3).

⁹ *Id.*, Section 6206(c)(3).

¹⁰ The ARRA provided for \$7.2 billion in broadband loans and grants issued through the Broadband Technology Opportunities Program and Broadband Initiatives Program. For more on the ARRA, see

by way of comparison, in 2013 AT&T spent roughly \$11.5 billion in network improvements, while Verizon Wireless invested another \$9.75 billion in improving its network.¹¹ It is important to note that the largest MNOs primarily operate in urban and suburban locations, and this financial outlay was confined to network upgrades—whereas FirstNet’s budget must suffice for the very creation of a ubiquitous nationwide network present in all corners of the country, and its primary user base, first responders, have significant and unique needs in terms of network coverage and quality of service parameters in urban, suburban, and rural areas alike.

FirstNet and its stakeholders have debated the use of the term “economically desirable” as it is attached to this legislative directive, arguing that the inclusion of the phrase provides FirstNet with significant flexibility in regard to how—or if—FirstNet plans to rely upon existing assets and infrastructure. Even if this were true, however, the limited network construction budget would suggest that there are few, if any, situations in which construction of new network facilities from scratch, as opposed to utilizing existing network assets already in place would be economically desirable. Certainly, a path (such as national or regional acquisition strategy) that could *hinder* the use of more localized existing assets cannot be squared with a requirement to at least *consider* economical desirability. In the end, there is simply not enough funding to build the NPSBN from whole cloth, as much as any individual state or group may wish to do so. Thus, for good reason, the use of existing assets and infrastructure is a clear policy directive in the Act to ensure FirstNet looks first to the use of existing assets and infrastructure *as a default*, before it

http://www.recovery.gov/arra/About/Pages/The_Act.aspx and <http://www2.ntia.doc.gov/>. For more on the current state of broadband coverage, see the National Broadband Map: <http://www.broadbandmap.gov/>.

¹¹ Recon Analytics, “Every Way you Look at It U.S. Carriers Spend More in Capex than their EU Peers,” June 9, 2014: <http://reconanalytics.com/2014/06/every-way-you-look-at-it-us-carriers-spend-more-in-capex-than-their-eu-peers/>.

explores more expensive, time consuming, and operationally challenging alternatives where networks cannot be leveraged.

B. Rural Providers Have a Vast Array of Existing Infrastructure and Assets that Should Be Leveraged by FirstNet

Rural service providers are uniquely situated to assist with the efficient and effective creation of the NPSBN. Rural service providers have valuable assets in rural areas that should be of particular interest to FirstNet and its mission, including transport connections, copper and fiber infrastructure, high-capacity wireless backhaul, utility poles, wireless networks and towers, right-of-ways, data centers, and other operational and technical resources.

NTCA’s nearly 900 members operate wireline networks in 45 states. On average, NTCA member companies’ customer density is approximately seven customers per square mile. By contrast, larger telecommunications companies, on average, serve 130 customers per square mile. As a result, NTCA’s members serve the most rural and sparsely populated areas of the country—comprising roughly 40% of the nation’s land mass—with advanced telecommunications services.

One hundred percent of respondents to the *NTCA 2014 Broadband/Internet Availability Survey Report*¹² offer broadband¹³ to some part of their customer base. Respondents use a variety of technologies, including 39% who offer fiber to the home (“FTTH”), 31% via copper loops, 18% cable modem service, 12% fiber to the node (“FTTN”), 1% licensed wireless, and 0.1% satellite. In addition, 82.7% of respondents’ customers can receive a maximum downstream speed greater than 10 Mbps. Existing copper and fiber optics infrastructure will be particularly useful for backhaul and middle-mile transport of traffic within the FirstNet network.

¹² To access the *NTCA 2014 Broadband/Internet Availability Survey Report*, visit <http://www.ntca.org/images/stories/Documents/Advocacy/SurveyReports/2014ntcabroadbandsurveyreport.pdf>.

¹³ Broadband was defined as throughput of at least 3 Mbps in one direction.

Further, many respondents have plans to upgrade their access network with fiber infrastructure. Eighty-five percent of survey respondents indicated they had a long-term fiber deployment strategy, and, of those respondents, 74% plan to offer FTTN to more than 75% of their customers by year-end 2017, while 67% plan to offer FTTH to at least 50% of their customers over the same time frame. An additional 25% have already completed fiber deployments to all customers.

In addition to their last-mile networks, in 28 primarily rural states these same telecommunications cooperatives and small companies have formed statewide fiber network companies, interconnecting their local wireline and wireless networks throughout the region. These statewide fiber networks continue to add middle-mile and last mile fiber facilities. Of special note, 27 statewide fiber network providers have invested in INDATEL Services, LLC (“INDATEL”). INDATEL, www.INDATEL.com, has deployed aggregation Points of Presence that simplify connectivity to its member service providers. INDATEL’s statewide fiber networks collectively serve 185 public safety answering points (“PSAPs”) with fiber and have the ability to serve 645 PSAPs that are in close proximity to member’s fiber facilities. INDATEL members provide the very important middle-mile fiber facilities connecting their rural telecom owners’ last mile facilities to cell tower sites. INDATEL members have a long history of providing high-quality TDM and Ethernet circuit backhaul services to wireless carriers. Collectively, the INDATEL members are serving more than 4,750 cell sites with fiber.

Within the last five years, most, if not all, rural carriers have been an integral part of the national providers’ network upgrades, as rural LECs have provided fiber and electronics to their towers in rural and remote areas.

Rural telecommunications providers also have invested considerable resources in and have considerable experience with wireless technology and operations, including providing high-speed connectivity to existing tower sites. According to the *NTCA 2014 Wireless Survey Report*,¹⁴ 60% of survey respondents indicated that 100% of their existing wireless sites deployed are currently IP backhaul-ready.

To ensure the most efficient and effective deployment possible, FirstNet can and should leverage the experience of rural providers, the existing fiber backhaul, and rural service providers' mobile and fixed wireless towers for colocation of FirstNet's radio access network ("RAN") equipment. According to the *NTCA Wireless Survey Report*, the median total (cumulative) investment in wireless facilities (fixed and mobile), excluding spectrum, was \$1.7 million, ranging from a high of \$270 million to a low of \$20,000. The average investment was \$23.8 million. Sixty-six percent of respondents assert that they offer wireless services to their customers. Further, 35% of respondents not currently offering wireless service indicated that they are considering doing so. In a testament to their rural service territories, survey respondents serve an average of 28,327 wireless subscribers with an average of 90 cell sites. (A few larger respondents skew these figures upwards. The median number of wireless subscribers is 3,260, and the median number of cell sites is 31.)

According to the data collected by NTCA, rural telecommunications providers hold 700 MHz, AWS, and PCS spectrum licenses covering rural areas, which are identical to the spectrum assets the large MNOs are using to deploy LTE. When asked which wireless CMRS technologies their company has deployed, 50% of survey respondents indicated LTE service. Eighty-one

¹⁴ To access the *NTCA 2014 Wireless Survey Report*, visit <http://www.ntca.org/images/stories/Documents/Advocacy/SurveyReports/2014ntcawirelessurvey.pdf>.

percent of those survey respondents currently offering mobile wireless indicated that they had plans to deploy next-generation technology. Of those, 74% plan to deploy in the next 1-2 years. And 75% of those survey respondents who have plans to deploy next generation technology said that they would be deploying LTE. As such, in the future, the vast majority of rural mobile wireless service providers will have deployed LTE.

In rural areas without existing commercial wireless service where it may be necessary for FirstNet to deploy new wireless infrastructure, the rights-of-way and real estate assets of these telecom and transport providers should be incorporated into new site construction.

C. Rural Providers Have Unparalleled Technical and Operational Expertise in Rural and Remote Areas

In addition to their existing infrastructure, rural network service providers offer FirstNet the opportunity to leverage significant human resources. Rural providers have experienced technicians on the ground in rural America who can cost-effectively provide the operational and technical resources needed to deploy a next-generation, interoperable NPSBN. Rural telecom providers are experts in the terrain and geographic challenges within their service territories; they understand where local public safety coverage is needed most, and how to effectively deploy wireless assets to meet the end users' communications requirements. They also are experts at efficiently utilizing the assets they have to meet the ever-increasing needs of their users.

For instance, in various venues, FirstNet has expressed an interest in microwave as a backhaul solution for the NPSBN in rural areas. In response to the NTCA Wireless Survey, 40% of respondents indicated they use wireless spectrum for backhaul. Of those, 48% utilize licensed spectrum, while 52% use unlicensed spectrum. However, 49% said the wireless spectrum they currently use for backhaul will not be adequate to meet their forecasted future needs. Rural service providers qualitatively report that wireless is an ineffective backhaul solution when faced

with subscriber demands for LTE technology. As an alternative, rural telecommunications providers operate widespread wireline backhaul networks that provide superior bandwidth, reliability, and resiliency, as evidenced by the statewide and regional fiber networks discussed above and represented collectively by INDATEL.

Further, when the NPSBN is subject to critical outages via man-made or natural disasters, given their physical presence in rural areas, these providers are “first responders” themselves—they are better positioned than any other carrier or operator to provide on-the-ground operational and technical support to ensure the FirstNet network is repaired and restored to service as soon as possible.

Rural service providers are community-based and their overarching mission is to serve the needs of their local residents. As such, many rural infrastructure providers have established long-standing relationships with rural and tribal communities. NTCA members include tribally owned telecommunication companies such as Gila River Telecommunications, Inc., owned by the Gila River Indian Community in Chandler, Ariz.; C.R.S.T. Telephone Authority, in Eagle Butte, S.D., which is owned by the Cheyenne River Sioux Tribe; and Fort Mojave Telecommunications Inc., located in Mohave, Valley, Ariz. NTCA’s membership also includes other companies that are non-tribally owned but serve substantial portions of tribal lands such as Golden West Telecommunications, a member-owned cooperative headquartered in Wall, S.D., Triangle Communications, in Havre, Mont.; STRATA Networks based in Roosevelt, Utah; and Midstate Communications located in Kimball, S.D. NTCA has at least 36 member companies that serve Native Nations.

In addition, as locally based communications companies, rural telecom operators are trusted advisors in working with local public safety agencies to meet their technical needs, and

this relationship can be leveraged to encourage rural public safety users to adopt the NPSBN.

FirstNet is in need of local champions who can ensure that rural first responders are aware of the new NPSBN generally, and, more specifically, informed of the NPSBN's operational capabilities and resultant benefits. There is no mandate for public safety to adopt and use the new NPSBN, and, in some cases, first responders may be hesitant to use the new network. This hesitation may stem from a variety of sources, including a lack of funding and/or a lack of understanding of FirstNet. NTCA's members are in a prime position to engage with FirstNet in a collaborative outreach and education campaign targeted at rural public safety professionals. Indeed, many NTCA members have noted their employees' dual roles as first responders, including Mid-Rivers Communications in Circle, Mt., and The Peetz Cooperative Telephone Co. in Peetz, Co., where 66% of the telco's employees serve as volunteer firefighters. Alternatively, if rural broadband providers and their existing assets are left out of the FirstNet network planning or deployment process, from a business perspective they would be less inclined to encourage local first responders to adopt the FirstNet network.

D. Rural Networks Can Be Seamlessly Integrated with Other FirstNet Partners and Statewide Fiber Networks Can Serve as Central Communications and Negotiation Points within Each State

The wireless and wireline assets of rural telecom service providers can be seamlessly integrated with those of other FirstNet partners, including other small rural carriers and Tier 1 and Tier 2 commercial MNOs. As part of their current operations, rural service providers often provide fiber backhaul connectivity for Tier 1 and Tier 2 wireless providers, and, in places where the larger carriers do not offer native service, rural wireless carriers provide mobile roaming capabilities for the customers of large MNOs. In addition, rural wireline providers and the state and regional networks—which themselves are owned by consortia of local rural telcos—

interconnect with larger providers at established, central locations. These interconnection agreements often are negotiated and arranged via the state or regional networks. Taken as a whole, rural carriers are technically adept at interconnection arrangements and work hand-in-hand with larger carriers to provide service to the end user. Likewise, FirstNet would be able to partner and interconnect with a variety of rural telecom providers, without any unusual technical standards, specifications, or restrictions.

As noted previously, in 28 primarily rural states, small rural telecommunications companies have formed statewide fiber networks, interconnecting their local wireline and wireless networks throughout the region. This scope and capability could be very helpful to FirstNet in carrying out its mission. The statewide fiber networks can act as central communications hubs, providing the FirstNet national office staff and state single points of contact (“SPOCs”) with vital information in regard to local assets and infrastructure. Statewide networks routinely survey their members on a variety of issues, create and manage listservs through which network providers share data and information on best practices and lessons learned, and map the assets of their memberships, including the wireless infrastructure and fiber backhaul capabilities of their members.

These statewide networks also can serve as central facilitators and negotiating points of contact between FirstNet and rural service providers, enabling FirstNet to communicate, collaborate, and negotiate with one central point of contact within the state for rural wireline, and, perhaps, also wireless services. Further, from a national perspective, INDATEL may be able to assist with communications on behalf of its membership.

E. Large Mobile Network Operators Cannot Offer a Cost-Effective or Efficient Solution in Many Rural Areas, or Achieve the Degree of Coverage Specified for Rural Public Safety Needs

Although it may be tempting for FirstNet to partner with only one or two of the large MNOs to deploy the NPSBN, these partnerships would be neither cost-effective nor efficient for many rural areas of the country. Despite their extensive networks, large wireless providers generally focus their activities around more populated areas and have traditionally declined to build out their networks in rural areas. They also lack local presence, meaning that mean time to restore and repair can be more difficult in the remote and rural areas that smaller providers call home. As NTCA has highlighted in past proceedings,¹⁵ when left to their own tactics, large operators typically focus capital investments on urban areas with concentrated population centers, while licensed spectrum in rural areas lies fallow. Historically, “nationwide” wireless providers do not provide service in rural areas, or, if they do, the implementation timeline is significantly longer than that in urban areas.

¹⁵ As NTCA has noted:

The large carriers argue that if it was economically beneficial for them to deploy services in a particular area, they already have the incentive to do so without regulatory intervention. This large carrier argument is a prime example of the different incentives driving large carriers and small carriers. Large carriers ignore the less dense and less lucrative markets because it is easier to make quick profits in densely populated areas or high usage corridors. Their cost-benefit analysis does not include a look at the needs of a particular community. If they can make enough money by serving an area, or freeing the spectrum, they will do so. If it's not financially worth their trouble, they will not. Small carriers, in contrast, are situated in the communities they serve. . . A cost-benefit analysis includes a look at the rural community's needs. What may be considered a longer term and too risky investment to a large carrier, can be a necessary one to a rural carrier. Wireless carriers that are not willing to risk their capital in rural areas should not also be permitted to hold the unused spectrum hostage.

See In the Matter of Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services; 2000 Biennial Regulatory Review Spectrum Aggregation Limits For Commercial Mobile Radio Services; Increasing Flexibility To Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and To Facilitate Capital Formation (WT Docket No. 02-381, 01-14, 03-202), Comments of the National Telecommunications Cooperative Association, January 14, 2005.

For example, the top 250 Cellular Market Areas contain approximately 74% of the total U.S. population but encompass just 14% of the total U.S. land area. This is a stark contrast to America's independent telephone systems, which serve more than 40% of the nation's landmass, but less than 5% of the nation's telephone subscribers.

To the extent that national providers do operate in rural areas, MNOs tend to focus their coverage around highway systems, ignoring the surrounding residential areas and rural parts of the country—including state highways and local roads over which many first responders must travel to reach emergency sites. This isolated coverage is not conducive to FirstNet's mission or the needs of rural first responders. That means in many rural areas, a smaller rural-focused operator is the best and perhaps only resource with whom FirstNet might partner on the construction of the NPSBN.

In areas where they do operate, the “national” MNOs often do not own their vertical assets; instead these assets are owned by companies that specialize in the construction and operation of these assets who lease the infrastructure to the MNOs. In rural areas, the MNO backhaul facilities and wired infrastructure often are supplied by rural telecommunications providers.

In short, FirstNet should ensure that its partnership agreements do not become “lock-ups” with a few large wireless providers that offer little in the way of vertical assets and infrastructure in rural areas. Instead, to maximize reach, leverage expertise, and improve the economies of network deployment, FirstNet should ensure that it seeks out the best partners and resources in each area in which it deploys.

F. FirstNet Should Act as an Integrator, Leveraging the Existing Assets and Infrastructure of Rural Commercial Networks

An integrated NPSBN is the most efficient and effective solution. Indeed, incorporating rural telecom providers' infrastructure and assets into the new NPSBN will allow FirstNet to speed infrastructure deployment and, therefore, expedite network availability for public safety officials. FirstNet also will benefit from decreased implementation costs, as it will not have to construct, from scratch, brand new wireless towers and foundational backhaul infrastructure.

In addition, by leveraging existing rural assets, FirstNet will create synergies with existing Federal programs, such as the Universal Service Fund High Cost Support Mechanism. The high-cost Universal Service program helps make a business case in the first instance for rural network deployment by ensuring that consumers and businesses in rural areas have access to modern communications networks at rates that are reasonably comparable to those in urban areas. In addition, there are a variety of existing programs which provide loans and/or grants to rural service providers to construct network infrastructure, including such as the U.S. Department of Agriculture ("USDA") Telecommunications Infrastructure Loan Program and Broadband Loan Programs. All of these programs should be coordinated with one another to facilitate both the initial deployment and ongoing sustainability of rural broadband-capable networks, and FirstNet should look to coordinate its own operations with these important federal initiatives.

As rural telecom providers can attest, and as evidenced by the deficiency of infrastructure and adequate coverage in high-cost rural areas served by large MNOs and price-cap wireline providers, building and maintaining a next-generation telecommunications network in rural America is an incredibly expensive, time consuming, and challenging undertaking. Rural areas pose unique hurdles for wireless network operators, which are unlike those encountered via urban wireless deployments. As such, to create the NPSBN in an effective and efficient manner,

FirstNet should leverage the first-hand expertise of rural network providers, and the infrastructure and assets that they have constructed, and evolved, over time.

III. TO COMPLY WITH ITS STATUTORY DIRECTIVE, FIRSTNET SHOULD CREATE A CLEAR, TRANSPARENT, AND COMPREHENSIVE MECHANISM FOR INVENTORYING AND THEN INCORPORATING EXISTING ASSETS INTO THE FINAL DESIGN FOR THE NPSBN

As noted above, within the authorizing legislation, Congress clearly directed FirstNet, *as a default* throughout the entire network planning, design, and construction process, to utilize existing commercial infrastructure and assets.¹⁶ This will allow FirstNet to concentrate its limited financial resources on expanding network coverage, and upgrading network reliability and resiliency to meet public safety grade standards.

Within the Special Notice and Draft RFP, FirstNet touts the synergies derived from existing infrastructure and assets as an important component to its financial sustainability.¹⁷ The Rural Representatives are encouraged to see FirstNet recognize that their networks can contribute to FirstNet's rural mission. However, FirstNet has provided limited information in regard to how it plans to inventory and subsequently integrate existing assets into its network. In response to a question regarding the use of existing infrastructure and FirstNet's plans to inventory related assets, FirstNet said it is "unclear, at this time, exactly how, or if, existing infrastructure will be leveraged in the solution."¹⁸ In another response, FirstNet indicates that it anticipates Category One and Two offerors will incorporate existing infrastructure, but it is the responsibility of the offerors and at the offerors' discretion to determine "whether use of existing assets is desirable, as

¹⁶ The Act, Sections 6206(b)(1)(c), 6206(b)(3), and 6206(c)(3).

¹⁷ Draft RFP, "Statement of Objectives," page 2, Section C.3; Draft RFP, "Appendix to the Special Notice: Pricing Concepts" page 4, Section 1.3.

¹⁸ Draft RFP, "Responses to Questions Consolidated 1 to 666," rel. June 30, 2015, page 17, question 48.

part of developing their proposed solutions.”¹⁹ Additionally, FirstNet said it does not plan to provide “information on terms and conditions for use of public and private infrastructure and capabilities prior to release of the Request for Proposals or receipt of proposals.”²⁰ This written documentation is alarming because it shows FirstNet is wavering—or potentially abandoning—its basic commitment to incorporate existing assets and infrastructure into its final network design. Further, in assigning this responsibility to Category One or Two offeror(s), FirstNet is allowing large, commercial network operator(s), driven by their own financial self-interest, to determine when, or even *if* the NPSBN will leverage existing assets owned and operated by other network providers.

To fulfill its statutory obligation and remain fiscally prudent, FirstNet should create a clear, transparent, and comprehensive mechanism for inventorying existing assets—including, but not limited to, the commercial assets owned and operated by small, rural independent service providers—and further clarify now, at the outset of the acquisition process, how it plans to incorporate those existing assets that it identifies into its final network design and implementation plan(s). Additionally, FirstNet should augment its existing coverage maps with datasets from other Federal agencies and encourage all operators – especially small and rural service providers – to contribute up-to-date information.

It is concerning that FirstNet released guidance on March 24, 2015, to recipients of the State and Local Implementation Grant Program (“SLIGP”) stating that inventorying existing assets is not an allowable expense. The SLIGP grants are intended to provide the resources for regional, state, local, and tribal governments to plan, collect data, and provide information to

¹⁹ *Id.*, page 90, question 288.

²⁰ *Id.*, page 90, question 289.

inform the deployment of the NPSBN.²¹ Instead of classifying infrastructure inventories as “unallowable costs and activities,” FirstNet should encourage SLIGP recipients to inventory public and commercial infrastructure.

The Rural Representatives recognize that in some areas, existing networks may not be adequate for FirstNet’s requirements. However, FirstNet should not fall into a trap of reviewing current network infrastructure and assuming if an asset is not available today, FirstNet needs to build it on its own. Indeed, a static snapshot of today’s infrastructure would be most misleading. It would still be more cost-effective and efficient for FirstNet to partner with rural providers to share the cost for upgrades and leverage existing assets, where in place, rather than construct new infrastructure from scratch and consequently overbuild existing networks or preempt existing network investment plans. Rural service providers are willing and able to invest in their networks, and, they have an established and lengthy history of advancing their networks, services, and products as technology has progressed and end-user demands have changed.

IV. FIRSTNET SHOULD PLACE CLEAR RESTRICTIONS ON OVERBUILDING EXISTING NETWORKS, AS IT WOULD BE WASTEFUL AND UNNECESSARY, AND QUICKLY DEplete FIRSTNET’S \$6.5 BILLION CONSTRUCTION BUDGET

Given the lack of detail in the Special Notice and Draft RFP on FirstNet’s plans to inventory and integrate existing assets into the NPSBN, the overbuilding of existing networks and assets has the potential to be a serious threat if not managed thoughtfully. As noted above, Congress clearly intended for FirstNet to rely upon the trove of existing infrastructure already deployed across the country. And moving beyond congressional intent, FirstNet should not waste

²¹ “State and Local Implementation Grant Program Phase 2: Instructions Packet,” State and Local Implementation Grant Program, rel. March 24, 2015, http://www.ntia.doc.gov/files/ntia/publications/phase_2_recipient_instructions_3-23-15.pdf.

scarce resources and public funds to overbuild an existing rural network that already has sufficient capacity and robust redundancies to handle public safety traffic. In sparsely populated, high-cost rural areas, overbuilding areas sufficiently served by rural providers would quickly deplete the entire \$6.5 billion network construction budget allocated to FirstNet and thereby jeopardize FirstNet's ability to create a ubiquitous wireless network for first responders. Unfortunately, FirstNet's network partners have a financial incentive to overbuild using FirstNet funding, particularly if the commercial network operator can also use the new duplicative infrastructure for its commercial operation. As such, FirstNet should place clear restrictions on overbuilding existing networks, thereby ensuring that FirstNet—and its network partners and opt-out states—do not overbuild existing assets and infrastructure.

V. FIRSTNET SHOULD PLACE PARAMETERS AROUND THE USE AND SALE OF EXCESS CAPACITY TO ENSURE THAT ITS NETWORK PARTNERS DO NOT UNDERMINE EXISTING HIGH-COST NETWORKS SUPPORTED BY FEDERAL FUNDS

In a related issue, rural service providers remain concerned about how FirstNet plans to monetize excess capacity on the NPSBN. Congress intended FirstNet to function as the primary network for first responder communication. However, in crafting the Act, it was not policymakers' intent for FirstNet to create a new *commercial* network that undermines the financial health and continued existence of high-cost networks in rural areas of the country, which are supported via Federal funds.

The statute is unambiguous in its intent to prohibit FirstNet from selling commercial services to anchor institutions or other end users, including last-mile connectivity and middle-mile

capacity.²² However, FirstNet is authorized to enter into a covered leasing agreement (“CLA”), and the authorized CLA provider can utilize the FirstNet spectrum to provide a commercial, secondary wireless service.

In the Draft RFP, FirstNet has tied CLAs to its network partnership agreements, noting that the final selected contractor(s) will assist FirstNet with constructing the NPSBN and also gain access to FirstNet’s spectrum on a secondary basis. Unfortunately, this opens the door to a new competitive wireless provider, which has the ability to undermine the financial health and sustainability of existing commercial networks in high-cost areas of the country, thereby jeopardizing the ability of consumers to continue to access affordable broadband service.

In its Draft RFP, FirstNet has said that it will hold its network partners responsible for ensuring that public safety adopts and uses the NPSBN.²³ Further, the Offeror must provide its primary user base with a “most favored” pricing.²⁴ In addition, given the parameters FirstNet has set for network coverage and quality of service, the FirstNet network operator will be unable to subsist with this limited user base and restricted revenue. As such, the network provider is albeit forced to utilize the excess capacity on the FirstNet network to offer a commercial service.

²² See Section 6212(a) of the Act. Also see Comments of NTCA–The Rural Broadband Association, In the Matter of First Responder Network Authority Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012, Docket No. 140821696-4696-01, 79 Fed. Reg. 57058 (rel. Sept. 24, 2014), available at: <http://www.ntca.org/images/stories/Documents/Advocacy/FederalFilings/10.27.14%20ntca%20comments%20on%20firstnet-legal%20interpretation.pdf>.

²³ Draft RFP, “Special Notice”, page 7, Section 4.5: “It is further anticipated that FirstNet will establish subscriber targets that must be met by a potential offeror, which may help serve as the basis of proposed pricing solutions.”

²⁴ Draft RFP, “Special Notice”, page 7, Section 4.5.1: “To help ensure favorable price points for Public Safety subscribers, FirstNet expects potential offerors to agree to a most favored customer pricing arrangement to ensure public safety subscribers to the NPSBN pay no more than the lowest price available for any type of customer receiving broadband LTE services on band 14 or other bands, and request that potential offerors proffer up suggested terms and governance structure to ensure compliance with this objective.” Also see Draft RFP, “Appendix, Pricing Concepts”, page 7, Section 2.1.2.1: “[A]s part of any subsequent RFP, FirstNet anticipates creating public safety usage targets for each State or region that offerors will be required to meet, and will be enforced with disincentive fees. These targets may include cumulative number of billable connections by Public Safety Entities and/or targets for use of the network by Public Safety Entities.”

However, many rural and remote areas of the country are home to limited residents and even fewer commercial anchor tenants, ensuring that the business case will not support more than one telecommunications operator.

To fully understand the potential repercussions that stem from monetizing excess capacity on the NPSBN, it is useful to discuss the central financial tenants of rural telecom deployment. Rural service providers operate in high-cost, low-density areas of the country through a combination of private capital, U.S. Department of Agriculture financing, and Federal Universal Service Fund support.

FirstNet should ensure its CLA partners do not acquire excess spectrum at a discount, which would allow operators to enter new markets and unfairly compete against existing commercial networks with below-market rates. This would be particularly problematic in high-cost rural areas where more than one network is not sustainable. In fact, in many areas where rural service providers operate, Federal support mechanisms assist the operator with providing affordable telecommunications services. A second commercial network offering at below-market rates in these areas could entice and thereby remove anchor tenants and other customers from rural carriers' customer bases. "Cherry-picking" the most attractive, high-volume, lucrative customers consequently leaves the most costly-to-serve remnants of the service area to the COLR. This scenario threatens continued infrastructure investment and *increases* the existing service provider's reliance upon high-cost Universal Service support. In the worst-case scenario, the existing service provider may be unable to continue to meet its network investments and infrastructure loans—reminiscent of the unfortunate consequences that resulted from EAGLE-

Net, a broadband stimulus-funded project that overbuilt existing fiber runs in rural portions of Colorado.²⁵

Any secondary network provider that is allowed to utilize FirstNet's excess capacity should not be given unduly favorable lease terms or rates that enables the operator to compete in the commercial wireless marketplace by offering artificially low subscriber rates. In other words, FirstNet should ensure that, at a minimum, it establishes secondary lease rates and terms that are in line with the prevailing wholesale market rates for spectrum/leasing. For instance, FirstNet should examine a contract scenario where a systems integrator is awarded the final nationwide and/or regional contract(s). The systems integrator should thereby be prohibited from selling the FirstNet spectrum, in any market, at anything less than a prevailing wholesale rate. Likewise, all service providers should be able to compete for access to the spectrum on the secondary, wholesale market, on a non-discriminatory basis.

It is important to note that proceeding in this manner also serves FirstNet's primary purpose, as it will enable FirstNet to maximize the value of its excess spectrum in Tier 2 and Tier 3 markets.

VI. FIRSTNET SHOULD NARROWLY TAILOR THE DEFINITION OF 'PUBLIC SAFETY ENTITY' TO ENSURE THAT THE PRIMARY USERS OF THE NPSBN ARE FIRST RESPONDERS

As NTCA has previously noted in its regulatory filings, consistent with FirstNet's authorizing legislation, the term "public safety entity" should be properly tailored to ensure that users with priority access to the NPSBN are, in fact, performing functions related to or in

²⁵ For more on EAGLE-Net, see this June 20, 2013, press release from the House Energy & Commerce Committee, <https://energycommerce.house.gov/press-release/energy-and-commerce-committee-leaders-continue-inquiry-100m-colorado-broadband-stimulus-grant>.

conjunction with the provision of a “public safety service.”²⁶ As such, FirstNet should issue a final definition of “public safety entity” that is consistent with the duties of traditional first responders, i.e. police, fire, and emergency medical technicians, engaged in public safety services.

The long-term financial stability of the NPSBN will depend on a diverse set of revenue streams, fees from “secondary users” among them. An improperly tailored definition of “public safety entity” could undermine the revenue gained from “secondary users,” as potential secondary users would be erroneously incorporated into the primary user base and thereby allowed to access the network at a lower subscriber rate.²⁷ Indeed, in its filing, the Association of Public-Safety Communication Officials (“APCO”) states that “[b]roadly defining ‘public safety entity’ would reduce the value of public-private partnerships, and wireless service providers may determine not to partner with FirstNet, if it means a further reduction to their commercial customer base,” thereby threatening the viability of the network.²⁸ And in its comments, AT&T echoes this sentiment: “The more users that are eligible for primary NPSBN access, the smaller the pool of secondary users, disrupting the Act’s carefully calibrated scheme. Entities—government and otherwise—that currently use commercial services may rely on the NPSBN. Then, the more the NPSBN comes to resemble a commercial network, the less the incentive for private sector partnerships—a central feature of the NPSBN envisioned by Congress—thereby limiting the

²⁶ Comments of NTCA—The Rural Broadband Association, In the Matter of First Responder Network Authority, Further Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012, Docket No. 140821696-5400-03, 80 Fed. Reg. 25663 (rel. May 5, 2015), available at <http://www.ntca.org/images/stories/Documents/Advocacy/FederalFilings/06.04.15%20ntca-comments-firstnetthirdlegalnotice.pdf>. (“Third Legal Notice”).

²⁷ Draft RFP, “Special Notice”, page 7, Section 4.5.1: “To help ensure favorable price points for Public Safety subscribers, FirstNet expects potential offerors to agree to a most favored customer pricing arrangement to ensure public safety subscribers to the NPSBN pay no more than the lowest price available for any type of customer receiving broadband LTE services on band 14 or other bands, and request that potential offerors proffer up suggested terms and governance structure to ensure compliance with this objective.”

²⁸ Third Legal Notice, Comments of APCO, available at www.regulations.gov.

viability of the network altogether.”²⁹ Further, as discussed in detail above, authorizing a broad FirstNet primary user base that strays from the core first responder, public safety definition, could undermine existing commercial networks by removing key anchor tenants from commercial networks, and thus creating competitive pressures in many high-cost, rural areas that cannot sustain multiple service providers.

In addition, FirstNet’s spectrum is a finite and highly valuable resource, and therefore must always be carefully managed to constantly ensure that its use is the most efficient and effective at all times. In various venues, FirstNet and its SPOCs have suggested including utility employees engaged in routine network maintenance or administration duties; public works employees such as highway departments and building inspectors; animal control; parks and recreation departments; and educational institutions within the definition of “public safety entity.”³⁰ By expanding the primary user base to a broad coalition of other interests, FirstNet is allowing its finite spectrum to serve the general communications needs of wireless customers, which can—and indeed in many instances already are—met by commercial network operators.

FirstNet will strike a proper balance if the definition of “public safety entity” is faithful to the definition of “public safety service,” as discussed in the Third Legal Notice. In other words, an organization or subset thereof should, in every case, be engaged in an activity falling within the definition of “public safety service” as that term is defined by Section 337(f) of the Communications Act and Section 2 of the Homeland Security Act (6 U.S.C. 101). However, if FirstNet declines to issue a clear, national definition of “public safety entity” and instead leaves the authority with individual states to define the FirstNet primary user base, FirstNet should, at

²⁹ Third Legal Notice, Comments of AT&T, available at www.regulations.gov.

³⁰ Third Legal Notice, Comments of APCO, available at www.regulations.gov.

the very least, restrict state and municipal governments from expanding the definition beyond traditional first responders engaged in the practice of public safety services.

VII. FIRSTNET SHOULD REVISE ITS NETWORK ACQUISITION PROCESS TO PROVIDE A MECHANISM FOR SMALL CARRIERS TO PARTICIPATE

Given the two acquisition approaches proposed in the Draft RFP, smaller operators, including NTCA's members, will be unable to directly participate in the network partnership process. At best, their chance at participation will be indirect to the extent a chosen national or regional partner decides to leverage the assets, infrastructure, and expertise of smaller providers and the rural statewide and regional networks. A lack of participation from rural service providers may have a negative effect on FirstNet's ability to effectively and efficiently deploy, maintain, and evolve the NPSBN in rural areas of the country.

FirstNet has proposed two potential network acquisition approaches, a Category One nationwide and a Category Two regional/statewide approach.³¹ In terms of the nationwide approach, small and rural carriers do not have the scope or scale necessary to construct the NPSBN in its entirety. Further, in terms of the state or regional approach, the FirstNet service area would still extend beyond the established territory of most small business operator(s). As such, given their size and limited resources, it will be difficult if not impossible for small rural carriers to compete for a FirstNet contract(s) without partnering with a large nationwide service provider. For their part, large carriers have little incentive to partner with small rural providers.

As described above, in many rural areas, a smaller rural-focused operator is the best and perhaps only resource with whom FirstNet might partner on the construction of the NPSBN. As such, to maximize reach, leverage expertise, and improve the economies of network deployment,

³¹ Draft RFP, "Special Notice," pages 5-6, Section 4.3.

FirstNet should ensure that it meets its Sec. 6206 network design requirements by seeking out, on a case-by-case basis, the best partners and resources in each area. FirstNet should ensure that in any given area where it decides to enter into a network partnership agreement, it selects the best service provider, with the most reliable network, the highest quality of service, the most advanced network technology, and localized experience and pre-existing relationships with public safety entities.

Given these partnership tenants, FirstNet should revise its network acquisition strategy to ensure that rural service providers can participate in the contract process. FirstNet should create smaller service territories that enable rural service providers to adequately address network coverage requirements. Further, the Rural Representatives are supportive of NRECA's proposal to address rural network coverage under a parallel track, perhaps as a separate stand-alone Category or RFP. The Rural Representatives look forward to collaborating with FirstNet and NRECA to further explore this concept.

Likewise, roaming is an important component of the NPSBN. If FirstNet's finances do not stretch to the furthest geographic corners of the country, it can (and indeed, must) establish partnerships with existing commercial networks for coverage. In addition, in the unlikely event that the FirstNet network encounters an outage, commercial networks can provide backup connectivity for voice and/or data service. Given the factors listed above, FirstNet should ensure that it retains the flexibility to enter into roaming agreements with existing rural network providers. FirstNet also should ensure that rural providers are able to offer feedback to shape the draft agreements, and, ultimately, are presented with roaming agreements that reflect competitive rates and terms for their networks.

A. FirstNet Should Incent Large Carriers to Partner with Small Businesses

In regard to the Federal acquisition process, small businesses with limited scope and scale often will have trouble competing against large, international, for-profit companies. As such, a “small business” is quantitatively defined and then set apart to ensure that its bid is given appropriate consideration by Federal decision-makers.

The U.S. Small Business Administration (“SBA”) is responsible for overseeing the small business procurement process and working with Federal departments to achieve each agency’s small business contracting goals. SBA annually releases a scorecard that evaluates agency performance. Earlier this year, the SBA gave the U.S. Department of Commerce (“DOC”) an A+ rating and ranked the agency second in its government-wide Fiscal Year 2014 scorecard.³² As an independent authority within the DOC, FirstNet should work with DOC and SBA to establish ambitious goals for small business procurement.

The Rural Representatives appreciate FirstNet revising the definition of “small business” to align with NAICS code 517210, Wireless Telecommunications Carriers, and the related 1,500 employee limit as specified by the SBA.³³ As the Rural Representatives understand the change, FirstNet will now rely upon the 1,500 employee number as the definition of a “small business” for purposes of its RFP and contracting process. With this new definition, all of NTCA’s telecommunications members will qualify as small businesses.

³² “FY 2014 Scorecard Summary By Prime Spend (with Subk and Plan Progress,” U.S. Small Business Administration, rel. April 5, 2015, https://www.sba.gov/sites/default/files/files/FY14_Scorecard_Summary_by_Prime_Spend_Subk_and_Plan_Progress_Scores_2015-05-04.pdf

³³ Draft RFP, “Responses to Questions Consolidated 1 to 666,” rel. June 30, 2015, page 164, Question 516. “Small Business Size Standards Matched to the North American Industry Classification System Codes,” U.S. Small Business Administration, Effective July 14, 2014, https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.

As referenced above, each Federal agency has specific goals for small business participation in its agency-wide contracting opportunities per fiscal year. FirstNet has indicated it plans to require a “small business subcontracting plan” in the subsequent RFP that will part and parcel of the DOC’s overall total acquisition guidelines.³⁴ Rural service providers applaud this intention. However, FirstNet should clearly define the small business goal as being based upon *total contract value*, not a percentage of subcontracting dollars. Without this clarification, if the target is based upon a percentage of subcontracting dollars, small business participation would be significantly restricted. Further, this target should encourage and incent large carriers and/or systems integrators to proactively partner with smaller operators.

As noted above, based upon the two limited network acquisition approaches as described in the Draft RFP, interested rural service providers do not have a path forward to participate in the RFP process. For their part, large service providers have little to no incentive to partner with smaller rural providers on a joint proposal. The recommended clarification to the small business contracting goals would provide a small incentive for a Category One or Category Two offeror to partner with a smaller operator.

³⁴ Draft RFP, “Responses to Questions Consolidated 1 to 666,” rel. June 30, 2015, page 28, Question 85.

VIII. CONCLUSION

The Rural Representatives urge FirstNet to adhere to its legal and fiduciary obligations, and proceed with its primary purpose in mind: the creation of a ubiquitous NPSBN that provides interoperable communications for urban, suburban, and rural first responders alike. Congress was clear in its intent that FirstNet should rely upon existing assets and infrastructure, creating a patchwork network composed of existing commercial, public, and private assets that have been hardened to meet public safety-grade standards for resiliency and reliability. Given its limited network construction budget, green field deployments should only be undertaken when absolutely necessary. As such, FirstNet should create a clear, transparent, and comprehensive mechanism for inventorying existing assets—including the assets of small, rural operators—and then proceed with incorporating them into the network design. In addition, FirstNet should ensure that overbuilding—by FirstNet, its network partners, or the opt-out states—does not occur.

In regard to excess capacity, FirstNet should ensure that its network partners are not given license to offer commercial service in a manner that places existing providers at a competitive disadvantage or detracts from the core mission of public safety. Congress clearly did not contemplate that the NPSBN would threaten existing providers, and, to the contrary, envisioned public-private partnerships that would promote public safety while encouraging the collaborative use of existing providers' facilities to build and operate the network.

Rural service providers have a vast array of existing assets and infrastructure that should be leveraged by FirstNet, in addition to unparalleled technical and operational expertise in rural and remote areas of the country. To assist with meeting coverage objectives in an efficient and effective manner, FirstNet should revise its RFP approach to provide interested small, rural service providers with a mechanism to participate and compete in the acquisition process.

Likewise, FirstNet should incent large carriers and systems integrators to partner with smaller operators.

Respectfully submitted,

By: /s/Jill Canfield
Jill Canfield
Vice President, Legal & Industry, and Assistant
General Counsel

By: /s/Jesse Ward
Manager, Industry & Policy Analysis

NTCA-The Rural Broadband Association
4121 Wilson Blvd.
Arlington, VA 22203
703-351-2020
jcanfield@ntca.org

By: /s/Seth Arndorfer
CEO
DCN, LLC (dba Dakota Carrier Network)
4202 Coleman St.
Bismark, ND 58503
701-323-3030
sarndorfer@dakotacarrier.com

By: /s/Ruben Hernandez
Fort Mojave Telecommunications
8490 South Highway 95, Suite 104
Mohave Valley, AZ 86440
928-346-2500
rhernandez@ftmojave.com

By: /s/Max Huffman
Max Huffman
Chief Operating Officer
INDATEL Services, LLC
1805 Harold Drive
Raymore, MO 64083
816-888-8302
max.huffman@indatelservices.com

By: /s/David C. Duncan
CEO
Iowa Communications Alliance
2987 100th Street
Urbandale, IA 50322
515-867-2091
dduncan@iacommunicationsall.com

By: /s/Michael S. Eggle
Chief Operating Officer
Iowa Network Services
7760 Office Plaza Drive South
West Des Moines, IA 50266
515-830-0434
mse@netINS.com

By: /s/Bonnie Lorang
General Manager
Montana Independent Telecommunications
Systems, LLC
2021 11th Ave.
Helena, MT 59601
406-594-9662
blorang@mitstel.com

By: /s/Geoff Feiss
General Manager & Lobbyist
Montana Telecommunications Association

By: /s/Mark Shlanta
CEO

208 N. Montana Ave, Suite 105
Helena, MT 59601
406-442-4316
gfeiss@telecomassn.org

By: /s/Richard D. Coit
General Counsel & Executive Director
South Dakota Telecommunications Association
320 E Capitol Ave
Pierre, SD 57501
(605) 224-0679
richcoit@sdtaonline.com

By: /s/Rob Ferris
CEO
Vision Net Incorporated
1309 NW Bypass
Great Falls, MT 59404
406-467-4715
rob.ferris@vision.net

By: /s/Carrie Johnson
Manager of Government & External Affairs
South Dakota Network, LLC (dba SDN
Communications)
2900 W. 10th St.
Sioux Falls, SD 57104
605-334-7185
Mark.Shlanta@sdncommunications.com

By: /s/Don Jackson
Manager, Regulatory and Legislative
Tri-County Telephone Association, Inc.
1601 South Park Drive
Cody, WY 82414-0310
307-272-6577
don.jackson@tctstaff.com