



July 12, 2017

Marsha MacBride
Associate Administrator
National Telecommunications and Information Administration (NTIA)
Office of Public Safety Communications
1401 Constitution Avenue NW
Washington, DC 20320

Re: State Alternative Plan Program (SAPP) and the First Responder Network Authority Nationwide Public Safety Broadband Network, Docket No.160706588-6588-01

Dear Ms. MacBride:

NTCA–The Rural Broadband Association (“NTCA”) hereby submits this letter to provide additional feedback to NTIA (or “the agency”) as it develops final guidance concerning how a qualified state may apply to the agency for authority to enter into a spectrum capacity lease with the First Responder Network Authority (“FirstNet”) and receive a grant to construct its radio access network (“RAN”) as allowed under the Middle Class Tax Relief and Job Creation Act of 2012 (“the Act”). NTCA initially filed comments in this matter on August 18, 2016.¹

NTCA writes now to highlight one additional concern. Although not discussed within NTIA’s preliminary notice or NTCA’s previous comments, NTIA should create a process for stakeholders to review a state opt-out plan and provide feedback to the agency as it seeks to evaluate an alternative RAN option. NTCA recognizes that an opt-out state and its potential network provider partner(s) will submit competitive, and therefore sensitive and confidential, information. As such, NTIA should establish a process for interested and approved stakeholders to petition the agency to intervene in the proceeding and review the plan, subject to confidentiality restrictions and protections. Otherwise, it is likely that rural stakeholders may not have the opportunity to review or provide feedback before a state plan is developed, approved and implemented. Indeed, the development of the FirstNet network was intended to be a transparent and inclusive process with critical feedback from diverse stakeholders. NTCA thus requests that the agency establish a formal “protective order” process to enable stakeholders to review an opt-out state plan by request, under seal and subject to protest.

In addition, as stated within NTCA’s past filings, NTIA should specify that an alternative state plan will be judged on its ability to utilize existing commercial assets and infrastructure as a critical input into its demonstration of cost effectiveness. This is consistent with the Act and the

¹ See National Telecommunications and Information Administration, State Alternative Plan Program (SAPP) and the First Responder Network Authority Nationwide Public Safety Broadband Network, Docket No. 160706588-6588-01, 81 Fed. Reg. 46907 (rel. July 19, 2016), (“Notice”), Comments of NTCA–The Rural Broadband Association, filed Aug. 18, 2016.

overarching need to maximize reach, leverage expertise and improve the economies of network deployment. In particular, given that the Act itself calls expressly for leveraging of rural assets as one means of ensuring cost effectiveness, NTIA should require an opt-out state to incorporate partnerships with rural telecommunications providers—those wireline and/or wireless network operators that are based in rural areas of the country and primarily serve rural customers²—for a minimum of 15% of the wireline and wireless assets thus implicated by the state’s proposed network strategy. This is consistent and comparable to the FirstNet Request for Proposals requirement that specified that proposals for the network must include a 15% rural telecommunications service provider partnership. However, this 15% rural telco partnership target should be used as a rough, *minimum* guideline, as in many states rural providers have deployed significant assets across wide swaths of the geography; in such states, a mere 15% partnership requirement would not represent an effective use of existing infrastructure in rural areas.

Further, as NTCA stated within its initial filing, NTIA also must put in place backstops to ensure that alternative state plan(s) are efficient and the Federal government thereby does not enable the overbuilding of existing commercial network assets. In sparsely populated, high-cost rural areas, overbuilding areas sufficiently served by rural providers is wasteful and unnecessary, and would quickly deplete the entire \$6.5 billion network construction budget allocated to FirstNet and its potential complementary, interoperable, alternative state network(s). Further, beyond the straightforward overbuilding of existing assets and infrastructure, NTIA should install appropriate guidelines and ongoing oversight to ensure that an opt-out state does not jeopardize other Federal programs and policy goals. More specifically, NTIA should review a state’s proposed alternative network plan to ensure that it does not undermine other initiatives such as the Broadband Technology Opportunities Program and the Broadband Initiatives Program, authorized through the American Recovery and Reinvestment Act of 2009; U.S. Department of Agriculture financing; and Federal Universal Service Fund support.

² As a guide in considering how better to identify companies that operate predominantly in rural areas and thus represent the kinds of rural partnerships to be contemplated, NTIA should look to definitions such as that of a “rural telephone company” in other provisions of law. See 47 U.S.C. § 153, (44): “The term ‘rural telephone company’ means a local exchange carrier operating entity to the extent that such entity-- `(A) provides common carrier service to any local exchange carrier study area that does not include either-- `(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or `(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993; `(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines; `(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or `(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.”

Finally, NTCA reiterates its request that NTIA provide additional guidance to opt-out states in regard to the “substantial rural coverage milestones”³ required as part of the Act. NTIA has tentatively concluded that these milestones should only apply to “any state with significant rural areas,”⁴ however the Act did not make that distinction. Rather, the Act clearly intends for *all* rural areas of the country to be treated with the same priority and commitment as conveyed upon more urban areas. As such, NTIA should require all opt-out states to include “substantial rural coverage milestones as part of each phase of the construction and deployment of the network”⁵ within the state’s boundaries.

Thank you for your consideration of NTCA’s concerns with respect to NTIA’s procedures and evaluation criteria for the review of a state alternative RAN plan.

Respectfully submitted,

NTCA-THE RURAL BROADBAND ASSOCIATION

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CC: Carolyn Dunn, Director State Alternative Plan Program, NTIA

³ The Act, Section 6206(b)(3).

⁴ Notice, Section IV, E.

⁵ The Act, Section 6206(b)(3).