

ALERT

FCC Takes Action On FirstNet Spectrum Relocation And Invites Comment On State “Opt-Out” Procedures

August 29, 2016

On August 26, 2016, the Federal Communications Commission (FCC or Commission) released a Report and Order and Notice of Proposed Rulemaking that takes important steps toward clearing public safety incumbents from the Band 14 spectrum that has been licensed to the First Responder Network Authority (FirstNet). The item also seeks comment on the Commission’s proposals for administering a process for states that choose to deploy their own state-wide radio access networks (RANs). The FCC’s action comes as FirstNet, an independent entity housed within the National Telecommunications and Information Administration (NTIA), continues to review responses to its Request for Proposals (RFP) to deploy, operate and maintain a high-speed nationwide network dedicated to public safety.

Public Safety Incumbent Relocation Rules

The FCC’s Report and Order establishes an August 31, 2017 relocation deadline for narrowband incumbents to vacate FirstNet’s licensed spectrum. The Report and Order further prohibits incumbents from deploying any new facilities in the FirstNet spectrum as of August 24, 2016. To help facilitate relocation efforts, FirstNet has created a grant program that will provide up to \$40 million in funding for narrowband incumbent relocation.

FirstNet Build-Out Requirements

The Commission affirmatively declined to impose specific build-out requirements on FirstNet’s 700 MHz license, reasoning that FirstNet’s obligations under the Middle Class Tax Relief and Job Creation Act

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of 2012 (Spectrum Act) coupled with the terms of FirstNet's RFP are sufficient to ensure rural coverage for renewal of FirstNet's spectrum license. The FCC will continue to monitor the implementation of FirstNet's RFP to assess whether FirstNet has met its obligations under the Spectrum Act to warrant FCC license renewal.

Comment Sought on the FCC's Administration of the State Opt-Out Process

The Spectrum Act allows states and territories to "opt-out" of FirstNet's proposed nationwide RAN deployment and choose, instead, to construct and operate their own state-wide RAN. If a state chooses to opt-out of the FirstNet RAN deployment, it must submit an alternative plan to the Commission for review and approval. The FCC seeks comment on several proposals regarding its approach to administering the state opt-out process, including the timeline for submitting alternative plans, evaluation criteria, content and review of state plan elements, and documentation of Commission decisions. Comments will be due 30 days after publication in the Federal Register.