



January 14, 2016

Submitted Electronically

Mr. Patrick Sullivan
Office of Public Safety Communications
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, D.C. 20230

Dear Mr. Sullivan,

Thank you for the opportunity to provide comments on the "Proposed Scope of NTIA's Authority Regarding FirstNet Fees."

The Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) (the Act) established the First Responder Network Authority (FirstNet) and mandated that FirstNet be permanently self-funding. The Act further requires NTIA to review FirstNet fees on an annual basis. FirstNet's annual fees must be sufficient to carry out its mandated duties and must not exceed the amount necessary to do so; fees may only be assessed once approved by the NTIA.

NTIA has the statutory responsibility to review, approve and thus allow FirstNet to assess fees. The proposed scope of the review is limited; NTIA would only examine fees to "determine whether fees are, in aggregate and combined with other non-fee-based income, sufficient, but not in excess, of the projected funds FirstNet needs to carry out its statutory obligations in a given fiscal year." Additionally, in reviewing FirstNet's fees for self-sustainability, NTIA will not review fees for reasonableness. Further, though the Act contemplates other non-fee based income, NTIA has proposed that it will not "review or approve as a 'fee' any other form of income FirstNet might receive" and again, will only review non-fee based income as part of its aggregate review of FirstNet's ability to recoup total expenses for the fiscal year involved.

We agree with the scope of NTIA's review and also agree that a reasonableness review is not required when evaluating FirstNet's fees. The plain language of the Act does not contemplate a reasonableness review and we agree with the rationale detailed in the NPRM that a more detailed review of FirstNet's fees would hamper its business ability and agility.

Additionally, though not the subject of this NPRM but in a related matter, we hope that NTIA, in developing regulations for the cost-effectiveness review of an opt-out state's alternative state plan will similarly limit its scope to only the necessary requirements: i.e. whether the opt-out state has sufficient funds to maintain the state's RAN and not put undue weight on the opt-out state's contributions to the NPBSN.



In conclusion, we agree with the proposed evaluation of FirstNet's fees by NTIA that are limited to evaluating whether FirstNet has sufficient revenue to recoup expenses. We would also support a similar approach to NTIA's review of cost-effectiveness when evaluating an opt-out state's alternative plan. Thank you for considering our comments. Please contact NASCIO director of government affairs, Yejin Cooke at 202.624.84277 or ycooke@NASCIO.org with any questions or comments.

Sincerely,

Darryl Ackley,

NASCIO President
Secretary of Information Technology, State of New Mexico

Doug Robinson

Executive Director, NASCIO