



# COALITION FOR EMERGENCY RESPONSE AND CRITICAL INFRASTRUCTURE

June 25, 2024

## VIA ELECTRONIC FILING

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

**Re: *Ex Parte Letter* – Amendment of Part 90 of the Commission’s Rules,  
WP Docket No. 07-100**

The U.S. Department of Commerce Office of Inspector General (OIG) recently released another report that finds further FirstNet Authority (FirstNet) oversight failings, *FirstNet Authority’s Lack of Contract Oversight for Device Connection Targets Puts the NPSBN at Risk of Impacting First Responders’ Use of the Network* (OIG Report or Report).<sup>1</sup> The Report, which is attached to this filing, determines that FirstNet failed in its oversight of AT&T’s compliance with device connection targets for public safety users, and concludes: “FirstNet Authority does not have reasonable assurance that the data AT&T is reporting is accurate and reliable to support the primary program objectives of public safety adoption and use of the network.”<sup>2</sup> This is a serious failure of FirstNet to meet one of its fundamental responsibilities. FirstNet’s response to these findings, which OIG describes as “*inaccurate and misleading*”<sup>3</sup> is especially surprising.

This OIG Report follows other recent OIG reports that show multiple failures of FirstNet oversight and compliance.<sup>4</sup> For example, last month, OIG issued a report on FirstNet’s network

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<sup>1</sup> See Inspector General, U.S. Department of Commerce, Final Report No. OIG-24-027-A, *FirstNet Authority’s Lack of Contract Oversight for Device Connection Targets Puts the NPSBN at Risk of Impacting First Responders’ Use of the Network* (June 12, 2024) (“OIG Report”).

<sup>2</sup> *Id.* at 5, 11.

<sup>3</sup> *Id.* at 13 (emphasis added).

<sup>4</sup> See Inspector General, U.S. Department of Commerce, Management Alert, Final Memorandum No. OIG-24-022-M, *Management Alert: The NPSBN Band 14 Signal Strength Does Not Consistently Provide Adequate Band 14 Service for First Responders* (May 16, 2024) (“Network Coverage Management Alert”); Inspector General, U.S. Department of Commerce, Report, Final Report No. OIG-24-024-A, *FirstNet Authority did not Ensure the Nation’s First Responders’ Needs were Continuing to be Met Timely when Modifying Key Objectives of the NPSBN Contract*

coverage, finding that the use of FirstNet’s current signal strength is insufficient to meet public safety needs or for the network to be considered high-performance, as required by its contract with AT&T.<sup>5</sup> These reports demonstrate widespread unwillingness or inability to provide meaningful oversight to ensure AT&T compliance with contract requirements as well as the Spectrum Act that created FirstNet.<sup>6</sup>

Instead of focusing on current operational challenges that affect public safety users, FirstNet and its allies appear to be consumed with a lobbying effort to appropriate the 4.9 GHz spectrum band, disrupting a well-established policy of local control in favor of a nationalized model. The Coalition for Emergency Response and Critical Infrastructure (CERCI) respectfully submits that the Commission act on the assurance it provided in its grant of FirstNet’s renewal license last year to “monitor AT&T’s performance under the contract and FirstNet’s oversight of AT&T under FirstNet’s renewed license.”<sup>7</sup> Namely, the Commission should demand that FirstNet recognize its responsibilities under its license and the Spectrum Act, acknowledge its shortcomings, perform its duties, and focus on ensuring that AT&T is meeting its commitments, instead of pursuing an unlawful giveaway of the 4.9 GHz spectrum band that would undermine local public safety control of this important resource.

Based on the most recent OIG Report, FirstNet has plenty of work to do. The latest OIG Report “identified significant internal control weaknesses regarding contract oversight as it relates to device connection targets.”<sup>8</sup> Specifically, the Report finds FirstNet failed to (1) “develop measurable performance standards and methods of surveillance to assess if reported device connections complied with the Act and contract requirements;” (2) “develop an adequate performance metric to accurately measure public safety use and adoption;” (3) “review AT&T’s quality control program results or consistently conduct audits of raw data;” and (4) “remediate deficiencies for device connections.”<sup>9</sup> This is problematic, because, as OIG explains, “inadequate oversight may allow ineligible users and unapproved devices on the NPSBN, which could impact first responders’ [network use].”<sup>10</sup> Further, it “increases the risks of (1) the

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(May 30, 2024); Inspector General, U.S. Department of Commerce, Report, Final Report No. OIG-24-026-A, *FirstNet Authority’s Lack of NPSBN Contract Oversight for Coverage Puts at Risk First Responders’ Ability to Serve the Public Effectively* (June 5, 2024).

<sup>5</sup> See Network Coverage Management Alert at 3.

<sup>6</sup> Pub. L. No. 112-96, 126 Stat. 156.

<sup>7</sup> First Responder Network Authority, Order, 38 FCC Rcd 4989, WP Docket No. 07-100, ¶ 21 (May 26, 2023).

<sup>8</sup> OIG Report at 16.

<sup>9</sup> *Id.* at 2.

<sup>10</sup> *Id.* at 11.

government paying for services it did not actually receive and (2) AT&T not paying the government disincentive payments when appropriate.”<sup>11</sup>

The OIG Report also reveals a pervasive culture of deference to AT&T, as also indicated by FirstNet’s actions with regard to the 4.9 GHz spectrum. The Report takes issue with FirstNet’s claim that it “rigorously enforced clear performance standards” – for example, it states that “although FirstNet Authority had knowledge of AT&T not being on track to meet device connection targets, it failed to implement corrective action as outlined in the contract [quality assurance surveillance plan] remediation activities for performance deficiencies.”<sup>12</sup> Instead, the Report finds, “FirstNet Authority issued a contract modification that adjusted device connection targets and lowered the targets in states where AT&T had issues meeting those targets.”<sup>13</sup>

While NTIA concurs with OIG’s recommendations and directs FirstNet to take responsive actions, OIG concludes by expressing deep misgivings about FirstNet’s intent and willingness to do so:

Based on FirstNet Authority’s comment concerning its allegedly rigorous quality assurance and control activities, we have serious concerns that FirstNet Authority will not resolve the issues we identified in this report or take the necessary actions to improve internal controls.... Without adequate controls to assess compliance, FirstNet cannot have assurance the program is meeting or exceeding the goals and intent of the Act.<sup>14</sup>

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<sup>11</sup> *Id.* at 4.

<sup>12</sup> *Id.* at 13.

<sup>13</sup> *Id.* at 16.

<sup>14</sup> *Id.* at 16, 17.

The Commission should conclude that as an organization, FirstNet needs to re-commit itself to meeting its statutory responsibilities and core mission overseeing the National Public Safety Broadband Network. Directly or indirectly gifting the 4.9 GHz band to FirstNet, which will merely regift it to AT&T to share among the company’s commercial and public safety users, would not only be unlawful and unwise but, as these reports show, pose a major distraction from FirstNet’s core mission.

Sincerely,

The Coalition for Emergency Response and  
Critical Infrastructure (“CERCI”)

/s/ Kenneth Corey

Kenneth Corey  
NYPD Chief of Dept. (Ret.)  
CERCI Chairman

/s/ Roger C. Sherman

Roger C. Sherman  
CERCI Policy Advisor

Attachment