



COALITION FOR EMERGENCY RESPONSE AND CRITICAL INFRASTRUCTURE

August 13, 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**

Recent news about AT&T’s February 2024 network outage and its 2022/2023 data breach once again confirms the Federal Communications Commission (“Commission” or “FCC”) should reject the AT&T/PSSA proposal to wrest the 4.9 GHz band from local public safety and hand it over to the FirstNet Authority and AT&T. These reports show that faults within AT&T’s commercial operations impact AT&T’s FirstNet customers, undermine first responder communications, and put public safety at risk. While the Commission’s 2023 vision for the 4.9 GHz band fosters redundancy and eliminates the hazard of a single point of failure in public safety communications, AT&T and the PSSA would have the FCC concentrate public safety communications even further in the AT&T network exacerbating the vulnerabilities that reliance on AT&T has created for public safety.

Last month, two government reports were issued on AT&T’s February 22, 2024 network outage. A report by the FCC’s Public Safety and Homeland Security Bureau provided key details about the AT&T outage, including its impact on FirstNet users: (1) On February 22, 2024, AT&T experienced a nationwide wireless service outage that lasted at least twelve hours and affected users in all 50 states as well as Washington, D.C., Puerto Rico, and the U.S. Virgin Islands¹; (2) this outage cut off service to FirstNet public safety user devices, and FirstNet users lost service for over 2 hours²; and (3) AT&T notified FirstNet customers of the outage starting at 5:53 AM on

¹ See Public Safety and Homeland Security Bureau, Federal Communications Commission, Report and Findings, *February 22, 2024 AT&T Mobility Network Outage* ¶ 1 (July 22, 2024).

² *Id.* ¶¶ 1 & 16.

February 22, 2024 but “[t]hat notification [] was distributed more than three hours after the outage began and approximately 53 minutes after FirstNet’s infrastructure was restored,”³ and a final notification was sent at 4:40 PM.⁴

The second report, a Management Alert issued by the U.S. Department of Commerce’s Office of Inspector General (OIG), raised concerns about the impact of FirstNet users’ loss of service when AT&T’s network went down and questioned the overall resilience of FirstNet service and its independence from AT&T’s commercial network.⁵ As the OIG observed, “[g]iven that an error expanding the AT&T network caused a FirstNet outage, we question whether all elements of the FirstNet core network are independent from the AT&T mobility core or whether some elements are indeed shared.”⁶

The Management Alert also highlighted the importance of diversified, redundant public safety communications capabilities. Indeed, once FirstNet users were unable to access AT&T’s network, they had to rely on their own contingency plans to maintain communications. These backup capabilities are essential for ensuring service availability in the face of network performance issues and outages. Even the FirstNet Authority acknowledged this reality by telling the OIG “that it was up to each state and territory to have its own [Primary, Alternate, Contingency, Emergency] plan for communications during an outage.”⁷ Nevertheless, before the Commission, the FirstNet Authority asserts that it can “leverage the 4.9 GHz band for public safety,” despite its exclusive dependence on a single nationwide commercial provider, AT&T.⁸

AT&T’s 2022/2023 data breach further underscores that AT&T’s operational failings can have harmful consequences for public safety. In this incident, call data from AT&T’s FirstNet customers was illegally downloaded, along with data from AT&T’s commercial customers. AT&T originally reported that this data breach had a limited impact on its FirstNet customers but more recently clarified that most of its FirstNet customers had their data compromised.⁹

Incorporating the 4.9 GHz band into AT&T’s FirstNet network makes sense for only one party – AT&T. And AT&T’s play for the 4.9 GHz band makes even more sense for the company

³ *Id.* ¶ 9.

⁴ *Id.*

⁵ See Inspector General, U.S. Department of Commerce, Final Memorandum No. OIG-24-030-M, *February 2024 FirstNet Authority’s Nationwide Public Safety Broadband Network Outage Raised a Significant Risk to the Readiness of First Responders Across the Country* (July 18, 2024) (“Management Alert”).

⁶ *Id.* at 3.

⁷ *Id.* at 2.

⁸ Ex Parte Letter of the National Telecommunications and Information Administration, FirstNet Authority, WP Docket No. 07-100, 1, 1 (filed April 8, 2024).

⁹ See David Dimolfetta, *In Reversal, AT&T Says Most FirstNet Customers Impacted in Data Breach Disclosed Last Week*, NextGov/FCW (July 19, 2024), <https://www.nextgov.com/cybersecurity/2024/07/reversal-t-says-most-firstnet-customers-impacted-data-breach-disclosed-last-week/398198/>.

in light of recent statements to Wall Street investors by AT&T Chief Executive Officer, John Stankey, on the company’s need for more spectrum. Mr. Stankey recently said: “[W]e’re going to be using every trick in the book as we historically do to ensure that we can deal with the 30% growth, one trick in the book [is] you continue to advocate for policy change....[T]here’s some near term opportunity to use existing license[d] spectrum that’s out there by just tweaking some rules....”¹⁰

Recent events have demonstrated, however, that a “tweak” in the rules to hand the 4.9 GHz band over to FirstNet, and in turn AT&T, would dramatically undermine redundancy and data security, both of which are critical for reliable public safety communications. Accordingly, this is not the appropriate proceeding for AT&T to grow its commercial spectrum holdings by endangering public safety.

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

¹⁰ See *Q2 2024 AT&T Inc Earnings Call*, Edited Transcript, Refinitiv StreetEvents (July 24, 2024), <https://investors.att.com/~media/Files/A/ATT-IR-V2/financial-reports/quarterly-earnings/2024/2Q24/t-usq-transcript-2024-07-24.pdf>.