FirstNet: The Costs of Opting Out

Opting out of having FirstNet (and AT&T) be responsible for deploying, operating and maintaining a state public safety Radio Access Network (“RAN”) does not mean a state or territory has chosen to opt-out of FirstNet’s Nationwide Public Safety Broadband Network (“NPSBN”). An opt-out state or territory is still required to establish its own public safety RAN and it must be interoperable with the NPSBN.

Financial costs of opting out

- An opt-out state must pay for completing its own RFP process for a state RAN vendor and incur the costs associated with seeking approvals from both the Federal Communications Commission (FCC) and the National Telecommunication and Information Administration (NTIA). The state must also incur the costs associated with negotiating the agreement with FirstNet for the use of the spectrum.
    - While the state can apply for a grant from the NTIA to assist with funding the state RAN, there is no guarantee that adequate funding will be obtained
- A state that opts out will be responsible for the costs of deploying, operating and maintaining its RAN, including the cost to maintain interoperability with the NPSBN over 25-year period.
- Opt-out states must comply with any **upgrade and maintenance standards** set by FirstNet over a 25-year timeframe.
    - Opt-out states will be required to ensure their RAN delivers comparable security, coverage, and quality of service to that of the NPSBN.
    - A state can mitigate some of the financial risks associated with these obligations in the agreement with the state RAN contractor

Opting-out does not present a revenue opportunity for a state

- FirstNet has stated that a state will not be allowed to use revenue from the network to address financial shortfalls elsewhere, and could face significant costs to pay for ongoing operations, maintenance and technology upgrades to ensure that its network remains interoperable with the FirstNet-funded network across the nation.
    - We understand that some entities are now advocating that states opting out may be able to retain excess revenues (that is – revenues in excess of a state’s reasonable RAN costs) associated with the monetization of secondary use of spectrum.
- We recommend that you review the FirstNet materials on this issue. FirstNet has set forth its position regarding Funding and Revenue Reinvestment.
    - ***http://www.firstnet.gov/sites/default/files/FirstNet-Network-Funding-Revenue-Reinvestment-Provisions.pdf***

Opting-out can be a costly proposition. Governors that choose to opt-out expose their states to long-term financial obligations and potential risk.