

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

THE APPLICATION OF)
NEW CINGULAR WIRELESS PCS, LLC,)
A DELAWARE LIMITED LIABILITY COMPANY,)
D/B/A AT&T MOBILITY)
AND UNITI TOWERS LLC, A DELAWARE)
LIMITED LIABILITY COMPANY)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC) CASE NO.: 2020-00310
CONVENIENCE AND NECESSITY TO CONSTRUCT)
A WIRELESS COMMUNICATIONS FACILITY)
IN THE COMMONWEALTH OF KENTUCKY)
IN THE COUNTY OF PULASKI)

SITE NAME: HAPPY RIDGE RELO

* * * * *

RESPONSE TO COMMENTS FROM AREA RESIDENTS

Applicants New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility and Uniti Towers LLC, a Delaware limited liability company ("Applicants"), by counsel, makes this Response to the comments submitted by area residents in the within proceeding. Applicant respectfully states, as follows:

1. Area residents have voiced generalized aesthetic concerns to the Kentucky Public Service Commission regarding the facility proposed in the within Application and request that the facility be moved to another location. As discussed herein below, there is no ground for denial of the subject application, and substantial evidence supports approval of the requested Certificate of Public Convenience and Necessity ("CPCN").

2. Pulaski County has not adopted planning and zoning regulations, nor has it adopted regulations regarding the placement, construction and modification of wireless communications facilities. Any property purchased in Pulaski County is acquired with the understanding that the surrounding neighbors are free to develop their property in any manner they desire without regulation from local government or input from area residents. For this reason, area residents have no reasonable expectation of input into the land use of surrounding properties or the impact a proposed land use will have on their property.

3. The U.S. Court of Appeals for the Sixth Circuit has upheld that lay opinion or generalized concerns are not substantial evidence justifying a rejection of this application. Any decision rendered by state or local authorities must be in writing and supported by substantial evidence in a written record. Federal Courts in the 6th Circuit has defined “substantial evidence” in previous cases. For example, the locality’s own zoning requirements are an example of substantial evidence. Cellco Partnership v. Franklin Co., KY, 553 F. Supp. 2d 838, 845-846 (E.D. Ky. 2008). Of course, in this instance Pulaski County has not adopted zoning requirements. Courts in the 6th Circuit have found that lay opinion is not substantial evidence. Cellco Partnership at 852 and T-Mobile Central, LLC v. Charter Township of West Bloomfield, 691 F.3d 794, 804 (6th Cir. 2012). They have also found that unsupported opinion is not substantial evidence. Cellco Partnership at 849. Generalized expressions of concerns with “aesthetics” are not substantial evidence. Cellco Partnership at 851. Claims the tower is unsightly are generalized expressions of aesthetical concerns and the same objection could be made by any resident in any area in which a tower is placed. Cellco Partnership at 852. General concerns that the tower is ugly or unwanted near an individual’s residence are not

sufficient to meet the 6th Circuit substantial evidence test. T-Mobile Central at 800. Finally, anyone who opposes a tower in their backyard can claim it would be bad for the community, not aesthetically pleasing, or is otherwise objectionable, but such claims would not constitute substantial evidence. T-Mobile Central at 801.

4. For aesthetic reasons area residents request that the facility be moved to another location. As an alternative location, area residents suggest an SBA tower in the vicinity that is not reasonably available for co-location.¹ Area residents also suggest as an alternate location a site approximately 2 miles from the proposed location. However, as discussed in the radio frequency report attached as “**EXHIBIT A**”, the facility must be located in a prescribed geographic area which AT&T refers to as a “search area” in order to function properly within AT&T’s network to provide service to customers in Pulaski County. Locating the facility outside the search area would not provide for adequate service and would not position the site appropriately for integration into AT&T’s network. The location proposed by area residents is outside of the search area and would not provide for adequate service and would not position the site appropriately for integration into AT&T’s network.

5. Applicant is licensed by the Federal Communications Commission (“FCC”) to provide wireless communications services to the area to be served by the proposed wireless communications facility, and a copy of the relevant FCC license granted to AT&T Mobility was filed as part of the subject Application. AT&T Mobility is a provider of essential wireless voice and data services to residential and commercial customers.

¹ The PSC has previously rejected argument by person advocating co-location on SBA Towers which are not reasonably available. See Case No. 2017-00435 (order of March 26, 2018 and November 1, 2018) and Case No. 2019-00176 (Order of October 1, 2018).

AT&T Mobility delivers these services over a network of sites (i.e., antennas mounted on a support structure, with associated radio transmitting equipment) which are linked to one another and which transmit and receive signals to and from mobile phones and other wireless communication devices. In addition to expanding and improving voice and data service for AT&T mobile customers, this site will also include the First Responder Network Authority ("FirstNet"), an advanced broadband network dedicated specifically to public safety communications. Congress created FirstNet to address emergency response communications shortcomings that were initially identified in the aftermath of the September 11, 2001 terrorist attacks.

6. The proposed facility has been designed, configured, and located in such a manner that it will prevent or limit potential adverse effects on surrounding properties. The general area where the proposed facility is to be located is a rural area with a mix of heavy woods and farmland. Furthermore, the tower will be galvanized steel to minimize its visibility. Tower placement at this location is the most suitable and least intrusive method of resolving the existing coverage and/or capacity gap in this area.

WHEREFORE, there being no ground for denial of the subject application and substantial evidence in support of the requested CPCN, Applicant respectfully requests the Kentucky Public Service Commission:

- (a) Accept this Response for filing;
- (b) Issue a Certificate of Public Convenience and Necessity to construct and operate the WCF at the location set forth herein without further delay; and

(c) Grant Applicant any other relief to which it is entitled.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 2nd day of December 2020, a true and accurate copy of the foregoing was electronically filed with the PSC and sent by U.S.

Postal Service first class mail, postage prepaid, to the following:

Doug Rogers
626 Happy Ridge Road
Nancy, KY 42544

Donald W. Tarter
82 North Floyd Ln
Nancy, KY 42544

Keith L. Jones
567 Happy Ridge Rd.
Nancy, KY 42544

Robbie Lyons
1302 Happy Ridge Rd
Nancy, KY 42544

Diana Skabroall
75 Paul's Way
Happy Ridge Rd
Nancy, KY 42544

John W. Burton
757 Hwy 2993
Nancy, KY 42544

Wm Burton
975 Happy Ridge Rd
Nancy KY 42544



David A. Pike
Attorney for Applicant

EXHIBIT A
RADIO FREQUENCY REPORT



Radio Frequency Engineering Statement

in support of Application for

Proposed AT&T Mobility Wireless Communications Facility

240 Happy Ridge Rd., Nancy, KY 42544

Site Name: Happy Ridge Relo

INTRODUCTION

This statement is provided in support of the Uniform Application requesting approval for construction of a new wireless communications facility on property located at 240 Happy Ridge Rd., Nancy, KY 42544.

AT&T Mobility (“AT&T”) is an FCC-licensed wireless communications service provider that provides essential wireless voice and data services to residential and commercial customers. AT&T delivers these services over a network of sites (i.e., antennas mounted on a support structure, with associated radio transmitting equipment) which are linked to one another and which transmit and receive signals to and from mobile phones and other wireless communication devices.

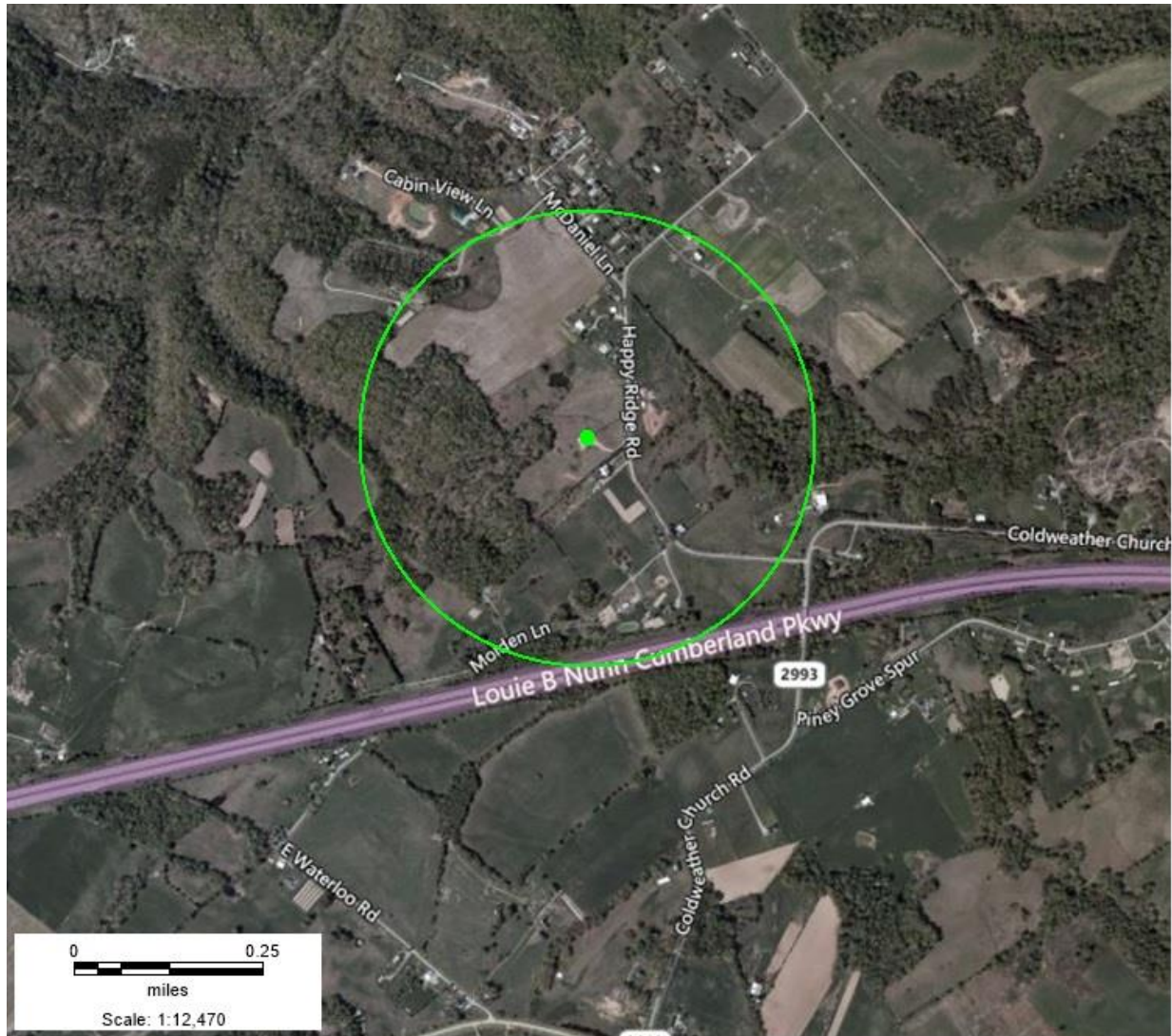
Each site provides coverage for users located in a particular area. The geographic area covered by a given site is determined by factors such as site elevation, local topography, relative location and elevation of adjacent sites and customer usage patterns for the area. The volume of usage that can be handled by an individual site is limited, and sites must be carefully located to provide sufficient coverage for users in a given area. Sites must also be located with reference to other sites in the network to provide seamless mobile connectivity while also avoiding interference with one another.

THE HAPPY RIDGE RELO SITE

AT&T’s wireless communications antennas and associated equipment must be located within a prescribed area and at a specific elevation in order to be integrated into AT&T’s existing network to provide coverage north of the Louie B. Nunn Cumberland Parkway along Happy Ridge Rd. in Pulaski County. The proposed 317-foot tall wireless communications tower on property located at 240 Happy Ridge Rd., Nancy, KY 42544 (the “Proposed Facility”) will be at the appropriate height and location within AT&T’s existing network to address subject the service need, and AT&T’s equipment will be constructed and operated in compliance with applicable Federal Communications Commission regulations.

AT&T SEARCH AREA

The Search Area map below shows the area within which an AT&T wireless communications facility must be located in order to function properly within AT&T's network to provide service to customers in Pulaski County. Accordingly, the site selection process for this site was limited to this prescribed area, since locations outside the search area would not provide for adequate service and would not position the site appropriately for integration into AT&T's network.



Lat: 37.101028
Lon: -84.77875
Radius: .3 miles

Happy Ridge Relo Search Area

BENEFIT TO THE COMMUNITY

As wireless communications carriers have evolved, they have become a vital link as a wireless data provider in addition to voice communications. Phones, tablets and even laptop computers can now access the internet quickly and efficiently without the need to be connected to a cable or restricted to a small Wi-Fi hotspot as was the case in the past. This has brought about many new innovations, including devices such as parking meters that can report their status, vending machines that can report their inventory levels, delivery vehicles that report package delivery and receipt and the “connected car,” which will not only stream audio but also be able to share diagnostic information, provide real-time traffic updates, report accidents and caution its owner about speeding or aggressive driving.

Wireless carriers also provide real-time internet access for law enforcement, fire and medical transport vehicles, which not only allows immediate access to information when needed, but can also help determine the closest unit to an area of need and help determine the fastest route to the site of an emergency based on current conditions.

Wireless communications services are also important to businesses that use these services to support their operations. It is becoming common for AT&T to receive service quality inquiries from businesses when they are planning to locate to a new area. They want to know what infrastructure and technology is in place prior to making a move decision.

FIRSTNET

AT&T is pleased to have been selected as the nationwide public safety broadband network provider for the First Responder Network Authority (“FirstNet”), an advanced broadband network dedicated specifically to public safety communications. Congress created FirstNet to address emergency response communications shortcomings that were initially identified in the aftermath of the September 11, 2001 terrorist attacks.

All 50 U.S. states and 2 territories have opted in to FirstNet, which means that this will truly be a national network that is completely interconnected and will not stop at any state lines.

The proposed site will support FirstNet and will provide coverage and capacity for the deployment of the FirstNet platform. FirstNet improves public safety by providing advanced communications capabilities to assist public safety agencies and first responders.

The following documents are attached as addenda to this report to provide the Commission with additional information regarding the benefits of FirstNet:

1. AT&T Press Release: *AT&T Selected by FirstNet to Build and Manage America’s First Nationwide Public Safety Broadband Network Dedicated to First Responders*
2. FirstNet.com Frequently Asked Questions

CONCLUSION

The Proposed Facility will be a necessary link in AT&T's wireless network infrastructure. The location for the Proposed Facility was chosen to address the service issues described in this report, and the height of the tower proposed as part of the Proposed Facility is the minimum necessary to provide adequate service to the area.

A handwritten signature in blue ink, appearing to read 'Sherri Lewis', is written above a horizontal line.

Sherri Lewis
RAN Engineer
AT&T Mobility

ADDENDUM A

AT&T Press Release: AT&T Selected by FirstNet to Build and Manage America's First Nationwide Public Safety Broadband Network Dedicated to First Responders

AT&T Selected by FirstNet to Build and Manage America's First Nationwide Public Safety Broadband Network Dedicated to First Responders

[Our Company](#) / Dallas, Texas, Mar 30, 2017

Public-Private Infrastructure Investment Helps Police, Firefighters & Other First Responders Keep America Safe

FirstNet Investments Expected to Create 10,000 Jobs

[AT&T*](#) has been selected by the First Responder Network Authority (FirstNet) to build and manage the first [broadband network](#) dedicated to America's police, firefighters and emergency medical services (EMS). The FirstNet network will cover all 50 states, 5 U.S. territories and the District of Columbia, including rural communities and tribal lands in those states and territories.

This is a much needed investment in America's communications infrastructure to support millions of first responders and public safety personnel nationwide who protect and serve more than 320 million people across the U.S. This significant public-private infrastructure investment is expected to create 10,000 U.S. jobs over the next two years from AT&T's work for FirstNet. The network buildout will begin later this year.

Randall Stephenson, AT&T chairman and CEO, said, “We are honored to work with FirstNet to build a network for America’s police, firefighters and EMS that is second to none. This is an unprecedented public-private investment in infrastructure that makes America a leader and public safety a national priority.”

“Today is a landmark day for public safety across the Nation and shows the incredible progress we can make through public-private partnerships,” said U.S. Department of Commerce Secretary Wilbur Ross. “FirstNet is a critical infrastructure project that will give our first responders the communications tools they need to keep America safe and secure. This public-private partnership will also spur innovation and create over ten thousand new jobs in this cutting-edge sector.”

Today, first responders use commercial networks – the same ones used by consumers and businesses – for mobile data and applications. That can be an issue when a significant public safety crisis happens and commercial networks quickly become congested. It makes it difficult for first responders to communicate, coordinate and do their jobs.

Plus, first responders use more than 10,000 networks for voice communications. These networks often do not interoperate, which severely limits their ability to communicate with each other when responding to a situation.

FirstNet’s mission is to fix this. Through this new public-private partnership with FirstNet, AT&T will deliver a dedicated, interoperable network and ecosystem that will give first responders the *technology they need to better communicate and collaborate across agencies and jurisdictions – local, state and national.*

“There’s no connection more important than one that can save a life,” said Kay Kapoor, president, AT&T Global Public Sector. “FirstNet is

unprecedented in its vision, scope and importance to our nation and the future of public safety communications. We're honored to be selected for this historic and critical initiative.”

“This partnership brings together FirstNet as the voice of public safety and a global technology team with a proven track record and commitment to public safety,” said FirstNet CEO Mike Poth. “Together, FirstNet and AT&T will move with precision and urgency to deliver this much-needed infrastructure to those who need it the most: the first responders we rely on in disasters and emergencies.”

In addition to creating a nationwide seamless, IP-based, high-speed mobile communications network that will give first responders priority access, the network will help:

- Improve rescue and recovery operations to help keep first responders out of harm's way
- Better connect first responders to the critical information they need in an emergency
- Further the development of public safety focused [IoT](#) and Smart City solutions such as providing near real-time information on traffic conditions to determine the fastest route to an emergency
- Enable advanced capabilities, like wearable sensors and cameras for police and firefighters, and camera-equipped drones and robots that can deliver near real-time images of events, such as fires, floods or crimes

FirstNet and AT&T will innovate and evolve the network to keep the public safety community at the forefront of technology advances. For example, as 5G network capabilities develop in the coming years, FirstNet and AT&T will work together to provide the exponential increases in the speed with which video and data travel across the FirstNet network.

To help FirstNet achieve its public safety mission, AT&T has assembled a team that includes Motorola Solutions, General Dynamics, Sapient Consulting and Inmarsat Government.

The broad terms of this 25-year agreement between FirstNet and AT&T are:

- FirstNet will provide 20 MHz of high-value, telecommunications spectrum and success-based payments of \$6.5 billion over the next five years to support the network buildout; FirstNet's funding was raised from previous FCC spectrum auctions.
- AT&T will spend about \$40 billion over the life of the contract to build, deploy, operate and maintain the network, with a focus on ensuring robust coverage for public safety users.
- Additionally, AT&T will connect FirstNet users to the company's telecommunications network assets, valued at more than \$180 billion.

The strong participation of states in the FirstNet network will help make this significant investment in America's communications infrastructure a reality. As states join FirstNet, investment in infrastructure and job creation will follow.

For more information on AT&T's selection, please visit att.com/FirstResponderNews. For more information about FirstNet, please visit FirstNet.gov/mediakit.

*AT&T products and services are provided or offered by subsidiaries and affiliates of AT&T Inc. under the AT&T brand and not by AT&T Inc.

ADDENDUM B

FirstNet.com Frequently Asked Questions

Frequently Asked Questions | FirstNet.com

 Send to Kindle

1. What is the FirstNet network?

FirstNet will be a force-multiplier for first responders – giving the public safety community the 21st- century communication tools it needs to help save lives and keep communities and first responders safe. The foundation of the FirstNet service is a highly reliable highly secure broadband network dedicated to public safety. This is the first time public safety communications will be based on global standards like Global System for Mobile Communications, realize the benefits of economies of scale, and see rapid evolution of advanced communication capabilities, on a network designed for public safety users.

2. What is the First Responder Network Authority?

It is an independent authority established by Congress in 2012 with the mission to ensure the deployment of a nationwide broadband network dedicated to America's public safety community. FirstNet grew out of and addresses a 9/11 Commission recommendation calling for improved communications for all U.S. first responders. The FirstNet network will strengthen public safety's communications capabilities, enabling them to coordinate and respond more quickly and effectively in disasters and emergencies and for everyday public safety operations.

3. What is the role of AT&T in the FirstNet network?

After a rigorous, competitive process, the First Responder Network Authority selected AT&T as the nationwide public safety broadband network provider. AT&T will provide a turnkey experience (including deploying the Core network

and assuming operational, financial, and technical responsibilities associated with the network for up to 25 years) to each state and territory that Opt In to the proposed State Plan, as well as provide discrete Core network elements and services to Opt-Out states. This first of its kind public-private partnership is poised to modernize public safety resources, infrastructure, and cost-effectiveness.

4. Why is the FirstNet network a necessary and relevant undertaking?

Whether they're responding to a local emergency or supporting a disaster in another city or state, public safety deserves a network that will be there for them whenever and wherever they need it. This unifying network will allow first responders and other public safety personnel to communicate across different agencies and jurisdictions throughout the country. Given current difficulties in doing this, the FirstNet network will allow public safety entities to better coordinate when jointly responding to human-caused and natural disasters.

5. What is the role of public safety in the creation of the FirstNet network?

Public safety officials have worked closely with – and been a part of - the First Responder Network Authority since its inception in 2012. FirstNet's outreach and consultation efforts have connected with more than 1.8 million public safety stakeholders across the country, consulting extensively with each single point of contact (SPOC) in each of the 50 U.S. states, five territories, and the District of Columbia, as well as local/municipal/tribal/federal and public safety leaders. FirstNet also coordinates with and receives input from the public safety community through the Public Safety Advisory Committee (PSAC), which provides guidance and public safety subject matter expertise.

6. How does FirstNet compare to what's currently available to public safety?

Today:

- Networks get congested in disasters and emergencies, making it difficult for first responders and other public safety personnel to communicate, coordinate and do their jobs.
- The public safety community uses more than 10,000 radio networks – which creates difficulty when trying to communicate across agencies or jurisdictions.

With the FirstNet network:

- First responders and other public safety personnel will access one highly secure, nationwide, interoperable communications network that will support voice, data, text and video communications.
- Public safety will have dedicated access to this network in times of crisis– their communications needs will come before non-public safety users.
- FirstNet will also deliver specialized features to further the public safety mission, including priority, preemption and more network capacity; a resilient, hardened connection; and an applications ecosystem with innovative applications and services.
- Devices connected to the network – such as wearables, drones and vehicles – will relay near real-time information to improve situational awareness and, ultimately, help save lives both of public safety responders on the front lines and the communities they protect.

7. Who is included in the FirstNet public safety community?

Law enforcement, the fire service, and emergency medical services personnel will be FirstNet’s primary users. Extended primary users are other entities that provide public safety services, including individuals, agencies, organizations, non-profit or for-profit companies who are not primary users, but who may be called upon to support public safety personnel with the mitigation, remediation, overhaul, clean-up, restoration, or other such services that are required during or after emergencies or incidents.

8. What does the FirstNet network provide for public safety?

- A single, nationwide, reliable, highly secure and interoperable LTE broadband network
- Coverage for millions of first responders and public safety personnel across 50 states, five territories and the District of Columbia, including rural communities and tribal lands in those states and territories
- Dedicated IP core with priority and preemption capabilities
- Interoperability across public safety agencies and jurisdictions
- Customized customer service with dedicated 24x7x365 care support
- Highly secure application ecosystem
- Network disaster recovery resources
- Close collaboration with other public safety responders to stage and prepare for potential disasters and better support event resolution
- A more resilient ruggedized network for public safety personnel

9. How will FirstNet address the needs of public safety in less-populated areas?

Emergencies can happen anywhere, so building out the network in rural areas is just as important as for densely populated urban areas. The extended FirstNet network will have the more robust communications capabilities public safety needs in emergencies and for normal operations, resulting in greater ability for rural public safety practitioners. Today, the AT&T voice and data network reaches more than 99% of Americans. The FirstNet network will extend beyond that footprint, into rural areas with less coverage, to support public safety in emergency situations.

10. What are State Plans and how do they work? How do they affect my ability to get FirstNet service?

Each state or territory will receive a plan outlining how the network will be deployed in such state or territory. These plans are based on the extensive consultation and outreach the First Responder Network Authority has

conducted with states, territories, tribes, localities, and the public safety community.

The State Plans will be delivered through an online portal to SPOC teams and governors. The target for sharing plans is mid-June, with up to a 45-day review period for the states and territories. There is an opportunity to exchange feedback with FirstNet before the official 90-day clock starts for each state or territory governor to make an “Opt-In/Opt-Out” decision on its State Plan.

Once a state Opts-In, FirstNet network service will be available to public safety agencies in that state or territory. Any state or territory that Opt-Out assumes the responsibility and associated costs for the ongoing deployment, operation, maintenance, and improvement of a public safety Radio Access Network in such state or territory, which must be maintained in accordance with FirstNet’s network policies.

11. When will public safety be able to use the FirstNet network?

Once the governor of the state or territory Opts-In, public safety can subscribe to FirstNet services.

12. Will first responders on other wireless networks be able to take advantage of the FirstNet network?

Benefits of FirstNet will be available to first responders and other public safety personnel who sign up for service on the FirstNet network after their governor Opts-In.

13. Will first responders have access to priority and preemption?

Yes. One of the key benefits of the public/private partnership between FirstNet and AT&T will be the availability of quality of service and priority for data services immediately after a state or territory Opts-In. Preemption capabilities will be available to primary users on all AT&T commercial LTE bands estimated by the end of 2017, and on FirstNet Band 14 as it is deployed.

14. How will the network manage priority and preemption?

A priority and preemption profile will be coded into the FirstNet user's device. This will allow the network to recognize and manage access based on the user profiles established by FirstNet and the public safety agencies. Preemption services will remove active sessions from non-first responders when network resources are scarce or fully occupied in times of emergency.

15. How will this network withstand natural disasters, such as flooding or hurricanes?

The first line of defense against network impact from natural disasters is a hardened, strengthened network. AT&T builds network infrastructure to meet or exceed national standards and local wind and earthquake load requirements. They have continued to strengthen the network in hurricane-prone areas by:

- Installing back-up and permanent generators at critical cell sites and switching facilities
- Locating critical equipment in less vulnerable areas
- Locating electronics critical to network operations above expected flood levels
- Protecting physical facilities against flooding

Additionally, AT&T will provide power to the network in case commercial power is lost by adding more generators for use immediately after a storm hits. They will also place switches and generators critical to network operations in upper floors of buildings in case of flooding. AT&T has already elevated key distribution facilities in many low-lying areas and upgraded electronics in many locations, replacing copper wiring with fiber optic cable.

16. What is the plan for disaster recovery ?

AT&T leads one of the nation's largest and most advanced disaster programs and will increase its fleet with new deployables to support the FirstNet network. This gives public safety access to Cell on Wheels (COWs), Cell on

Light Trucks (COLTs), trailers, generators and more. AT&T also holds 130,000+ hours of field experience conducting Network Disaster Recovery (NDR) exercises, performing full-scale recovery exercises each year to test its equipment and abilities.

17. How will the FirstNet network provider handle cyberattacks that may threaten the network?

The FirstNet network provider, AT&T, has two eight world-class Global Security Operations Centers dedicated to the FirstNet network, where security experts analyze the traffic on the network 24/7/365 to help understand and identify the latest emerging threats. AT&T uses a multi-layered security approach to embed security within its network and help secure individual devices, data sets, and applications. They also use overarching threat analysis to understand the latest threats and help prevent against them.

18. How can I learn more about FirstNet?

This site – www.FirstNet.com – is a great resource for those who want to learn about FirstNet services, the unique value of the FirstNet network to public safety, and how to subscribe for the FirstNet service once your state or territory Opts-In. You can also visit www.FirstNet.gov to learn about FirstNet’s programs and activities, including its consultation and outreach with public safety, the State Plans process, FirstNet’s history and promise, and how it plans to ensure the FirstNet network meets the needs of public safety – every day and in every emergency. To have a conversation specifically about your interests, you may contact a FirstNet Specialist at FirstNet.com.