



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

October 23, 2017

VIA ELECTRONIC MAIL

Re: Review of FirstNet Options

Dear fellow Governors:

I am writing with an important message regarding your state's decision on the development of a high speed wireless broadband network for public safety. We all have an important decision to make before December 28, 2017 – whether to opt in to the plan offered by AT&T on behalf of the First Responder Network Authority ("FirstNet") or opt out and pursue the development of an alternative plan. In brief, I believe there are some very important questions that still need to be answered, and I urge each of you to hold off on making a final decision while we seek further information from Federal officials.

As you may have heard, on October 5th New Hampshire's Statewide Interoperability Executive Committee **unanimously recommended that New Hampshire opt out of the FirstNet plan** and contract with Rivada Networks, LLC for the development of an alternative plan. After receiving this recommendation, on October 16th I issued an executive order (attached hereto as Exhibit A) to establish a FirstNet Opt-Out Review Committee to carefully review the regulatory and financial risks of pursuing an opt-out plan.

In the coming weeks, our Opt-Out Review Committee will conduct a thorough legal and financial due diligence review, which will include seeking clarification from Federal officials on fees and penalties that may be imposed by FirstNet in the event that an opt-out is unsuccessful. Our initial review of these fees and penalties has raised some serious questions, and I believe each of us must have the answers to these questions before we make our final decision. Our first responders and all of our citizens deserve nothing less. To this end, we have recently been informed that the U.S. House Communication and Technology Subcommittee will be holding a hearing on November 1st to seek answers to some of these questions.

I strongly encourage each of you to pause and work with us as we seek further answers from Federal officials. We are hoping to complete our due diligence by November 21st. Whether you ultimately decide to opt in or opt out, I believe that we will all benefit by a collective insistence that each state receive the information it needs to make a fully informed decision. If you have further questions regarding our efforts, please do not hesitate to reach out to me directly or to have your staff contact my legal counsel, John Formella, at 603-271-2121.

Sincerely,

A handwritten signature in blue ink that reads "Christopher T. Sununu".

Christopher T. Sununu
Governor

107 North Main Street, State House - Rm 208, Concord, New Hampshire 03301
Telephone (603) 271-2121 • FAX (603) 271-7640
Website: <http://www.governor.nh.gov/> • Email: governorsununu@nh.gov
TDD Access: Relay NH 1-800-735-2964

EXHIBIT A

An order establishing the FirstNet Opt-Out Review Committee



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU
Governor

**STATE OF NEW HAMPSHIRE
BY HIS EXCELLENCY
CHRISTOPHER T. SUNUNU, GOVERNOR**

Executive Order 2017-08

An order establishing the FirstNet Opt-Out Review Committee

WHEREAS, the First Responder Network Authority ("FirstNet") was created by the Middle Class Tax Relief and Job Creation Act of 2012 (the "Act") to provide emergency responders with the first high-speed wireless broadband network dedicated to public safety; and

WHEREAS, under the Act, FirstNet is charged with developing a plan for each state for the development of a high speed wireless broadband network for emergency responders;

WHEREAS, the Act provides that each state, including the state of New Hampshire, may either "opt-in" to the FirstNet plan or "opt-out" of the FirstNet plan and pursue the development of an alternative plan; and

WHEREAS, the Act gives the Governor of New Hampshire the authority to determine whether New Hampshire will opt-in to the FirstNet plan or opt-out and pursue an alternative plan; and

WHEREAS, the state of New Hampshire has entered into a no-cost contract with Rivada Networks, LLC ("Rivada") in August of 2016 which gives Rivada the exclusive right to negotiate a contract for the development, provision and implementation of an opt-out plan for the state of New Hampshire if the state of New Hampshire decides to opt-out of the FirstNet plan;

WHEREAS, the Statewide Interoperability Executive Committee (the "SIEC") reviewed the New Hampshire opt-in plan presented by FirstNet and the New Hampshire opt-out plan presented by Rivada; and

WHEREAS, the SIEC conducted a thorough and comprehensive review of the technical aspects of the FirstNet opt-in plan and Rivada's opt-out plan, including spectrum, coverage, cost, devices, and governance; and

WHEREAS, by a unanimous vote on September 6, 2017 (15 yes, 2 abstentions) and a report dated September 6, 2017, the SIEC recommended to the Governor that the Governor choose to opt-out of the FirstNet plan and negotiate a contract with Rivada for the provision and implementation of Rivada's opt-out plan for the state of New Hampshire; and

WHEREAS, the pursuit of an opt-out plan may subject New Hampshire to financial risks if necessary regulatory approvals are not received or if Rivada is unable to successfully provide and implement its opt-out plan; and

WHEREAS, the decision of whether to opt-in or opt-out requires, in addition to the SIEC's technical review, a thorough review of both (1) the regulatory and financial risks of the pursuit of an opt-out plan and (2) the financial viability of Rivada's opt-out plan; and

WHEREAS, the deadline for the state of New Hampshire to decide whether to opt-out of the FirstNet plan is December 28, 2017;

NOW, THEREFORE, I, CHRISTOPHER T. SUNUNU, GOVERNOR OF THE STATE OF NEW HAMPSHIRE, by the authority vested in me pursuant to part II, article 41 of the New Hampshire Constitution, do hereby order, effective immediately, that:

1. There is established the FirstNet Opt-Out Review Committee to review (1) the regulatory and financial risks to the State of New Hampshire associated with the pursuit of an opt-out plan and (2) Rivada's financial capacity to achieve the successful provision and implementation of its opt-out plan.
2. The Committee shall meet as necessary and shall submit a report containing a summary of the results of the Committee's review and the Committee's recommendations to the Governor on or before November 21, 2017.
3. The Committee shall consist of five members appointed by and serving at the pleasure of the Governor.
4. The Committee's review and report shall include, but not be limited to, the following:
 - a) A review and summary of all regulatory approvals required for the successful pursuit of an opt-out plan and an assessment of the prospects for obtaining those approvals for Rivada's opt out plan;
 - b) An assessment of the financial risks to the State of New Hampshire in the event any necessary regulatory approvals are not obtained;
 - c) A summary of any stipulations, conditions or other provisions that the Committee feels should be included in a potential final contract with Rivada;
 - d) A due diligence report on the financial viability of Rivada's opt-out plan; and
 - e) An assessment of the financial risks to the state of New Hampshire in the event that Rivada is unable to complete the provision and implementation of its opt-out plan.

Given under my hand and seal at the Executive Chambers in Concord, this 16th day of October, in the year of Our Lord, two thousand and seventeen, and the independence of the United States of America, two hundred and forty-one.



GOVERNOR OF NEW HAMPSHIRE