



FirstNet™

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Public Notice and Comment for Finance Committee



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March 2014 Roadmap Summary



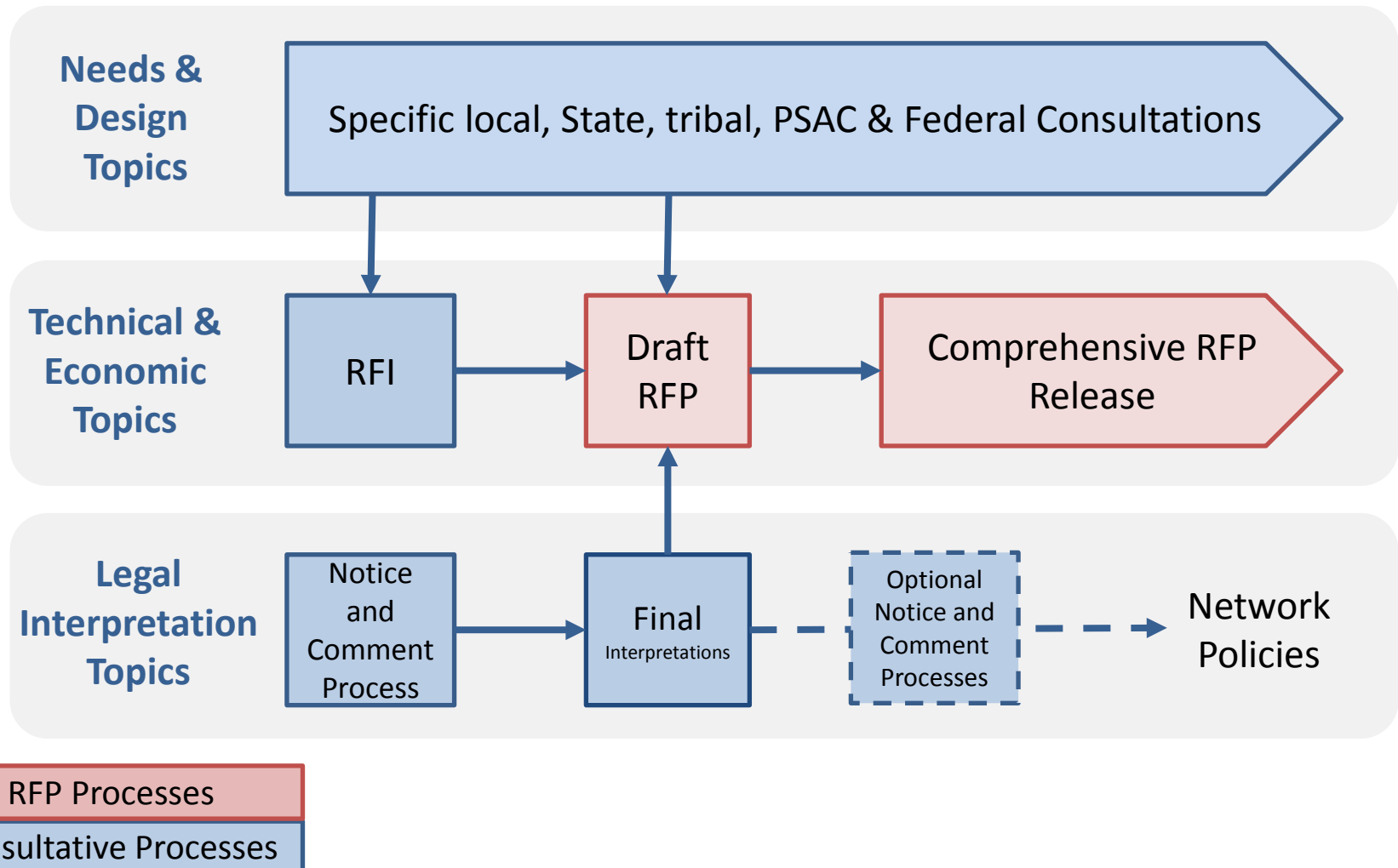
We are Here

...We want to make rapid progress for public safety, while balancing the need for robust design and cost-effectiveness. At this time, we believe the following milestones, over approximately the next year, should serve as appropriate checkpoints to ensure that we are on track within our roadmap to reach our goals:

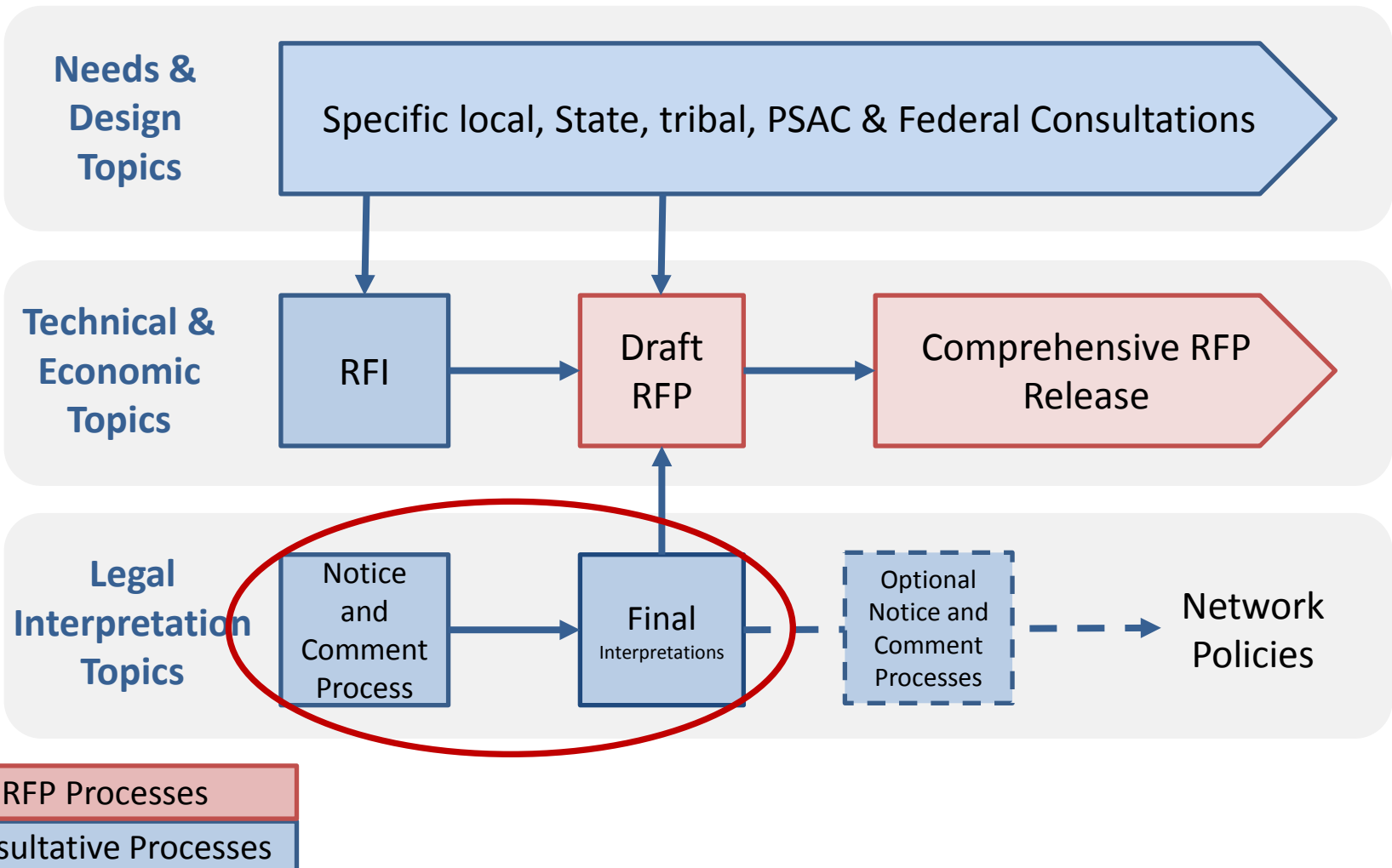
- Initiate public notice and comment on certain program procedures, policies, and statutory interpretations;
- Release draft request for comprehensive network proposals for offeror comments;
- Release draft requests for certain network equipment and services proposals for offeror comments; and
- Begin formal state consultations.

As we travel along our program roadmap, we may determine that some of our assumptions are flawed, and change course accordingly. We may change the order of, or the actual roadmap milestones themselves as a result. Nevertheless, we believe we have charted a course to prove out a successful FirstNet for public safety....

How the Pieces Fit Together



How the Pieces Fit Together



Public Notice and Comment Process Overview



- FirstNet publishes, via the Federal Register, a public notice containing certain legislative interpretations under the Act



- Public provides written comments and appears at any open meetings or hearings (30 days for comments)
- FirstNet issues final interpretations after considering comments, in a subsequent notice and/or in the draft and/or final RFP

Why do Notice and Comment?



- **Not legally required** – FirstNet is expressly excluded from the Administrative Procedure Act, which even if applicable, might not require a full notice and comment process for certain interpretations
- **Substantial Benefits**
 - **Open & Transparent Process/Consultation** – Notice is opportunity to receive insights into complex and vague provisions
 - **Critical Inputs to RFP** – interpretations in the Notice will materially change the technical and economic aspects of the RFP and FirstNet program – FirstNet statutory process is a “one-shot” procurement
 - **Gain input from stakeholders beyond RFP players** – the RFIs/draft RFPs will draw from potential RFP constituents, rather than the much broader audience, including public safety entities, that may participate in a *Federal Register* notice process



Who May Provide Comments

- Any individuals or organizations are free to respond to our public notice, and we anticipate at least the following categories of participants:
 - Traditional public safety entities
 - Telecommunications and information service providers, services vendors, equipment and infrastructure providers, systems integrators
 - Trade associations and various advocacy and advisory groups
 - State, local, and tribal governments and federal agencies
 - Other commercial and government-owned entities that provide public-safety related or support services



This is Just a First Step

- Legal authority under the Act ≠ exercise of such authority
 - Notice contains preliminary interpretations
 - Final interpretations will still only determine outside legal boundaries
 - Further detailed rules or policies within those boundaries may be narrower than legal boundary
 - Important to maintain flexibility at this stage of program and refine approach as we progress



Example: if the terms of the Act give FirstNet authority to serve a broad group of customers, FirstNet may nevertheless decide to narrow eligibility in order, for example, to preserve network capacity for public safety

Initial Topics Overview

- Management proposes the following RFP-related topics and interpretations for this Notice:
 - Network elements, including “core” and “RAN”
 - Network users, including “public safety entity,” “secondary” and other network users
 - Permitted services
 - RFP standards for “open, transparent, competitive” process
 - Definition of “Rural” and substantial rural coverage milestones
 - Existing infrastructure sharing
 - Fees, including covered leasing fees
- The major issues related to state opt-in/out process will not be part of this Notice as they are not essential to the RFP at this stage – potential future notice and comment process topics



Notice Topic: Fees

■ The Act:

- requires FirstNet to be self-funding
- network user or subscription fee from each entity that “seeks access to or use of” the network
- lease fees related to network capacity
- lease fees related to equipment and infrastructure
- opt-out state core usage fee



■ The Notice:

- seeks comment on the difference between the terms “access to” and “use of” the network (e.g., database access)
- seeks comment on any other permitted fees

Notice Topic: Fees



- **The Act:** Lease Fees Related to Network Capacity
 - **Covered Leasing Agreements (“CLAs”)** – *a public-private arrangement to construct, manage, and operate the [network] between FirstNet and secondary user to permit (i) access to network capacity on a secondary basis for non-public safety services; and (ii) the spectrum allocated to such entity to be used for commercial transmissions along the dark fiber of the long-haul network of such entity*
- **The Notice Interpretation:**
 - CLAs do not require the lessee to construct, manage or operate the entire network, either from a coverage perspective or exclusively within a specific region
 - not all spectrum in a region need be allocated to the lessee on a secondary basis, but can be
 - “permit” does not mean “require” within the definition
 - cannot literally have commercial transmission along “dark” fiber
 - complex provision; Notice seeks plenary comments on interpretations

Notice Topic: Fees



- **The Act:** Network Equipment and Infrastructure Fee
 - *A fee from any entity that seeks access to or use of any equipment or infrastructure, including antennas or towers, constructed or otherwise owned by [FirstNet] resulting from a public-private arrangement to construct, manage, and operate the [network]*

- **The Notice:**
 - seeks comment on whether equipment or infrastructure includes active network components and the difference between these lease fees and those related to CLAs
 - seeks comment on the definition of “constructed” and whether equipment or infrastructure to which FirstNet has access rights, but not ownership, would qualify

Backup Slides

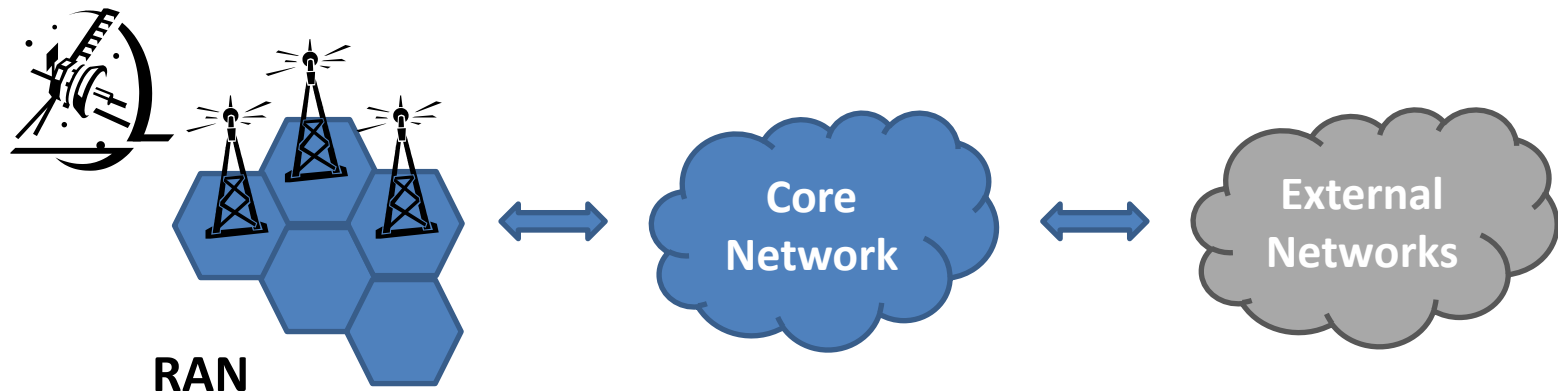
(Remainder of Notice and Comment Topics)

Notice Topic: FirstNet Network



■ FirstNet Network Architecture

- FirstNet’s mission is to “ensure the establishment of a nationwide interoperable public safety network . . . based on a single, nationwide architecture . . .”
- The Act defines the architecture as initially consisting of:
 - Core Network
 - Radio Access Network



Notice Topic: FirstNet Network



- Core Network
 - **The Act:** national and regional data centers; provides connectivity between radio access network and the public Internet and/or public switched network
 - **The Notice Interpretation:** elements of the core include, without limitation and consistent with the Interoperability Board Report, the standard Evolved Packet Core elements under the 3rd Generation Partnership Project (“3GPP”) standards, device services, location services, billing functions, and all other network elements and functions other than the radio access network.

Notice Topic: FirstNet Network



- Radio Access Network
 - **The Act:** consists of all cell site equipment, antennas, and backhaul required to enable wireless communications with devices using public safety broadband spectrum
 - **The Notice Interpretation:** standard E-UTRAN elements, consistent with the Interoperability Board Report

- Opt-out State RANs – States may apply to conduct their own deployment of a radio access network
 - **The Act:** Opt-out States pay any user fees associated with use of the Core network
 - **The Notice Interpretation:** Opt-out State RANs must use FirstNet Core

Notice Topic: Network Users



■ Network Users Overview

– The Act:

- No comprehensive list of users; public safety users are primary
- Fees charged to “each entity, *including* any public safety entity or secondary user, that seeks access to or use of” the network
- Lessees for covered leasing agreements and infrastructure use

– The Notice Interpretation:

- 3 baskets of users: public safety entities (primary users), secondary users, and others (including opt-out States)
- **Public Safety Entities** – an entity that provides public safety services as defined in the Act
- **Secondary Users** – users with access to or use of the network on a secondary basis who do not provide public safety services
- **Other Users** – potential third group of users that may be able to utilize the network

Notice Topic: Network Users



■ Public Safety Entities

- **The Act:** “public safety entity” is an entity that provides “public safety services”
- “Public safety services” are defined in the Act by reference to Section 337(f) of the Communications Act of 1934 (“Communications Act”) and Section 2 of the Homeland Security Act of 2002 (“HSA”)
- **The Notice Interpretation:** “public safety services” are either (1) services satisfying Section 337(f) of the Communications Act or (2) services satisfying Section 2 of the HSA



Notice Topic: Public Safety Entities



- The Communications Act defines “**public safety services**” to mean services:
 - (A) the sole or principal purpose of which is to protect the safety of life, health or property;*
 - (B) that are provided by (i) State or local government entities, or (ii) by non-governmental organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and*
 - (C) that are not made commercially available to the public by the provider*
- **The Notice Interpretation:**
 - In addition to traditional first responders, give deference to FCC interpretation of services by personnel of *governmental* entities (and extend to nongovernmental entities), including as examples:
 - Entities supporting airport operations that ensure safety of passengers, crew, and airport personnel and property in a complex air transportation environment
 - Transportation department activities that affect the safety of motorists
 - Entities protecting the safety of animals, homes, and city infrastructure

Notice Topic: Public Safety Entities



- Section 2 of the HSA defines public safety services as services provided by “**emergency response providers**”:
 - *Federal, State, and local governmental and nongovernmental emergency public safety, fire, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities*

- **The Notice Interpretation:**
 - HSA definition expands the potential list of public safety services beyond those under Communications Act:
 - does not include a “principal purpose” limitation (e.g., utilities)
 - specifically identifies “personnel” in addition to agencies and authorities as emergency response providers (e.g., volunteer firefighter)
 - Identifies personnel, agencies, and authorities “related” to the listed personnel, agencies, and authorities – thus those who support

Notice Topic: Secondary Users



■ The Act:

- secondary users not specifically defined
- identified as an entity that enters into a public-private arrangement (known as a covered leasing agreement) with FirstNet to construct, manage, and operate the network

■ The Notice Interpretation:

- a user that accesses network capacity on a secondary basis for its own, or the provision of, non-public safety services *only*.
- seeks comment on whether we should constrain the definition to those entering into a covered leasing agreement
- this definition of “secondary users” has a different meaning than the traditional industry usage of the term as it relates to users subject to prioritization and preemption.

Notice Topic: Other Users



- **The Act:** charge fees to an “entity, including any public safety entity or secondary user, that seeks access to or use of” the network

- **The Notice Interpretation:**
 - users potentially not limited to public safety entities and secondary users
 - seeks comment on other potential users:
 - Opt-out States
 - Network capacity lessees
 - Equipment or infrastructure lessees
 - Others (although limited by consumer prohibition)

Notice Topic: Services



- **The Act:** no express definition of permissible services
 - Charge fees for “access to and use of” the network
 - Charge fees for network capacity leasing and access to or use of equipment or infrastructure
 - Prohibition against providing “commercial telecommunications or information services directly to consumers”
 - no definition of “consumer” or indication of whether the term includes organizations or is limited to individuals
 - compare opt-out State prohibition: “provide [any] commercial service [directly or indirectly] to consumers”
- **The Notice:**
 - seeks comment on appropriate definition of “consumer”
 - seeks comment on which services are precluded under Act provisions

Notice Topic: Requests for Proposals



- **The Act: RFP Process**
 - requires FirstNet to issue “open, transparent, and competitive” requests for proposals (“RFPs”)
 - compare “fair, transparent, and objective” standard for agents, consultants, and experts
 - FirstNet not expressly excluded from Federal Acquisition Regulation (“FAR”)

- **The Notice Interpretation:**
 - following the FAR will satisfy the RFP standard in the Act
 - seeks comment on comparison of standards

Notice Topic: Requests for Proposals



- **The Act:** Minimum Technical Requirements
 - Act established the Interoperability Board to develop the minimum technical requirements for the network
 - FirstNet must issue RFPs that use, “without materially changing,” the Interoperability Board requirements
 - FirstNet also has an obligation to accommodate advances in technology in constructing the network

- **The Notice:**
 - seeks comment on changes that would be considered *material* versus non-material
 - seeks comment on how to accommodate advances in technology under Interoperability Board requirements

Notice Topic: Rural Coverage



- **The Act:**
 - no definition of “rural”
 - requires network deployment phases with “substantial rural coverage milestones” and to utilize cost-effective opportunities to speed deployment in rural areas

- **The Notice Interpretation:**
 - preliminary adoption of Rural Electrification Act definition of “rural area” – comment on adjacency requirement
 - seeks comment on possible lower boundary of frontier or wilderness area
 - seeks comment on how to define substantial rural milestones



Notice Topic: Existing Infrastructure



- **The Act:** “economically desirable”
 - in multiple contexts requires leveraging of various types of existing infrastructure to the extent “*economically desirable*”
 - “economically desirable” is not defined
- **The Notice:**
 - seeks comment on how to assess “economic desirability,” and the factors that should be considered, when, and by whom
 - example: how should costs be balanced with speed in weighing economic desirability of leveraging mobile wireless carriers in rural areas
 - seeks comment on whether economic desirability determination embedded in RFP process generally



Notice Topic: Existing Infrastructure



- **The Act:** types of “existing” infrastructure to leverage
 - *commercial wireless infrastructure*
 - *commercial mobile providers*
 - *commercial or other communications infrastructure*
 - *Federal, State, tribal, or local infrastructure*

- **The Notice:**
 - seeks comment on differences, including
 - infrastructure versus providers
 - wireless versus mobile versus just infrastructure
 - whether the term “commercial mobile provider” should exclude resellers or other non-facilities-based providers
 - when does infrastructure need to have “exist[ed]” under the Act to qualify

Notice Topic: Existing Infrastructure



- **The Act:** how, when, and who is to leverage infrastructure
 - “encouraging that such *requests* leverage”
 - “*proposals* shall include partnerships with”
 - “shall enter into *agreements* to utilize”

- **The Notice:**
 - seeks comment on whether and when FirstNet itself and/or its contracting partners are to leverage infrastructure
 - seeks comment on how to factor in the transaction costs of collecting, analyzing, establishing terms and conditions for, and leveraging millions of “pieces” of infrastructure covered by the literal terms of the Act