

# Rebuttal to Claims by the Coalition for Emergency Response and Critical Infrastructure (CERCI)

## 1. CLAIM

### Public Safety supports Verizon and the Coalition for Emergency Response and Critical Infrastructure (CERCI).

Verizon, along with “a growing number of law enforcement stakeholders and public safety agencies,” opposes the Public Safety Spectrum Alliance’s (PSSA) proposal to “wrest control of the 4.9 GHz band from local public safety agencies and give it to FirstNet.”

#### FACT:

PSSA has said from the beginning that the current incumbents will be protected. The leading nationwide public safety associations have coalesced around a common vision to reform the 4.9 GHz band in support of the PSSA. These include the International Association of Fire Chiefs, International Association of Fire Fighters, Metro Fire Chiefs Association,

Western Fire Chiefs Association, Fraternal Order of Police, International Association of Chiefs of Police, National Organization of Black Law Enforcement Executives, National Association of Emergency Medical Technicians, and many other national, regional, and local public safety organizations.

## 2. CLAIM

### The Federal Communication Commission (FCC) lacks the authority to issue licenses.

“The legal merits of the PSSA’s plan are not a close call,” a filing posted July 10, 2024, by CERCI in WP docket 07-100 (the file number given by the FCC) stated. The FCC “clearly lacks authority to assign” to the First Responder Network Authority (FNA) the 4.9 GHz band and the FNA “clearly lacks authority to receive it,” continued the [CERCI statement](#).

#### FACT:

- The FCC has broad authority under [Title III of the Communications Act](#) to issue licenses and manage spectrum.
- Title I provides plenary authority for the FCC to act to promote public safety, which it has invoked multiple times in conjunction with its licensing authority.
- The Spectrum Act requires the FCC to issue the Band 14 license to the FNA, but the law does not prohibit the FCC from issuing other licenses to the FNA.
- The Spectrum Act fully recognizes the evolving nature of the Nationwide Public Safety Broadband Network (NPSBN) and does not limit the definition of the NPSBN to Band 14.
- The Spectrum Act explicitly charges the FCC with assisting the FNA in fulfilling the latter’s mission, which includes deploying the NPSBN and integrating new and evolving technologies such as 5G, which requires mid-band spectrum.
- Consistent with the Spectrum Act’s recognition of the NPSBN as an evolving network, the FCC can allocate mid-band spectrum to the FNA to achieve this purpose.
- While the FNA is a component of the Department of Commerce, if it were a purely federal entity, Congress would not have given the FCC the authority to assign Band 14 to FNA. Instead, Congress would just have had the National Telecommunications and Information Administration (NTIA) assign the FNA its license. Thus, the FNA is eligible to be assigned licenses beyond Band 14 by the FCC.

### 3. CLAIM

#### Local control of the 4.9 GHz band would be lost.

“For more than two decades, we in public safety have been able to use the 4.9 GHz band to serve our local needs,” wrote Jonathan Thompson, Executive Director and CEO of the National Sheriffs’ Association (NSA) in an *ex parte* filing by the NSA on July 1, 2024. “It’s available for us to use as we need and see fit, and not part of a nationalized process controlled by a central authority that can only provide a limited set of basic, quasi-commercial AT&T products to choose from.”

#### FACT:

The 4.9 GHz spectrum has been available to Public Safety since 2002. Today only approximately 8% of first responders and others who are eligible to this band of spectrum use it.

PSSA has said from the beginning that the current incumbents will be protected.

Additionally, Public Safety today has local control of their network during incidents. As a result of Public Safety feedback, local control capabilities were built to their specifications and these capabilities are available to all Public Safety agencies across the nation.

Innovation and investment in new capabilities only occur when there is a market for companies to develop new products.

Products available to Public Safety are created by many companies other than AT&T. The fact is, due to FirstNet, the ecosystem is broader and more competitive than ever.

The FCC has clearly and unequivocally stated that the goal of this proceeding is a “coordinated nationwide approach to the 4.9 GHz band...while retaining local control over operations conducted by individual public safety licensees.”

According to the FCC, a coordinated, nationwide approach with local Public Safety control would “retain the band’s existing status as a locally controlled public safety band” and “enable greater public safety use, including for new technologies, such as 5G.”

### 4. CLAIM

#### The FCC should consider an auction of 4.9 GHz Band rather than “gifting” it to AT&T.

Verizon asserts that the FCC should consider auctioning the 4.9 GHz band if it decides to allow public safety and commercial wireless entities—namely AT&T—to have access to the frequencies. The carrier also expressed support for CERC, of which it is a member, and opposition to positions advanced by the PSSA.

In an *ex parte* filing dated July 10, 2024 in WP docket 07-100 reporting on meetings with FCC Commissioner advisers and staff from the Public Safety and Homeland Security Bureau, Verizon said it endorsed CERC positions in the proceeding, specifically endorsing “(1) its call for retaining local public safety control of the 4.9 GHz band; (2) its support for enabling more intensive use of the band by leasing access to compatible, non-interfering Critical Infrastructure Industry systems; and (3) its opposition to the Public Safety Spectrum Alliance’s (‘PSSA’) proposal to assign the 4.9 GHz band to FirstNet, either directly through a nationwide license or indirectly through a sharing agreement.”

#### FACT:

It’s shocking that Verizon and its CEO are advocating that spectrum that was assigned to Public Safety because of the horrors of 9/11 be auctioned. Comments such as these indicate that the interests of Verizon and its partners at CERC are strictly of a commercial nature versus prioritizing Public Safety. It is clear Verizon wants to buy this spectrum for their own needs.



## 5. CLAIM

### Keeping the 4.9 GHz spectrum with FirstNet disrupts the competitive marketplace.

Verizon CEO Hans Vestberg met with FCC Chairwoman Jessica Rosenworcel on June 28, 2024, to oppose a proposal that “wrest[s] control of the 4.9 GHz band from local public safety agencies and give[s] it to FirstNet and, in turn, AT&T,” a filing posted July 1, 2024, in WP docket 07-100 said. This “proposed spectrum giveaway would disrupt the competitive marketplace for public safety and commercial wireless use,” Verizon stated. It would give AT&T access to 50 MHz of mid-band spectrum “valued at over \$14 billion and available for commercial use” and “would result in a substantial windfall, particularly at a time when the Commission and other policymakers are working to develop a pipeline for mid-band spectrum,” the carrier said.

#### FACT:

It’s important to remember that while Verizon currently states that they’re concerned about the competitive marketplace for Public Safety, the carrier chose not to bid for the Public Safety spectrum in 2015. What they have chosen to do commercially as a company over the past seven years should not be the rationale for their position as it now relates to the 4.9 GHz spectrum.

## 6. CLAIM

### If the 4.9 GHz spectrum stays with FirstNet, access for Public Safety is not assured and 6 GHz Public Safety users will lose the flexibility to transition to 4.9 GHz, among other potential problems.

In a filing dated June 20, 2024, in WP docket 07-100, Caltrans said it “disagrees with the Public Safety Spectrum Alliance (PSSA) proposal to grant the First Responder Network Authority (FirstNet) a nationwide license for use of the 4.9 GHz spectrum. Under the proposal, access to the spectrum for public-safety users would not be assured if a FirstNet license is granted. The proposal would allow network providers who integrate commercial spectrum and commercial network components into public-safety broadband networks the ability to deny use of the spectrum for public-safety users and to limit access to the band. Granting a nationwide license to FirstNet will create extensive and irreparable problems for the public-safety community.”

Caltrans said several state agencies used the 6 GHz band but needed to find other spectrum due to interference from new, unlicensed users. If the 4.9 GHz band is licensed to FirstNet, public safety agencies will lose “the flexibility to freely transition to the 4.9 GHz band,” the filing said.

In separate filings worded similarly to one another and dated June 18, 2024, and June 4, 2024, respectively, the Athens (Ohio) County commissioners and the League of Wisconsin Municipalities said the grant of a nationwide license that would enable FirstNet use of the band “would strip today’s 4.9 GHz public safety licensees’ right to expand their systems by forcing incumbent licensees to surrender spectrum they are not using.”

The entities also complained that “it would move the band to AT&T’s FirstNet network, which runs counter to a 2023 FCC order and its commitment to locally controlled public safety in the 4.9 GHz band. Finally, it would permit AT&T to use the band for commercial purposes, which runs counter to the mission of this public-safety band.”

#### FACT:

These assertions are not part of the PSSA proposal. They are speculating about what will or might occur before the FCC makes their decision regarding the deployment of the spectrum.



## 7. CLAIM

### FirstNet Authority oversight of AT&T is lacking.

On June 25, 2024, CERCI submitted a new filing to the FCC highlighting the U.S. Department of Commerce Office of Inspector General's (OIG) June 2024 report on the FirstNet Authority. The report, titled "[FirstNet Authority's Lack of Contract Oversight for Device Connection Targets Puts the NPSBN at Risk of Impacting First Responders' Use of the Network](#)," outlines significant oversight failures by the FNA regarding AT&T's compliance with device connection targets for Public Safety users.

CERCI asserts that the FCC should conclude that FirstNet needs to recommit to its statutory responsibilities and core mission of overseeing the NPSBN. It further states that allocating the 4.9 GHz band to FirstNet, only for it to be shared with AT&T's commercial users, would not only be unlawful and unwise but also distract from FirstNet's essential duties.

#### FACT:

The FNA has defended its rigorous oversight of AT&T, Inc., its network partner, and the carrier's deployment of the NPSBN in response to criticism from the Commerce Department's OIG.

In two reports released in June 2024, the Commerce OIG concluded that the FirstNet Authority "did not adequately assess [AT&T's] performance to ensure [that it] met the desired results for coverage in each state and territory," and "did not ensure AT&T achieved the desired results for device connection targets for each state and territory."

In a statement to the OIG on the first report, FirstNet cited the growth of the network and said that it "not only meets, but surpasses the coverage goals set forth in state plans of the NPSBN Contract, providing robust support to first responders nationwide."

FirstNet added that it "employs a meticulous process for verifying network coverage as documented in our comprehensive verification and validation reports in support of payment made at Task Order defined milestones."

FirstNet also contended that "AT&T's network performance has been validated through our contracted independent drive testing, underscoring our commitment to transparency and excellence."

In a statement to the OIG responding to the second report, FirstNet said that it "has established and rigorously enforced clear performance standards as outlined in our Quality Assurance Surveillance Plan (QASP). Our commitment to excellence is evidenced by our methodical approach to evaluating AT&T's compliance, which includes thorough reviews of contract required deliverables, monthly and quarterly reporting, risk briefings, and milestone audits. These efforts are not merely procedural; they are instrumental in maintaining the high quality of our network services, as demonstrated by remediation activities and targeted corrective actions issued to address and remediate any identified deficiencies."

FirstNet added that it "proactively addresses any deficiencies through targeted remediation efforts, including reduced payments, adjusted targets, contract modifications, and introducing incentives to [complement] disincentives to align with our network deployment goals."

FirstNet said that the Commerce OIG report "appears to not fully capture the comprehensive scope of our oversight efforts and achievements."



## 8. CLAIM

### AT&T doesn't need 4.9 GHz for Public Safety.

Verizon contends that “there is no evidence to support assigning another 50 megahertz to FirstNet. Nothing in the record documents that FirstNet lacks access to sufficient spectrum to meet its statutory role. FirstNet has never explained the breakdown of [FirstNet network partner] AT&T's use of Band 14, nor the percentage of Band 14 traffic that is AT&T public safety (i.e., FirstNet) versus AT&T commercial. And, because AT&T provides its FirstNet customers with priority access to Band 14 and to all of AT&T's commercial bands, it is unclear why AT&T's FirstNet customers have any need for access to more spectrum assigned to FirstNet.”

#### FACT:

What this claim fails to recognize is that the FirstNet network is separate from the AT&T network, with its own unique and separate core. The commercial use of Band 14 is what commoditizes the spectrum to generate funds, enabling AT&T to make its contractual payments to the FirstNet Authority, who is obligated by legislation to reinvest those funds back into the NPSBN.

While the deployment of the NPSBN has brought Public Safety into the world of broadband, as countless reports have noted, higher-end and new technologies require lower mid-band 5G spectrum to operate. The FirstNet user continues to expand their use of the broadband capability, and it's this growing need that the opposition fails to acknowledge. First responders must have this lower mid-band spectrum to support high-definition video, augmented reality, and AI features now becoming readily available.

The deployment of the NPSBN has brought overall costs down, created a marketplace for the broad development of hundreds of devices, and enabled both large and small agencies across the nation to have access to the latest technologies. If Public Safety needs to once again obtain access to the lower mid-band spectrum through the wireless carriers, their costs would likely increase and may cause some FirstNet users to have limited access to these life-saving technologies.

To put spectrum holdings into perspective, Verizon currently holds more than 2,000 MHz of spectrum in the United States. With the additional 50 MHz of spectrum from 4.9, Public Safety would still have a fraction of Verizon's holdings, at 70 MHz (20 MHz currently with the NPSBN and 50 MHz added through the addition of 4.9 GHz). What Public Safety has asked to retain is a fraction of what wireless carriers have in their current portfolios.

The final point, suggesting a report indicating the use of Band 14 for secondary use, is simply a red herring to get access to competitive information. The contract FNA entered into with AT&T created a sustainable financial model that was required by Congress to build and operate a nationwide network for our nation's first responders. Unfortunately, CERCI and Verizon do not consider the entirety of this public-private partnership and only selectively and erroneously cite positions that support their commercial-centric strategy. It is this partnership that supports new tower sites, increased coverage, new device development, and new applications.

