



**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.

  
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GOVERNOR OF NEW HAMPSHIRE