



# PUBLIC NOTICE

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## WIRELESS TELECOMMUNICATIONS BUREAU ACTION

### WIRELESS TELECOMMUNICATIONS BUREAU APPROVES REGION 39 (TENNESSEE) 700 MHz REGIONAL PLAN

#### WT Docket No. 02-378

On December 14, 2005, the Region 39 (Tennessee)<sup>1</sup> 700 MHz Regional Planning Committee (Region 39) submitted a proposed plan (Plan) for the use of the 12.5 megahertz of spectrum in the 764-776 and 794-806 MHz band (700 MHz public safety band) designated for General Use.<sup>2</sup> Region 39 requested Commission review and approval of the Plan.<sup>3</sup> For the reasons discussed below, we approve the Region 39 700 MHz Regional Plan.

*Background.* In 1998, the Commission adopted a band plan for the 700 MHz public safety band, and established a structure to allow regional planning committees (RPCs) maximum flexibility to meet state and local needs, encourage innovative use of the spectrum, and accommodate new and as yet unanticipated developments in technology and equipment.<sup>4</sup> The Commission's role in relation to the RPCs is limited to: (1) defining the regional boundaries; (2) requiring fair and open procedures, *i.e.*, requiring notice, opportunity for comment, and reasonable consideration; (3) specifying the elements that

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<sup>1</sup> The Region 39 (Tennessee) 700 MHz regional planning area encompasses the entire state of Tennessee, consisting of ninety-five counties. *See* Plan Appendix C – Tennessee Counties.

<sup>2</sup> *See* Letter dated Dec. 13, 2005, from John Johnson, Chairman, Region 39 to Marlene H. Dortch, Secretary, FCC (submitting the Region 39 700 MHz Plan on behalf of the Region 39 700 MHz Regional Planning Committee). The General Use spectrum is administered by regional planning committees and will be licensed for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination. The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements through the Year 2010, *Fourth Memorandum Opinion and Order*, WT Docket No. 96-86, 17 FCC Rcd 4736, 4738 n.8 (2002).

<sup>3</sup> *See* 47 C.F.R. § 90.527(a)(5).

<sup>4</sup> *See* 47 C.F.R. § 90.527; *see also* The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements through the Year 2010, WT Docket No. 96-86, *First Report and Order and Third Notice of Proposed Rulemaking*, 14 FCC Rcd 152 (1998) (*First Report and Order*).

all regional plans must include; and (4) reviewing and accepting proposed plans (or amendments to approved plans) or rejecting them with an explanation.<sup>5</sup>

*Plan Requirements.* There are fifty-five RPCs and each committee is required to submit its plan for the assignment of licenses for General Use spectrum.<sup>6</sup> Each regional plan must contain certain elements<sup>7</sup> and must be coordinated with adjacent regions.<sup>8</sup> RPCs are expected to ensure that their committees are representative of all public safety entities in their regions by providing adequate notice of all meetings, opportunity for comment, and reasonable consideration of views expressed. Plans must include an explanation of how all eligible entities within the region were given such notice.<sup>9</sup> Plans should list the steps undertaken to encourage and accommodate all eligible entities to participate in the planning process, such as holding meetings in various parts of the region. In addition, a regional plan should describe outreach efforts made to tribal governments.

Regional plans may differ somewhat in approaches to spectrum planning and management. In particular, some plans may make specific assignments to eligible public safety entities, while others may establish an allotment pool approach based on political boundaries such as counties.<sup>10</sup> However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the Commission's regional plan requirements.<sup>11</sup> RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).<sup>12</sup>

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<sup>5</sup> See *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

<sup>6</sup> See 47 C.F.R. § 90.531. The 700 MHz public safety band plan contains 24 MHz of spectrum for public safety services at 764-776 MHz and 794-806 MHz, and is divided into several segments by designated purpose: General Use, Interoperability, Secondary Trunking, State License, Low Power and Reserve channels.

<sup>7</sup> See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

<sup>8</sup> See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

<sup>9</sup> See *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84. RPCs were directed to promptly adopt operating procedures that “ensure that all entities will be given reasonable notice of all committee meetings and deliberations.” *Id.* at 195 ¶ 86.

<sup>10</sup> See Plan Appendix G - Region 39 Channel Allotments by Class at 104-122. Both narrowband and wideband General Use channels are listed in pre-allocated in county-like (an area consisting of the area within county and up to five miles outside of the county) frequency pools within the region. Region 39 utilized the frequency packing program within the Computer Assisted Pre-coordination Resource and Database System (CAPRAD) administered by the National Law Enforcement and Corrections Technology Center-Rocky Mountain Region (NLECTC-RM) to create its channel allocation plan. The NLECTC-RM is a program of the National Institute of Justice and is sponsored by the University of Denver through the Denver Research Institute. The CAPRAD system is available at <http://caprad.nlectc.du.edu>.

<sup>11</sup> 47 C.F.R. § 90.527.

<sup>12</sup> The NCC was a federal advisory committee established by the Commission in 1999 to address and advise the Commission on operational and technical parameters for use of the 700 MHz public safety band. The NCC was also tasked with providing voluntary assistance in the development of coordinated regional plans, and developed a *Regional Planning Guidebook*. Following the sunset of the NCC's charter on July 25, 2003, the National Public Safety Telecommunications Council (NPSTC) agreed to continue to provide assistance to regional planners. The *Guidebook* is available at the NPSTC website <http://www.npstc.org/documents.html>.

*Review of the Region 39 Plan.* Region 39 submitted its proposed plan on December 14, 2005.<sup>13</sup> Region 39 convened its first of five 700 MHz regional planning meetings beginning on May 8, 2001, wherein it appointed its officers, formed subcommittees<sup>14</sup> and adopted Bylaws.<sup>15</sup> The Plan includes copies of published meeting announcements, notices and a detailed membership list.<sup>16</sup> The membership is sufficiently diverse and we note all meetings were all held in Nashville because of its central location to encourage participation and facilitate attendance.<sup>17</sup> The Plan details the operations of the regional plan committee, procedures for requesting spectrum allotments, frequency coordination,<sup>18</sup> channel loading,<sup>19</sup> interference protection measures and plan modification. The Plan discusses interoperability channels,<sup>20</sup> system implementation and spectrum utilization.<sup>21</sup> The Plan was coordinated with the adjacent regions.<sup>22</sup> The Plan also includes *Inter-Regional Coordination Procedures and Procedures for Resolution of Disputes that May Arise Under FCC Approved Plans* (signed by the chairpersons of 700 MHz Regional Planning Regions 1, 4, 10, 13, 17, 23, 24, 31, 37, 42 and 44).<sup>23</sup> Region 39 states that except in the Tri-Cities area, all other areas are capable of immediately implementing systems using any 700 MHz public safety channels.<sup>24</sup>

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<sup>13</sup> See *supra* note 2.

<sup>14</sup> Plan Appendix D at 50.

<sup>15</sup> Plan Appendix A - Bylaws of Region 39 (revised June 2, 2005).

<sup>16</sup> Plan Appendix D – Meeting Minutes, agendas and other events where 700 MHz information was disseminated at 50-66 and Meeting Notices at 67-84. Region 39 meetings were hosted by the Tennessee Wildlife Resources Agency or the Tennessee Bureau of Investigation at Nashville locations. See also *Chronology of Plan Development* at 85.

<sup>17</sup> Plan Appendix B – Membership and Meeting Attendees. The membership is comprised of representatives from twenty-six (26) of the ninety-five (95) counties, twenty-four (24) cities and city agencies, two (2) state universities and five (5) federal agencies, *et al.*

<sup>18</sup> Plan Section 3.1 Procedure for Requesting Spectrum Allotments at 12-20. Region 39 will utilize the NCC Pre-Assignment Rules and Recommendations to determine if an application submitted to the Regional Planning Committee meets Regional Planning standards. See also Plan Section 9.3 Amendment process at 28.

<sup>19</sup> Plan Section 7.5 Channel Loading at 25.

<sup>20</sup> Plan Section 8 – Interoperability Channels at 26-27, and Plan Appendix E – Table of 700 MHz Interoperability Channels and Technical Parameters at 86-87.

<sup>21</sup> Plan Section 7- System Design/Efficiency Requirements at 21-22; Plan Section 8 – Interoperability Channels at 26-27, and Plan Appendix E – Table of 700 MHz Interoperability Channels and Technical Parameters at 86-87.

<sup>22</sup> Letters of Concurrence from its eight adjacent regions, as well as three non-bordering regions within seventy miles of the State of Tennessee boundary: Region 1 (Alabama), Region 4 (Arkansas), Region 10 (Georgia), Region 13 (Southern Illinois), Region 17 (Kentucky), Region 23 (Mississippi), Region 24 (Missouri), Region 31 (North Carolina), Region 37 (South Carolina), Region 42 (Virginia) and Region 44 (West Virginia).

<sup>23</sup> Plan Attachment H Inter-Regional Dispute Resolution Agreement at 123-125, 150-160.

<sup>24</sup> Plan Section 7.4 System Implementation at 22-24. The Tri-Cities area consists of the cities of Bristol (both Tennessee and Virginia), Johnson City and Kingsport.

On January 27, 2006, the Region 39 Plan was placed on *Public Notice* for comment.<sup>25</sup> We received no comments on the Plan. We have reviewed the Plan submitted by Region 39, and conclude it complies with FCC rules and policies. Accordingly, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.102(b) of the Commission's Rules, 47 C.F.R. § 1.102(b), the Region 39 (Tennessee) 700 MHz Public Safety Plan is APPROVED.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

Action by the Chief, Public Safety Division and Critical Infrastructure Division, Wireless Telecommunications Bureau.

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<sup>25</sup> See Comments Invited on Region 39 (New England) 700 MHz Regional Planning Committee Proposed Public Safety Plan, *Public Notice*, WT Docket No. 02-378, 21 FCC Rcd 533 (WTB PSCID 2006). Comments were due February 27, 2006 and reply comments were due March 14, 2006.