



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ACTION

COMMENTS INVITED ON REGION 40 (NORTHERN TEXAS) 700 MHz REGIONAL PLANNING COMMITTEE PROPOSED PUBLIC SAFETY PLAN

WT Docket No. 02-378

Comment Date: December 22, 2006

Reply Date: January 8, 2007

On May 4, 2006, the Region 40 (Northern Texas) 700 MHz Regional Planning Committee (Region 40)¹ 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.² Region 40 requests Commission review and approval of the Plan.

By way of background, the Commission adopted a band plan for the 700 MHz public safety band in 1998, and established a process to allow regional planning committees (RPCs) optimal 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.³ There are fifty-five RPCs, and each

¹ The Region 40 (Northern Texas) 700 MHz regional planning area consists of forty-two counties among four council of governments: (1) Ark-Tex Council of Governments (counties of Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River and Titus); (2) East Texas Council of Governments (counties of Anderson, Camp, Cherokee, Gregg, Harrison, Henderson, Marion, Panola, Rain, Rusk, Smith, Upshur, Van Zandt and Wood); (3) North Central Texas Council of Governments (counties of Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant and Wise), and (4) Texoma Regional Planning Commission (counties of Cooke, Fannin and Grayson).

² See Region 40 700 MHz Plan filed May 4, 2006, by J. Daniel Scrivner, Chairman, Region 40 (Northern Texas), WT Docket 02-378 (submitting the Region 40 700 MHz Plan on behalf of the Region 40 700 MHz Regional Planning Committee). See also Region 40 letter filed June 8, 2006, by J. Daniel Scrivner, WT Docket 02-378 (submitting letter of concurrence and dispute resolution agreement from Region 34 (Oklahoma), and Region 40 Membership List filed Aug. 7, 2006, by J. Daniel Scrivner, WT Docket 02-378 (submitting list of active members). 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, WT Docket No. 96-86, *Fourth Memorandum Opinion and Order*, 17 FCC Rcd 4736, 4738 n.8 (2002).

³ 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,

committee is required to submit its plan for the General Use spectrum.⁴ The Commission's role in relation to the RPCs involves, as a general matter, (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 all regional plans must include; and (4) reviewing and accepting proposed plans (or amendments to approved plans) or rejecting them with an explanation.⁵

The Commission expects RPCs to ensure that their committees are representative of all public safety entities in their regions by providing reasonable notice of all meetings and deliberations. Further, regional plans must include an explanation of how all eligible entities within the region were given such notice.⁶ For the initial meeting called by the convenor to form the RPC and hold elections, the Commission requires at least sixty days for appropriate public notifications.⁷ Adequate notice of meetings and identification of the matters to be discussed are key to the success of the regional planning process.

Regional plans and plan amendments must be submitted to the Commission for review and approval. In developing their regional plans, RPCs must ensure that their proposed plans comply with the rules and policies governing the 700 MHz public safety regional planning process.⁸ We also encourage the RPCs to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).⁹ RPCs may approach the assignment of the spectrum differently, *e.g.*, by making specific assignments to eligible public safety entities, or by establishing an allotment pool approach based on political boundaries such as counties.¹⁰

The Region 40 Plan pre-allocates the narrowband General Use channels by county as listed in the Region 40 Plan Appendix I – Region 40 Channel Allotment Table.¹¹ We have reviewed the Plan

WT Docket No. 96-86, *First Report and Order and Third Notice of Proposed Rulemaking*, 14 FCC Rcd 152 (1998) (*First Report and Order*); *Second Memorandum Opinion and Order*, 15 FCC Rcd 16844 (2000).

⁴ A list of 700 MHz regional planning committees and region activities is available at <http://wireless.fcc.gov/publicsafety/700MHz>. Each regional plan must contain certain elements, and must be coordinated with adjacent regions. 193-94 ¶ 84, 195 ¶ 87.

⁵ *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

⁶ *Id.* at 193-94 ¶ 84. RPCs must promptly adopt operating procedures that “ensure that all entities will be given reasonable notice of all committee meetings and deliberations.” *Id.* at 195 ¶ 86.

⁷ *Id.* at 195 ¶ 86 & n.220.

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

⁹ 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 also was 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. A copy of the 700 MHz Regional Planning Guidebook is available at the NPSTC website <http://www.npstc.org/documents.html>.

¹⁰ The Region 40 channel allocation plan was developed using 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). 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>.

¹¹ *See Plan, Appendix I – Region 40 Channel Allotment Table*, which contains CAPRAD designated initial allotments that are pre-allotted in county-like area frequency pools (plus ten miles outside of county boundaries).

submitted by Region 40 and find it to be sufficient and compliant with the applicable FCC rules and policies. Notably, Region 40 obtained Letters of Concurrence from its seven adjacent regions, Region 4 (Arkansas), Region 18 (Louisiana), Region 34 (Oklahoma), Region 49 (Central Texas), Region 50 (West Texas), Region 51 (East Texas-Houston) and Region 52 (Texas Panhandle).¹² Thus, we tentatively accept the Plan.

Prior to taking further action on the Plan, by this Public Notice, we solicit comments on the Plan. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on the Region 40 700 MHz Regional Plan on or before **December 22, 2006**, and reply comments on or before **January 8, 2007**. Comments may be filed electronically or by filing paper copies.¹³

Electronic Filers. Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments. For ECFS filers, when completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and should reference **WT Docket No. 02-378**. Parties also may submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.

Paper Filers. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C., 20554. These documents also will be available via ECFS in Acrobat PDF File Format. Copies may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its web site,

Given this approach, after Commission approval is obtained, any modifications (*i.e.*, movement of frequencies in excess of ten miles beyond county boundaries) to the existing Region 40 chart of frequency assignments will require an amendment to the Plan.

¹² See Plan, Appendix H.

¹³ See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

<http://www.bcpiweb.com>, by email at fcc@bcpiweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563.

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Information on the 700 MHz Regional Planning process and RPC activities is available at <http://www.wireless.fcc.gov/publicsafety/700MHz>. For further information, contact Jeannie Benfaida, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-0680, TTY (202) 418-7233, or via e-mail to Jeannie.Benfaida@fcc.gov.

Action by the Chief, Policy Division, Public Safety and Homeland Security Bureau.

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