



# PUBLIC NOTICE

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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ACTION

### APPROVAL OF REGION 3 (ARIZONA) 700 MHz REGIONAL PLAN

#### WT Docket No. 02-378

On March 29, 2006, the Region 3 (Arizona)<sup>1</sup> 700 MHz Regional Planning Committee (Region 3) 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 3 requested Commission review and approval of the Plan.<sup>3</sup> For the reasons discussed below, we approve the Region 3 700 MHz Regional Plan.<sup>4</sup>

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<sup>1</sup> The Region 3 (Arizona) 700 MHz regional planning area encompasses the entire state of Arizona, consisting of fifteen counties and twenty-two Native American Tribal Communities. *See infra* note 19.

<sup>2</sup> *See* Region 3 Plan 700 MHz Frequency Plan filed March 29, 2006, by Mark S. Schroeder, Chairman, Region 3 (Arizona), WT Docket 02-378 (submitting the Region 3 700 MHz Plan on behalf of the Region 3 700 MHz Regional Planning Committee). *See also* Region 3 Certification Letter and Channel Allocations for Region 3 Plan, WT Docket 02-378, filed Apr. 12, 2006 (submitting certification that all planning committee meetings were opened to the public and narrowband channel allocations), and Region 3 Meeting Attendance Lists, WT Docket 02-378, filed May 15, 2006 (submitting supplement for meetings held to Appendix C – Attendee List). 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).

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

<sup>4</sup> Approval of this Regional Plan is subject to any action the Commission may take in pending 700 MHz rulemaking proceedings. *See* Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules and Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket Nos. 06-169, 96-86, *Notice of Proposed Rulemaking*, 21 FCC Rcd 10413 (2006); Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, *Eighth Notice of Proposed Rulemaking*, 21 FCC Rcd 3668 (2006).

*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>5</sup> 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.<sup>6</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>7</sup> Each regional plan must contain certain elements<sup>8</sup> and must be coordinated with adjacent regions.<sup>9</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>10</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 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>11</sup> However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the

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<sup>5</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*).

<sup>6</sup> See *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

<sup>7</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>8</sup> See 47 C.F.R. § 90.527; *see also* *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

<sup>9</sup> See 47 C.F.R. § 90.527; *see also* *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

<sup>10</sup> See *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84. The Commission directed RPCs 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>11</sup> See Plan, Appendix G – AZ 700 RPC CAPRAD Sort. The Region 3 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>. We note that the Region 3 General Use wideband channels are not included in the instant Plan. Therefore, a Plan Amendment will have to be submitted and approved by the Commission before the wideband channels may be licensed.

Commission's regional plan requirements.<sup>12</sup> RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).<sup>13</sup>

*Review of the Region 3 Plan.* Region 3 submitted its proposed plan on March 29, 2006.<sup>14</sup> Region 3 convened its first of sixteen 700 MHz regional planning meetings beginning on April 11, 2001,<sup>15</sup> wherein it appointed its officers, formed subcommittees and adopted bylaws.<sup>16</sup> The Plan includes meeting minutes,<sup>17</sup> announcements and notices,<sup>18</sup> and a detailed membership list.<sup>19</sup> The membership is sufficiently diverse<sup>20</sup> and we note that meetings were held throughout the State, in an apparent effort to encourage participation and facilitate attendance.<sup>21</sup> The Plan details the operations of the regional plan committee, procedures for requesting spectrum allotments,<sup>22</sup> frequency coordination, and plan modification.<sup>23</sup> The Plan discusses interoperability channels, system implementation and

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<sup>12</sup> 47 C.F.R. § 90.527.

<sup>13</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 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. The *Guidebook* is available at the NPSTC website <http://www.npstc.org/documents.html>.

<sup>14</sup> See *supra* note 2.

<sup>15</sup> Plan Section 4.0 Notification Process at 8-9, and Plan Section 5.0 Regional Plan Administration at 10-12 (Region 3 formed three subcommittees Technical, Interoperability and Administrative).

<sup>16</sup> Plan Appendix A– Bylaws.

<sup>17</sup> Plan Appendix B – Meeting Minutes. Region 3 RPC established a website for 700 MHz regional planning activities and resource documents at <http://groups.yahoo.com/group/az700rpc/>.

<sup>18</sup> Plan Section 4.0 Notification Process at 8-9 (describing efforts to increase awareness and visibility for the planning process).

<sup>19</sup> Plan Appendix C – Membership and Meeting Attendance.

<sup>20</sup> See also Plan Section 3.0 Region Description (American Indian Reservations) at 7. There are twenty-two (22) Arizona Native American Tribes (communities) that were invited to participate in the RPC process: Ak-Chin Community; Yavapai-Apache Indian Community; Navajo Nation; Cocopah Indian Community; Colorado River Indian Community; Fort Apache Indian Community; Fort McDowell Yavapai Nation Community; Fort Mojave Community; Fort Yuma-Quechan Tribe; Gila River Indian Community; Hopi Indian, Hualapai Community; Kaibab Paiute Indian Community; Pascua Yaqui Indian Community; Salt River Pima-Maricopa Indian Community; San Carlos Apache Community; Tohono O'odham Community; Tonto Apache Community; Yavapai-Prescott Indian Community; San Juan Southern Piate Tribe and White Mountain Apache Tribe. In addition, the Chair and Vice Chair delivered a formal presentation of the 700 MHz Plan at a Tribal meeting in Flagstaff on May 16, 2002.

<sup>21</sup> Plan Section 4.0 Notification Process at 9 (meetings were held in Bisbee, Casa Grande, Flagstaff, Gila Indian Community, Lake Havasu City, Mesa, Phoenix, Scottsdale, Sedona, Surprise and Tucson).

<sup>22</sup> Plan Section 5.5 Procedure for Requesting Spectrum Allotments at 12-13.

<sup>23</sup> Plan Appendix A - By-Laws, Article V Amendments at 39 (describing the Plan Amendment process). We note that Region 3 states that Region 3 states that amendments that affect areas more than 75 miles from an adjacent

spectrum utilization.<sup>24</sup> The Plan was adopted by its members on January 26, 2005 and was coordinated with the adjacent regions.<sup>25</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 5, 7, 27, 29 and 41).<sup>26</sup>

On June 27, 2006, the Region 3 Plan was placed on *Public Notice* for comment.<sup>27</sup> We received no comments on the Plan. We have reviewed the Plan submitted by Region 3, and conclude, based on the information before us, that it complies with other applicable 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 3 (Arizona) 700 MHz Public Safety Plan is APPROVED.

This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's Rules, 47 C.F.R. §§ 0.191, 0.392.

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

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region are not considered as requiring adjacent region concurrence. We disagree and remind all regional planning committees that Section 90.527(b) requires that all plan modification requests certify that successful coordination of the modification with all adjacent regions has occurred and that all such regions concur with the modification. The rule does not contain a mileage limitation exception.

<sup>24</sup> See Plan Section 8.0 Allocation of Narrowband General Use Spectrum and Wideband Data Channels (evaluating implementation of 700 MHz radio systems within the region, and noting that Tribal Nations along with other regional communications provide communications provide support for various agencies in geographically separate areas.)

<sup>25</sup> See Plan Appendix H - Letters of Concurrence from its five adjacent regions, Region 5 (Southern California), Region 7 (Colorado), Region 27 (Nevada), Region 29 (New Mexico) and Region 41 (Utah).

<sup>26</sup> *Id.*

<sup>27</sup> See Comments Invited on Region 3 (Arizona) 700 MHz Regional Planning Committee Proposed Public Safety Plan, WT Docket No. 02-378, *Public Notice*, 21 FCC Rcd 6923 (WTB PSCID 2006). Comments were due July 27, 2006, and reply comments were due August 11, 2006.