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DA 06-2365

November 22, 2006

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ACTION

APPROVAL OF REGION 41 (UTAH) 700 MHz REGIONAL PLAN

WT Docket No. 02-378

On February 7, 2006, the Region 41 (Utah)¹ 700 MHz Regional Planning Committee (Region 41) 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 41 requested Commission review and approval of the Plan.³ For the reasons discussed below, we approve the Region 41 700 MHz Regional Plan.⁴

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

¹ The Region 41 (Utah) 700 MHz regional planning area encompasses the entire state of Utah, consisting of twenty-nine counties.

² See Region 41 Plan 700 MHz Frequency Plan filed Feb. 7, 2006, by Steve Proctor, Chairman, Region 41 (Utah), WT Docket 02-378 (submitting the Region 41 700 MHz Plan on behalf of the Region 41 700 MHz Regional Planning Committee). See also Region 41 Meeting Attendance for Region 41 Plan, WT Docket 02-378, filed Mar. 8, 2006 (submitting revised membership information). 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(a)(5).

⁴ 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).

unanticipated developments in technology and equipment.⁵ 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.⁶

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.⁷ Each regional plan must contain certain elements⁸ and must be coordinated with adjacent regions.⁹ 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.¹⁰ 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.¹¹ However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the

⁵ 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*).

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

⁷ 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.

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

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

¹⁰ 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.

¹¹ See Plan, Appendix C - Region 41 Chart of Frequency Assignments. Region 41 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). 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 41 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.¹² RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹³

Review of the Region 41 Plan. Region 41 submitted its proposed plan on February 7, 2006.¹⁴ Region 41 convened its first of ten 700 MHz regional planning meetings beginning on November 31, 2003, wherein it appointed its officers, formed subcommittees¹⁵ and adopted bylaws.¹⁶ The Plan includes meeting minutes,¹⁷ announcements and notices,¹⁸ and a detailed membership list.¹⁹ The membership is sufficiently diverse and we note that meetings were held throughout the State, in an apparent effort to encourage participation and facilitate attendance.²⁰ The Plan details the operations of the regional plan committee, procedures for requesting spectrum allotments, frequency coordination, and plan modification.²¹ The Plan discusses interoperability channels, system implementation, and spectrum utilization.²² The Plan was adopted by its members on April 1, 2005 and was coordinated with the

¹² 47 C.F.R. § 90.527.

¹³ 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>.

¹⁴ See *supra* note 2.

¹⁵ Plan Section 4, Notification Process at 9; Plan Section 4.2, Election of Officers at 10, and Plan Section 5.1, Subcommittees at 11. Region 41 formed three subcommittees, Implementation and Technology, Interoperability, and 4.9 GHz.

¹⁶ Plan Appendix H – Bylaws (revised April 2004).

¹⁷ Plan Appendix D – Meeting Minutes and Agendas (Region 41 700 MHz and 4.9 GHz regional planning activities and resource documents are available at www.uwin.utah.gov/700mhzrpc/700mhzrpc.html).

¹⁸ Plan Section 4.0, Notification Process at 9 (describing efforts to increase awareness and visibility for the planning process).

¹⁹ Plan Supplement – Meeting Attendance (submitted Mar. 8, 2006).

²⁰ Meetings were held in Salt Lake City, Logan, Richfield, Price, Moab, St. George and Ogden. See also Plan, Utah Native American Tribes at 6. There are five major Native American tribes in Utah – Ute, Dine (Navajo), Piute, Goshute, and Shoshone. Each tribe was notified in writing and provided a draft copy of the Plan for comment. See Appendix E Tribal Information for copies of letters to tribal leaders.

²¹ Plan Section 5.2 Procedure for Requesting Frequency Allotments at 11-12. With respect to Plan Amendments, we note that Region 41 states that amendments affecting areas more than 75 miles from an adjacent Region are not considered as requiring adjacent region concurrence. See Plan Appendix H By-Laws, Article V Amendments at 95 (describing the Plan Amendment process). We disagree, and remind all regional planning committees that Section 90.527(b) of the Commission's Rules, 47 C.F.R. § 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.

²² Plan Section 6.0, Utilization of Interoperability Channels; Plan Section 6.1, Calling Channels (table of interoperability channels as identified by the NCC Process) at 13-14; Plan Section 8.3 System Implementation at 21

adjacent regions.²³ 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 3, 7, 12, 27, 29 and 46).²⁴

On June 27, 2006, the Region 41 Plan was placed on *Public Notice* for comment.²⁵ We received no comments on the Plan. We have reviewed the Plan submitted by Region 41 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 41 (Utah) 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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(noting that existing television station and translator operations present interference potential in the following seven counties: Cache, Sevier, Millard Summit, Salt Lake, Tooele and Washington).

²³ See Plan Appendix K - Letters of Concurrence. Region 41 obtained Letters of Concurrence from its six adjacent regions, Region 3 (Arizona), Region 7 (Colorado), Region 12 (Idaho), Region 27 (Nevada), Region 29 (New Mexico), and Region 46 (Wyoming).

²⁴ *Id.*

²⁵ See Comments Invited on Region 41 (Utah) 700 MHz Regional Planning Committee Proposed Public Safety Plan, WT Docket No. 02-378, *Public Notice*, 21 FCC Rcd 6917 (WTB PSCID 2006). Comments were due July 27, 2006, and reply comments were due August 11, 2006.