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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ACTION

APPROVAL OF REGION 40 (NORTHERN TEXAS) 700 MHz REGIONAL PLAN

WT Docket No. 02-378

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 requested Commission review and approval of the Plan. For the reasons discussed below, we approve the Region 40 700 MHz Regional Plan.³

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 No. 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, WT Docket No. 02-378 (submitting Region 34 (Oklahoma) letter of concurrence and dispute resolution agreement; Region 40 Membership List filed Aug. 7, 2006, WT Docket 02-378 (submitting list of current 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. 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 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); Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety

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.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

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.⁶ Each regional plan must contain certain elements⁷ and must be coordinated with adjacent regions.⁸ 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.⁹ 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.¹⁰ However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the

Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, *Ninth Notice of Proposed Rulemaking*, 21 FCC Rcd 14837 (2006).

⁴ See 47 C.F.R. § 90.527; *see also* 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*).

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

⁶ 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.

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

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

⁹ 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.

¹⁰ See Plan, Appendix I – Region 40 Channel Allotment Table. The Region 40 narrowband 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>.

Commission's regional plan requirements.¹¹ RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹²

Review of the Region 40 Plan. Region 40 submitted its proposed plan on May 4, 2006.¹³ Region 40 convened its first of six 700 MHz regional planning meetings beginning on June 26, 2002,¹⁴ wherein it appointed its officers, formed subcommittees and established bylaws.¹⁵ The Plan includes meeting minutes,¹⁶ announcements and notices,¹⁷ and a detailed membership list. The membership is sufficiently diverse, and we note that all meetings were held in the Dallas Fort Worth Metroplex area to encourage participation and facilitate attendance.¹⁸ The Plan details the operations of the regional plan committee,¹⁹ procedures for requesting spectrum allotments and frequency coordination.²⁰ The Plan discusses interoperability channels, system implementation²¹ and spectrum utilization.²² The Plan was

¹¹ 47 C.F.R. § 90.527.

¹² 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>.

¹³ *See supra* note 2.

¹⁴ Plan at 16, Notification Process, and Plan, Appendix B Notice of Meetings.

¹⁵ Plan at 4-7, Region 40 Bylaws (adopted October 2, 2002). Region 40 formed three subcommittees to address specific issues: Technology and Planning, Interoperability, and Implementation/Outreach.

¹⁶ Plan Appendix C – Agendas and Meeting Summaries.

¹⁷ Plan Appendix B – Notice of Meetings.

¹⁸ Plan Appendices D and E – Membership and Meeting Attendance. We note that all meetings were held at one of two locations, the North Texas Council of Governments facility in Arlington, or the Dallas-Fort Worth (DFW) Airport Department of Public Safety Building.

¹⁹ Plan at 18, Operations of the Regional Planning Committee. The Region 40 Interoperability Subcommittee will serve as liaison with the Texas State Interoperability Executive Committee (SIEC) and assist in the statewide interoperability planning process.

²⁰ Plan at 19-20, Procedures for Requesting Spectrum Allotments and Frequency Coordination. Following Commission approval, Region 40 intends to announce an open filing window for spectrum allocations. Agencies requesting spectrum will submit applications and supporting documentation to the RPC Chair. *See also* Plan Appendix I, Region 40 Allotment Table.

²¹ Plan at 25, System Implementation. Region 40 notes that not all areas are capable of immediately implementing systems using the 700 MHz narrowband general use spectrum. It further notes that public safety channel availability in the Dallas Fort Worth Metroplex area will reflect incumbent analog TV channel 68, PAX TV station call sign KPXD, located in Cedar Hill, Texas.

²² *See* Plan at 24-25, Allocation of Narrowband General Use Spectrum. *See also* Plan Appendix H, Sharing Agreement Template.

adopted by its members on July 17, 2003 and was coordinated with the 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 4, 18, 34, 49, 50, 51 and 52).²⁴

On November 22, 2006, the Region 40 Plan was placed on *Public Notice* for comment.²⁵ We received no comments on the Plan. We have reviewed the Plan submitted by Region 40 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 40 (Northern Texas) 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 Deputy Chief, Public Safety and Homeland Security Bureau.

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²³ See Plan Appendix J - 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).

²⁴ *Id.*

²⁵ See Comments Invited on Region 40 (Northern Texas) 700 MHz Regional Planning Committee Proposed Public Safety Plan, WT Docket No. 02-378, *Public Notice*, 21 FCC Rcd 13554 (PSHSB 2006). Comments were due December 22, 2006, and reply comments were due January 8, 2007.