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Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU INVITES COMMENTS ON REGION 45 (WISCONSIN) REVISED 700 MHZ REGIONAL PLAN

PS Docket No. 06-229 and WT Docket No. 02-378

Comments Due: June 23, 2008

Reply Comments Due: July 3, 2008

Introduction. On January 31, 2008, the Region 45 (Wisconsin)¹ 700 MHz Regional Planning Committee (Region 45) submitted a revised 700 MHz Public Safety Plan (Revised Plan) for General Use² spectrum in the 769-775/799-805 MHz band.³

Background. In 1998, the Federal Communications Commission (Commission) established a structure to allow 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.⁴ There are fifty-five RPCs, and each committee is required to submit its plan for the General Use

¹ The Region 45 (Wisconsin) regional planning area includes sixty-one (61) counties, and excludes the counties of Dane, Dodge, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha which are part of the Region 54 (Illinois – Great Lakes) area. See Plan Table 1 – Region 45 County Demographics at 6.

² General Use spectrum is administered by RPCs and licensed for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination.

³ See Letter from Russell Schreiner, Chairperson, Region 45, 700 MHz Regional Planning Committee, to Federal Communications Commission, Public Safety and Homeland Security Bureau, WT Docket No. 96-86, PS Docket No. 06-229 (filed Jan. 31, 2008) (Plan). Region 45 initially filed a 700 MHz plan on Feb. 27, 2007. See also, Letter from Paul Wittkamp, Secretary, Region 45, 700 MHz Regional Planning Committee, to Federal Communications Commission, Office of the Secretary, Public Safety and Homeland Security Bureau, WT Docket No. 96-86, PS Docket No. 06-229 and WT Docket No. 02-378 ((filed Mar. 13, 2008) (submitting letter of concurrence from Region 22 (Minnesota)); Comment from Paul Wittkamp, Secretary, Region 45, 700 MHz Regional Planning Committee, to PS Docket No. 06-229, WT Docket No. 02-378 (filed May 1, 2008) (submitting revised Appendix K – County Channel Allotment, replacing the Appendix K originally filed as part of the Region 45 700 MHz on Jan. 31, 2008).

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*); *Second Memorandum Opinion and Order*, 15 FCC Rcd 16844 (2000).

spectrum.⁵ 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 all regional plans must include; and (4) reviewing and accepting proposed plans (or amendments to approved plans) or rejecting them with an explanation.⁶

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.⁷ For the initial meeting, called by the convenor to form the RPC and hold elections, the Commission requires at least sixty days notice.⁸ 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.⁹ We also encourage the RPCs to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹⁰ 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.

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.¹¹ The Commission adopted a plan for the 700 MHz band to establish a nationwide, interoperable public safety broadband communications network for the benefit of state and local public safety users. The Commission designated the lower half of the 700 MHz public safety band for broadband communications (763-768/793-798 MHz) and consolidated existing narrowband allocations in the upper half of the public safety 700 MHz band (769-775/799-805 MHz).

In revising the band plan for the public safety 700 MHz band, the Commission noted that consolidating the narrowband channels in the upper part of the band will impact approved and pending 700 MHz regional planning committee (RPC) plans (*i.e.*, require that the plans be amended). The Commission required RPCs with approved plans or plans on file to submit amended plans consistent with

⁵ See 47 C.F.R. § 90.527. Each RPC must incorporate certain common elements into its 700 MHz plan. A list of 700 MHz RPCs and region activities is available at <http://www.fcc.gov/pshs/public-safety-spectrum/700-MHz/>.

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

⁷ *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.

⁸ *Id.* at 195 ¶ 86 & n.220.

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

¹⁰ 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. In addition, the NCC 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>.

¹¹ 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 Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 (2007) (*Second Report and Order*).

the decisions adopted in the *Second Report and Order* by November 23, 2007.¹² On November 9, 2007, the Public Safety and Homeland Security Bureau (Bureau) extended the deadline for RPCs to submit amended plans, consistent with the decisions adopted in the *Second Report and Order*, to January 31, 2008, and provided additional guidance for the development of plan amendments.¹³

Region 45 700 MHz Revised Plan. The Region 45 Revised Plan pre-allocates the consolidated narrowband General Use spectrum by county, and is modified to:

- Remove all references to the former wideband frequency ranges between 767 MHz to 773 MHz, and 797 MHz to 803 MHz.
 - Add Plan Section 8.2 to address “Spectrum Requests for Wideband Operations.”¹⁴
 - Revise Plan Table 3 Spectrum Allotment Summary, by removing former data channels.¹⁵
- Add new references to the new consolidated narrowband band plan, 769 MHz to 775 MHz, and 799 MHz to 805 MHz.
 - Revise County Channel Allotment Table by removing old frequencies associated with FCC channel numbers.¹⁶
- Add certifications from all adjacent regions to indicate mutual agreement with the Region 45 Dispute Resolution Process.¹⁷

The Revised Plan was coordinated with all five regions adjacent to Region 45: Region 13 (Illinois), Region 15 (Iowa), Region 21 (Michigan), Region 22 (Minnesota), and Region 54 (Illinois-Great Lakes).¹⁸ We have reviewed the Region 45 Revised Plan and find it to be compliant with the applicable Commission rules and policies, and tentatively accept the Revised Plan.

¹² As of the adoption date of the *Second Report and Order*, the following regional plans had been approved: Region 5 (Southern California), Region 19, (New England), Region 24 (Missouri), Region 22 (Minnesota), Region 12 (Idaho), Region 39 (Tennessee), Region 43 (Washington), Region 41 (Utah), Region 3 (Arizona), and Region 40 (Northern Texas). The following regional plans were pending as of the adoption date of the *Second Report and Order*: Region 1 (Alabama), Region 27 (Nevada), Region 45 (Wisconsin), Region 7 (Colorado), Region 9 (Florida), Region 16 (Kansas), and Region 20 (Northern Virginia, Maryland and the District of Columbia).

¹³ See Public Safety and Homeland Security Bureau Announces an Extension of the Deadline for 700 MHz Regional Planning Committees to Amend 700 MHz Narrowband Plans from November 23, 2007 to January 31, 2008, PS Docket No. 06-229, WT Docket No. 96-86, *Public Notice*, 22 FCC Rcd 19461 (PSHSB 2007).

¹⁴ See Plan Section 8.2 Spectrum Requests for Wideband Operations at 25.

¹⁵ See Plan Table 3 - Spectrum Allotment Summary at 16.

¹⁶ See Plan Section 8.1 – Narrowband Channels; Appendix K – Region 45 County Channel Allotment. We note that Region 45 submitted a revised Appendix K on May 1, 2008, which reflects the base and mobile frequencies and associated FCC channel numbers.

¹⁷ See Plan Section 15 at 31- 36, Certification By the Regional Planning Chairperson That Inter-Regional Coordination Procedures and Resolution of Dispute Procedures Have Been Reviewed and Mutually Agreed To.

¹⁸ See 47 C.F.R. 90.527(a)(5) (each regional planning committee must provide an explanation of how the plan has been coordinated with adjacent regions). See also, Plan Appendix N - Adjacent Region *Second R&O* Concurrence at 122-126.

Interested parties may file comments on the plan amendment on or before **June 23, 2008**. Parties interested in submitting reply comments must do so on or before **July 3, 2008**. All comments and reply comments should reference the subject plan amendment and **PS Docket No. 06-229** and **WT Docket No. 02-378**. Comments and reply comments may be filed by using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments and reply 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: In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an email 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 the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to: Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 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 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, and Priority mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via email to fcc@bcpiweb.com.

The plan amendment is available through ECFS at ecfs@fcc.gov. Region 45 Plan documents in **PS Docket No. 06-229** and **WT Docket No. 02-378** are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, email fcc@bcpiweb.com.

For further information regarding this matter, contact Jeannie Benfaida, Policy Division, Public Safety and Homeland Security Bureau at (202) 418-2313 or Jeannie.Benfaida@fcc.gov.

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