



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REGION 16 (KANSAS) REVISED 700 MHZ REGIONAL PLAN

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

Comments Due: December 22, 2008
Reply Comments Due: January 2, 2009

Introduction. On January 30, 2008, the Region 16 (Kansas)¹ 700 MHz Regional Planning Committee (RPC) (Region 16) submitted a proposed revised 700 MHz Public Safety Plan (Revised Plan) for General Use² spectrum in the 769-775/799-805 MHz band.³ Region 16 concurrently requested a temporary, limited waiver of Sections 90.527(a)(3) and (6), 47 C.F.R. §§ 90.527(a)(3), (6) (requiring that regional plans incorporate a general description of how the spectrum would be allotted among the various eligible users, and a detailed description of how the plan put the spectrum to the best possible use).⁴ Region 16 states that it utilizes the Computer Aided Pre-Allocation Resource and Database (CAPRAD) program as a guideline for assigning spectrum (The CAPRAD system is a spectrum management tool provided by the National Institute of Justice, National Law Enforcement and Corrections Technology Center (NLECTC). The CAPRAD system is available at <http://caprad.nlectc.du.edu>). CAPRAD was not updated to reflect the new consolidated band frequencies prior to the Bureau's plan amendment filing deadline.

Region 16 also requested waiver of Section 90.527(a)(5), because it was unable to coordinate the Revised Plan with Region 34 (Oklahoma).⁵ Section 90.527(a)(5) provides that regional plans must include an explanation of how the plan had been coordinated with adjacent regions.⁶ On June 16, 2008, Region 16 submitted a revised Appendix L – Region 16 (Kansas) 700 MHz General Use Channel

¹ The Region 16 (Kansas) 700 MHz regional planning area includes the entire state of Kansas.

² The General Use spectrum is administered by regional planning committees (RPCs) and is 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 Randy D. Moon, Chairman, Region 16 700 MHz Regional Planning Committee Plan, to Office of the Secretary, Federal Communications Commission, PS Docket No. 06-229 (filed Jan. 30, 2008) (Revised Plan and Waiver Request). The Region 16 plan was initially submitted to the Commission on June 26, 2007.

⁴ See Waiver Request at 1; see also 47 C.F.R. §§ 90.527(a)(3), (6).

⁵ Waiver Request at 1; see also 47 C.F.R. §§ 90.527(a)(5).

⁶ 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).

Assignment, and withdrew its request for temporary, limited waiver of Sections 90.527(a)(3) and (6).⁷ On October 7, 2008, Region 16 submitted a Letter of Concurrence from Region 34 and provided a signed certification that all meetings were open to the public.⁸ On October 16, 2008, Region 16 resubmitted a corrected copy of the Region 34 letter of concurrence.⁹ As a result, the waiver requests are now moot.

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.¹⁰ Each committee of the fifty-five RPCs is required to submit a plan for the General Use spectrum.¹¹ 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.¹²

The Commission expects RPCs to ensure that they represent 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.¹³ For the initial meeting, called by the convenor to form the RPC and hold elections, the Commission requires at least sixty days notice.¹⁴ 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.¹⁵ We also encourage the RPCs to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹⁶ RPCs may approach the assignment of the spectrum differently, *e.g.*,

⁷ See Letter from Randy D. Moon, Chairman, Region 16, Chairman, Region 16 700 MHz Regional Planning Committee Plan, WT Docket No. 02-378 (filed June 16, 2008) (submitting Revised Plan, Appendix L – Region 16 (Kansas) 700 MHz General Use Channel Assignments).

⁸ See Letter from Randy Moon, Chairman to Federal Communications Commission, WT Docket No. 02-378 (filed Oct. 7, 2008) (submitting Region 34 letter of concurrence, and a signed certification by the regional chairperson that all planning, committee and executive meetings were open to the public).

⁹ See Letter from Randy Moon, Chairman to Federal Communications Commission, WT Docket No. 02-378 (filed Oct. 16, 2008) (submitting corrected Region 34 letter of concurrence due to a typographical error in the Oct. 7 submission).

¹⁰ See 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). See also 47 C.F.R. § 90.527.

¹¹ See 47 C.F.R. §§ 90.527, 90.531. An RPC must incorporate certain common elements into its 700 MHz plan. The 700 MHz public safety band contains 24 MHz of spectrum for public safety services at 763-775 and 793-805 MHz, and the narrowband allocation is divided into segments by designated purpose: General Use, Interoperability, Secondary Trunking, State License, Low Power and Reserve channels. A list of 700 MHz RPCs and region activities is available at <http://www.fcc.gov/pshs/public-safety-spectrum/700-MHz>.

¹² *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

¹³ *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.

¹⁴ *Id.* at 195 ¶ 86 & n.220.

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

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.¹⁷ 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 RPC plans (*i.e.* require that the plans be amended).¹⁸ The Commission required RPCs with approved plans or plans on file to submit amended plans consistent with the decisions adopted in the *Second Report and Order* by November 23, 2007.¹⁹ On November 9, 2007, the Public Safety and Homeland Security Bureau (the 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.²⁰ In a Public Notice released December 27, 2007, the Bureau subsequently provided further guidance with respect to the submission of amended RPC plans.²¹

¹⁶ 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/nccsubcom.jsp>.

¹⁷ 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*).

¹⁸ *Id.* at 15414 ¶ 346.

¹⁹ 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).

²⁰ 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).

²¹ See Public Safety and Homeland Security Bureau Reminds 700 MHz Regional Planning Committees of the January 31, 2008 Deadline to Amend 700 MHz Narrowband Plans and Provides Further Guidance, PS Docket No. 06-229, WT Docket No. 96-86, *Public Notice*, 22 FCC Rcd 21889 (PSHSB 2007).

Region 16 Revised 700 MHz Plan. The Region 16 Revised Plan pre-allocates the consolidated narrowband General Use spectrum by county.²² The Revised Plan was coordinated with the five adjacent regions to Region 16: Region 7 (Colorado), Region 24 Missouri, Region 26 (Nebraska), Region 34 (Oklahoma), and Region 52 (Texas-Panhandle).²³ We have reviewed the Region 16 Revised Plan, find that it complies with applicable Commission rules and policies, and tentatively accept the Plan.

Prior to taking further action on the Revised 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 16 Revised 700 MHz Plan on or before **December 22, 2008**, and reply comments on or before **January 2, 2009**. All comments and reply comments should reference the subject Revised Plan 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.

²² See Revised Plan, Appendix L – Region 16 (Kansas) 700 MHz General Use Channel Assignments (submitted June 16, 2008).

²³ See Revised Plan, Appendix N – Adjacent Regions Concurrences and Inter-Regional Dispute Resolution Agreements (submitted Jan. 30, 2008; revised Oct. 16, 2008).

- 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 is available through ECFS at ecfs@fcc.gov. Region 16 Revised 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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