



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 55 (NEW YORK-BUFFALO) 700 MHZ REGIONAL PLAN

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

Introduction. On September 15, 2008, the Region 55 (New York-Buffalo)¹ 700 MHz Regional Planning Committee (RPC) (Region 55) submitted a proposed 700 MHz Public Safety Plan (Plan) for General Use² spectrum in the 769-775/799-805 MHz band for review and approval.³ For the reasons discussed below, we approve the Region 55 700 MHz Plan.

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 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

¹ The Region 55 (New York-Buffalo) 700 MHz regional planning area includes seventeen (17) counties: Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming and Yates. In addition, the representatives from the Tribal Nations of the Cattaraugus Seneca, Cayuga, Tonawanda Seneca and Tuscarora participated in Region 55 planning activities.

² The General Use spectrum is administered by 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 Steven C. Sharpe, Chairman, Region 55, to Federal Communications Commission, WT Docket No. 02-378 and PS Docket No. 06-229 (filed Sept. 15, 2008) (submitting regional plan).

⁴ 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.

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.

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.⁷ 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).

Plan Requirements. Each committee is required to submit its plan for the assignment of licenses for General Use spectrum.⁸ Each regional plan must contain certain elements⁹ and must be coordinated with adjacent regions.¹⁰ 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.¹¹ 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.¹²

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.¹³ However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the Commission's regional plan requirements.¹⁴ RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹⁵

⁷ 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*).

⁸ See 47 C.F.R. §§ 90.527, 90.531. The 700 MHz public safety band plan contains 24 MHz of spectrum for public safety services at 763-775 MHz and 793-805 MHz, and the narrowband allocation is divided into several segments by designated purpose: General Use, Interoperability, Secondary Trunking, State License, Low Power and Reserve channels.

⁹ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

¹⁰ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

¹¹ 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.

¹² *Id.* at 193-94 ¶ 84.

¹³ See Plan, Appendix H – 700 MHz Channel Allotment Pool as Defined in CAPRAD at 97-110. The table of allotments was developed using the Computer Assisted Pre-coordination Resource and Database System (CAPRAD), a spectrum management tool provided by National Institute of Justice, National Law Enforcement and Corrections Technology Center). Access to the CAPRAD system is available at <http://caprad.nlectc.du.edu>.

¹⁴ See 47 C.F.R. § 90.527.

¹⁵ 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

Review of the Region 55 700 MHz Plan. Region 55 convened its first meeting on May 20, 2002,¹⁶ and then re-established the RPC at its second meeting held in June 2005, wherein it elected its chairman and other committee officers.¹⁷ The Plan includes By-laws,¹⁸ a detailed membership list,¹⁹ an outreach notification process,²⁰ and meeting minutes.²¹ The Plan describes the procedures for requesting spectrum allotments,²² details the application review and scoring process,²³ and outlines generally, system implementation criteria and spectrum utilization.²⁴ The State of New York, Office of Technology, State Interoperability Executive Committee (SIEC) administers the interoperability channels.²⁵ In addition, the Plan provides guidelines for use of low power channels²⁶ and addresses the continued usage of the CAPRAD system.²⁷ The Region 55 Chair has certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.531(a)(8).²⁸

The Region 55 Plan pre-allocates the consolidated narrowband General Use spectrum by county.²⁹ The Plan was coordinated with all four adjacent regions to Region 55: Region 28 (Delaware,

planners. A copy of the 700 MHz Regional Planning Guidebook is available at the NPSTC website at <http://www.npstc.org/nccsubcom.jsp>.

¹⁶ See Plan, Section 1.1 First Convening Meeting at 2.

¹⁷ See Plan, Appendix T – RPC Public Meeting Notices and Minutes (June 29, 2005 Meeting Report) at 229-232.

¹⁸ See Plan, Section 3.0 Region 55 By-Laws at 7-11.

¹⁹ See Plan, Appendix A – Committee Members Contact List at 51-58; *see also* Plan, Appendix B – Committee Members Meeting Attendance Roster at 59-63 (for meetings held between May 20, 2002 through June 10, 2008).

²⁰ See Plan, Section 2.2 – Operations of the RPC at 22-24; *see also* Plan Appendix U – Tribal Nations Correspondence Letter Template at 326-328 (Table 29 – Tribal National Contact Log includes the names, addresses and tribal nation represented).

²¹ See Plan Appendix T – RPC Public Meeting Notices and Minutes at 221-324.

²² See Plan, Section 5.0 – Procedure for Requesting Spectrum Allotments at 15-16 (Region 55 will hold three Application Filing Windows per year; the first window will commence within 90 days of Plan approval); *see also*, Plan Appendix D – Application Package Checklist (items needed to constitute a complete application package).

²³ See Plan, Section 7.0 – Application Scoring Matrix at 19-33; *see also*, Plan, Section 8.0 – Technical Evaluation of Applications at 35.

²⁴ See Plan, Section 9.0 – Interference-Protection Criteria and System-Design Specifications (recommended system reliability, coverage and interference prediction methodology, radiation control and system design, pool-to-pool reliability-degradation threshold, outside-to-pool reliability-degradation, and evaluation of adjacent-channel effects) at 37-39.

²⁵ See Plan, Appendix S – SIEC Convening Letter (notification letter dated Nov. 26, 2001, from Hanford C. Thomas, Jr., Project Director, New York State Office of Technology, to D’Wana Terry, Chief, Public Safety and Private Wireless Division, Wireless Communications Commission, FCC) at 219-220.

²⁶ See Plan, Section 10.0 – Administration of the Low Power Interoperability Channels at 41-44.

²⁷ See Plan, Section 5.0 – Procedure for Requesting Spectrum Allotments at 15-16. CAPRAD allotments will be valid for a period of five years from transition date to digital television (June 17, 2009). Region 55 will consider CAPRAD allotments valid for application within a thirty (30) mile boundary of a county’s geo-political boundary.

²⁸ See Plan, Appendix T – RPC Public Meeting Notices and Minutes (Certification) at 221.

²⁹ See Plan, Appendix H – 700 MHz Channel Allotment Pool as Defined in CAPRAD at 97-110.

Eastern Pennsylvania and Southern New Jersey), Region 30 (New York-Albany), Region 33 (Ohio), and Region 36 (Western Pennsylvania).³⁰

On April 3, 2009, the Bureau released a *Public Notice* seeking comment on the Region 55 Plan.³¹ We received no comments on the plan. Based on our review of the plan, we conclude that it complies with 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 55 (New York-Buffalo) 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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³⁰ See Plan, Appendix K – Adjacent Region Concurrence Approvals at 127-136; *see also* Plan Appendix V – Adjacent Region Notification of Plan Revisions at 335-338 (updated concurrences from Region 28, Region 30 and Region 36); *see also*, Plan, Appendix L – Inter-regional Frequency Coordination and Dispute Resolution Approval Requests at 137-164.

³¹ See Public Safety and Homeland Security Bureau Seeks Comments on Region 55 (New York-Buffalo) 700 MHz Regional Planning Committee Proposed Public Safety Plan, PS Docket No. 06-229, WT Docket No. 02-378, *Public Notice*, 24 FCC Rcd 4075 (PSHSB 2009). Comments were due April 23, 2009, and reply comments were due May 4, 2009.