



# PUBLIC NOTICE

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**DA 09-1241**

**June 3, 2009**

## **PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 40 (NORTHERN TEXAS) 700 MHZ REGIONAL PLAN AMENDMENT**

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

*Introduction.* On January 31, 2008, the Region 40 (Northern Texas)<sup>1</sup> 700 MHz Regional Planning Committee (RPC) (Region 40) submitted a proposed amendment to its 700 MHz Public Safety Plan for review and approval.<sup>2</sup> Region 40 concurrently requested a temporary, limited waiver of Section 90.527(a)(3) and (6) of the Commission's rules, 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).<sup>3</sup> Region 40 stated that it utilizes the Computer Assisted Pre-allocation Resource and Database (CAPRAD) program as its pre-allotment methodology.<sup>4</sup> However, at the time, CAPRAD was not yet updated to reflect the new consolidated narrowband frequencies.<sup>5</sup>

In addition, Region 40 requested a temporary, limited waiver of Section 90.527(a)(5) of the Commission's rules, 47 C.F.R. §§ 90.527(a)(5) (which provides that regional plans must include an explanation of how the plan had been coordinated with adjacent regions). On November 20, 2008, Region 40 resubmitted its Plan Amendment, providing updated letters of concurrence from all seven

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<sup>1</sup> 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).

<sup>2</sup> See Letter from Daniel J. Scrivner, Chairman, Region 40 (Northern Texas) 700 MHz Regional Planning Committee, WT Docket 02-378 (filed Jan. 31, 2008) (submitting Plan Amendment and Waiver Request). The Region 40 plan was initially approved in January 2007.

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

<sup>4</sup> 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>.

<sup>5</sup> See Waiver Request at 1.

adjacent regions and a revised spectrum plan for new consolidated narrowband frequencies.<sup>6</sup> As a result, the waiver request in its entirety is now moot. For the reasons discussed below, we approve the Region 40 700 MHz Plan Amendment, and dismiss the Waiver Request as moot.

*Background.* On July 31, 2007, the Federal Communications Commission (Commission) adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.<sup>7</sup> 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. Accordingly, 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.<sup>8</sup> On November 9, 2007, the Public Safety and Homeland Security 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.<sup>9</sup>

*Region 40 Plan Amendment.* The Plan Amendment revises all references to the former General Use band, to the new narrowband consolidated band and includes a new Appendix I – Region 40 Channel Allotment Table,<sup>10</sup> which reflects allocations in the new consolidated narrowband segments 769-775 MHz and 799-805 MHz. In addition, the Plan Amendment includes changes to the procedures for applying for new spectrum allotments, and an improved process for evaluating an applicant's needs.<sup>11</sup>

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<sup>6</sup> See Letter from Gerard Eads, Chairman, Region 40 (Northern Texas) 700 MHz Regional Planning Committee, to Federal Communications Commission, Public Safety and Homeland Security Bureau, WT Docket No. 02-378, PS Docket No. 06-229 (filed Nov. 20, 2008).

<sup>7</sup> 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*).

<sup>8</sup> 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).

<sup>9</sup> 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).

<sup>10</sup> See Plan Amendment, Appendix I – Region 40 Channel Allotment Table.

<sup>11</sup> See Plan Amendment, Procedure for Requesting Spectrum Allotments and Frequency Coordination at 20-21 (to expedite the review process, requests are submitted to the Regional Coordinator, who in turn advises the Chair of materials received and reviewed).

Region 40 coordinated the Plan Amendment and obtained letters of concurrence from the seven regions adjacent to Region 40: Region 4 (Arkansas), Region 18 (Louisiana), Region 34 (Oklahoma), Region 49 (Texas-Austin), Region 50 (Texas-El Paso), Region 51 (Texas-Houston), and Region 52 (Texas-Lubbock).<sup>12</sup>

On April 3, 2009, the Region 40 Plan Amendment was placed on *Public Notice* for comment.<sup>13</sup> We received no comments. We have reviewed the Region 40 Plan Amendment, and conclude, based on the information before us, 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 40 (Northern Texas) 700 MHz Public Safety Plan Amendment 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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<sup>12</sup> See Plan Amendment, Appendix J – Adjacent Region Approval Letters.

<sup>13</sup> See Public Safety and Homeland Security Bureau Seeks Comments on Region 40 (Northern Texas) 700 MHz Plan Amendment, PS Docket No. 06-229; WT Docket No. 02-378, *Public Notice*, 24 FCC Rcd 4079 (PSHSB 2009). Comments were due April 23, 2009, and reply comments were due May 4, 2009.