



# PUBLIC NOTICE

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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 33 (OHIO) 700 MHZ REGIONAL PLAN

### WT Docket No. 02-378

*Introduction.* On December 9, 2008, the Region 33 (Ohio)<sup>1</sup> 700 MHz Regional Planning Committee (RPC) (Region 33) submitted a proposed 700 MHz Public Safety Plan (Plan) for General Use<sup>2</sup> spectrum in the 769-775/799-805 MHz band for review and approval.<sup>3</sup> On December 11, 2008, Region 33 submitted a request to substitute text in Section 3.2.1 of the Plan entitled “General Use Channels” to clarify that channels are available to all eligible entities in that county on a first-come, first-served basis.<sup>4</sup> Lastly, on February 10, 2009, Region 33 submitted adjacent region letters of concurrence and dispute resolution agreements for Region 14 (Indiana), Region 21 (Michigan) and Region 36 (Western Pennsylvania), which were missing from Region 33’s initial submission.<sup>5</sup> For the reasons set forth below, we approve the Region 33 Plan.

*Background.* In 1998, the 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.<sup>6</sup> Each of the fifty-five (55) RPCs is required to submit its plan for the General Use spectrum.<sup>7</sup> 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,

<sup>1</sup> The Region 33 (Ohio) 700 MHz regional planning area includes the entire state of Ohio. Region 33 shares an international border with Canada.

<sup>2</sup> 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.

<sup>3</sup> See Letter from Paul M. Mayer, Chairman, Region 33, to Federal Communications Commission, WT Docket No. 02-378, PS Docket No. 06-229 (filed Dec. 9, 2008) (submitting regional plan).

<sup>4</sup> See Letter from Paul M. Mayer, Chairman, Region 33, to Federal Communications Commission, WT Docket No. 02-378, PS Docket No. 06-229 (filed Dec. 11, 2008) (submitting clarification statement).

<sup>5</sup> See Letter from Paul M. Mayer, Chairman, Region 33, to Federal Communications Commission, WT Docket No. 02-378, PS Docket 06-229 (filed Feb. 10, 2009) (submitting adjacent region letters of concurrent and dispute resolution agreements).

<sup>6</sup> 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.

<sup>7</sup> 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>.

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.<sup>8</sup>

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.<sup>9</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).

*Plan Requirements.* Each committee is required to submit its plan for the assignment of licenses for General Use spectrum.<sup>10</sup> Each regional plan must contain certain elements<sup>11</sup> and must be coordinated with adjacent regions.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup>

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.<sup>15</sup> However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the

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<sup>8</sup> *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

<sup>9</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>10</sup> 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.

<sup>11</sup> See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

<sup>12</sup> See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

<sup>13</sup> 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.

<sup>14</sup> *Id.* at 193-94 ¶ 84.

<sup>15</sup> See Plan, Appendix G – Table of 700 MHz Channel Assignments at 76-101. Region 33 utilizes 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.nleetc.du.edu>.

Commission's regional plan requirements.<sup>16</sup> RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).<sup>17</sup>

*Review of the Region 33 700 MHz Plan.* Region 33 convened its first meeting on February 28, 2001,<sup>18</sup> wherein it elected its chairman, other committee officers, and established three subcommittees: Implementation, Technical and Interoperability.<sup>19</sup> The Plan includes By-laws,<sup>20</sup> a detailed membership list,<sup>21</sup> meeting notices and summaries.<sup>22</sup> The Plan describes the procedures for requesting spectrum allotments,<sup>23</sup> frequency coordination,<sup>24</sup> details the application review and scoring process,<sup>25</sup> and outlines system implementation criteria and spectrum utilization.<sup>26</sup> The State of Ohio, State Interoperability Executive Committee (SIEC) administers the interoperability channels.<sup>27</sup> In addition, the Plan provides guidelines for use of low power channels<sup>28</sup> and addresses the continued usage of the CAPRAD system.<sup>29</sup>

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<sup>16</sup> See 47 C.F.R. § 90.527.

<sup>17</sup> 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 at <http://www.npstc.org/nccsubcom.jsp>.

<sup>18</sup> See Plan, Section 1.6 – Notification Process at 4.

<sup>19</sup> *Id.* Meeting notifications were published by FCC public notice, placement in the Association of Public Safety Communications Officials, Inc. (APCO) magazine, the APCO Ohio Bulletin, and newspapers with wide distribution within Region 33.

<sup>20</sup> See Plan, Appendix D – Authority and Administrative By-Laws at 48-51.

<sup>21</sup> See Plan, Appendix A – Region 33 Members at 29-33.

<sup>22</sup> See Plan, Appendix E – Meeting Minutes at 52-59.

<sup>23</sup> See Plan, Section 3 – Allocation of General Use Spectrum at 8-16 (agencies must submit a full application package online through the CAPRAD system for regional planning review); *see also* Plan, Appendix F – NCC 700 MHz Pre-Assignment Rules and Recommendations at 60-75. Region 33 explains that although the CAPRAD system distributes frequencies geographically by county nationwide, this does not imply that counties have ownership of the frequencies in the pre-allotment sort. Channels are available to all eligible Region 33 public safety entities on a first-come, first-served basis and will be allotted channels if Plan requirements are met.

<sup>24</sup> See Plan, Section 5 – Procedures for Frequency Coordination (addressing process, licensee responsibilities and technical requirements) at 23-24.

<sup>25</sup> See Plan, Section 4.1 - Processing and Evaluating Applications at 21-22 (listing application requirements); *see also*, Plan, Appendix K – Evaluation Matrix Point System at 119-122.

<sup>26</sup> See Plan, Section 3.11 – Design and Engineering Responsibilities at 16-17; *see also* Plan, Section 3.13 – Implementation of Channels at 18.

<sup>27</sup> See Plan, Section 3.14 – Interoperability Channels; *see also* Plan, Appendix J – Table of Interoperability Channels at 115-117.

<sup>28</sup> See Plan, Section 3.4 – Low Power Channels (addressing service assignments, repeater/incident area network operations and direct or simplex operation) at 12-14; *see also* 47 C.F.R. § 90.531(b)(3) (narrowband low power channels subject to regional planning); § 90.531(b)(4) (narrowband low power itinerant channel transmissions limited to an effective radiated power (ERP) of no more than two (2) watts).

<sup>29</sup> See Plan, Section 6 – Adjacent Region Coordination at 25 (Region 33 will utilize the CAPRAD system to

The Region 33 Chair has certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.531(a)(8).<sup>30</sup>

The Region 33 Plan pre-allocates the consolidated narrowband General Use spectrum by county.<sup>31</sup> The Plan was coordinated with all five adjacent regions to Region 33, including: Region 14 (Indiana), Region 17 (Kentucky), Region 21 (Michigan), Region 36 (Western Pennsylvania), Region 44 (West Virginia) and Region 55 (New York-Buffalo).<sup>32</sup>

On May 11, 2009, the Bureau released a *Public Notice* seeking comment on the Region 33 Plan.<sup>33</sup> We received two comments in support of the plan.<sup>34</sup> 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 33 (Ohio) 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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maintain the Region 33 Plan, all applications, assignments, and to conduct inter-region coordination).

<sup>30</sup> See Plan, Section 8.0 – Certification at 28.

<sup>31</sup> See Plan, Appendix G – Table of 700 MHz Channel Assignments at 76-101.

<sup>32</sup> See Plan, Appendix N – Letters of Coordination at 136-141; Plan, Appendix M – Inter-Regional Coordination Procedures and Dispute Resolution Agreements (signed by all adjacent regions) at 128-135; *see also* Letter from Paul M. Mayer, Chairman, Region 33, to Federal Communications Commission, WT Docket No. 02-378, PS Docket 06-229 (filed Feb. 10, 2009) (submitting missing adjacent region letters of concurrence and dispute resolution agreements).

<sup>33</sup> See Public Safety and Homeland Security Bureau Seeks Comments on Region 33 (Ohio) 700 MHz Regional Planning Committee Proposed Public Safety Plan, PS Docket No. 06-229, WT Docket No. 02-378, *Public Notice*, 24 FCC Rcd 5439 (PSHSB 2009). Comments were due June 1, 2009, and reply comments were due June 11, 2009.

<sup>34</sup> See Letter from George T. Maier, Assistant Director, Ohio Department of Public Safety, Chairman, Ohio Statewide Interoperability Executive Committee (filed June 1, 2009); Letter from Darryl L. Anderson, Director, State of Ohio Multi-Agency Radio Communications System (MARCS) Program (filed June 1, 2009).