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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 1 (ALABAMA) REVISED 700 MHZ REGIONAL PLAN

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

Introduction. On January 14, 2008, the Region 1 (Alabama)¹ 700 MHz Regional Planning Committee (Region 1 or RPC) submitted a proposed amendment to its 700 MHz Public Safety Plan for General Use² spectrum in the 769-775/799-805 MHz band.³ Region 1 concurrently requested a temporary, limited waiver of Section 90.527(a)(5) of the Commission's rules, 47 C.F.R. § 90.527(a)(5) (requiring that regional plans include an explanation of how the plan had been coordinated with adjacent regions).⁴ On March 17, 2008, Region 1 submitted a letter of concurrence (LOC) from Region 9, and on October 24, 2008, it also submitted a LOC from Region 23.⁵ For the reasons discussed below, we approve the Region 1 700 MHz Revised Plan, and dismiss the Waiver Request as 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.⁶

¹ The Region 1 (Alabama) 700 MHz regional planning area encompasses the entire state of Alabama, consisting of sixty-seven (67) counties and twenty-two (22) Native American Indian Tribes and Nations. *See* Revised Plan, Appendix 11 – Indian Tribes and Commissioners Recognized by the State of Alabama.

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 Eric Linsley, Chairman, Region 1 700 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. 14, 2008) (submitting Revised Plan and Waiver Request). Region 1 initially filed a 700 MHz plan on September 11, 2006.

⁴ *See* Waiver Request at 1.

⁵ *See* Letter from Eric Linsley, Chairman, Region 1 700 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 Mar. 17, 2008) (submitting letter of concurrence from Region 9 (Florida)); Letter from Eric Linsley, Chairman, Region 1 700 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 Oct. 24, 2008) (submitting letter of concurrence from Region 23 (Mississippi)).

⁶ *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.

There are fifty-five RPCs, and each committee is required to submit its plan for the General Use spectrum.⁷ 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.⁸

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.⁹ 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).¹⁰ 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, 2007.¹¹ 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.¹²

Plan Requirements. Each RPC is required to submit its plan for the assignment of licenses for General Use spectrum.¹³ Each regional plan must contain certain elements¹⁴ and must be coordinated

⁷ See 47 C.F.R. §§ 90.527, 90.531. Each RPC must incorporate certain common elements into its 700 MHz plan. 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. A list of 700 MHz RPCs and region activities is available at <http://www.fcc.gov/pshs/public-safety-spectrum/700-MHz>.

⁸ *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

⁹ 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*).

¹⁰ *Id.* at 15414 ¶ 346.

¹¹ 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).

¹² 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).

¹³ 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

with adjacent regions.¹⁵ 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.¹⁶ 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.¹⁷

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.¹⁸ 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.¹⁹ RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).²⁰

Review of the Region 1 700 MHz Revised Plan. Region 1 convened its first meeting on January 24, 2002,²¹ and appointed officers, established subcommittees, and adopted Bylaws at subsequent meetings.²² The Revised Plan includes an outreach notification process,²³ a membership list,²⁴ and

by designated purpose: General Use, Interoperability, Secondary Trunking, State License, Low Power and Reserve channels.

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

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

¹⁶ 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.

¹⁷ *Id.* at 193-94 ¶ 84.

¹⁸ See Revised Plan, Appendices 6 through 10 - Plan Report of Detailed Allotments (allotting frequencies by “county area” which is defined as the geo-political boundaries of a given county). The allocation plan 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. The CAPRAD system is available at <http://caprad.nlectc.du.edu>.

¹⁹ See 47 C.F.R. § 90.527.

²⁰ 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>.

²¹ See Revised Plan, Appendix 1 - January 24, 2002 Meeting Minutes at 2 (soliciting nominations for vice-chair, treasurer and secretary, and identifying three standing committees: Interoperability, Planning, and Education/Outreach).

²² See Revised Plan, Appendix 2 – Bylaws.

²³ See Revised Plan, Section 4 – Notification Process at 4 (describing outreach methods through Alabama APCO and Alabama NENA; email to all local public safety agencies, and notification to the Alabama Indian Affairs Commission single email address for tribal notifications at aiac@mindspring.com).

meeting minutes.²⁵ The Revised Plan describes the procedures for requesting spectrum allotments²⁶ and frequency coordination,²⁷ provides guidance for the use of interoperability channels,²⁸ provides guidance on the use of narrowband low power spectrum and reviews the TV/DTV interference protection criteria requirements.²⁹ The Revised Plan provides a future planning procedure and CAPRAD database maintenance.³⁰ The Region 1 Chair has certified that all planning meetings were open to the public, pursuant to Section 90.531(a)(8).³¹

The Region 1 Revised Plan pre-allocates the consolidated narrowband General Use Spectrum by county.³² The Revised Plan was coordinated with Region 9 (Florida), Region 10 (Georgia), Region 23 (Mississippi), and Region 39 (Tennessee).³³ In addition, Region 1 obtained Interregional Coordination Procedures and Procedures for Resolution of Disputes agreements from all four adjacent regions.³⁴

²⁴ See Revised Plan, Appendix 3 – Region 1 Alabama Voting and Non-voting Membership List.

²⁵ See Revised Plan, Appendix 1 – Regional Planning Committee Meeting Locations and Dates (includes meeting announcements, meeting summaries and attendance records).

²⁶ See Revised Plan, Section 5.2 Procedure for Requesting Spectrum Allotments (outlining procedural steps for application and assignment of frequencies, and noting that all spectrum requests will be considered on a first-come, first-served basis).

²⁷ See Revised Plan, Section 5.3 Procedures for Frequency Coordination at 6-7. Region 1 depends on the CAPRAD system's initial channel sort for county allocation assignments. However, if an initial county pool allotment proves insufficient, the FCC-certified frequency coordinator may search for the best frequency from the un-allocated frequency pool.

²⁸ See Revised Plan, Section 6 Utilization of Interoperability Channels at 7-11 (includes simplex on-scene statewide tactical channels; adjacent state tactical channels, and interoperability channel technical parameters).

²⁹ See Revised Plan, Section 7 Alabama Region 1 Interference Protection at 11 (noting that initial allotments were established using the CAPRAD system which provisions for interference protection of incumbent TV/DTV stations within each region). See also 47 C.F.R. § 90.545 TV/DTV Interference Protection Criteria.

³⁰ See Revised Plan, Section 5.1 Operations of the Region 1 Plan Committee (modifications to the approved Region 1 Plan must be voted and approved by the full RPC; RPC agrees to meet at least annually). See also Section 5.2 Procedure for Requesting Allotments (FCC-certified frequency coordinators will utilize the CAPRAD frequency allocations by county first based on the Region 1 Plan).

³¹ See 47 C.F.R. § 90.531(a)(8); Revised Plan, Certification at 1 (stating that all meetings were open to the public).

³² See Revised Plan, Appendices 6 through 10 - Plan Report of Detailed Allotments.

³³ See Revised Plan, Appendix 13 – Adjacent Region Letters of Concurrence. See also Letter from Eric Linsley, Region 1 700 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 Feb. 20, 2008) (submitting updated letter of concurrence from Region 10 (Georgia)); letter from Eric Linsley, Region 1 700 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 Oct. 24, 2008) (submitting letters of concurrence from Region 9 (Florida) and Region 23 (Mississippi)).

³⁴ See Revised Plan, Appendix 12 – Inter-Regional Coordination Procedures and Resolution of Disputes.

The Revised Plan includes the following elements:

- Revises frequency and channel allocation tables to reflect allocations in the new consolidated narrowband segments 769-775 MHz and 799-805 MHz.³⁵
 - No modifications were made to the allotted channels to any of the sixty-seven Alabama counties.
- Removes all references to the former wideband frequency ranges between 767-773 MHz and 797-803 MHz.
- Modifies the RPC's procedure for requesting channels to a first-come/first-served application process.³⁶

On March 13, 2008, the Region 1 Revised Plan was placed on *Public Notice* for comment.³⁷ We received no comments. We have reviewed the Plan submitted by Region 1, 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 Revised Region 1 (Alabama) 700 MHz Public Safety Plan is APPROVED, and the Region 1 Waiver Request is DISMISSED AS MOOT.

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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³⁵ See Revised Plan, Appendices 6 through 10 – Plan Report of FCC Channel Allotments (revised 11/26/2007) (includes allotments by area; allotments by FCC channel; channel allotments by class (base/mobile frequencies); and detailed channel allotments).

³⁶ See Revised Plan, Section 5.2 Procedure for Requesting Spectrum Allotments.

³⁷ See Comments Invited on Region 1 (Alabama) 700 MHz Regional Planning Committee Revised Public Safety Plan, PS Docket No. 06-229, WT Docket No. 02-378, *Public Notice*, 23 FCC Rcd 4071 (PSHSB 2008). Comments were due April 3, 2008, and reply comments were due April 14, 2008.