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DA 12-1279

August 7, 2012

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 44 (WEST VIRGINIA) 700 MHZ REGIONAL PLAN

WT Docket No. 02-378

Introduction. On February 24, 2012, the Region 44 (West Virginia)¹ 700 MHz Regional Planning Committee (RPC) (Region 44) 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 44 700 MHz 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.⁴ Each of the fifty-five (55) RPCs 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 44 (West Virginia) 700 MHz regional planning area includes all (55) counties in the State of West Virginia. It has five major cities, Charleston, Huntington, Parkersburg, Morgantown and Wheeling. The adjacent regions include: Region 17 (Kentucky), Region 20 (District of Columbia, Maryland, and Northern Virginia), Region 33 (Ohio), Region 36 (Western Pennsylvania), and Region 42 (Virginia).

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 Region 44 (West Virginia) 700 MHz Regional Planning Committee Plan to Federal Communications Commission, Office of the Secretary, WT Docket No. 02-378 (filed February 24, 2012) (submitting regional plan); Letter from David W. Saffel, Chair, Region 44 (West Virginia) 700 MHz Regional Planning Committee to Federal Communications Commission, Office of the Secretary, WT Docket No. 02-378 (filed Apr. 10, 2012) (submitting Region 20 Dispute Resolution Agreement).

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 G – Frequency Allotments at 52-60 (Region 44 defines a county-like area to include the geographical boundaries of a given county plus 10 miles).

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

Review of the Region 44 700 MHz Plan. Region 44 convened its first meeting on May 19, 2005, wherein it elected its chairman, and established three subcommittees.¹⁶ Members of Region 44 adopted the Plan on October 13, 2009,¹⁷ which includes By-laws,¹⁸ a detailed membership list,¹⁹ and meeting summaries.²⁰ The Plan provides procedures for requesting spectrum allotments,²¹ details the application requirements and review process, outlines system implementation criteria, spectrum utilization and system implementation.²² The Plan confirms that the State of West Virginia through its State Interoperability Executive Committee (SIEC) administers the state interoperability channels.²³ In addition, the Plan provides guidelines for use of the low power channels,²⁴ and notes that the Computer-Aided Pre-coordination Resource Database system (CAPRAD) will be updated as frequencies are assigned and licensed.²⁵ Finally, the Region 44 Chair has certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.531(a)(8).²⁶

¹⁶ See Plan, Section 6.0 – Regional Plan Administration at 8-10 (forming Technical, Interoperability and Administrative subcommittees).

¹⁷ See Plan, Section 1.2 – Regional Plan Summary at 5; see also Plan, Section 5.0 – Notification Process at 5. Region 44 notified members by email, FCC Public Notice, trade magazines, and postings to the APCO/NENA website at <http://wvvena.org>.

¹⁸ See Plan, Appendix A – Region By-Laws at 31-35.

¹⁹ See Plan, Appendix B – Membership at 36-38.

²⁰ See Plan, Appendix F – Summary of Meeting Minutes at 50-51.

²¹ See Plan, Section 6.5 – Procedure for Requesting Spectrum Allotments at 10-11 (the RPC accept applications on a first-come, first-served basis) following Bureau approval of the Plan. See also Plan, Section 6.5.1 – Application Requirements at 11-12 (a full application package, in electronic format for placement into the CAPRAD database at <http://caprad.org>; Plan, Section 11.0 - Application Evaluation at 18- 22 (matrix point system and processing guidance).

²² See Plan, Section 7.0 – System Design/Efficiency Requirements at 11-12 (includes interference protection criteria and spectrum efficiency standards). See also Plan, Section 8.4 – System Implementation at 20-21 (system implementation will be monitored by the RPC Administrative Subcommittee), and Plan, Section 8.6 Channel Loading (loading encourages efficient utilization of spectrum, and applicants should design their system(s) for a minimum of 70 mobile and portable radios for each 12.5 kHz voice channel placed in service within five years of the initial plan approval date).

²³ See Plan, Section 9.0 – Interoperability Channels at 23-25 (the State of West Virginia will administer the 700 MHz interoperability channels through its SIEC). See also Plan, Appendix D – Table of 700 MHz Interoperability Channels at 44-46 (includes Project 25 Common Air Interface and Interoperability Channel Technical Parameters).

²⁴ See Plan, Section 6.5.4 – Low Power “Campus Eligible” General Use Frequencies at 13 (opportunities may arise for increased channel reuse when developing radio systems for campus-like operations, *i.e.*, hospitals, stadiums, malls or places of public gathering, public universities, transit systems and ports of entry). See also Plan Section 8.2 – Low Power Secondary Operations, and Plan Section 8.3 Low Power Channels at 14-15 (channels 1–8 paired with 961-968, and 949-958, paired with 1909-1918 for low power, on-scene communications using mobiles and portables, with a transmitter power not to exceed 2 watts (ERP).

²⁵ See Plan, Section 11.5 – Database Maintenance at 22 (Region 44 will continue to use the CAPRAD database as 700 MHz spectrum is assigned and licensed).

²⁶ Plan, Section 12.0 – Certification at 30 (dated January 1, 2012) (by the RPC Chair, that all planning committee meetings, including subcommittee or executive meetings were open to the public).

The Region 44 Plan pre-allocates the consolidated narrowband General Use spectrum by county.²⁷ Region 44 coordinated the Plan with all four adjacent regions including: Region 17 (Kentucky), Region 33 (Ohio), Region 36 (Western Pennsylvania), and Region 42 (Virginia).²⁸

On April 17, 2012, the Bureau released a *Public Notice* seeking comment on the Region 44 Plan.²⁹ We received no comments. 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 25 (Montana) 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 and Licensing Division, Public Safety and Homeland Security Bureau.

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²⁷ See Plan, Appendix G – Frequency Allotments at 52-62 (Region 44 defines a county-like area to include the geographical boundaries of a given county plus 10 miles).

²⁸ See Plan, Appendix C – Adjacent Region Concurrence Letters at 39-43; see also Plan, Appendix I - Inter-regional Dispute Resolution Agreements at 81-93.

²⁹ See Public Safety and Homeland Security Bureau Seeks Comments on Region 44 (West Virginia) 700 MHz Regional Planning Committee Proposed Public Safety Plan, WT Docket No. 02-378, *Public Notice*, (rel. Apr. 17, 2012). Comments were due May 7, 2012, and reply comments were due May 17, 2012.