



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REGION 47 (PUERTO RICO) 700 MHZ REGIONAL PLAN AND REQUEST FOR WAIVER

WT Docket No. 02-378

Comments Due: June 11, 2012

Reply Comments Due: June 21, 2012

Introduction. On January 3, 2012, Region 47 (Puerto Rico)¹ 700 MHz Regional Planning Committee (RPC) (Region 47) 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 It concurrently requests a waiver of Section 90.527(a)(5) of the Commission's rules⁴, which provides that regional plans must include an explanation of how the plan had been coordinated with adjacent regions. A waiver is required because Region 47 was unsuccessful in obtaining a Letter of Concurrence and a Dispute Resolution Agreement from Region 48 (U.S. Virgin Islands).⁵

Background. 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.⁶ The Commission's rules require each of the fifty-five (55) RPCs to submit its plan for the General Use spectrum.⁷ The Commission's role in relation

¹ The Region 47 (Puerto Rico) 700 MHz regional planning area includes all (78) municipalities in the Commonwealth of Puerto Rico, a self-governing island nation in association with the United States.

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 Ferdinand Cedeno, Chair, Region 47 (Puerto Rico) 700 MHz Regional Planning Committee to Chairman to Federal Communications Commission, Office of the Secretary, WT Docket No. 02-378 (filed Jan. 3, 2012) (submitting regional plan).

⁴ 47 C.F.R. § 90.527(a)(5).

⁵ See Letter from Ferdinand Cedeno, Chair, Region 47 (Puerto Rico) 700 MHz Regional Planning Committee to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 02-378 (filed Apr. 24, 2012) (submitting Waiver Request).

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.

⁷ 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/>.

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

The Commission expects RPCs to ensure that their committees are representative of all public safety entities in their regions by providing reasonable notice of all meetings and deliberations. Further, regional plans must include an explanation of how all eligible entities within the region were given such notice.⁹ For the initial meeting, called by the convenor to form the RPC and hold elections, the Commission requires at least sixty days notice.¹⁰ In developing their regional plans, RPCs must ensure that their proposed plans comply with the rules and policies governing the 700 MHz public safety regional planning process.¹¹ We also encourage the RPCs to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹² RPCs may approach the assignment of the spectrum differently, *e.g.*, by making specific assignments to eligible public safety entities, or by establishing an allotment pool approach based on political boundaries such as counties.

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licensees in the 700 MHz band.¹³ 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).

The Region 47 700 MHz Plan. The Region 47 Plan pre-allocates the consolidated narrowband General Use spectrum by municipality.¹⁴ Although the adjacent region, Region 48 (U.S. Virgin Islands), is currently an unformed 700 MHz RPC region, a copy of the Plan was sent for coordination to the known

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

⁹ *Id.* at 193-94 ¶ 84. RPCs must promptly adopt operating procedures that “ensure that all entities will be given reasonable notice of all committee meetings and deliberations.” *Id.* at 195 ¶ 86.

¹⁰ *Id.* at 195 ¶ 86 & n.220.

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

¹² 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 <http://www.npstc.org/nccsubcom.jsp>.

¹³ 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*).

¹⁴ *See Plan*, Appendix G - Channel Assignments by Geographical Area at 74-88 (Region 47 defines an area to include the geo-political boundaries of a given municipality). *See also*, *Plan*, Section 4 – Process for Handling Unformed Regions at 28 (Region 47 will utilize the pre-allotment in CAPRAD to protect adjacent Region 48 geographic allotments).

contact within its Bureau of Internet and Telecommunications on September 22, 2011.¹⁵ No response was received from Region 48 despite multiple follow-up attempts. We have reviewed the Region 47 Plan and find that it sufficiently complies with the applicable Commission rules and policies, and tentatively accept the Plan. Our decision to seek comment on the Region 47 Plan is without prejudice to the resolution of Region 47's request for waiver of Section 90.527(a)(5).¹⁶

Prior to taking further action on the Plan and request for waiver, by this *Public Notice*, we solicit comments on the Region 47 Plan and the waiver request. Interested parties may file comments and reply comments on or before the dates listed on the first page of this *Public Notice*. All comments and reply comments should reference the subject Plan and **WT Docket No. 02-378**. Parties may file comments using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.¹⁷

- **Electronic Filers:** File comments electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- If multiple docket or rulemaking numbers appear in the caption of this proceeding, ECFS filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." We will send a sample form and directions in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Send filings by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Address filings to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Deliver hand-delivered or messenger-delivered paper filings to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554 between 8:00 AM and 7:00 PM. Use rubber bands or fasteners to hold deliveries together. Dispose of all envelopes before entering the building.
- Send commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) to 9300 East Hampton Drive, Capitol Heights, MD 20743.

¹⁵ See Letter dated April 17, 2012 from Ferdinand Cedeno, Chair, Region 47 (Puerto Rico) 700 MHz Regional Planning Committee to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 02-378 (filed Apr. 24, 2012) (Waiver Request). See also, Plan, Section 5 – Coordination with Adjacent Region 48 at 29 (identifying the Mr. Angel Turnbull, Bureau of Internet and Telecommunications, as point of contact).

¹⁶ Under the circumstances presented, we are seeking comment on the Region 47 Plan prior to the formation of the Region 48 RPC, in order to reduce the delay in implementing the 700 MHz public safety band in Region 47.

¹⁷ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

- Send U.S. Postal Service first-class, Express, and Priority mail to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

Address all filings to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

The Plan is available through ECFS at ecfs@fcc.gov. Region 47 Plan documents in **WT Docket No. 02-378** are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, email fcc@bcpiweb.com.

For further information regarding this matter, contact Jeannie Benfaida, Policy and Licensing Division, Public Safety and Homeland Security Bureau at (202) 418-2313 or Jeannie.Benfaida@fcc.gov.

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