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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 50 (TEXAS-EL PASO) 700 MHZ REGIONAL PLAN

WT Docket No. 02-378

Introduction. On February 11, 2013, Region 50 (Texas – El Paso)¹ 700 MHz Regional Planning Committee (RPC) (Region 50) 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 On July 9, 2013, Region 50 resubmitted its plan after making minor changes requested by Public Safety and Homeland Security Bureau staff.⁴ For the reasons discussed below, we approve the Region 50 700 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.⁵ Each of the fifty-five (55) RPCs is required to submit its plan for the General Use spectrum.⁶ 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.⁷

¹ The Region 50 (Texas – El Paso) 700 MHz regional planning area includes 55 counties in West Texas.

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 Frank Mendez, Region 50, Chairman, to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary, WT Docket No. 02-378 (filed February 11, 2013).

⁴ See Letter from Frank Mendez, Region 50, Chairman, to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary, WT Docket No. 02-378 (filed July 9, 2013).

⁵ 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.

⁶ 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/>.

⁷ *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.⁸ 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.⁹ Each regional plan must contain certain elements¹⁰ and must be coordinated with adjacent regions.¹¹ 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.¹² 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.¹³

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.¹⁴ 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.¹⁵ RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹⁶

⁸ 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*).

⁹ 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.

¹⁰ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

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

¹² 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.

¹³ *Id.* at 193-94 ¶ 84.

¹⁴ Plan, Appendix F – Channel Allotment Reports at 52-60 (Region 50 defines a “County Area” as an area consisting of the area within the county as well as a distance of up to 10 miles outside of the county.). See also Plan Appendix I – Areas Within Which the Frequencies Are to Be Protected (U.S-Mexico Sharing Zone map).

¹⁵ See 47 C.F.R. § 90.527.

¹⁶ 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

Review of the Region 50 700 MHz Plan. Region 50, with wide outreach to surrounding council of governments, convened its first meeting on May 2, 2012.¹⁷ Meetings were held throughout the Region and via WebEx phone conference to encourage participation.¹⁸ The RPC established three subcommittees: (1) Bylaws, (2) Technology/Software/Interoperability, and (3) Peer Review/Dispute Resolution.¹⁹ The Plan includes By-laws,²⁰ a detailed membership list,²¹ meeting notices, and meeting summaries. The Plan pre-allocates the consolidated narrowband General Use spectrum by county.²² The Plan describes the procedures for requesting spectrum allotments, and the application review process.²³ The Plan outlines system implementation criteria, spectrum efficiency standards, interference protection, and system loading.²⁴ The Region states that it will follow the interoperability guidelines²⁵ for use of the 700 MHz interoperability channels established by the Texas Statewide Interoperability Committee.²⁶ In addition, the Plan provides guidelines for use of the low power channels.²⁷ Region 50 shares a border with Mexico, therefore, public safety 700 MHz applicants and licensees must adhere to the U.S. and

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

¹⁷ See Plan, Section 2.2 - Notification Process at 9-10 (approximately 500 copies of the first meeting notice were mailed and emailed to all known federal, state, and local public safety agencies within the region; the Councils of Governments (COG) were asked to place legal notices in the major newspaper serving each COG); see Plan Appendix C.5 – Master Contact List.

¹⁸ See Appendix C – Chronological List of Region 50 El Paso (West Texas) 700MHz Regional Planning Committee and Subcommittee Meetings (held in the cities of El Paso, San Angelo, Abilene) includes initial invitation letter to stakeholders, email lists, copies of meeting announcements, and meeting minutes.

¹⁹ See Plan, Section 2.3 – Operations of the Regional Planning Committee at 10.

²⁰ See Plan, Appendix A – By-Laws.

²¹ See Plan, Appendix B – Membership List.

²² See Plan, Section 3.1 – Allotment of Narrowband “General Use” Channels (the RPC will maintain the Computer-Aided Pre-coordination Resource Database (CAPRAD) and frequency assignment information in the database); see also Plan, Appendix F – Channel Allotment Reports (sorted by FCC channel number, and by Area/County. Region 50 defines a county-like area to include the geo-political boundaries of a given county plus 10 miles to maximize channel reuse of any “orphaned channels”).

²³ See Plan, Section 3.6 – Procedure for Requesting Channel Assignments at 19-20 (upon FCC Plan approval, Region 50 will announce an open application filing window for a 30 day period. All requests will be handled on a first come, first-served basis. See also, Plan, Appendix D – Region 50 Application Process Diagram; Appendix L – Application Checklist.

²⁴ See Plan, Section 7.0 – System Design/Efficiency Requirements at 25-27. See also Plan, Section 7.1 – Interference Protection; Section 7.2 – Spectrum Efficiency Standards; and Plan, Section 7.3 – System Loading Criteria at 36-37.

²⁵ See Plan, Appendix H – 700 MHz Interoperability Channel Guide. Region 50 will follow the guidelines presented in the most current Texas Statewide Interoperability Channel Plan (TSICP), found at the following website: <http://www.txdps.state.tx.us/LawEnforcementSupport/communications/interop/index.htm> (Texas Statewide Interoperability Channel Plan (TSICP) and MOU) (last accessed on Oct. 22, 2013).

²⁶ See Plan, Section 8.0 – Interoperability Channels at 27-29.

²⁷ See Plan, Section 3.4 – Low Power Channels at 16-18 (channels 1–8 paired with 961-968, and channels 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).

Mexico border agreement.²⁸ On September 27, 2012, the Region 50 members adopted the Plan,²⁹ and the Plan was coordinated with all three adjacent regions: Region 29 (New Mexico); Region 40 (Texas – Dallas); Region 49 (Texas - Austin); Region 52 (Texas – Lubbock); and Region 53 (Texas - San Antonio).³⁰ Finally, the Region 53 Chair certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.527(a)(8).³¹

On August 21, 2013, the Bureau released a *Public Notice* seeking comment on the Region 50 Plan.³² 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 50 (Texas-El Paso) 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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²⁸ See Plan, Section 3.7 Mexico Border Issues at 20-21. Any proposed 700 MHz radio site and corresponding mobile service with 110 km (75 miles) of the Mexican border is subject to the border sharing agreement between the United States and Mexico. The Counties of El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, Brewster and Terrell are impacted by border spectrum agreements. See also, Plan, Appendix J – 700MHz Spectrum Border Agreements with Mexico; see also, Plan, Appendix I – U.S. Mexico Sharing Zone (map showing protected frequency areas).

²⁹ See Transmittal letter from Frank Mendez, Chairman, Region 50 (Texas-El Paso), 700 MHz Regional Planning Committee Plan to Federal Communications Commission, Office of the Secretary, WT Docket No. 02-378 (dated February 11, 2013) (submitting regional plan).

³⁰ See Plan, Section 6 – Coordination with Adjacent Regions at 24-25, and Plan, Appendix G – Inter-Regional Coordination Procedures and Procedures for Resolution of Disputes That May Arise Under FCC Approval Plans.

³¹ Plan, Section 10 – Certification of Open Meetings at 30 (certification located in Plan, Appendix K - Certification signed by RPC Chair, Frank Mendez).

³² See Public Safety and Homeland Security Bureau Seeks Comments on Region 50 (Texas-El Paso) 700 MHz Regional Planning Committee Proposed Public Safety Plan, WT Docket No. 02-378, *Public Notice*, 28 FCC Rcd 12347 (PSHSB 2013). Comments were due September 10, 2013, and reply comments were due September 20, 2013.