



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 16-1165

Released: October 12, 2016

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REGION 38 (SOUTH DAKOTA) 700 MHZ REGIONAL PLAN

WT Docket No. 02-378

Comments Due: November 14, 2016

Reply Comments Due: November 29, 2016

Introduction. On October 6, 2016, the Region 38 (South Dakota)¹ 700 MHz Regional Planning Committee (RPC) (Region 38) 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

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

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

¹ The Region 38 (South Dakota) 700 MHz regional planning area includes the entire state of South Dakota consisting of sixty six (66) counties, five of which lie entirely within Native American territory.

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 Todd Dravland, Chair, Region 38 (South Dakota) 700 MHz Regional Planning Committee, to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378 (filed Jan. 25, 2016) (submitting regional plan).

⁴ See *Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, 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 CFR § 90.527.

⁵ See 47 CFR § 90.527.

⁶ *First Report and Order*, 14 FCC Rcd at 195 para. 87.

notice.⁷ For the initial meeting, called by the convenor to form the RPC and hold elections, the Commission requires at least sixty days notice.⁸ 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.⁹ We also encourage the RPCs to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹⁰ 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 licenses in the 700 MHz band.¹¹ 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).

On October 17, 2014, the Commission adopted a *Report and Order* revising the rules governing the 700 MHz public safety narrowband channels.¹² Specifically, in non-T-Band markets, the Commission released the former narrowband reserve channels (twenty four 12.5 kHz channels) for General Use under the administration of the RPCs for the benefit of state and local public safety users.¹³ Outside the T-Band markets the Commission authorized the RPCs to assign (1) up to eight 12.5 kHz former reserve channels for deployable trunked systems and (2) sixteen 12.5 kHz channels for General Use, including vehicular mobile repeaters (MO3).¹⁴ Thus, the Commission stated, “RPCs have the flexibility to designate a mixture of General Use and temporary (deployable trunked infrastructure) channels in their Regional Plans.”¹⁵

⁷ *Id.* at 193-94 para. 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 para. 86.

⁸ *Id.* at 195 para. 86 and footnote 220.

⁹ 47 CFR § 90.527; *see also First Report and Order*, 14 FCC Rcd at 190-96 paras. 77-89.

¹⁰ 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.

¹¹ *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*, Second Report and Order, 22 FCC Rcd 15289 (2007) (*Second Report and Order*).

¹² *Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands*, Report and Order, 29 FCC Rcd 13283 (2014) (*Report and Order*).

¹³ *Id.* at 13297 para. 39; 47 CFR § 90.531(b)(2).

¹⁴ *Id.* at 13299 para. 46, 13301 para. 51.

¹⁵ *Id.* at footnote 126.

On January 9, 2015, the Public Safety and Homeland Security Bureau (PSHSB) provided guidance on licensing the former reserve channels.¹⁶ On April 23, 2015 the PSHSB approved the channels recommended by the National Public Safety Telecommunications Council (NPSTC) and the National Regional Planning Council (NRPC) for deployable trunked systems.¹⁷

The Region 38 700 MHz Plan. Each RPC must incorporate certain common elements into its 700 MHz plan.¹⁸ We have reviewed the Region 38 Plan and find that it sufficiently complies with the applicable Commission rules and policies, and tentatively accept the Plan. The Region 38 Plan pre-allocates the consolidated narrowband General Use spectrum by county. The Plan was coordinated with all six adjacent regions to Region 38 including: Region 15 (Iowa), Region 22 (Minnesota), Region 25 (Montana); Region 26 (Nebraska), Region 32 (North Dakota), Region 46 (Wyoming).

Prior to taking further action on the Plan, by this Public Notice, we solicit comments on the Region 38 Plan. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on the Region 38 700 MHz Plan on or before **November 14, 2016**, and reply comments on or before **November 29, 2016**. All comments and reply comments should reference the subject Plan and **WT Docket No. 02-378**. Parties may file comments by using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed 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.
- **For ECFS Filers:** In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an email to ecfs@fcc.gov and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing.

Commenters may send filings by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). Commenters must address all filings to: Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, commenters must submit all hand-delivered or messenger-delivered paper filings for the Commission's Secretary to FCC Headquarters at 445 12th

¹⁶ *Public Safety and Homeland Security Bureau Provides Guidance for Licensing Channels in the Former 700 MHz Narrowband Reserve Spectrum*, Public Notice, 30 FCC Rcd 124 (PSHSB 2015).

¹⁷ *Public Safety and Homeland Security Bureau Approves Recommended Nationwide Channels for Deployable Trunked Systems in the 700 MHz Narrowband Public Safety Band*, Public Notice, 30 FCC Rcd 3723 (PSHSB 2015).

¹⁸ 47 CFR § 90.527(a)(1)-(8).

Street, SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. **PLEASE NOTE:** The Commission's former filing location at 236 Massachusetts Avenue, NE is permanently closed.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

Commenters must address all filings to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554.

The Region 38 Plan is available through ECFS at ecfs@fcc.gov. Region 38 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.

For further information regarding this matter, contact John A. Evanoff, Attorney-Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau at (202) 418-0848 or John.Evanoff@fcc.gov.

- FCC -