



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REGION 55 (NEW YORK-BUFFALO) 700 MHZ REGIONAL PLAN AMENDMENT

WT Docket No. 02-378

Comments Due: August 19, 2016

Introduction. On October 30, 2015, the Region 55 (New York-Buffalo)¹ 700 MHz Regional Planning Committee (RPC) submitted a proposed modification (Plan Amendment) to amend its 700 MHz Public Safety Plan² for General Use spectrum in the 769-775/799-805 MHz band.³ For the reasons discussed below, we seek comment on the Region 55 700 MHz Plan Amendment.

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 The Commission's rules require each of the fifty-five RPCs 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 55 (New York-Buffalo) 700 MHz regional planning area consists of seventeen (17) counties: Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming and Yates.

² See Letter from Steven C. Sharpe, Chair, Region 55 (New York-Buffalo) 700 MHz Regional Planning Committee, to Public Safety and Homeland Security Bureau, Federal Communications Commission, WT Docket No. 02-378 (dated October 30, 2015) (Cover Letter) and accompanying Plan Amendment.

³ The General Use spectrum is administered by RPCs and is licensed by the Commission for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination.

⁴ See 47 CFR § 90.527; see also *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*); *Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, Second Memorandum Opinion and Order, 15 FCC Rcd 16844 (2000).

⁵ See 47 CFR § 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 para. 87.

On October 17, 2014, the Commission adopted a *Report and Order* revising the rules governing the 700 MHz public safety narrowband channels.⁷ 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.⁸

In the T-Band markets,⁹ the Commission released the former reserve channels for General Use under RPC administration with priority access given to T-Band incumbents within 128 km of the city center coordinates as specified in Sections 90.303 and 90.305¹⁰ of the Commission's rules. Priority access is also afforded any T-band incumbent that received a waiver of the 128 km distance requirement.¹¹ 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).¹² 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."¹³

On January 9, 2015, the Public Safety and Homeland Security Bureau (PSHSB) provided guidance on licensing the former reserve channels.¹⁴ 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.¹⁵ Regional plan amendments were due by October 30, 2015.¹⁶

Region 55 Major Amendments. The Region 55 Plan Amendment changes its plan so as to incorporate the former reserve spectrum.¹⁷ Specifically, the Region 55 Plan Amendment designates six former reserve channels for deployable trunked systems as recommended by NPSTC and the NRPC.¹⁸

⁷ *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*).

⁸ *Id.* at 13297 para. 39. 47 CFR § 90.531(b)(2).

⁹ Boston, Massachusetts; Chicago, Illinois; Dallas/Fort Worth, Texas; Houston, Texas; Los Angeles, California; Miami, Florida; New York, New York/N.E. New Jersey; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; San Francisco/Oakland, California; Washington, District of Columbia/Maryland/Virginia (the Affected T-Band Markets). See 47 CFR § 90.303. There are no T-Band public safety incumbents in Cleveland, Ohio, or Detroit, Michigan. *Id.*

¹⁰ 47 CFR §§ 90.303, 90.305.

¹¹ *Report and Order*, 29 FCC Rcd at 13298-99 paras. 43-45.

¹² *Id.* at 13299 para. 46, 13301 para. 51.

¹³ *Id.* at footnote 126.

¹⁴ *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).

¹⁵ *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).

¹⁶ *Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands*, et al, Order, 30 FCC 3699 (PSHSB 2015).

¹⁷ Cover Letter and Plan Amendment at Section 15.

¹⁸ *Id.* at Section 14.

Region 55 designates the remaining 18 former reserve channels for general use.¹⁹ Region 55 recognizes that the secondary trunking channels have been reallocated for air-ground operations.²⁰ Region 55 also amends the following sections:

- Section 3 – Bylaws
- Section 5 – Procedure for Requesting Spectrum Allotments, including recommended prioritization for spectrum requests²¹
- Section 6– Application Requirements and Appendix D, Application Package Checklist
- Section 10 – Administration of Low Power Channels

All regions adjacent to Region 55 – Region 28 (Delaware, Eastern Pennsylvania and Southern New Jersey); Region 30 (New York - Albany); Region 33 (Ohio); and Region 36 (Western Pennsylvania) – reviewed the Region 55 Plan Amendment and provided letters of concurrence.²² We have reviewed the Region 55 Plan Amendment and tentatively accept the Plan Amendment.²³

Request for Comments on the Region 55 Plan Amendment. Prior to taking further action on the Plan Amendment, by this *Public Notice* we solicit comments on the Region 55 Plan Amendment. If no party raises an objection during the comment period, the Region 55 Plan Amendment will be deemed approved without further action by the PSHSB.²⁴

Pursuant to Sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on the plan amendment on or before **August 19, 2016**. All comments should reference the subject plan amendment 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.

¹⁹ *Id.* at Section 15.

²⁰ *Id.*

²¹ Region 55 reminds applicants that some channels in the original CAPRAD allotments are now Canadian primary in light of the addition of Arrangement Q to the U.S. and Canada Sharing Arrangement. *See* Sharing Arrangement Between the Department of Industry of Canada and the Federal Communications Commission of the United States of America Concerning the Use of the Frequency Bands 768-776 MHz and 798-806 MHz by the Land Mobile Service Along the Canada-United States Border (May 2013) (Arrangement Q).

²² Letters of Concurrence at Appendix X.

²³ The Region 55 Plan Amendment includes “minor” amendments, which are not subject to public comment (*i.e.* change in leadership or membership). 47 CFR § 90.527(b).

²⁴ *See* 47 CFR § 90.527(b); *Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands*, Seventh Report and Order, Notice of Proposed Rulemaking, 28 FCC Rcd 4783, 4804 para. 66 (2013).

- 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 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 Plan Amendment is available through ECFS at ecfs@fcc.gov. Region 55 Plan Amendment 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.

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