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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 20 (NORTHERN VIRGINIA, MARYLAND AND DISTRICT OF COLUMBIA) REVISED 700 MHZ REGIONAL PLAN

PS Docket No. 06-229; WT Docket No. 02-378

Introduction. On December 31, 2007, the Region 20 (District of Columbia, Maryland and Northern Virginia)¹ 700 MHz Regional Planning Committee (RPC) (Region 20) submitted a revised 700 MHz Public Safety Plan (Revised Plan) for General Use² spectrum in the 769-775/799-805 MHz band.³ Region 20 also requested waiver of Sections 90.527(a)(3), (5) and (6) of the Commission rules, which require that regional plans incorporate a general description of how the spectrum would be allotted among the various eligible users, and a detailed description of how the plan put the spectrum to the best possible use.⁴

In addition, Region 20 requested waiver of Section 90.527(a)(5), which requires that regional plans must include an explanation of how the plan had been coordinated with adjacent regions,⁵ because it was unable to coordinate its plan with the adjacent Region 36 (Western Pennsylvania) RPC.⁶ Region 36 had not yet convened at the time of the Region 20 request for coordination.⁷ On April 14, 2008, Region 20 submitted a revised Appendix G – Table of Channel Assignments, to reflect the new consolidated

¹ The Region 20 area encompasses the District of Columbia, Maryland and Northern Virginia (Arlington, Fairfax, Fauquier, Loudoun, Prince William and Stafford Counties, and the cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park).

² The General Use spectrum is administered by regional planning committees (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 G. Edward Ryan, Chairman, Region 20 700 MHz Regional Planning Committee, to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378 (filed Dec. 31, 2007) (Revised Plan and Waiver Request). The Region 20 Plan was initially submitted to the Commission in June 2007.

⁴ See 47 C.F.R. §§ 90.527(a)(3), (5) and (6).

⁵ See 47 C.F.R. 90.527(a)(5) (each regional planning committee must provide an explanation of how the plan has been coordinated with adjacent regions).

⁶ See Revised Plan, Waiver Request at 6.

narrowband band channels and associated frequencies.⁸ Further, on June 17, 2008, Region 20 submitted evidence of adjacent coordination with Region 36, as well as a copy of a fully executed agreement, *Inter-Regional Coordination Procedures and Procedures for Resolution of Disputes That May Arise Under FCC Approved Plans*.⁹ In addition, Region 20 states, in light of the April 14 and June 17, 2008 supplements, that it no longer requires a waiver of Commission rules.¹⁰ For the reasons discussed below, we approve the Region 20 700 MHz Revised Plan, and dismiss the Waiver Request as moot.

Background. In 1998, the Federal Communications Commission (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.¹¹ There are fifty-five RPCs, and each committee is required to submit its plan for the General Use spectrum.¹² 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.¹³

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.¹⁴ 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).

In revising the band plan for the public safety 700 MHz band, the Commission noted that consolidating the narrowband channels in the upper part of the band will impact approved and pending

⁷ Region 36 convened its first meeting on May 14, 2008. See Public Safety and Homeland Security Bureau Action; Region 36 (Western Pennsylvania) 700 MHz Regional Planning Committee Announces First Meeting, *Public Notice*, 23 FCC Rcd 3717 (PSHSB 2008).

⁸ See Letter from G. Edward Ryan, Chairman, Region 20 700 MHz Regional Planning Committee, to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, PS Docket 06-229 (filed Apr. 14, 2008) (submitting revised Plan Appendix G – Table of Channel Assignments).

⁹ See Letter from G. Edward Ryan, Chairman, Region 20 700 MHz Regional Planning Committee, to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, PS Docket 06-229 (filed June 17, 2008) (submitting letter of concurrence and dispute resolution agreement).

¹⁰ *Id.* at 2.

¹¹ 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.

¹² 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/>.

¹³ *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

¹⁴ 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*).

700 MHz RPC plans (*i.e.* require that the plans be amended).¹⁵ The Commission required RPCs with approved plans or plans on file to submit amended plans consistent with the decisions adopted in the *Second Report and Order* by November 23, 2007.¹⁶ On November 9, 2007, the Public Safety and Homeland Security Bureau (Bureau) extended the deadline for RPCs to submit amended plans, consistent with the decisions adopted in the *Second Report and Order*, to January 31, 2008, and provided additional guidance for the development of plan amendments.¹⁷

Plan Requirements. There are fifty-five RPCs and each committee is required to submit its plan for the assignment of licenses for General Use spectrum.¹⁸ Each regional plan must contain certain elements¹⁹ and must be coordinated with adjacent regions.²⁰ 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.²¹ 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.²²

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.²³ However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the

¹⁵ *Id.* at 15414 ¶ 346.

¹⁶ As of the adoption date of the *Second Report and Order*, the following regional plans had been approved: Region 5 (Southern California), Region 19, (New England), Region 24 (Missouri), Region 22 (Minnesota), Region 12 (Idaho), Region 39 (Tennessee), Region 43 (Washington), Region 41 (Utah), Region 3 (Arizona), and Region 40 (Northern Texas). The following regional plans were pending as of the adoption date of the *Second Report and Order*: Region 1 (Alabama), Region 27 (Nevada), Region 45 (Wisconsin), Region 7 (Colorado), Region 9 (Florida), Region 16 (Kansas), and Region 20 (Northern Virginia, Maryland and the District of Columbia).

¹⁷ See Public Safety and Homeland Security Bureau Announces an Extension of the Deadline for 700 MHz Regional Planning Committees to Amend 700 MHz Narrowband Plans from November 23, 2007 to January 31, 2008, PS Docket No. 06-229, WT Docket No. 96-86, *Public Notice*, 22 FCC Rcd 19461 (PSHSB 2007).

¹⁸ See also 47 C.F.R. § 90.527; see also 47 C.F.R. § 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.

¹⁹ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

²⁰ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

²¹ 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.

²² *Id.*

²³ See Revised Plan, Appendix G – Table of Channel Assignments. The Region 20 channel allocation plan was developed using the Computer Assisted Pre-coordination Resource and Database System (CAPRAD), a spectrum management tool provided by National Institute of Justice, National Law Enforcement and Corrections Technology Center. The CAPRAD system is available at <http://caprad.nlectc.du.edu>.

Commission's regional plan requirements.²⁴ RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).²⁵

Review of the Region 20 700 MHz Revised Plan. Region 20 convened its first meeting on June 22, 2001,²⁶ wherein it appointed its officers, established a Technical Committee, and reviewed proposed bylaws.²⁷ The Revised Plan includes detailed membership lists;²⁸ an outreach notification process;²⁹ and meeting minutes for the RPC and Technical Committee.³⁰ The Revised Plan describes the procedures for requesting spectrum allotments,³¹ and outlines, generally, system implementation criteria and spectrum utilization.³² The Revised Plan explains efficiency requirements; discusses the use of interoperability channels;³³ provides low power channel usage guidelines;³⁴ and lists the TV/DTV interference protection criteria requirements.³⁵ The Revised Plan also addresses application frequency coordination,³⁶ and describes its process for future spectrum planning and plan modification.³⁷ The Revised Plan was adopted

²⁴ 47 C.F.R. § 90.527.

²⁵ 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/documents.html>.

²⁶ See Revised Plan, Section 1.3 Plan Development and Regional Participation at 10-11.

²⁷ See Revised Plan Appendix A – Bylaws at 66-73 (adopted Aug. 14, 2006).

²⁸ See Revised Plan Appendix B – Original Region 20 Member List and Contact Information; *see also*, Plan Appendix B-1 Region 20 Membership at Time of Completion of the 700 MHz Plan.

²⁹ See Revised Plan, Section 2.1 – Notification Process at 13-15.

³⁰ See Revised Plan Appendix D – Meeting Notices and Minutes. Meeting announcements are also available on the Region's 700 MHz website http://groups.yahoo.com/group/Region_20_700MHz/.

³¹ See Revised Plan Sections 3.0 – 3.1 Regional Plan Administration and Frequency Coordination (description of spectrum allocation); *see also*, Section 3.6 Process for Requesting Channel Assignments at 23.

³² See Revised Plan, Sections 6.0 – 6.4. System Design/Efficiency Requirements (addressing interference protection; spectrum efficiency standards; “orphaned channels” and system implementation).

³³ *Id.*; *see also*, Revised Plan, Section 7.0 Interoperability Channels (both Virginia and Maryland have formed Statewide Interoperability Executive Committees (SIECs) to administer the 700 MHz interoperability channels. The Region 20 RPC will work with the SIECs as needed).

³⁴ See Revised Plan 3.12 Low Power Channels.

³⁵ See Revised Plan, Section 3.17 – 47 CFR § 90.545 TV/DTV Interference Protection Criteria.

³⁶ See Revised Plan, Section 3.4 Coordination with Adjacent Regions (describing coordination of frequency applications through the RPC's Technical Committee, and FCC-certified frequency coordination obligations pursuant to 47 C.F.R. § 47.90.176(c)).

³⁷ See Revised Plan, Section 8.0 Future Planning. For initial assignments, a three year “open filing window process” is established, commencing immediately following Bureau approval of the Region 20 plan. All channels identified in the Revised Plan will be available to applicants operating in the geographic areas listed in Appendix G – Channel Assignments by Geographic Area; *see also*, Revised Plan Appendix C – List of Independent Cities and Counties within Region 20.

by its members on August 29, 2007, and the Region 20 Chair has certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.531(a)(8).³⁸

The Region 20 Revised Plan pre-allocates the consolidated narrowband General Use spectrum by county and where appropriate, by District or city.³⁹ The Revised Plan was coordinated with all four regions adjacent to Region 20: Region 28 (Eastern Pennsylvania, Southern New Jersey and Delaware); Region 36 (Western Pennsylvania); Region 42 (Virginia); and Region 44 (West Virginia).⁴⁰

The Revised Plan includes the following elements:

- Deletes references to the former 700 MHz General Use frequencies and limits plan discussion to the consolidated narrowband voice channels in the 769-775 MHz and 799-805 MHz bands.⁴¹
- Deletes references to the assignment of wideband channels.⁴²
- Amends Figure 2 – Process for Evaluating User Applications for Voice Channels.⁴³
- Adds to Section 3.9 Management of Channel Assignments, construction requirements pursuant to 47 C.F.R. § 90.551.⁴⁴
- Adds to Section 7.0 Interoperability Channels, interoperability channel capability requirement pursuant to 47 C.F.R. § 90.547.⁴⁵

³⁸ See 47 C.F.R. § 90.531(a)(8); Revised Plan Section 9.0 - Certification (dated Dec. 31, 2007).

³⁹ See Revised Plan, Appendix G – Table of Channel Assignments (including allocations for the District of Columbia, and the cities of Alexandria, VA and Baltimore, MD).

⁴⁰ See Revised Plan, Sections 5.0 – 5.1 Coordination with Adjacent Regions at 41-53 (includes letters of concurrence from Region 28, Region 36, Region 42 and Region 44, and copies of *Inter-Regional Coordination Procedures and Procedures for Resolution of Disputes That May Arise under FCC Approved Plans*).

⁴¹ See Revised Plan at 3-4.

⁴² See Revised Plan, Section 3.13 - Wideband/Broadband Data. This section was deleted, except to note broadband utilization, as provided by grant of special temporary authority to operate a regional broadband network. See *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; Request by National Capital Region for Special Temporary Authority to Operate a Broadband Network, in the 700 MHz Public Safety Band*, PS Docket No. 06-229; WT Docket No. 96-86, *Order*, 22 FCC Rcd 20912 (PSHSB 2007).

⁴³ See Revised Plan Section 3.11 – Detailed Description of How Region 20 Maximized Spectrum, Figure 2 – Process for Evaluating User Applications for Voice Channels at 30.

⁴⁴ See Revised Plan, Section 3.9 Management of Channel Assignments at 26. See also 47 C.F.R. § 90.551 (each station authorized in the 769-775 MHz and 799-805 MHz frequency band must be constructed and placed into operation within 12 months from the date of grant of an authorization. Licensees may request a longer construction period, up to but not exceeding 5 years, pursuant to Section 90.155(b)).

⁴⁵ See Revised Plan, Section 7.0 Interoperability Channels at 58.

On May 29, 2008, the Region 20 Revised Plan was placed on *Public Notice* for comment.⁴⁶ We received several comments, all in support of the plan.⁴⁷ We have reviewed the Plan submitted by Region 20, and conclude, based on the information before us, 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 Revised Region 20 (District of Columbia, Maryland and Northern Virginia) 700 MHz Public Safety Plan is APPROVED, and the Region 20 Waiver Request is DISMISSED AS MOOT.

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 Deputy Chief, Public Safety and Homeland Security Bureau.

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⁴⁶ See Comments Invited on Region 20 (Northern Virginia, Maryland and District of Columbia) 700 MHz Regional Planning Committee Proposed Public Safety Plan, WT Docket No. 02-378, *Public Notice*, 23 FCC Rcd 8553 (PSHSB 2008). Comments were due June 19, 2008, and reply comments were due June 30, 2008.

⁴⁷ See Letter from W. Mitchell Vocke, Technical Services Manager, Division of Emergency Operations, Harford County, Maryland (filed June 5, 2008); Letter from Greg Bird, Deputy Director, Kent County Office of Emergency Services, Maryland (filed June 10, 2008); Letter from Sheriff Charles E. Jett, Stafford County Sheriff's Office, Stafford, Virginia (filed June 11, 2008); Letter from Craig A. Fetzer, Division Chief, Communications, State Highway Administration, Maryland Department of Transportation (filed June 18, 2008), and Letter from Vernon R. Herron, Deputy Chief Administrative Officer, Public Safety/Director Homeland Security, Prince George's County, Maryland (filed June 19, 2008).