**Before the**

**Federal Communications Commission**

**Washington, DC 20554**

In the Matter of )

)

Amendment of Part 90 of the Commission’s Rules ) WP Docket No. 07-100

**Comments of the National Regional Planning Council**

The National Regional Planning Council respectfully files these comments under Docket 07-100 on behalf of the 700 MHz and 800 MHz NPSPAC Regional Planning Committees. These comments address the Commission’s Sixth Further Notice of Proposed Rulemaking on several alternatives to stimulate expanded use of and investment in the 4.9 GHz band.

**The National Regional Planning Council**

The National Regional planning Council (NRPC) is an advocacy body formed in 2007 that supports public safety communications spectrum management by Regional Planning Committees (RPC) in the 700 MHz and 800 MHz NPSPAC public safety spectrum as required by the Federal Communications Commission. We liaison with FCC certified frequency coordinators, licensees, applicants, vendors, adjacent regions as well as the Commission on a regular basis to ensure our planning responsibilities and the goals of those first responder agencies we serve are met. These Regional Planning Committees are made up of public safety volunteer members that dedicate their time, in addition to the time spent on their regular positions, to coordinate spectrum efficiently and effectively for the purpose of making it available to public safety agency applicants in their region. The work these people do reflects their dedication to public safety communications and to ensuring local public safety agencies and user needs are heard and met within their regions and beyond. As a body that advocates the voice of regional planning committees and one that does not attempt to consolidate and centralize that voice into a single message, we encourage each region planning committee to voice their own opinions and speak to the Commission in filings and comments as best they can with the intimate knowledge they have as to initiatives in place and impacted within their own regions. Subsequently, the NRPC does not in this proceeding speak for each individual regional planning committee but recent national regional planning meetings and discussion has highlighted specifically the need for this issue to be addressed by the Commission. We are hopeful that each regional planning committee will respond in our filing of this petition on their own behalf bringing their own viewpoints into consideration. We encourage each region to do so.

**Discussion**

The Federal Communications Commission has allocated 50 MHz within the 4.9 GHz band to Public Safety. For various reasons, use of the band by public safety has not reached its full potential. Through this proceeding we encourage the Commission to implement rule changes that foster use of the band by public safety while also implementing rules to protect public safety’s use of the band.

One of the primary issues preventing wider spread use of the band by public safety is the lack of frequency coordination for licensing and use of the band. Public safety by its very nature does what it can to avoid and mitigate risk. Public safety mitigates risk by avoiding uncertainty. The current rules environment where use and licensing of the 4.9 GHz band is not coordinated results in uncertainty. Public safety, and government in general, avoids situations of uncertainty where government cannot safe guard the expenditure of public funds to plan and implement new systems technologies. We encourage the Commission to adopt rules to implement frequency coordination for the 4.9 GHz band and protect the band for public safety.

Although the NPRM raises a number of questions for which it seeks comment, these comments from the NRPC will be limited to those issues and questions that relate to the Regional Planning under Section E of the document.

We concur with the Commission’s belief that the RPC’s have a role in shaping the use of the 4.9 GHz band (para 41). We agree with the Commission to afford the RPC’s the flexibility to file new or amended regional plans or default to an as yet to be announced national plan. For many regions the national plan would likely meet the needs of that region. For other regions, the national plan may be too limiting, or not limiting enough to meet the unique needs of that region. These unique needs would likely be in some of the most urban regions in the country.

We concur with the Commission on allowing regions to submit plans that make changes to specific areas of the Commission’s rules (para 42). We concur with the Commission to allow channel aggregation of up to 40 MHz channels (i). We concur with the Commission to allow regions to set aside additional channels for specific specialized use (ii) however, we also recommend that regions be allowed to deviate from rules specifying specific channels for specific use. For a region where large areas of the region does not have aerial resources or robotics, limiting the use of channels 1 through 5 for those uses exclusively in effect eliminates 5 MHz of spectrum from use. Allowing regions the freedom to modify channel limitations without having to request waiver of Commission rules helps the regions meet the unique needs of that region and foster more use of the band. We concur with allowing regions to place limits on the use of point to point links in urban areas (iii) or impose more stringent antenna requirements or technical parameters to allow greater channel utilization and reuse. We also concur with the Commission on codifying in the rules the upper equivalent isotopically radiated power (EIRP) levels (iv). For specific cases where higher EIRP levels are needed, they can be requested through the waiver process.

Allowing the RPC’s the option to submit plans that amend the above topics to meet the unique needs of the region, at little monetary cost, would make the band more attractive to public safety agencies in the region. Rules and requirements that are too restrictive can make the use of the band unattractive in much the same way that too few rules make the band unattractive to public safety. We feel that the Commission’s proposal to allow regions flexibility in developing plans that amend the national plan will foster the goal of increasing public safety use of the band.

The NRPC concurs with the Commission’s proposal that the RPC’s have six months to notify the commission that the region plans to file a regional plan. Although the NRPC concurs with the six month deadline, we recommend that it be set from the date that the final rules are effective, or the date that the national plan is published, whichever is later. Regions cannot determine whether to accept the national plan or file their own plan until after the national plan is published. Ideally the national plan would be published either prior to or concurrent with the final rules, but if it occurs after the rules, the regions must be given adequate opportunity to review, consider, and fully discuss that plan before making their determination.

The NRPC concurs with the requirement that RPC’s notify the Commission within 6 months of the effective date of the rules for the RPC’s to notify the Commission of their intent to file a regional plan or default to the national plan (para 43). We recommend that the Commission then require that those regions electing to file plan file those plans within 12 months of the effective date of the rules. For those regions that elect to file plans, the NRPC feels that 12 months is sufficient time to develop and file those plans. Regions that are likely to file plans are most likely already active and have the means to meet this deadline. Setting a deadline longer that 12 months unnecessarily adds delay and creates uncertainty for those agencies intending to file applications for spectrum. During the 12 month time after the rules become effective, we agree that applications consistent with the new rules should be accepted by the Commission. Regions that don’t file plans within the 12 month period should be allowed to file plans or amend current plans at any time in the future as is currently done in other spectrum that is subject to RPC Plans. The NRPC recommends that the Commission establish a streamlined review and approval process for 4.9 Plans as it has done in other spectrum subject to RPC Plans. In many cases Plan amendments are not controversial and the process would benefit from a streamlined, expedited process to get these amendments approved and implemented. As previously identified, anything to expedite processes and remove potential uncertainty will help foster acceptance and use of the band by public safety.

The NRPC partially agrees with the Commission in regards to adjacent region approval of plans being filed. The NRPC agrees that amended plans be submitted to adjacent regions for their review and comment and concurrence. However there should be time limit on commenting. Recent experience by several Regions on obtaining adjacent region concurrence to amended 700 MHz Plans has shown that the current process in some cases is not working. Regions have submitted amended plans to adjacent regions and have gotten no response of any type from the adjacent region(s). Multiple attempts to contact leadership of the adjacent region has gone unanswered. From this experience we disagree with the Commission’s opinion that the current process works and is not unduly burdensome. Experience has shown that unresponsive regions can, through their lack of response, in effect hold a region hostage in their attempt to file amended plans. The NRPC recommends that the Commission set the rules such that adjacent regions are notified and given 45 days to either approve, request additional time with reasons for the requested time, or give justification for denying concurrence. Regions that show good faith effort to obtain concurrence from adjacent regions, but have not gotten a reply within the 45 day period should be considered as having gotten concurrence by the adjacent regions lack of response.

**Summary**

The NRPC fully supports the efforts of the Commission to amend the rules to help foster increased use of the 4.9 band by public safety. The band holds the potential for meeting public safety broadband needs for a number of different purposes however the current rules leave too much uncertainty for public safety to fully embrace its use. Additionally, we feel that the current licensing rules have led to confusion where agencies with jurisdictional licenses have implemented permanent fixed systems, including point to point links, believing that their jurisdictional license granted them that authority. We feel that this licensing confusion has resulted in a licensing record that is not truly reflective of the actual use of the band by public safety. We feel that there are many more systems in use than the record seems to indicate. The proposed rules should help identify these systems and update the commissions licensing record to accurately reflect the actual use of the band.

On the whole the NRPC agrees with the Commission’s proposed rule changes. The NRPC urges the Commission to uphold the current rules that retain the band as a public safety band. To implement rules that add uncertainty in the long term use and viability of the band for public safety uses would be detrimental to promoting increased public safety use, and would likely have the opposite effect. The NRPC thanks the Commission for the opportunity to submit these comments.

Respectfully,

William Carter, Chairperson

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National Regional Planning Council

July 3, 2018