PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU

COMMENTS INVITED ON REGION 12 (IDAHO) 700 MHz REGIONAL PLANNING COMMITTEE PROPOSED PUBLIC SAFETY PLAN

WT Docket No. 02-378

Comment Date: November 2, 2005 **Reply Date: November 17, 2005**

On August 17, 2005, the Region 12 (Idaho)[1] 700 MHz Regional Planning Committee ("Region 12") submitted a proposed plan (Plan) for the use of the 12.5 megahertz of spectrum in the 764-776 and 794-806 MHz band (700 MHz public safety band) designated for General Use.[2] Region 12 requests Commission review and approval of the Plan. It concurrently requests a waiver of Section 90.527(a)(5), which provides that regional plans must include an explanation of how the plan had been coordinated with adjacent regions, because Region 12 was unsuccessful in obtaining a Letter of Concurrence and Dispute Resolution Agreement from Region 25 (Montana).[3]

By way of background, the Commission adopted a band plan for the 700 MHz public safety band in 1998, and established a structure to allow regional planning committees (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] There are fifty-five RPCs, and each

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[1] The Region 12 (Idaho) 700 MHz regional planning area encompasses the entire state of Idaho, consisting of 44 counties.

[2] *See* Letter dated Aug. 17, 2005, from Lieutenant Bart Hamilton, Chairman, Region 12 to Marlene H. Dortch, Secretary, FCC (submitting the Region 12 700 MHz Plan on behalf of the Region 12 700 MHz Regional Planning Committee) and Request for Waiver of Concurrence Letter and Dispute Resolution Agreement with Region 25 (Montana), filed on Aug. 17, 2005 (Waiver Request). *See also*, Letters dated Sept. 12, 2005, from Lieutenant Bart Hamilton, Chairman, Region 12 to Marlene H. Dortch, Secretary, FCC (submitting certification that all regional planning committee meetings, including subcommittee and executive meetings, held by Region 12 were open to the public), and (submitting By-Laws as supplement to Region 12 Plan).

[3] *See* 47 C.F.R. § 90.527(a)(5).

[4] *See* 47 C.F.R. § 90.527; *see also* The 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*, WT Docket No. 96-86, 14 FCC Rcd 152 (1998) (*First Report and Order*); *Second Memorandum Opinion and Order*, 15 FCC Rcd 16844 (2000).

committee 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, and plans must include an explanation of how all eligible entities within the region were given such notice.[7] For the initial meeting called by the convenor to form the RPC and hold elections, the Commission requires at least sixty days for appropriate public notifications.[8] Adequate notice of meetings and identification of the matters to be discussed are key to the success of the regional planning process.

Regional plans and plan amendments must be submitted to the Commission for review and approval. 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

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[5] A list of 700 MHz regional planning committees and region activities is available at http://wireless.fcc.gov/publicsafety/700MHz. Each regional plan must contain certain elements, and must be coordinated with adjacent regions. *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84, 195 ¶ 87.

[6] *Id.* at 195 ¶ 87.

[7] *Id.* at 193-94 ¶ 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 ¶ 86.

[8] *Id.* at 195 ¶ 86 & n.220.

[9] 47 C.F.R. § 90.527; *see also First Report and Order,* 14 FCC Rcd at 190-196 ¶¶ 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. The NCC was also 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 http://www.npstc.org/documents.html.

political boundaries such as counties.[11] The Region 12 Plan pre-allocates the narrowband General Use channels by county as listed in the Region 12 Frequency Channel Allotments, Appendix A.[12]

We have reviewed the Plan recently submitted by Region 12 and find it to be sufficient and substantially compliant with the applicable FCC rules and policies. Thus, we tentatively accept the Plan. Our decision to seek comment on the Region 12 Plan is without prejudice to the resolution of Region 12's request for waiver of Section 90.527(a)(5).[13]

Prior to taking further action on the Plan, by this Public Notice, we solicit comments on the 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 12 700 MHz Regional Plan on or before **November 2, 2005** and reply comments on or before **November 17, 2005.** Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[14]

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, when completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and should reference **WT Docket No. 02-378.** Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail 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.

Parties who choose to file by paper must file an original and four copies of each filing. Filings may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries

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[11] The Region 12 channel allocation plan was developed using the Computer Assisted Pre-coordination Resource and Database System (CAPRAD) administered by the National Law Enforcement and Corrections Technology Center-Rocky Mountain Region (NLECTC-RM). The NLECTC-RM is a program of the National Institute of Justice and is sponsored by the University of Denver through the Denver Research Institute. The CAPRAD system is available at http://caprad.nlectc.du.edu.

[12] *See* Plan Appendix A, Frequency Allocation List. CAPRAD pre-designated initial allotments are pre-allocated in county-like area frequency pools. Given this approach, after Commission approval is obtained, any modifications to the existing Region 12 Frequency Allotment List will require an amendment to the Plan. Also, allocation assignments for the wideband General Use channels will require an amendment to the Plan before those wideband channels may be licensed.

[13] Region 12 obtained Letters of Concurrence and Dispute Resolution Agreements from five of the six adjacent regions: Region 27 (Nevada), Region 35 (Oregon), Region 41 (Utah), Region 43 (Washington) and Region 46 (Wyoming). We understand that Region 25 (Montana) is in the process of reviewing the Region 12 Plan. Under the circumstances presented, we are seeking comment on the Region 12 Plan prior to consummation of Region 25's deliberations, in order to reduce the delay in implementing the 700 MHz public safety band in Region 12.

[14] *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial and electronic media sent by 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0531 (voice) or (202) 418-7365 (TTY).

Information on the 700 MHz Regional Planning process and RPC activities is available at http://www.wireless.fcc.gov/publicsafety/700MHz. For further information, contact Jeannie Benfaida, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, at (202) 418-0680, TTY (202) 418-7233, or via e-mail to Jeannie.Benfaida@fcc.gov.

Action by the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau.

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