PUBLIC NOTICE

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

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

Comments Due: June 19, 2008
Reply Comments Due: June 30, 2008

Introduction. On December 31, 2007, the Region 20 (District of Columbia, Maryland and Northern Virginia)[1] 700 MHz Regional Planning Committee (Region 20) submitted a revised 700 MHz Public Safety Plan (Revised Plan) for General Use[2] 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.[4] Region 20 requested waiver of Sections 90.527(a)(3) and (6) because it had not submitted either a general description of how the spectrum would be allotted among the various eligible users or a detailed description of how the plan would put the spectrum to the best possible use, as required by the rules.[5] On April 14, 2008, Region 20 submitted a supplement to its Revised Plan in an effort to cure this deficiency.[6]

Region 20 also sought 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,[7] because the adjacent Region 36 (Western Pennsylvania) RPC had not convened at the time Region 20 requested coordination.[8]

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[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] 47 C.F.R. §§ 90.527(a)(3), (5) and (6).

[5] *See* 47 C.F.R. §§ 90.527(a)(3), (6).

[6] *See* Supplement to Revised Plan (filed Apr. 14, 2008) (Appendix G – Channel Assignments by Geographic Area).

[7] *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). *See also* Revised Plan, Waiver at 6.

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.[9] There are fifty-five RPCs, and each committee is required to submit its plan for the General Use spectrum.[10] 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.[11]

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 notice.[12] For the initial meeting, called by the convenor to form the RPC and hold elections, the Commission requires at least sixty days notice.[13] 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.[14] We also encourage the RPCs to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).[15] 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.

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[8] We note that Region 36 recently 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). Accordingly, we anticipate that Region 20 will pursue coordination of its Revised Plan with Region 36 at its earliest convenience.

[9] *See* 47 C.F.R. § 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, 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).

[10] *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/.

[11] *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

[12] *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.

[13] *Id.* at 195 ¶ 86 & n.220.

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

[15] 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 http://www.npstc.org/documents.html.

On July 31, 2007, the Federal Communications Commission (Commission) adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.[16] 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 700 MHz regional planning committee (RPC) plans (*i.e.* require that the plans be amended).[17] 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.[18] 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.[19]

Region 20 700 MHz Revised Plan. The Region 20 Revised Plan pre-allocates the consolidated narrowband General Use spectrum by county and where appropriate, by District or city.[20] The Revised Plan was coordinated with three of the four regions adjacent to Region 20: Region 28 (Eastern Pennsylvania, Southern New Jersey and Delaware); Region 42 (Virginia), and Region 44 (West Virginia).[21]

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[16] 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*).

[17] *Id.* at 15414 ¶ 346.

[18] 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).

[19] *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).

[20] *See* Revised Plan, Appendix G – Table of Channel Assignments, include allocations for the District of Columbia, and the cities of Alexandria, VA and Baltimore, MD.

[21] *See* Revised Plan, Sections 5.0 – 5.1 Coordination with Adjacent Regions at 46-49 Inter-Regional Coordination Procedures and Procedures for Resolution of Disputes That May Arise under FCC Approved Plans, and Section 5.1 at 51-53, letters of concurrence from Region 28, Region 42 and Region 44.

The Revised Plan does the following:

- Deletes references to the former 700 MHz General Use frequencies and limits plan discussion to the consolidated narrowband voice channels in 769-775 MHz and 799-805 MHz band.[22]

- Deletes references to the assignment of wideband channels.[23]

- Amends Figure 2 – Process for Evaluating User Applications for Voice Channels.[24]

- Adds to Section 3.9 Management of Channel Assignments, construction requirements pursuant to 47 C.F.R. § 90.551.[25]

- Adds to Section 7.0 Interoperability Channels, interoperability channel capability requirement pursuant to 47 C.F.R. § 90.547.[26]

We have reviewed the Region 20 Revised Plan and find it to be compliant with the applicable Commission rules and policies, and tentatively accept the Revised Plan.

Prior to taking further action on the Revised Plan, by this Public Notice, we solicit comments on the Revised 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 20 700 MHz Revised Plan on or before **June 19, 2008**, and reply comments on or before **June 30, 2008.** All comments and reply comments should reference the subject Revised Plan and **PS Docket No. 06-229** and **WT Docket No. 02-378.** Comments and reply comments may be filed 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 and reply 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.

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[22] *See* Revised Plan at 3-4.

[23] *See* Revised Plan, Section 3.13 - Wideband/Broadband Data. This section was deleted, except to note broadband utilization, as provided by waiver grant to establish a regional broadband network. *See* National Capital Region's Regional Wireless Broadband Network, Request by National Capital Region for Waiver of the Commission's Rules to Allow Establishment of a 700 MHz Interoperable Broadband Data Network, WTB Docket 96-86, *Order,* 22 FCC Rcd 1846 (PSHSB 2007).

[24] *See* Revised Plan at 30.

[25] *See* Revised Plan, Section 3.9 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 no exceeding 5 years, pursuant to 90.155(b)).

[26] *See* Revised Plan, Section 7.0 Interoperability Channels.

- 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.

Filings can be sent 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). All filings must be addressed to: Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, 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 must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- 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).

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via email to fcc@bcpiweb.com.

The Revised Plan is available through ECFS at ecfs@fcc.gov. Region 20 Plan documents in **PS Docket No. 06-229** and **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. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, email fcc@bcpiweb.com.

For further information regarding this matter, contact Jeannie Benfaida, Policy Division, Public Safety and Homeland Security Bureau at (202) 418-2313 or Jeannie.Benfaida@fcc.gov.

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