PUBLIC NOTICE

Federal Communications Commission
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MAILED
MAY 15 2009

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DA 09-1069

Released: May 14, 2009

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REGION 54 (SOUTHERN LAKE MICHIGAN) 700 MHZ REGIONAL PLAN

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

Comments Due: June 3, 2009
Reply Comments Due: June 15, 2009

Introduction. On December 12, 2008, the Region 54 (Southern Lake Michigan)[1] 700 MHz Regional Planning Committee (RPC) (Region 54) submitted a proposed 700 MHz Public Safety Plan (Plan) for General Use[2] spectrum in the 769-775/799-805 MHz band for review and approval.[3]

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.[4] Each of the fifty-five (55) RPCs 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]

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[1] The Region 54 (Southern Lake Michigan) 700 MHz regional planning area includes 33 counties in the Lake Michigan basin area of Illinois, Indiana, and Wisconsin. The Illinois counties are Boone, Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, Will, and Winnebago; Indiana counties are Elkhart, Jasper, La Porte, Lake, Marshall, Newton, Porter, Pulaski, St. Joseph and Starke, and the Wisconsin counties are Dane, Dodge, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, and Waukesha.

[2] The General Use spectrum is administered by 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* 700 MHz Plan, submitted by Christopher Kindelspire, Secretary, Region 54, on behalf of William Carter, Region 54 Chairman, to Federal Communications Commission, WT Docket No. 02-378 (filed Dec. 12, 2008) (submitting regional plan).

[4] *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.

[5] *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/.

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

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.[7] For the initial meeting, called by the convenor to form the RPC and hold elections, the Commission requires at least sixty days notice.[8] 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 political boundaries such as counties.

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.[11] 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).

The Region 54 700 MHz Plan. The Region 54 Plan pre-allocates the consolidated narrowband General Use spectrum by county.[12] The Plan was coordinated with all four adjacent regions to Region 54: Region 13 (Illinois), Region 14 (Indiana), Region 21(Michigan) and Region 45 (Wisconsin).[13] We have reviewed the Region 54 Plan and find it to be compliant with the applicable Commission rules and policies, and tentatively accept the Plan.

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

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[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 190-96 ¶¶ 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. 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 http://www.npstc.org/nccsubcom.jsp.

[11] 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*).

[12] *See* Plan, Appendix K – Region 54 Southern Lake Michigan County Spectrum Allocation at 94-113. Appendix K includes a list of the General Use channels, and for reference also lists the State License pool allotments available within the geographic boundaries of the tri-state Region 54 regional planning area.

[13] *See* Plan, Appendix J – Adjacent Region Concurrence Letters (also included are signed Inter-Regional Coordination Procedures and Dispute Resolution Agreements from each adjacent region) at 75-92.

parties may file comments on the Region 54 700 MHz Plan on or before **June 3, 2009**, and reply comments on or before **June 15, 2009**. 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.

- 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 Plan is available through ECFS at ecfs@fcc.gov. Region 54 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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