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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 30 (NEW YORK-ALBANY) 700 MHZ REGIONAL PLAN

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

*Introduction.* On April 7, 2008, the Region 30 (New York-Albany)<sup>1</sup> 700 MHz Regional Planning Committee (RPC) (Region 30) submitted a proposed 700 MHz Public Safety Plan (Plan) for General Use<sup>2</sup> spectrum in the 769-775/799-805 MHz band for review and approval.<sup>3</sup> In addition, on July 7, 2008, Region 30 provided updated evidence of coordination with its adjacent regions: Region 8 (New York Metropolitan Area), Region 19 (New England), Region 28 (Eastern Pennsylvania and Delaware), Region 36 (Western Pennsylvania), and Region 55 (New York-Buffalo).<sup>4</sup> On December 8, 2008, Region 30 submitted a revised letter of concurrence from Region 28.<sup>5</sup> For the reasons discussed below, we approve the Region 30 700 MHz Plan.

*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.<sup>6</sup> There are fifty-five RPCs, and each

<sup>1</sup> The Region 30 (New York-Albany) 700 MHz regional planning area includes thirty-one counties in upstate New York and three Tribal Nations: Albany, Broome, Cayuga, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Green, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Warren, Washington, the Oneida and Onondaga Nations, and the St. Regis Mohawk Tribe. Region 30 shares a border with Canada.

<sup>2</sup> 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.

<sup>3</sup> See Letter from David A. Cook, Chairman, Region 30 700 MHz Regional Planning Committee to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, PS Docket 06-229 (filed Apr. 7, 2008) (submitting 700 MHz regional plan).

<sup>4</sup> See Letter from David A. Cook, Chairman, Region 30 700 MHz Regional Planning Committee to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, PS Docket No. 06-229 (filed July 7, 2008) (submitting Plan Addendum to provide evidence of adjacent region coordination).

<sup>5</sup> See Letter from David A. Cook, Chairman, Region 30 700 MHz Regional Planning Committee to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, PS Docket No. 06-229 (filed Dec. 8, 2008) (submitting second Plan Addendum to provide updated letter of concurrence from Region 28).

<sup>6</sup> 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.

submitted for review and approval must sufficiently address each of the common elements in the Commission's regional plan requirements.<sup>16</sup> RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).<sup>17</sup>

*Review of the Region 30 700 MHz Plan.* Region 30 convened its first meeting on December 2, 2003,<sup>18</sup> wherein it elected its chairman and other committee officers.<sup>19</sup> The Plan includes By-laws,<sup>20</sup> a detailed membership list,<sup>21</sup> meeting minutes,<sup>22</sup> and a list of Tribal Nations notified of each meeting held.<sup>23</sup> The Plan describes the procedures for requesting spectrum allotments,<sup>24</sup> details the application review and scoring process,<sup>25</sup> and outlines system implementation criteria and spectrum utilization.<sup>26</sup> The State of New York, Office of Technology, State Interoperability Executive Committee (SIEC) administers the interoperability channels.<sup>27</sup> In addition, the Plan provides guidelines for use of low power channels<sup>28</sup> and

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<sup>16</sup> See 47 C.F.R. § 90.527.

<sup>17</sup> 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/nccsubcom.jsp>.

<sup>18</sup> See Plan, Section 1.1 First Convening Meeting at 2.

<sup>19</sup> See Plan, Appendix U – RPC Public Meeting Notices and Minutes (December 2, 2003, Convening Notice and Meeting Report) at 225-230.

<sup>20</sup> See Plan, Section 3.0 Region 30 By-Laws at 7-11.

<sup>21</sup> See Plan, Appendix A – Committee Members Contact List at 49-57; see also Plan, Appendix B – Committee Members Meeting Attendance Roster at 59-67 (for meetings held from December 2, 2003 through February 7, 2008).

<sup>22</sup> See Plan, Appendix U – RPC Public Meeting Notices and Minutes at 223-378 (includes RPC Chair certification, pursuant to 47 C.F.R § 90.527(a)(8) requiring all RPC, Executive and Subcommittee meetings held were open to the public).

<sup>23</sup> See Plan, Appendix V – Tribal Nation Correspondence at 381-384 (copy of template invitational letter sent to representatives of the Oneida and Onondaga Nations, and the St. Regis Mohawk Tribe for each meeting held between December 2, 2003 and April 17, 2008).

<sup>24</sup> See Plan, Section 5.0 – Procedure for Requesting Spectrum Allotments at 15-16 (Region 30 will hold three Application Filing Windows per year); see also Plan, Section 6 Applications Requirements at 17-18; Plan, Appendix E – Application Package Checklist (items needed to constitute a complete application package), and Plan, Appendix F – Supplemental Application Requirements.

<sup>25</sup> See Plan, Section 7.0 – Application Scoring Matrix at 19-32; see also Plan, Section 8.0 – Technical Evaluation of Applications at 33-34.

<sup>26</sup> See Plan, Section 9.0 – Interference-Protection Criteria and System-Design Specifications at 35-37 (recommended system reliability, coverage and interference prediction methodology, radiation control and system design, pool-to-pool reliability-degradation threshold, outside-to-pool reliability-degradation, and evaluation of adjacent-channel effects).

<sup>27</sup> See Plan, Appendix S – SIEC Convening Letter (notification letter dated Nov. 26, 2001, from Hanford C. Thomas, Jr., Project Director, New York State Office of Technology, to D'Wana Terry, Chief, Public Safety and Private Wireless Division, Wireless Communications Commission, FCC) at 221-222.

addresses the continued usage of the CAPRAD system.<sup>29</sup> Further, the Plan provides, as reference only, an executive summary of the 700 MHz Border-Sharing Agreement Between the U.S. and Canada.<sup>30</sup> The Region 30 Chair has certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.531(a)(8).<sup>31</sup>

The Region 30 Plan pre-allocates the consolidated narrowband General Use spectrum by county.<sup>32</sup> The Plan was coordinated with all five adjacent regions to Region 30: Region 8 (New York Metropolitan Area), Region 19 (New England), Region 28 (Eastern Pennsylvania and Delaware), Region 36 (Western Pennsylvania), and Region 55 (New York-Buffalo).<sup>33</sup>

On May 4, 2009, the Bureau released a *Public Notice* seeking comment on the Region 30 Plan.<sup>34</sup> We received no comments on the plan. Based on our review of the plan, we conclude 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 Region 30 (New York-Albany) 700 MHz Public Safety Plan is APPROVED.

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 Chief, Policy Division, Public Safety and Homeland Security Bureau.

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<sup>28</sup> See Plan, Section 10.0 – Administration of the Low Power Interoperability Channels at 39-42 (low power interoperability frequencies are limited to transmissions with effective radiated power (ERP) of no more than two (2) watts).

<sup>29</sup> See Plan, Section 5.0 – Procedure for Requesting Spectrum Allotments at 15-16. The initial CAPRAD allotments will remain valid for a period of five years from the digital television transition date (June 17, 2009).

<sup>30</sup> See Plan, Appendix R – Executive Summary of the 700 MHz Border Sharing Agreement Between the U.S. and Canada (Agreement) (signed June 20, 2005) at 183-189. The Executive Summary explains that the Agreement specifies the functional (technical) and non-functional 700 MHz public safety usage parameters. It also provides useful information regarding the sharing and protection zones, and the required information exchange between licensees pertaining to frequencies within 140 km. Region 30 notes that the Agreement has not been revised to reflect the new consolidated narrowband frequencies, pursuant to the Commission's *Second Report and Order*.

<sup>31</sup> See Plan, Appendix U – RPC Public Meeting Notices and Minutes (Certification) at 223.

<sup>32</sup> See Plan, Appendix I – 700 MHz Channel Allotment Pool as Defined in CAPRAD at 99-108.

<sup>33</sup> See 700 MHz Plan Addenda submitted July 7, 2008 and December 5, 2008 (providing updated Appendix K – Adjacent Region Concurrence Approvals); see also Plan Appendix V – Adjacent Region Notification of Plan Revisions at 335-338 (updated concurrences from Region 28, Region 30 and Region 36); see also Plan, Appendix N – Inter-regional Frequency Coordination and Dispute Resolution Approvals at 163-167.

<sup>34</sup> See Public Safety and Homeland Security Bureau Seeks Comments on Region 30 (New York-Albany) 700 MHz Regional Planning Committee Proposed Public Safety Plan, PS Docket No. 06-229, WT Docket No. 02-378, *Public Notice*, 24 FCC Rcd 5311 (PSHSB 2009). Comments were due May 29, 2009, and reply comments were due June 3, 2009.

committee is required to submit its plan for the General Use spectrum.<sup>7</sup> 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.<sup>8</sup>

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.<sup>9</sup> 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).

*Plan Requirements.* Each RPC is required to submit its plan for the assignment of licenses for General Use spectrum.<sup>10</sup> Each regional plan must contain certain elements<sup>11</sup> and must be coordinated with adjacent regions.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup>

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.<sup>15</sup> However, all 700 MHz plans

<sup>7</sup> 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>.

<sup>8</sup> *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

<sup>9</sup> 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*).

<sup>10</sup> See 47 C.F.R. §§ 90.527, 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.

<sup>11</sup> See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

<sup>12</sup> See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

<sup>13</sup> 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.

<sup>14</sup> *Id.* at 193-94 ¶ 84.

<sup>15</sup> See Plan, Appendix I – 700 MHz Channel Allotment Pool as Defined in CAPRAD at 99-108. The Computer Assisted Pre-coordination Resource and Database System (CAPRAD) is a spectrum management tool provided by National Institute of Justice, National Law Enforcement and Corrections Technology Center. Access to the CAPRAD system is available at <http://caprad.nlectc.du.edu>.