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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 51 (TEXAS-HOUSTON) 700 MHZ REGIONAL PLAN

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

Introduction. On February 29, 2008, the Region 51 (Texas-Houston)¹ 700 MHz Regional Planning Committee (RPC) (Region 51) submitted a proposed 700 MHz Public Safety Plan (Plan) for General Use² spectrum in the 769-775/799-805 MHz band.³ On May 5, 2008, Region 51 resubmitted its Plan through the Commission's Electronic Comment Filing System, to provide a more accessible copy of its February 29, 2008 submission.⁴ For the reasons discussed below, we approve the Region 51 700 MHz Plan.

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.⁵ There are fifty-five RPCs, and each committee is required to submit its plan for the General Use spectrum.⁶ 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)

¹ The Region 51 (Texas-Houston) 700 MHz regional planning area includes twenty-eight counties: Angelina, Brazoria, Austin, Colorado, Chambers, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, San Augustine, San Jacinto, Sabine, Shelby, Trinity, Tyler, Walker, Waller, and Wharton.

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 Letter from Doug Frankhouser, Chair, Region 51 700 MHz Regional Planning Committee, to Federal Communications Commission, Public Safety and Homeland Security Bureau, WT Docket No. 02-378 (filed Feb. 29, 2008).

⁴ Letter from Doug Frankhouser, Chair, Region 51 700 MHz Regional Planning Committee, to Federal Communications Commission, Public Safety and Homeland Security Bureau, WT Docket No. 02-378 (filed May 5, 2008).

⁵ 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.

⁶ 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>.

reviewing and accepting proposed plans (or amendments to approved plans), or rejecting them with an explanation.⁷

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.⁸ 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 committee is required to submit its plan for the assignment of licenses for General Use spectrum.⁹ Each regional plan must contain certain elements¹⁰ and must be coordinated with adjacent regions.¹¹ 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.¹² 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.¹³

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.¹⁴ However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the

⁷ *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

⁸ 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*).

⁹ 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.

¹⁰ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

¹¹ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

¹² 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.

¹³ *Id.* at 193-94 ¶ 84.

¹⁴ See Plan, Section 16 – Region 51 Channel Assignments at 210-241 (specifying allotments by county developed using the Computer Assisted Pre-coordination Resource and Database System (CAPRAD), a spectrum management tool provided by National Institute of Justice, National Law Enforcement and Corrections Technology Center). The CAPRAD system is available at <http://caprad.nlectc.du.edu>.

Commission's regional plan requirements.¹⁵ RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹⁶

Review of the Region 51 700 MHz Plan. Region 51 convened its first meeting on November 8, 2000,¹⁷ wherein it elected its chairman. At subsequent meetings, Region 51 appointed additional officers and adopted bylaws.¹⁸ The Plan includes a detailed membership list,¹⁹ an outreach notification process,²⁰ and meeting minutes.²¹ The Plan describes the procedures for requesting spectrum allotments,²² and outlines system implementation criteria and spectrum utilization.²³ The Plan explains efficiency requirements, discusses the use of interoperability channels,²⁴ and provides low power channel usage guidelines.²⁵ The Plan also addresses its process for future spectrum planning and plan modification.²⁶ The Plan was adopted by its members on October 3, 2007, and the Region 51 Chair has certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.531(a)(8).²⁷

The Region 51 Plan pre-allocates the consolidated narrowband General Use spectrum by county.²⁸ The Plan was coordinated with all four adjacent regions to Region 51: Region 18 (Louisiana), Region 40 (Texas-Austin), Region 49 (Texas-Central Austin area) and Region 53 (Texas-San Antonio).²⁹

¹⁵ See 47 C.F.R. § 90.527.

¹⁶ 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>.

¹⁷ See Plan, Section 2.1 Notification Process at 22.

¹⁸ See Plan, Section 11 – Bylaws at 49-56 (adopted April 4, 2006).

¹⁹ See Plan, Section 12 – Region 51 Members and Agencies at 57-81 (membership and voting status).

²⁰ See Plan, Section 2.2 – Operations of the RPC at 22-24. The RPC maintains a webpage at <http://www.region51.hctx.net>.

²¹ See Plan, Section 13 – Lists of Meetings, Summaries of Minutes and Agenda at 67-203 (copies of meeting announcements, attendance records and minutes).

²² See Plan, Section 3.0 – Regional Plan Administration (procedures for requesting spectrum allotments; the RPC will announce an open filing window for applications following Bureau approval of its Plan) at 25-28.

²³ See Plan, Section 7 – System Design/Efficiency Requirements (includes interference protection criteria; efficiency standards; orphaned channels system implementation and channel loading).

²⁴ See Plan, Section 8.0 – Interoperability Channels at 46 (noting that the State of Texas will administer the interoperability channels through its Statewide Interoperability Executive Committee).

²⁵ See Plan, Section 3.4 – Low Power Analog Eligible Channels at 31-33.

²⁶ See Plan, Section 9.0 – Future Planning at 33-38 (Region 51 will continue to utilize the CAPRAD data base as applications are received and will update the database as licenses are granted). Plan amendments will be made at RPC meetings and voted on by simple majority.

²⁷ See Plan, Section 10 – Certification (dated February 25, 2008) at 48.

²⁸ See Plan, Section 16.1 – 700 MHz Channel Assignments for Region 51 at 210-237.

On July 3, 2008, the Bureau released a *Public Notice* seeking comment on the Region 51 Plan.³⁰ 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 51 (Texas-Houston) 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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²⁹ See Plan, Section 18 – Adjacent Regions Concurrences at 258-265; *see also*, Plan, Section 17 – Inter-Regional Dispute Resolution Agreements (signed by all adjacent regions).

³⁰ See Comments Invited on Region 51 (Texas-Houston) 700 MHz Regional Planning Committee Proposed Public Safety Plan, PS Docket No. 06-229, WT Docket No. 02-378, *Public Notice*, 23 FCC Rcd 10429 (PSHSB 2008). Comments were due July 24, 2008, and reply comments were due August 4, 2008.