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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re:	§	Chapter 11
	§	
FIBERTOWER NETWORK SERVICES CORP.,	§	Case No. 12-44027-DML-11
<i>et al.</i> ,	§	
	§	Jointly Administered
Reorganized Debtors.	§	
	§	
	§	
FIBERTOWER NETWORK SERVICES CORP.,	§	Adversary No. 12-4104
<i>et al.</i> ,	§	
	§	
Reorganized Debtors.	§	
	§	
v.	§	
	§	
FEDERAL COMMUNICATIONS	§	
COMMISSION,	§	
	§	
Defendant.	§	

**JOINT MOTION FOR ENTRY OF
AGREED AMENDED SCHEDULING ORDER**

The above-captioned reorganized debtors and debtors in possession (collectively, the “Debtors” or “FiberTower”),¹ and the United States of America on behalf of the Federal Communications Commission (the “FCC” or the “Commission,” and with the Debtors, collectively, the “Parties”), for their Joint Motion for Entry of an Agreed Amended Scheduling Order, respectfully represent:

1. On January 23, 2014, the Court entered an amended agreed scheduling order in this adversary proceeding [Docket No. 67] (the “Third Amended Scheduling Order”). The Third Amended Scheduling Order further amended an agreed scheduling order [Docket No. 54] entered by this Court on October 23, 2012, amending the standard standing scheduling order traditionally entered in adversary proceedings in this District.²

2. On May 19, 2014, the Parties filed their Joint Motion [Docket No. 69] (“Prior Joint Motion”), on which this Court has not yet acted, for an amendment to the Third Amended Scheduling Order. As explained in the Prior Joint Motion, the Parties requested deadline extensions while awaiting a decision from the United States Court of Appeals for the District of Columbia Circuit in *Fibertower Spectrum Holdings v. FCC*, No. 14-1039 (D.C. Cir.) (the “Appeal”) because the Parties expected resolution of the Appeal to have an impact on the issues raised in this adversary proceeding. In the Appeal, Fibertower challenged an FCC order denying applications to renew 689 wireless spectrum licenses (each, a “License”) in the 24 gigahertz (“GHz”) and 39 GHz bands for purportedly failing to meet the “substantial service” performance standard during the license term, *In Re Fibertower Spectrum Holdings LLC Requests For*

¹ The reorganized Debtors in these chapter 11 cases are: (i) FiberTower Network Services Corp.; (ii) FiberTower Corporation; (iii) FiberTower Licensing Corp.; and (iv) FiberTower Spectrum Holdings LLC.

² The Court’s Memorandum Opinion appears at Docket No. 46.

Waiver, Extension Of Time, Or In The Alternative, Limited Waiver Of Substantial Service Requirements 94 Applications For Extension Of Time To Construct 24 Ghz Digital Electronic Message Service Licenses, 59 Communications Reg. (P&F) 1371, 2014 WL 1379040 (FCC Feb. 27, 2014) (the “Reconsideration Denial”).

3. The D.C. Circuit recently issued its ruling on the Appeal. *Fibertower Spectrum Holdings v. FCC*, No. 14-1039, 2015 WL 1499294 (D.C. Cir. April 3, 2015). The D.C. Circuit affirmed the Reconsideration Denial as to whether Fibertower met the substantial service standard for 647 Licenses and vacated the Reconsideration Denial (and remanded to the FCC) as to whether Fibertower met the substantial service standard for 42 Licenses. The D.C. Circuit also remanded the matter to the FCC for further proceedings on whether waiver and extension relief should be granted.

4. Fibertower may pursue additional administrative and judicial review concerning the Licenses and the Appeal. At least one year from the date of this Joint Motion likely will be required for briefing and decision of these matters.

5. To conserve the resources of the parties and this Court, the Court should postpone the FCC’s deadline to respond to the Complaint for approximately one additional year and extend other deadlines in this case accordingly.

6. The Parties have agreed to the time frames set forth in the attached form of Agreed Amended Scheduling Order and thus request that the Court enter the same.

Respectfully submitted this ___th day of April, 2015.

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John R. Parker
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Donna Webb
Assistant United States Attorney

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of April 2015, he caused notice of the foregoing JOINT MOTION FOR ENTRY OF AGREED AMENDED SCHEDULING ORDER to be served via the Court's ECF system, with a courtesy copy by electronic mail to the persons listed below.

/s/ Lloyd H. Randolph

Lloyd H. Randolph

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**IN THE UNITED STATES BANKRUPTCY COURT
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Reorganized Debtors.	§	Jointly Administered
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Reorganized Debtors.	§	
	§	
v.	§	
	§	
FEDERAL COMMUNICATIONS COMMISSION,	§	
	§	
Defendant.	§	

AMENDED AGREED SCHEDULING ORDER

Based on the agreement of the parties to the above-referenced adversary proceeding, the Court enters this Amended Agreed Scheduling Order. The new dates governing discovery and trial of this matter are as follows:

1. The deadline for filing a response to the Complaint is June 17, 2016.

2. Disclosures required by Fed. Bankr. R. 7026(a) shall be made by September 30, 2016. Also on September 30, 2016, or such other date set by agreement of the parties, the parties shall confer by telephone according to Fed. Bankr. R. 7026(f).

3. Subject to paragraphs 4 through 6 below, discovery shall be completed by the close of business on March 31, 2017.

4. For every witness whom Plaintiff may use at trial to present evidence under Fed. R. Evid. 702, 703 or 705, Plaintiff's counsel shall deliver to Defendant's counsel a written report satisfying the requirements of Fed. R. Civ. P. 26(a)(2)(B) by April 21, 2017.

5. For every witness whom Defendant may use at trial to present evidence under Fed. R. Evid. 702, 703 or 705, Defendant's counsel shall deliver to Plaintiff's counsel a written report satisfying the requirements of Fed. R. Civ. P. 26(a)(2)(B) by May 12, 2017.

6. All discovery from any witness described in either of the two immediately preceding paragraphs shall be concluded by July 14, 2017.

7. Case dispositive motions shall be filed by August 4, 2017.

8. Counsel for each party shall exchange with counsel for the other party a list of his client's proposed trial exhibits and witnesses on September 29, 2017.

9. On December 15, 2017, each party shall file and serve:

- a. A joint pre-trial order in compliance with Local District Court Rule 16.4;
- b. Trial briefs; and
- c. Any objections to the other party's proposed exhibits or witnesses.

10. Docket Call is rescheduled for January __, 2018 at ____ a.m./p.m.

This Order is without prejudice to the parties' requesting further extensions of time with respect to the matters addressed herein. The dates set forth in paragraphs 2, 3 through 6 and 8 may be extended by agreement of the parties without the need for a motion or Court order. Any other extensions of time shall require a further Order of the Court.

###END OF ORDER

