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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.	§	

UNITED STATES' MOTION FOR ENTRY OF AMENDED SCHEDULING ORDER

The United States of America on behalf of the Federal Communications Commission (the “FCC” or the “Commission”), for its Motion for Entry of an Amended Scheduling Order in this adversary proceeding initiated by the above-captioned reorganized debtors and debtors in

possession (collectively, the “Debtors” or “FiberTower, with the United States, collectively, the “Parties”),¹ respectfully represents:

1. On June 3, 2015, the Court entered an amended agreed scheduling order in this adversary proceeding [Docket No. 71] (the “Scheduling Order”). The Scheduling Order further amended an agreed scheduling order [Docket No. 67] entered by this Court on January 23, 2014, amending the standard standing scheduling order traditionally entered in adversary proceedings in this District.

2. The Parties previously 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 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. In its ruling on the Appeal, the D.C. Circuit affirmed the Reconsideration Denial’s conclusion that Fibertower failed to meet the substantial service standard for 647 Licenses and

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.

vacated the Reconsideration Denial's conclusion that (and remanded to the FCC for further consideration of whether) Fibertower failed to meet 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. *Fibertower Spectrum Holdings, LLC v. FCC*, 782 F.3d 692 (D.C. Cir. 2015).

4. Consequently, Fibertower is pursuing additional administrative review concerning the Licenses and may also pursue additional judicial review. At least eighteen additional months 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 an additional eighteen months and extend other deadlines in this case accordingly.

6. Fibertower has not yet definitively responded to the United States' request, first made 59 days ago, to consent to the time frames set forth in the attached form of Amended Scheduling Order.

7. In view of approaching deadlines, including the June 17, 2016 deadline for filing a response to the Complaint, the United States requests that the Court enter the Amended Scheduling Order.

May 6, 2016.

Respectfully submitted

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Acting United States Attorney

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By: /s/ Lloyd H. Randolph
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Reorganized Debtors.	§	Jointly Administered
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FIBERTOWER NETWORK SERVICES CORP., <i>et al.</i> ,	§	Adversary No. 12-4104
	§	
Reorganized Debtors.	§	
	§	
v.	§	
	§	
FEDERAL COMMUNICATIONS COMMISSION,	§	
	§	
Defendant.	§	

AMENDED SCHEDULING ORDER

Based on the United States' May 6, 2016 Motion for Entry of Amended Scheduling Order and any response thereto, the Court enters this Amended 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 December 18, 2017.
2. Disclosures required by Fed. Bankr. R. 7026(a) shall be made by April 2, 2018. Also on April 2, 2018, 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 October 1, 2018.
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 October 21, 2018.
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 November 13, 2018.
6. All discovery from any witness described in either of the two immediately preceding paragraphs shall be concluded by January 14, 2019.
7. Case dispositive motions shall be filed by February 4, 2019.
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 April 1, 2019.
9. On July 17, 2019, 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 _____, 2019 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

Prepared by:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 6th day of May 2016, I caused notice of the foregoing UNITED STATES' MOTION FOR ENTRY OF 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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