


U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS
ON THE COURTS DOCKET
TAWANA C. MARSHALL, CLERK

JUL 25 2012


D. Michael Lynn
U.S. Bankruptcy Judge

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

In re: § Chapter 11
§
FIBERTOWER NETWORK SERVICES § Case No. 12-44027-DML-11
CORP., *et al.*, §
§ Jointly Administered (Pending)
Debtors. §

**ORDER PURSUANT TO SECTIONS 105(a) AND 366 OF
THE BANKRUPTCY CODE (i) PROHIBITING UTILITIES FROM ALTERING,
REFUSING OR DISCOUNTING SERVICE ON ACCOUNT OF PREPETITION
INVOICES AND (ii) ESTABLISHING PROCEDURES FOR DETERMINING
REQUESTS FOR ADEQUATE ASSURANCE OF PAYMENT**

Upon the Motion of the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”),¹ for entry of an Order Pursuant to Sections 105(a) and 366 of the Bankruptcy Code (i) Prohibiting Utilities From Altering, Refusing or Discontinuing Service on Account of Prepetition Invoices and (ii) Establishing Procedures for Determining Requests for Adequate Assurance of Payment (the “Motion”);² and upon the Objection to the Motion filed by U.S. Signal Company LLC (“U.S. Signal”); and the Court having jurisdiction over the Motion

¹ The 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 Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

pursuant to 28 U.S.C. §§ 157 and 1334, and the Motion presenting a core proceeding under 28 U.S.C. § 157(b)(2); and the Court being satisfied that the relief requested in the Motion is appropriate and would be in the best interests of the Debtors and their respective estates and creditors; and it appearing that sufficient notice of the Motion has been given, and that no other or further notice is required; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED AS FOLLOWS:

1. The Motion is hereby granted, to the extent provided herein.

2. The Debtors are authorized to pay on a timely basis in accordance with their prepetition practices (or, if applicable, their prepetition contracts) all undisputed invoices for postpetition Utility Services provided by the Utility Companies to the Debtors.

3. To the extent that the Debtors and any Utility Company reach an agreement regarding adequate assurance of payment, such agreement shall be binding and such Utility Companies ~~are~~ deemed to have received from the Debtors adequate assurance of payment within the meaning of 366(c)(2) of the Bankruptcy Code, and may not alter, refuse or discontinue utility service to the Debtors absent a default in post-petition payment by the Debtors. *held*

4. Any Utility Company that did not object to the Motion which provides service to any of Debtors, which Utility Company did not, pursuant to the Motion receive adequate assurance of payment for utility service that is satisfactory to such utility, may, after thirty (30) days after the commencement of these cases and only after compliance with all applicable non-bankruptcy law, including giving any notice that is required under applicable law and is ~~in any~~ *in any event until that* ~~event no less~~ reasonable, alter, refuse or discontinue utility service to Debtors or any of them. *will*

5. This Court reserves jurisdiction to determine whether any Utility Company seeking to alter, refuse or discontinue utility service to Debtors or any of them has complied with applicable non-bankruptcy law, including giving required, or at least reasonable notice to Debtors of such alteration, refusal or discontinuance.

6. Nothing herein shall prejudice the rights of Debtors or any of them or any other party in interest to seek appropriate relief from this Court under section 366(c)(3) of the Bankruptcy Code or section 105(a) of the Bankruptcy Code, including in the event any Utility Company should give notice of its intent to alter, refuse or discontinue services to Debtors or any of them.

7. To the extent that any Utility Companies have been inadvertently omitted from the list of Utility Companies set forth on Exhibit A to the Motion, the Debtors are authorized to supplement the list without further Order of this Court.

8. If the Debtors supplement the list of Utility Companies, the Debtors shall serve a copy of the Motion and this Order on any Utility Company that has been added to the list (each, a "Supplemental Utility Company" and, collectively, the "Supplemental Utility Companies").

9. Concurrently with the Supplemental Service, the Debtors will file a supplemental Exhibit A to the Motion adding the names of the Supplemental Utility Companies so served.

10. All provisions of this Order shall be binding on all Supplemental Utility Companies.

11. The Debtors may terminate the services of any Utility Company by providing written notice (or, if there is an executory contract between the Debtors and a Utility Company, via motion to reject such contract). In the event that the Debtors terminate the services of, or reject an executory contract with, any Utility Company, such Utility Company must return to the

Debtors any security deposit of the Debtors in its possession, net of any unpaid postpetition charges.

12. Nothing herein shall be deemed a determination that any Utility Company constitutes a "utility" for purposes of section 366 of the Bankruptcy Code.

13. Nothing in this Order shall be deemed to constitute an assumption of any executory contract under section 365 of the Bankruptcy Code.

14. Rule 6003(b) of the Federal Rules of Bankruptcy Procedure has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

15. The Debtors shall serve a copy of this Order by United States mail, first class postage prepaid, upon: (i) the Utility Companies listed on Exhibit A attached to the Motion; (ii) counsel to the Indenture Trustee for the Debtors' 9.00% Senior Secured Notes due 2016; (iii) counsel to the Indenture Trustee for the Debtors' 9.00% Convertible Senior Secured Notes due 2012; (iv) counsel to the ad hoc committee of holders of the Debtors' 9.00% Senior Secured Notes due 2016; (v) the office of the United States Trustee for the Northern District of Texas; and (vi) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis.

16. The objection to the Motion filed by U.S. Signal is, and is hereby deemed to be, withdrawn.

17. This Court shall, and hereby does, retain jurisdiction with respect to all matters arising from or related to the implementation and interpretation of this Order.

END OF ORDER

In re:
FiberTower Network Services Corp.
Debtor

Case No. 12-44027-dml
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0539-4

User: dhuffman
Form ID: pdf025

Page 1 of 2
Total Noticed: 16

Date Rcvd: Jul 25, 2012

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jul 27, 2012.

db +FiberTower Network Services Corp., 2613 Gravel Drive, Fort Worth, TX 76118-6963
aty +Daniel J. Harris, Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038-4982
aty +Gregory L. Taddonio, Reed Smith LLP, Reed Smith Centre, 225 Fifth Avenue,
Pittsburgh, PA 15222-2716
aty +Jeremy B. Reckmeyer, Andrews Kurth LLP, 450 Lexington Ave., 15th Floor,
New York, NY 10017-3939
aty +Jonathan I. Levine, Andrews Kurth LLP, 450 Lexington Ave., 15th Floor,
New York, NY 10017-3939
aty +Matthew G. Garofalo, Stroock & Stroock & Lavan LLP, 180 Maiden Lane,
New York, NY 10038-4982
aty +Paul N. Silverstein, Andrews & Kurth LLP, 450 Lexington Ave., 15th Floor,
New York, NY 10017-3939
aty +Sayan Bhattacharyya, Stroock & Stroock & Lavan LLP, 180 Maiden Lane,
New York, NY 10038-4982
cr +American Communications, LLC, c/o Basden & Ivie, PC, 17300 Dallas Parkway, Suite 3160,
Dallas, TX 75248-7708
cr Richardson ISD, Highland Park ISD, Valwood Improve, c/o Elizabeth Banda Calvo,
Perdue Brandon Fielder et al, PO Box 13430, Arlington, TX 76094-0430

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

cr +E-mail/Text: dallas.bankruptcy@LGBS.com Jul 25 2012 23:18:01 City of Coppell,
Linebarger Goggan Blair & Sampson, LLP, c/o Laurie Spindler Huffman, 2323 Bryan Street,
Suite 1600, Dallas, TX 75201-2644
cr +E-mail/Text: dallas.bankruptcy@LGBS.com Jul 25 2012 23:18:01 Coppell ISD,
Linebarger Goggan Blair & Sampson, LLP, c/o Laurie Spindler Huffman, 2323 Bryan Street,
Suite 1600, Dallas, TX 75201-2644
cr +E-mail/Text: dallas.bankruptcy@LGBS.com Jul 25 2012 23:18:01 Dallas County,
Linebarger, Goggan, Blair & Sampson LLP, c/o Laurie Spindler Huffman, 2323 Bryan St.,
Ste. 1600, Dallas, TX 75201-2644
cr +E-mail/Text: dallas.bankruptcy@LGBS.com Jul 25 2012 23:18:01 Irving ISD,
Linebarger, Goggan, Blair & Sampson LLP, c/o Laurie Spindler Huffman, 2323 Bryan St.,
Ste. 1600, Dallas, TX 75201-2644
cr +E-mail/Text: dallas.bankruptcy@LGBS.com Jul 25 2012 23:18:01 Kaufman County,
c/o Laurie Spindler Huffman, 2323 Bryan Street, Suite 1600, Dallas, TX 75201-2637, U.S.
cr +E-mail/Text: dallas.bankruptcy@LGBS.com Jul 25 2012 23:18:01 Tarrant County,
c/o Laurie Spindler Huffman, 2323 Bryan Street, Suite 1600, Dallas, TX 75201-2637, U.S.
TOTAL: 6

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

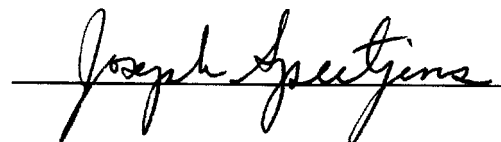
Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jul 27, 2012

Signature:



District/off: 0539-4

User: dhuffman
Form ID: pdf025

Page 2 of 2
Total Noticed: 16

Date Rcvd: Jul 25, 2012

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on July 25, 2012 at the address(es) listed below:

David Ellerbe on behalf of Creditor US Signal, L.L.C. dellerbe@neliganlaw.com,
kgradick@neliganlaw.com
Elizabeth Banda Calvo on behalf of Creditor Richardson ISD, Highland Park ISD, Valwood
Improvement Authority rgleason@pbfc.com, ebcavlo@pbfc.com
Elizabeth Basden on behalf of Creditor American Communications, LLC eli@basdenivie.com,
kelly@basdenivie.com, katie@basdenivie.com, john@basdenivie.com
Eric A. Schaffer on behalf of Creditor Wells Fargo Bank, National Association, as indenture
trustee and collateral agent, slucas@reedsmith.com; gtaddonio@reedsmith.com
Jason S. Brookner on behalf of Debtor FiberTower Corporation jbrookner@akllp.com,
susanholley@andrewskurth.com
John Mark Chevallier on behalf of Creditor U. S. Bank National Association, as Trustee
mchevallier@mcsllaw.com
Kristopher Martin Hansen on behalf of Creditor Ad Hoc Committee of Holders of the 9% Senior
Secured Notes Due 2016
mmagzamen@stroock.com; dharris@stroock.com; mgarofalo@stroock.com; sbhattacharyya@stroock.com
Laurie Spindler Huffman on behalf of Creditor City of Coppell Laurie.Spindler@publicans.com,
Dallas.bankruptcy@publicans.com; Della.Camarillo@lgbs.com
Mark Minuti on behalf of Creditor SBA Sites, Inc., et al. mminuti@saul.com, rwarren@saul.com
Michael B. Fisco on behalf of Creditor U. S. Bank National Association, as Trustee
michael.fisco@faegrebd.com
Stephen M. Pezanosky on behalf of Creditor Ad Hoc Committee of Holders of the 9% Senior
Secured Notes Due 2016 stephen.pezanosky@haynesboone.com, kim.morzak@haynesboone.com
UST U.S. Trustee ustpreion06.da.ecf@usdoj.gov, albert.loftus@usdoj.gov

TOTAL: 12