

**EXHIBIT 4**

**Choctaw's Response to CTI Plan**

**I. CTI cannot confirm its plan under the Bankruptcy Code.**

Under the provisions of the Bankruptcy Code and applicable non-bankruptcy law, the CTI plan is unconfirmable for numerous reasons discussed below. Therefore, attempts to confirm the CTI plan are futile and could lead to additional delay and a significant increase of expenses, many of which may not be in the best interest of the estate. If no plan is confirmed the Debtor's case could be dismissed or converted to Chapter 7 and liquidated, which could result in little or no recovery for unsecured creditors. Undue delay may also result in the FCC revoking the Debtor's FCC Licenses.

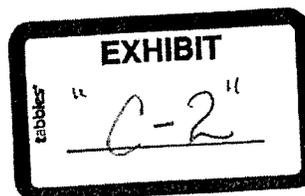
It is Choctaw's position that the Secured Lenders maintain liens on the FCC Licenses and to proceeds thereof to the maximum extent allowable by law and FCC regulations. CTI and the FCC dispute that the Secured Lenders have any direct security interest in, and liens on, the FCC Licenses themselves and assert that such security interest and liens are limited to proceeds of the FCC Licenses only.

Nonetheless, Choctaw will not consent to any plan, other than the Choctaw plan. Accordingly, any plan by CTI must be confirmed under § 1129(b). In order to cram down Choctaw, the CTI plan must provide that Choctaw retain its liens on the FCC Licenses. 11 U.S.C. § 1129(b)(1)(A)(i)(I). The CTI plan's sale provision would violate § 1129(b)(2)(A)(i)(I), which requires that a secured creditor retain its lien "whether the property subject to such liens is retained by the debtor or transferred to another entity." § 1129(b)(2)(A)(i)(I). CTI's potential sale of the individual FCC Licenses violates § 1129(b)(2)(A)(i)(I) "because 'transferred' encompasses sales." *In re Phila. Newspapers, LLC*, 599 F.3d 298, 325 n. 10 (3d Cir. 2010). Because the CTI plan would not provide that Choctaw maintain its lien on all of the FCC Licenses until paid the full balance of its secured claim, the CTI plan would not be confirmable. *See Aetna Realty Investors v. Monarch Beach Venture (In re Monarch Beach Venture)*, 166 B.R. 428, 433 (Bankr. C.D. Cal. 1993) (holding that a debtor could not proceed under § 1129(b)(2)(A) because the secured creditor "does not retain its lien in the entire property until the debt is paid off, but rather loses the lien on each unit after that unit is sold."). *See also, In re Sparks*, 171 B.R. 860 (Bankr. N.D. Ill. 1994) (same).

Thus, the CTI plan incorrectly assumes that it can bypass Choctaw's rights in their collateral any pay other creditors prior to Choctaw. Choctaw will object to any attempt to liquidate its collateral without paying the proceeds to Choctaw first and in accordance with the terms of the Bankruptcy Code. Accordingly, Choctaw believes that the best plan, and only confirmable plan, is the Choctaw plan.

Moreover, the CTI plan contemplates paying amounts towards administrative and unsecured claims prior to the repayment in full of Choctaw's secured claims contrary to the requirements of applicable non-bankruptcy law and the requirements of the Bankruptcy Code.

Additionally, the CTI plan appears to contemplate granting priming liens to CTI as it relates to its provision of additional financing after confirmation of its plan without proposing to



grant adequate protection to Choctaw. As there does not appear to be any potential assets that could be provided to Choctaw as adequate protection, this is impermissible.

Finally, the CTI plan appears to contemplate little or no payment to Choctaw until the hypothetical and contingent successful resolution of the Second Thursday process. CTI's tying of payment of consideration to the occurrence of a future event outside its control makes the CTI plan not feasible and therefore not confirmable.

## **II. The CTI Plan will not provide for a greater recovery than the Choctaw Plan.**

Under both the CTI plan and the Choctaw plan the unsecured creditors will be paid in full. Thus, the unsecured creditors will have to consider other aspects of the two plans in order to determine which plan is in their best interest. Choctaw anticipates that it will be able to repay the unsecured creditors more quickly and with greater certainty. Furthermore, Choctaw will be able to satisfy all of the requirements of the Bankruptcy Code and has negotiated extensively with the Committee of Unsecured Creditors to formulate its plan.

CTI misstates the manner and payment of the Debtor's obligations to its creditors as provided for in the Amended Disclosure Statement. Broadly speaking, the Amended Disclosure Statement and the Choctaw plan provide for payment as follows:

1. Payment of \$250,000 to administrative expense claimants upon plan confirmation (Amended Disclosure Statement, § VI.C.4.a);
2. Payment of \$800,000 to unsecured creditors upon the first sale of FCC Licenses after receiving FCC Second Thursday approval (Amended Disclosure Statement, § VI.C.1.b);
3. Payment of the balance of the administrative expense claims on a prorated basis as license sales accrue in the amount of \$7,800,000 (Amended Disclosure Statement, § VI.C.4);<sup>1</sup>
4. Payment of all secured claims (Amended Disclosure Statement, § VI.C.1) and the payment of the claims of National Rural Telecommunications Company on a *pari passu* basis (Amended Disclosure Statement, § VI.C.2);
5. Payment of all priority tax claims (Amended Disclosure Statement, § VI.C.3);
6. Payment of all of the debtor-in-possession financing facility provided by Southeastern Commercial Finance, LLC (Amended Disclosure Statement, § VI.C.3);
7. Payment of the balance of the unsecured claims in full (Amended Disclosure Statement, § IV.C.5).

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<sup>1</sup> Using CTI's assumption that there are pending license sales of \$10,470,000 (*see* CTI Offer, P. 4, Table 1: Funding of Cash at Various Dates), the administrative expense claimants would be paid in full upon FCC Second Thursday approval.

All of the payments contemplated by the Choctaw plan, with the exception of the \$250,000 payment to administrative expense claimants upon plan confirmation will be paid from the proceeds of the sale of FCC Licenses after receiving FCC Second Thursday approval.

CTI misstates these plan provisions. CTI is incorrect in its assertion that the unsecured creditors will only receive 87% of their claims. *See* CTI Offer, P. 5, Table 2: Cash Payments to Creditors.<sup>2</sup> CTI further asserts that it will pay claims pursuant to a “waterfall” in the following order: first, to CTI for its \$250,000 loan and \$300,000 of monthly cash infusions; second, to the administrative expenses; third, to the Secured Lenders; and fourth, to unsecured creditors. However, CTI cannot accomplish this through a plan as discussed above.

**III. Choctaw will be able to sell the FCC licenses more quickly and with fewer Lencumbrances than CTI.**

CTI claims that it will be able to pay the unsecured creditors faster than Choctaw. However, CTI will likely not be able to sell the FCC Licenses a few at a time. Rather, in order to satisfy the Bankruptcy Code requirements that Choctaw retain its liens on all of the FCC Licenses, CTI would have to sell a minimum of \$18,000,000.00 of FCC Licenses at one time and thus satisfy all of the secured creditors’ claims before it could sell single FCC License and satisfy the unsecured creditors’ claims.

In contrast, Choctaw can sell individual FCC Licenses because it can elect to sell FCC Licenses free of its liens at any time. Choctaw anticipates that it will be able to sell single FCC Licenses more quickly than CTI will be able to sell \$18,000,000 worth of FCC Licenses at a single time. It is unlikely that CTI will be able to quickly locate many single purchasers seeking multiple FCC Licenses for a price of more than \$18,000,000. However, it is much more likely that Choctaw will be able to sell single FCC Licenses for a higher per-license price and consummate those sales more quickly. Thus, Choctaw will likely be able to sell the FCC Licenses more quickly than CTI.

Importantly, Choctaw has worked extensively to develop a comprehensive plan for marketing the FCC Licenses in an efficient manner which will repay all creditors in the most expeditious manner possible. For the past year, they have developed a network of contacts and potential purchasers with ready interest in purchasing these FCC Licenses. Choctaw has also negotiated an ongoing employment agreement with John Reardon, who has marketed these and other ATMS licenses in the past. In addition to the issues implicit under the Bankruptcy Code as discussed above, CTI has no experience as either a holder or marketer of ATMS licenses.

**IV. As of the date of plan confirmation, Choctaw will be more prepared to proceed with obtaining Second Thursday approval from the FCC than CTI.**

Unlike Choctaw; CTI has not negotiated employment terms with John Reardon (the Debtor’s chief operating officer and the person most knowledgeable about the Debtor’s assets), the marketability of the liecenses, and their true value. Neither has CTI engaged the FCC in

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<sup>2</sup> It is unclear whether CTI believes \$16,530,000 is the maximum possible recovery from the sales of the FCC Licenses. *See* CTI Offer, P. 5, point 2.

deliberations concerning the transfer of the FCC Licenses pursuant to Second Thursday doctrine. Choctaw has engaged John Reardon and he will be an integral part of Choctaw's maintaining the FCC Licenses, and marketing the FCC Licenses just as he has been for the past year. Likewise, Choctaw has taken preliminary steps to obtain Second Thursday approval and is ready to formally seek approval upon confirmation.

For the past year, Choctaw has had under engagement, Wilkinson Barker Knauer, LLP as FCC counsel. Wilkinson Barker is one of the preeminent communications law firms in the country and has extensive experience in Second Thursday proceedings, both as a petitioner and as head of various bureaus within the FCC. Included in Choctaw's legal team are a former Chief of the FCC's Enforcement Bureau, and several former legal advisors to an FCC Commissioner. Wilkinson Barker has successfully represented numerous clients in Second Thursday proceedings. With the counsel of Wilkinson Barker, Choctaw has evaluated carefully its likelihood of a successful Second Thursday proceeding. Based on this, Choctaw is confident of a successful and timely outcome. Choctaw and its FCC counsel have formulated a plan and timeline to file a motion for an expedited Second Thursday approval with the FCC.

**V. CTI's ability to obtain Second Thursday approval from the FCC is not materially different from Choctaw's ability to obtain Second Thursday approval.**

CTI claims that it has a greater likelihood of obtaining Second Thursday approval. However, there is no material difference between the two parties' ability to obtain Second Thursday approval. Second Thursday approval is a form of special relief that allows license holders such as the Debtor to effect a sale of the FCC Licenses for the benefit of innocent creditors under the "Second Thursday" doctrine. See *Second Thursday Corp.*, 22 F.C.C.2d 515, 520-521 (1970), reconsideration granted, 25 F.C.C.2d 112, 113-115 (1970); *Northwestern Indiana Broadcasting Corp. (WLTH)*, 65 F.C.C.2d 66, 7071 (1977). Thus, Second Thursday is available for just this type of situation.

CTI, however, makes much about Choctaw's principals' prior business relationships with the Debtor's principals. However, there has never been anything but arms-length business relationships between the parties. CTI likewise seeks to obscure the issues by alleging that the Debtor's principals will receive some sort of windfall benefit by the alleged release of guarantees. This, however, is not accurate. Under the Choctaw plan, Choctaw will credit bid its claims against the Debtor in return for the Debtor's assets. This credit bid will fully and finally extinguish all of the Debtor's liability to Choctaw. Thus, any personal liability that the Debtor's principals may have to Choctaw will be fully satisfied through the Choctaw plan. Choctaw alleges that somehow personal guarantees affiliated with the Debtor to creditors will be "permitted to fall away." This is not accurate, is not contemplated in the Choctaw Plan, and is an issue between the individual creditors and guarantors.

Further, CTI does not fully disclose its prior interactions with the FCC. CTI makes unsubstantiated allegations that CTI will have a better chance of gaining Second Thursday approval from the FCC than will Choctaw, but does not disclose its extensive history of litigating against the FCC (and losing) as well as CTI's very public disagreements with and disparagement of the FCC.

Finally, CTI's plan does not assume all claims of the Debtor's estate, and specifically does not provide for payment of the FCC's potential claims in this case. It is unlikely that this refusal to pay the claims of FCC will increase the likelihood of CTI's success in the Second Thursday process or in its attempt to seek confirmation of the CTI plan.

**VI. Choctaw has greater motivation to consummate its plan and pay all of the creditors the full amounts of their claims.**

Choctaw and its members have more than \$15,000,000 worth of claims against the Debtor. Within the past year, through the DIP facility, Choctaw's members have invested an additional \$1,200,000 in order to preserve the assets for all creditors. CTI has invested nothing, and by the terms of its plan, is only willing to provide funding after it has been awarded all assets. Unless its plan is accepted CTI has no obligation to the creditors. Accordingly, Choctaw is very motivated to quickly sell the FCC Licenses for the best possible price and do so quickly so that it may recover these funds, and those of the other creditors. Choctaw, through negotiation with the Committee of Unsecured Creditors, has set up a mechanism for the Committee to have full access to all of Choctaw's dealings with regard to asset sales to ensure that the sales are proceeding in accordance with the parties' agreement. In contrast, CTI is willing to invest a total of less than \$4 million to purchase these assets. CTI is not under any internal or external obligation to sell the FCC Licenses quickly, or ever. Rather, because of the small amount that it will invest, it can hold the FCC Licenses for as long as it desires and sell them at a price that it alone determines.