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**LATHAM & WATKINS** LLP

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October 24, 2013

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: FiberTower Corp., WC Docket Nos. 12-334 and 13-9 and  
Call Signs Listed on Exhibit A**

Dear Ms. Dortch:

On October 22, 2013, the undersigned, along with Joseph Sandri and Christopher Naoum of FiberTower Corp. (“FiberTower”), met with John Schauble and Stephen Buenzow of the Wireless Telecommunications Bureau regarding the relationship between the discontinuance notifications submitted by FiberTower in the above-referenced proceedings and the licenses listed on Exhibit A. In response to questions posed by staff during the meeting, FiberTower provides the following clarifications:

1. The 11 GHz, 18 GHz, and 23 GHz licenses that FiberTower once used for its legacy point-to-point network, and that FiberTower has since tendered for cancellation to the Commission, represent the entire set of licenses for the facilities subject to the discontinuance notifications filed by FiberTower on November 9, 2012 and December 4, 2012. For the sake of clarity, these licenses are separate and distinct from the wide-area licenses authorized to FiberTower at 24 GHz and 39 GHz, which were not the intended subject of those notifications.

2. As for the active 49 wide-area licenses authorized to FiberTower at 24 GHz and 39 GHz that are not subject to the Application for Review and Petition for Reconsideration pending before the Commission, FiberTower submitted construction notifications for each of those licenses that demonstrate substantial service using constructed systems. FiberTower has no plans to permanently discontinue service under these licenses; to the contrary, these licenses are a critical element of the Chapter 11 restructuring currently underway before the U.S. Bankruptcy Court for the Northern District of Texas. As FiberTower explained in a letter to the Commission dated July 19, 2012, two days after filing for bankruptcy, “FiberTower cannot successfully reorganize its business” unless it retains a substantial number of its licenses at 24 and 39 GHz. *See Exhibit B.*

3. Over the past fifteen months, FiberTower diligently has pursued a plan of reorganization centered around its 24 GHz and 39 GHz licenses, while also planning for a worst-case scenario in which it might not be able to line up new investors and thus effectuate a reorganization. After lining up two new equity investors, FiberTower recently submitted a Disclosure Statement in the bankruptcy proceeding expressly “propos[ing] to reorganize and emerge from [bankruptcy] with a business plan focused around forty-nine (49) active FCC licenses (in thirty-five (35) markets) that have been renewed by the FCC.” Disclosure Statement for Debtors’ Joint Chapter 11 Plan at 18, *In re FiberTower Network Services Corp.*, No. 12-44027-DML-11 (Bankr. N.D. Tex. Sep. 16, 2013). As the Disclosure Statement makes clear, FiberTower “intend[s] to continue the development and utilization of [its] 24 GHz and 39 GHz Spectrum Portfolio by working with established telecommunication equipment providers to create products incorporating the spectrum for carrier and government customers, making its spectrum available for lease to other service providers and seeking to develop other alternative uses.” *Id.* at 29.

4. Efforts to develop equipment, acquire test beds, and lease the spectrum rights provided by these active 24 and 39 GHz licenses have continued during the reorganization. For example, a recent spectrum lease agreement with Vivint Wireless that utilizes all 49 of these licenses facilitates Vivint’s ability to provide wireless internet access to residential and business customers at speeds higher than 50 Mbps in most of Vivint’s service areas—a deal that received the full backing of FiberTower’s new investors. *See* Letter of Luke Langford, COO, Vivint Wireless, to Acting Chairwoman Mignon Clyburn, ULS File Nos. 0005207557 *et al.* (Sep. 25, 2013).

In sum, this past, present, and planned future activity under FiberTower’s active 24 and 39 GHz licenses plainly demonstrates the absence of any intention to permanently discontinue service under these licenses.

Please contact the undersigned with any further questions.

Respectfully submitted,

/s/

John P. Janka  
James H. Barker  
Matthew T. Murchison  
LATHAM & WATKINS LLP  
555 Eleventh Street, NW  
Suite 1000  
Washington, DC 20004

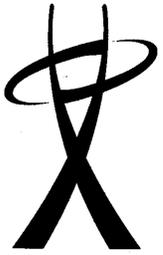
*Counsel for FiberTower Corp.*



**Exhibit A**

WMF850  
WQCJ304  
WMT307  
WPNG641  
WMT336  
WMT348  
WPNH290  
WMT312  
WMT338  
WPNA437  
WPQV578  
WPND776  
WPQV681  
WPNA435  
WPQV865  
WPNE711  
WPNH841  
WPNH846  
WPNE710  
WPNE239  
WPNE936  
WPNE372  
WPNG295  
WPNE369  
WPQV636  
WPQV662  
WPNA679  
WPNE708  
WPQV580  
WPNA623  
WPNG953  
WPNG308  
WPNA622  
WPND649  
WPNE713  
WPNE255  
WPNE253  
WPND674  
WPNG297  
WPND652  
WPNA522  
WPNH527  
WPND836  
WPNE715  
WPNH555  
WPNE938  
WPNE373  
WPND676  
WPQV836

**Exhibit B**



FiberTower

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PO Box #78326  
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July 19, 2012

**VIA E-MAIL**

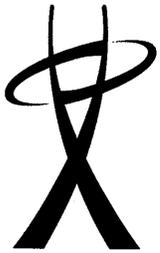
Commissioner Robert M. McDowell  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

**Re: FiberTower Voluntary Petition Under Chapter 11 of the Bankruptcy Code**

Dear Commissioner McDowell:

On July 17, 2012, FiberTower Network Services Corp., and certain of its subsidiaries (together, "FiberTower"), filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas, Forth Worth. While FiberTower tried to avoid a bankruptcy filing, the Company ultimately concluded that an orderly reorganization under Chapter 11 is essential to establishing the preconditions for a successful business in the future. In fact, FiberTower's Plan of Reorganization has the support of approximately 60 percent of its secured creditors, which should allow it to reorganize quickly and emerge from bankruptcy a stronger company. The reorganized company will focus on taking advantage of technology, recently developed for the 24 and 39 GHz spectrum bands by FiberTower and its partners, which will enable more efficient and robust small cell backhaul, traditional fixed wireless backhaul, and government connectivity (including backhaul for the LTE-based FirstNet) solutions. In addition, we intend to ensure the bankruptcy filing has no material impact on FiberTower's customers.

FiberTower cannot successfully reorganize its business, however, unless it retains its wireless spectrum licenses. As you know, FiberTower provides middle mile and backhaul services to wireless service providers by relying on a combination of wireless spectrum in the 24 and 39 GHz bands, common carrier point-to-point wireless spectrum and local fiber transmission facilities. FiberTower's innovative and reliable services have been central to creating competition in the ILEC-dominated middle-mile and wireless backhaul markets. In fact, FiberTower provides wireless backhaul to all of the nation's major wireless carriers, as well as small and large WISPs, local and federal government entities (including first responders), and small carriers. Through its GSA Networkx contract partners, FiberTower provides access to primary and critical physical-diversity fixed wireless broadband links available to 185 federal government agencies. FiberTower's 24 and 39 GHz spectrum is an indispensable part of the network that FiberTower has used to provide these services. Given that the reorganized Company will focus on taking advantage of new innovations in 24 and 39 GHz technology, this



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spectrum is also an indispensable part of FiberTower's future. Without that spectrum, the 'New FiberTower' business is not viable.

FiberTower was required to demonstrate compliance with the Commission's substantial service standard for a large number of its 24 and 39 GHz licenses by June 1, 2012 ("Pending Licenses"). Accordingly, in a series of filings submitted in April and June of this year, FiberTower sought to show that it has complied with the substantial service standard for the Pending Licenses or, alternatively, that the Commission should either waive or extend the deadline for complying with the substantial service standard.<sup>1</sup> To be sure, for many of the Pending Licenses, FiberTower has not met the specific requirements of the applicable safe harbor standard for demonstrating compliance with the substantial service standard. But as FiberTower explained in its filings, the Commission has broad authority to rule that FiberTower has nevertheless met the substantial service standard or to waive or extend the substantial service deadline. The Commission should exercise that authority here.

First, it would be patently unfair to cancel the licenses at issue. FiberTower has been a model licensee: investing more than \$300 million to secure licenses; developing and testing viable equipment; executing contracts for such equipment with a variety of vendors; developing a state-of-the-art network operations center; establishing brokerage and spectrum leasing arrangements; and servicing a significant number of commercial and government customers. FiberTower has proven that there is a viable market for competitive wireless backhaul. In addition, FiberTower has actively marketed spectrum leasing options and has continuously offered to construct facilities on behalf of other network operators. Specifically, FiberTower has made its 24 and 39 GHz spectrum licenses available to all, through numerous direct lease and also 'spectrum-in-a-box' configurations. The former includes partnerships with Spectrum Bridge and Comsearch.<sup>2</sup> The latter includes combining FiberTower spectrum with innovative small cell backhaul and high capacity backhaul solutions, designed for the FiberTower spectrum

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<sup>1</sup> See FiberTower Corporation, Request for Extension of Time or, in the Alternative, Limited Waiver of Substantial Service Requirement (Apr. 30, 2012); FiberTower Spectrum Holdings, LLC, License Renewal Request and Substantial Service Showing (June 1, 2012).

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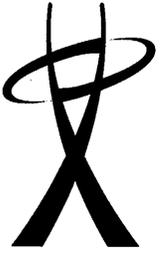
bands.<sup>3</sup> No other millimeter wave band licensee has the spectrum resources, infrastructure, customer relationships, or industry knowledge to meet the future demands for wireless backhaul connectivity. Thus, FiberTower is well-positioned to meet the strong demand for wireless backhaul and access that will accompany the widespread deployment of mobile broadband services over the next several years. Our customers have noted that in some areas or locations, wireless backhaul is the only practical, high capacity backhaul solution.

Moreover, the Commission should not punish FiberTower for circumstances beyond FiberTower's control that have delayed demand for and widespread adoption of 24 and 39 GHz Services. Although much progress has been made in recent months, the nationwide market for microwave backhaul and access service is still developing. FiberTower's services are principally intended for mobile carriers with broad nationwide 4G coverage, but 4G deployments by these carriers has been slowed by technical challenges, economic instability, and regulatory uncertainty. Many 700 MHz and AWS licenses have not yet been built out, contrary to prior FCC and industry predictions. Viable 24 and 39 GHz equipment has only recently emerged, and it is not yet available in the volumes and price points necessary to meet the Commission's safe harbor requirements.

Second, deeming FiberTower in compliance with the substantial service standard or at least granting FiberTower's request for a waiver or extension of the applicable substantial service deadline comports with sound public policy. These outcomes would encourage licensees to engage in market activities intended to develop and make productive use of their spectrum holdings. They would also preserve and enhance competition in the nascent market for wireless backhaul and access service, further facilitate mobile broadband deployment, and maintain backhaul options for the forthcoming nationwide public safety broadband network. A grant of compliance with the substantial service standard, or an extension or a waiver would also avoid disruption of service to numerous government entities, commercial carriers, and other

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<sup>3</sup> See DragonWave, FiberTower Partner to Bring Bundled Microcellular Solutions, [www.fibertower.com/corp/downloads/DWI%20Avenue\\_%20FiberTower%20press%20release%20FINAL%20Oct%2025.pdf](http://www.fibertower.com/corp/downloads/DWI%20Avenue_%20FiberTower%20press%20release%20FINAL%20Oct%2025.pdf) (Oct. 25, 2011); FiberTower and BridgeWave Communications Develop Gigabit Wireless Solution for 24 GHz, [www.fibertower.com/corp/downloads/11-02-01%20FTWR%20Bridgewave%20Joint%20Release%20Final.pdf](http://www.fibertower.com/corp/downloads/11-02-01%20FTWR%20Bridgewave%20Joint%20Release%20Final.pdf) (Feb. 1, 2011). The Japanese Radio Corp. ("JRC") placed FiberTower's nationwide spectrum lease program on its website in order to boost the use of 24 GHz and 39 GHz JRC systems in the United States. JRC offers 24 GHz PMP and PTP systems in the U.S., and plans to develop 39 GHz systems as well. See JRC America Product Lines, WIPAS, [www.jrcamerica.com/product\\_lines/view/23](http://www.jrcamerica.com/product_lines/view/23); JRC Procedure for WIPAS in the United States, The JRC-FiberTower Process for Providing Access to Licensed 24 GHz and 39 GHz Spectrum, [www.jrcamerica.com/download/WIPAS\\_Spectrum\\_in\\_US.pdf](http://www.jrcamerica.com/download/WIPAS_Spectrum_in_US.pdf) (May 2012).



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FiberTower customers. These outcomes would also ensure that FiberTower does not have to waste valuable resources (including millions of dollars) to construct a “Potemkin village”-style defensive network with “links to nowhere” in areas with little or no current market demand for wireless backhaul and access service. Such build-outs serve no market-driven purpose, are sub-optimal in design, and would divert essential resources away from identifying and servicing the viable demand we expect in the very near future. Granting FiberTower’s request would also avoid relicensing delays and the removal from the market of valuable spectrum during the time we expect wireless backhaul needs will be high.

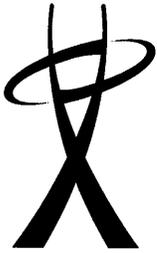
For all of these reasons, I urge you to establish the preconditions for the successful reorganization of FiberTower’s business, and backhaul competition in general, by either finding FiberTower to be in compliance with the Commission’s substantial service standard or at least granting FiberTower’s request for a waiver or extension of the applicable substantial service deadline for the Pending Licenses.

Please do not hesitate to contact me at 415-659-3520 if you have any questions or concerns about this submission.

Respectfully submitted,

Kurt Van Wagenen  
President & Chief Executive Officer  
FiberTower Corporation

cc: Angela Giancarlo  
Joseph Sandri



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July 19, 2012

**VIA E-MAIL**

Commissioner Jessica Rosenworcel  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

**Re: FiberTower Voluntary Petition Under Chapter 11 of the Bankruptcy Code**

Dear Commissioner Rosenworcel:

On July 17, 2012, FiberTower Network Services Corp., and certain of its subsidiaries (together, "FiberTower"), filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth. While FiberTower tried to avoid a bankruptcy filing, the Company ultimately concluded that an orderly reorganization under Chapter 11 is essential to establishing the preconditions for a successful business in the future. In fact, FiberTower's Plan of Reorganization has the support of approximately 60 percent of its secured creditors, which should allow it to reorganize quickly and emerge from bankruptcy a stronger company. The reorganized company will focus on taking advantage of technology, recently developed for the 24 and 39 GHz spectrum bands by FiberTower and its partners, which will enable more efficient and robust small cell backhaul, traditional fixed wireless backhaul, and government connectivity (including backhaul for the LTE-based FirstNet) solutions. In addition, we intend to ensure the bankruptcy filing has no material impact on FiberTower's customers.

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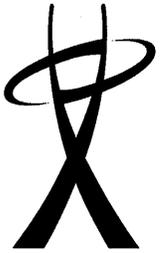
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Please do not hesitate to contact me at 415-659-3520 if you have any questions or concerns about this submission.

Respectfully submitted,

Kurt Van Wagenen  
President & Chief Executive Officer  
FiberTower Corporation

cc: Paul Murray  
Joseph Sandri



FiberTower

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July 19, 2012

**VIA HAND DELIVERY**

Ms. Ruth Milkman  
Chief, Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

**Re: FiberTower Voluntary Petition Under Chapter 11 of the Bankruptcy Code**

Dear Ms. Milkman:

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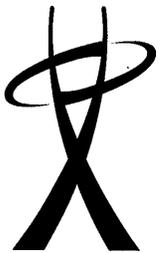
small cell backhaul and high capacity backhaul solutions, designed for the FiberTower spectrum bands.<sup>3</sup> No other millimeter wave band licensee has the spectrum resources, infrastructure, customer relationships, or industry knowledge to meet the future demands for wireless backhaul connectivity. Thus, FiberTower is well-positioned to meet the strong demand for wireless backhaul and access that will accompany the widespread deployment of mobile broadband services over the next several years. Our customers have noted that in some areas or locations, wireless backhaul is the only practical, high capacity backhaul solution.

Moreover, the Commission should not punish FiberTower for circumstances beyond FiberTower's control that have delayed demand for and widespread adoption of 24 and 39 GHz Services. Although much progress has been made in recent months, the nationwide market for microwave backhaul and access service is still developing. FiberTower's services are principally intended for mobile carriers with broad nationwide 4G coverage, but 4G deployments by these carriers has been slowed by technical challenges, economic instability, and regulatory uncertainty. Many 700 MHz and AWS licenses have not yet been built out, contrary to prior FCC and industry predictions. Viable 24 and 39 GHz equipment has only recently emerged, and it is not yet available in the volumes and price points necessary to meet the Commission's safe harbor requirements.

Second, deeming FiberTower in compliance with the substantial service standard or at least granting FiberTower's request for a waiver or extension of the applicable substantial service deadline comports with sound public policy. These outcomes would encourage licensees to engage in market activities intended to develop and make productive use of their spectrum holdings. They would also preserve and enhance competition in the nascent market for wireless backhaul and access service, further facilitate mobile broadband deployment, and maintain backhaul options for the forthcoming nationwide public safety broadband network. A grant of compliance with the substantial service standard, or an extension or a waiver would also avoid

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disruption of service to numerous government entities, commercial carriers, and other FiberTower customers. These outcomes would also ensure that FiberTower does not have to waste valuable resources (including millions of dollars) to construct a "Potemkin village"-style defensive network with "links to nowhere" in areas with little or no current market demand for wireless backhaul and access service. Such build-outs serve no market-driven purpose, are sub-optimal in design, and would divert essential resources away from identifying and servicing the viable demand we expect in the very near future. Granting FiberTower's request would also avoid relicensing delays and the removal from the market of valuable spectrum during the time we expect wireless backhaul needs will be high.

For all of these reasons, I urge you to establish the preconditions for the successful reorganization of FiberTower's business, and backhaul competition in general, by either finding FiberTower to be in compliance with the Commission's substantial service standard or at least granting FiberTower's request for a waiver or extension of the applicable substantial service deadline for the Pending Licenses.

Please do not hesitate to contact me at 415-659-3520 if you have any questions or concerns about this submission.

Respectfully submitted,

Kurt Van Wagenen  
President & Chief Executive Officer  
FiberTower Corporation

cc: John Leibowitz  
Blaise Scinto  
John Schauble  
Joseph Sandri



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July 19, 2012

**VIA E-MAIL**

Commissioner Mignon Clyburn  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

**Re: FiberTower Voluntary Petition Under Chapter 11 of the Bankruptcy Code**

Dear Commissioner Clyburn:

On July 17, 2012, FiberTower Network Services Corp., and certain of its subsidiaries (together, "FiberTower"), filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas, Forth Worth. While FiberTower tried to avoid a bankruptcy filing, the Company ultimately concluded that an orderly reorganization under Chapter 11 is essential to establishing the preconditions for a successful business in the future. In fact, FiberTower's Plan of Reorganization has the support of approximately 60 percent of its secured creditors, which should allow it to reorganize quickly and emerge from bankruptcy a stronger company. The reorganized company will focus on taking advantage of technology, recently developed for the 24 and 39 GHz spectrum bands by FiberTower and its partners, which will enable more efficient and robust small cell backhaul, traditional fixed wireless backhaul, and government connectivity (including backhaul for the LTE-based FirstNet) solutions. In addition, we intend to ensure the bankruptcy filing has no material impact on FiberTower's customers.

FiberTower cannot successfully reorganize its business, however, unless it retains its wireless spectrum licenses. As you know, FiberTower provides middle mile and backhaul services to wireless service providers by relying on a combination of wireless spectrum in the 24 and 39 GHz bands, common carrier point-to-point wireless spectrum and local fiber transmission facilities. FiberTower's innovative and reliable services have been central to creating competition in the ILEC-dominated middle-mile and wireless backhaul markets. In fact, FiberTower provides wireless backhaul to all of the nation's major wireless carriers, as well as small and large WISPs, local and federal government entities (including first responders), and small carriers. Through its GSA Networkx contract partners, FiberTower provides access to primary and critical physical-diversity fixed wireless broadband links available to 185 federal government agencies. FiberTower's 24 and 39 GHz spectrum is an indispensable part of the network that FiberTower has used to provide these services. Given that the reorganized Company will focus on taking advantage of new innovations in 24 and 39 GHz technology, this



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spectrum is also an indispensable part of FiberTower's future. Without that spectrum, the 'New FiberTower' business is not viable.

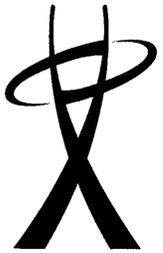
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For all of these reasons, I urge you to establish the preconditions for the successful reorganization of FiberTower's business, and backhaul competition in general, by either finding FiberTower to be in compliance with the Commission's substantial service standard or at least granting FiberTower's request for a waiver or extension of the applicable substantial service deadline for the Pending Licenses.

Please do not hesitate to contact me at 415-659-3520 if you have any questions or concerns about this submission.

Respectfully submitted,

Kurt Van Wagenen  
President & Chief Executive Officer  
FiberTower Corporation

cc: Louis Peraertz  
Joseph Sandri



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July 19, 2012

**VIA HAND DELIVERY**

Chairman Julius Genachowski  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

**Re: FiberTower Voluntary Petition Under Chapter 11 of the Bankruptcy Code**

Dear Chairman Genachowski:

On July 17, 2012, FiberTower Network Services Corp., and certain of its subsidiaries (together, "FiberTower"), filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth. While FiberTower tried to avoid a bankruptcy filing, the Company ultimately concluded that an orderly reorganization under Chapter 11 is essential to establishing the preconditions for a successful business in the future. In fact, FiberTower's Plan of Reorganization has the support of approximately 60 percent of its secured creditors, which should allow it to reorganize quickly and emerge from bankruptcy a stronger company. The reorganized company will focus on taking advantage of technology, recently developed for the 24 and 39 GHz spectrum bands by FiberTower and its partners, which will enable more efficient and robust small cell backhaul, traditional fixed wireless backhaul, and government connectivity (including backhaul for the LTE-based FirstNet) solutions. In addition, we intend to ensure the bankruptcy filing has no material impact on FiberTower's customers.

FiberTower cannot successfully reorganize its business, however, unless it retains its wireless spectrum licenses. As you know, FiberTower provides middle mile and backhaul services to wireless service providers by relying on a combination of wireless spectrum in the 24 and 39 GHz bands, common carrier point-to-point wireless spectrum and local fiber transmission facilities. FiberTower's innovative and reliable services have been central to creating competition in the ILEC-dominated middle-mile and wireless backhaul markets. In fact, FiberTower provides wireless backhaul to all of the nation's major wireless carriers, as well as small and large WISPs, local and federal government entities (including first responders), and small carriers. Through its GSA Networkx contract partners, FiberTower provides access to primary and critical physical-diversity fixed wireless broadband links available to 185 federal government agencies. FiberTower's 24 and 39 GHz spectrum is an indispensable part of the network that FiberTower has used to provide these services. Given that the reorganized Company will focus on taking advantage of new innovations in 24 and 39 GHz technology, this



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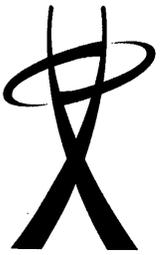
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Please do not hesitate to contact me at 415-659-3520 if you have any questions or concerns about this submission.

Respectfully submitted,

Kurt Van Wagenen  
President & Chief Executive Officer  
FiberTower Corporation

cc: Renee Wentzel  
Charles Mathias  
Joseph Sandri



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July 19, 2012

**VIA E-MAIL**

Commissioner Ajit V. Pai  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

**Re: FiberTower Voluntary Petition Under Chapter 11 of the Bankruptcy Code**

Dear Commissioner Pai:

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spectrum is also an indispensable part of FiberTower's future. Without that spectrum, the 'New FiberTower' business is not viable.

FiberTower was required to demonstrate compliance with the Commission's substantial service standard for a large number of its 24 and 39 GHz licenses by June 1, 2012 ("Pending Licenses"). Accordingly, in a series of filings submitted in April and June of this year, FiberTower sought to show that it has complied with the substantial service standard for the Pending Licenses or, alternatively, that the Commission should either waive or extend the deadline for complying with the substantial service standard.<sup>1</sup> To be sure, for many of the Pending Licenses, FiberTower has not met the specific requirements of the applicable safe harbor standard for demonstrating compliance with the substantial service standard. But as FiberTower explained in its filings, the Commission has broad authority to rule that FiberTower has nevertheless met the substantial service standard or to waive or extend the substantial service deadline. The Commission should exercise that authority here.

First, it would be patently unfair to cancel the licenses at issue. FiberTower has been a model licensee: investing more than \$300 million to secure licenses; developing and testing viable equipment; executing contracts for such equipment with a variety of vendors; developing a state-of-the-art network operations center; establishing brokerage and spectrum leasing arrangements; and servicing a significant number of commercial and government customers. FiberTower has proven that there is a viable market for competitive wireless backhaul. In addition, FiberTower has actively marketed spectrum leasing options and has continuously offered to construct facilities on behalf of other network operators. Specifically, FiberTower has made its 24 and 39 GHz spectrum licenses available to all, through numerous direct lease and also 'spectrum-in-a-box' configurations. The former includes partnerships with Spectrum Bridge and Comsearch.<sup>2</sup> The latter includes combining FiberTower spectrum with innovative small cell backhaul and high capacity backhaul solutions, designed for the FiberTower spectrum

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<sup>1</sup> See FiberTower Corporation, Request for Extension of Time or, in the Alternative, Limited Waiver of Substantial Service Requirement (Apr. 30, 2012); FiberTower Spectrum Holdings, LLC, License Renewal Request and Substantial Service Showing (June 1, 2012).

<sup>2</sup> See Comsearch, Spectrum Leasing, 24 and 39 GHz Spectrum Available, [www.comsearch.com/industry\\_solutions/frequency\\_coordination/spectrum\\_leasing.jsp](http://www.comsearch.com/industry_solutions/frequency_coordination/spectrum_leasing.jsp); Spectrum Bridge, 24 GHz Bandwidth, [www.spectrumbridge.com/ProductsServices/search/results.aspx?psize=50&band=12&type=0](http://www.spectrumbridge.com/ProductsServices/search/results.aspx?psize=50&band=12&type=0;); Spectrum Bridge, 39 GHz Bandwidth, [www.spectrumbridge.com/ProductsServices/search/results.aspx?psize=50&band=14&type=0](http://www.spectrumbridge.com/ProductsServices/search/results.aspx?psize=50&band=14&type=0;); Fibertower, Spectrum Leasing, 24 GHz & 39 GHz, [www.fibertower.com/corp/solutions-spectrum.shtml](http://www.fibertower.com/corp/solutions-spectrum.shtml).



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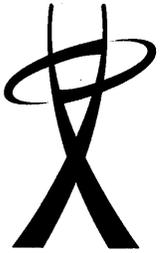
bands.<sup>3</sup> No other millimeter wave band licensee has the spectrum resources, infrastructure, customer relationships, or industry knowledge to meet the future demands for wireless backhaul connectivity. Thus, FiberTower is well-positioned to meet the strong demand for wireless backhaul and access that will accompany the widespread deployment of mobile broadband services over the next several years. Our customers have noted that in some areas or locations, wireless backhaul is the only practical, high capacity backhaul solution.

Moreover, the Commission should not punish FiberTower for circumstances beyond FiberTower's control that have delayed demand for and widespread adoption of 24 and 39 GHz Services. Although much progress has been made in recent months, the nationwide market for microwave backhaul and access service is still developing. FiberTower's services are principally intended for mobile carriers with broad nationwide 4G coverage, but 4G deployments by these carriers has been slowed by technical challenges, economic instability, and regulatory uncertainty. Many 700 MHz and AWS licenses have not yet been built out, contrary to prior FCC and industry predictions. Viable 24 and 39 GHz equipment has only recently emerged, and it is not yet available in the volumes and price points necessary to meet the Commission's safe harbor requirements.

Second, deeming FiberTower in compliance with the substantial service standard or at least granting FiberTower's request for a waiver or extension of the applicable substantial service deadline comports with sound public policy. These outcomes would encourage licensees to engage in market activities intended to develop and make productive use of their spectrum holdings. They would also preserve and enhance competition in the nascent market for wireless backhaul and access service, further facilitate mobile broadband deployment, and maintain backhaul options for the forthcoming nationwide public safety broadband network. A grant of compliance with the substantial service standard, or an extension or a waiver would also avoid disruption of service to numerous government entities, commercial carriers, and other

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<sup>3</sup> See DragonWave, FiberTower Partner to Bring Bundled Microcellular Solutions, [www.fibertower.com/corp/downloads/DWI%20Avenue\\_%20FiberTower%20press%20release%20FINAL%20Oct%2025.pdf](http://www.fibertower.com/corp/downloads/DWI%20Avenue_%20FiberTower%20press%20release%20FINAL%20Oct%2025.pdf) (Oct. 25, 2011); FiberTower and BridgeWave Communications Develop Gigabit Wireless Solution for 24 GHz, [www.fibertower.com/corp/downloads/11-02-01%20FTWR%20Bridgewave%20Joint%20Release%20Final.pdf](http://www.fibertower.com/corp/downloads/11-02-01%20FTWR%20Bridgewave%20Joint%20Release%20Final.pdf) (Feb. 1, 2011). The Japanese Radio Corp. ("JRC") placed FiberTower's nationwide spectrum lease program on its website in order to boost the use of 24 GHz and 39 GHz JRC systems in the United States. JRC offers 24 GHz PMP and PTP systems in the U.S., and plans to develop 39 GHz systems as well. See JRC America Product Lines, WIPAS, [www.jrcamerica.com/product\\_lines/view/23](http://www.jrcamerica.com/product_lines/view/23); JRC Procedure for WIPAS in the United States, The JRC-FiberTower Process for Providing Access to Licensed 24 GHz and 39 GHz Spectrum, [www.jrcamerica.com/download/WIPAS\\_Spectrum\\_in\\_US.pdf](http://www.jrcamerica.com/download/WIPAS_Spectrum_in_US.pdf) (May 2012).



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FiberTower customers. These outcomes would also ensure that FiberTower does not have to waste valuable resources (including millions of dollars) to construct a “Potemkin village”-style defensive network with “links to nowhere” in areas with little or no current market demand for wireless backhaul and access service. Such build-outs serve no market-driven purpose, are sub-optimal in design, and would divert essential resources away from identifying and servicing the viable demand we expect in the very near future. Granting FiberTower’s request would also avoid relicensing delays and the removal from the market of valuable spectrum during the time we expect wireless backhaul needs will be high.

For all of these reasons, I urge you to establish the preconditions for the successful reorganization of FiberTower’s business, and backhaul competition in general, by either finding FiberTower to be in compliance with the Commission’s substantial service standard or at least granting FiberTower’s request for a waiver or extension of the applicable substantial service deadline for the Pending Licenses.

Please do not hesitate to contact me at 415-659-3520 if you have any questions or concerns about this submission.

Respectfully submitted,

Kurt Van Wagenen  
President & Chief Executive Officer  
FiberTower Corporation

cc: Courtney Reinhard  
Joseph Sandri