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Wireless Facility/Tower: Federal Communications Commission and Georgia Licensee Enter into Order Addressing Alleged Environmental/Historic Preservation Rules Violations

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The Federal Communications Commission (“FCC”) and Public Service Towers, Inc. (“PSTI”) entered into an August 14th Order addressing alleged violations of its Environmental Rules. See In the Matter of Public Service Towers, Inc. – File No.: EB-SED-19-00029453.

The Order states that PSTI began construction of a wireless facility (i.e., “Tower”) prior to completing FCC-required environmental and historic preservation reviews.

PSTI is described as a Georgia FCC licensee.

The FCC rules require compliance with certain environmental and historic preservation requirements in constructing new towers or collocating antennas on existing structures. Licensees and registrants are required to undertake certain measures to prevent adverse impacts on environmental and historic resources. This includes the necessary measures to ensure the FCC meets its obligations under the National Environmental Policy Act, National Historic Preservation Act, and Endangered Species Act.

Section 332(c)(7) of the Communication Act also preserves state and local authority over zoning and land use decisions for personal wireless service facilities. However, it does set forth limitations. A state or local government:

- may not unreasonably discriminate among providers of functional equivalent services
- must not regulate in a manner that prohibits or has the effect of prohibiting the provision of personal wireless service
- must ensure any denial of an application in writing is supported by substantial evidence in a written record

The Order states that PSTI admitted violation of FCC’s Environmental/Historic Preservation rules.

PSTI is stated to have engaged an independent contractor to plan and manage the construction of a proposed wireless facility in Georgia. This is stated to include completion of the required environmental

and historic preservation reviews. Such contractor is stated to have hired an environmental consultant to ascertain whether the tower would significantly affect the environment.

The consultant is stated to have notified the FCC's Wireless Telecommunication Bureau that PSTI constructed the tower prior to completing the environmental and historic preservation reviews. The matter was referred to the FCC Bureau's Spectrum Enforcement Division. It issued a Letter of Inquiry to PSTI. PSTI is stated to have admitted that it completed construction of the tower by late April 2019 before completing the requisite environmental and historic preservation reviews.

The Order assesses a civil penalty of \$16,000.

A copy of the Order can be downloaded [here](#).