



ALAN WILSON  
ATTORNEY GENERAL

September 24, 2024

The Honorable Cody T. Mitchell  
Member  
South Carolina House of Representatives  
District No. 65  
P.O. Drawer 1408  
Hartsville, SC 29550

The Honorable Richard L. Yow  
Member  
South Carolina House of Representatives  
District No. 53

The Honorable Patricia Moore Henegan  
Member  
South Carolina House of Representatives  
District No. 54

Dear Representatives Mitchell, Yow, and Henegan:

Attorney General Alan Wilson has referred your letter to the Opinions section. Your letter states the following:

As elected officials, we are requesting an opinion from your office on a matter of importance to our constituents, and certainly to all South Carolinians who are members of rural telephone cooperatives across our state. A constituent who serves on the cooperative's commission has shared concerns with us that we are enclosing with our letter.

We are aware that our South Carolina Code, and other provisions, cover rural telephone cooperatives organization, operations, and oversight. Specifically, SC Code §33-46-10 *et seq.* set these responsibilities out in detail. S.C. Code §58-9-10 *et seq.* set out instances when the South Carolina Public Service Commission

[SCPSC] may request investigations of Rural Telephone Cooperatives by our Office of Regulatory Staff [ORS].

Your Office's prior, formal opinions set out that your office considers the Sandhills Rural Telephone Cooperative not to be a state political subdivision. Rather you view it as a nonprofit corporation organized under these state codes. ...

[W]e are told that at least one of these Commission members and the Cooperative operations are causing the other commission members concerns spelled out in the enclosed materials.

As a result of this situation described to me, these questions come to mind:

1. What entity ensures that a Rural Telephone Cooperative is complying with all state requirements?
2. What entity would have this responsibility in the event a majority of this Cooperative Commission fails to act or is not successful in obtaining a majority vote to take corrective action?

The materials enclosed with your letter describe a series of potential failures to follow the bylaws of Sandhill Telephone Cooperative. Specifically, the materials describe 1) official board business being conducted outside of a board meeting; 2) a commissioner failing to reside within the exchange for which he was seated on the board; and 3) a failure of the members to vote for a commissioner by secret ballot at the corporation's annual meeting.

#### Law/Analysis

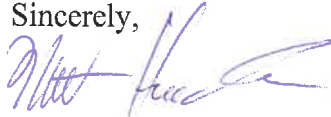
It is this Office's opinion that the conduct described in your request letter would not generally fall under the jurisdiction PSC or ORS as it does not relate to providing telephone utility service in a reasonable, adequate, or efficient manner. See S.C. Code §§ 58-9-710 *et seq.* (describing the powers of the PSC in relating to telephone, telegraph, and express companies). Rather, the enclosed materials contain allegations suggesting a failure to follow corporate formalities and comply with the Cooperative's bylaws.

As your letter notes, the Sandhill Telephone Cooperative, Inc. is registered with the S.C. Secretary of State's Office as a nonprofit domestic corporation in good standing. Under the S.C. Nonprofit Corporation Act, S.C. Code §§ 33-31-101 *et seq.*, this Office is authorized to "make investigations into the organization, conduct, and management" of nonprofit corporations operating in this state. S.C. Code § 33-31-171. Every such nonprofit corporation is required to permit examination of "any ... records ... necessary to show or tend to show that the corporation has been, or is, engaged in acts or conduct in violation of its charter rights and privileges or in

September 24, 2024

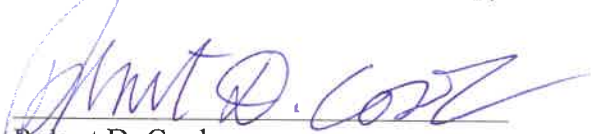
violation of any law of this State.” Id. This Office is not authorized to find facts in an opinion, so we cannot comment on whether the described conduct amount to actual violations. However, we have referred your constituent’s materials to this Office’s division overseeing enforcement of the S.C. Nonprofit Corporation Act for further review.

Sincerely,



Matthew Houck  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General