



ALAN WILSON
ATTORNEY GENERAL

May 18, 2011

The Honorable Dennis Moss
South Carolina House of Representatives, District 29
418A Blatt Building
Columbia, SC 29211

Dear Representative Moss:

We are in receipt of your letter requesting an opinion of this Office regarding an interpretation of S.C. CODE ANN. § 58-5-390. Specifically, you ask: (1) whether a water company may charge a monthly minimum fee for a water line associated with a fire sprinkler and (2) if so, whether the monthly minimum fee may exceed the actual costs associated with the water line to the system. This opinion addresses the relevant statutory law.

Law/Analysis

S.C. CODE ANN. §58-5-390(A) provides: "A publicly or privately owned utility may not impose a tap fee, other fee, or a recurring maintenance fee of any nature or however described for the installation and maintenance of a fire sprinkler system that exceeds the actual costs associated with the water line to the system." The words used in [a] statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation." Wortman v. Spartanburg, 310 S.C. 1, 3, 425 S.E.2d 18, 19 (1992). The plain language of S.C. CODE ANN. §58-5-390(A) clearly contemplates fees associated with the installation and maintenance of fire sprinkler systems and specifically references "tap fee[s]," "other fee[s]," and "recurring maintenance fee[s] of any nature or however described." Accordingly, based on the language of the statute, it appears that a water company may charge a monthly minimum fee for a water line associated with a fire sprinkler. Moreover, the statute clearly states that such a fee may not exceed the actual costs associated with the water line to the system.

Further, section B of S.C. CODE ANN. §58-5-390 describes specifically which costs may be included in the "actual costs" associated with the water line to the fire sprinkler system and section C of the statute provides the caveat that "[n]othing in this section shall give the commission or the regulatory staff any power to regulate or interfere with public utilities owned or operated by or on behalf of any municipality, county, or regional transportation authority as defined in Chapter 25 of this title [Regional Transportation Authorities] or their agencies."

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Conclusion

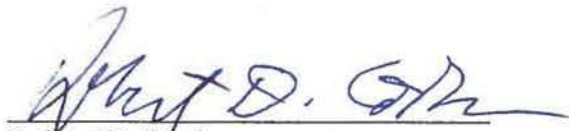
Based on the language of the statute, and assuming your constituent is not inquiring as to a public utility governed by Chapter 25 of Title 58 [Regional Transportation Authorities] or their agencies, it is the opinion of this Office that a water company may charge a monthly minimum fee for a water line associated with a fire sprinkler; however, that fee may not exceed the actual costs, as defined by S.C. CODE ANN. § 58-5-390(B), associated with the water line to the system.

Sincerely,



Elizabeth Ann L. Felder
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General