The State of South Carolina

Office of the Attorney General

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August 31, 1988

C. Dennis Aughtry, Esquire
Richland County Attorney
Post Office Box 192
Columbia, South Carolina 29202

Dear Mr. Aughtry:

Thank you for your letter of August 9, 1988, requesting a firm response to the following two questions:

> I.   If a town or city extends its water system to properties outside its limits, must it also extend its sewer system to such properties?

> II.   May a city or town require the execution of an agreement to annex by a county resident prior to providing water or sewer service in the county?

As you noted in your letter, I provided copies of several prior opinions of this Office in response to similar questions raised by you in April 1988.

Your first question is firmly responded to by Section 5-31-1520 of the Code of Laws of South Carolina (1976): "Any city or town may extend its system to any property beyond the city limits provided that both the water and sewer systems are extended to such property." In accord with this clear mandate of the General Assembly are opinions dated August 8, 1961 and February 21, 1963, copies of which have been provided to you.

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Your second question is answered by analogy by an opinion dated December 22, 1986, of which you have a copy. Provision of city services to persons outside city limits is a contractual matter; the authority cited within that opinion (McQuillin, Municipal Corporations, §31.16; Town of Hallie v. City of Eau Claire, 471 U.S. 34 (1985), in particular) would apply to the second question you have raised. See also Op. Atty. Gen. dated May 12, 1987, enclosed, as to water or other services.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP:sds

Enclosure

REVIEWED AND APPROVED BY:

Robert D. Cook
Executive Assistant for Opinions