

1980 WL 121149 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 7, 1980

*1 O. Terry Beverly, Esquire
Conway City Attorney
Post Office Box 1506
Conway, South Carolina 29526

Dear Mr. Beverly:

You have requested an opinion from this Office regarding the authority of the City of Conway to extend water service to areas beyond its corporate limits. As you note, the provisions of Act No. 977 of 1964 [53 STAT. 2221 (1964)] authorize the City of Conway:

. . . to sell water to persons outside the city limits whether contiguous thereto or not for such periods of time and under such terms and conditions as it and such persons may agree upon.

This language clearly permits the City of Conway, as successor to the Horry County Water System, to supply water to areas beyond its corporate limits irrespective of whether the areas proposed to be supplied abut those limits. Nevertheless, [Section 5-7-60, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, part of the municipal 'home rule' legislation, prohibits a municipality from extending any of its services beyond its corporate limits into the designated service areas of other political subdivisions, including water authorities, without the approval of the governing body of the political subdivision concerned. That Section defines designated service area as 'an area in which the particular service is being provided or is budgeted or funds have been applied for as certified by the governing body thereof.' In addition, SECTION 7 of Part II of Act No. 283 of 1975, the 'home rule' legislation, contains the following language:

. . . all other municipal laws in effect prior to the effective date of this act which are in conflict with the provisions contained herein are superseded by this act as to a particular municipality upon the date when a new form of municipal government becomes effective in that municipality; . . . 59 STAT. 692 at 742 (1975).

Accordingly, the City of Conway may extend water service to areas beyond its corporate limits, whether contiguous or not, pursuant to Act No. 977 of 1964; if, however, those areas proposed to be served lie within the 'designated service area' (as that term is defined in [§ 5-7-60](#)) of another political subdivision, such as the Grand Strand Water and Sewer Authority, then the approval of the governing body of that political subdivision must first be obtained.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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