

1973 WL 27599 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 24, 1973

***1 In Re: Television Cable Lines, Use of Highway and Street Rights-of-Way**

Den Scott Whaley, Esq.
Charleston County Attorney
120 Meeting Street
Charleston, South Carolina

Dear Mr. Whaley:

Your letter of January 22, addressed to Mr. E. N. Brandon, has been referred to me. Mr. Brandon left this Office about a year ago to enter private practice.

You inquire as to the authority by which television cable companies string their lines on existing poles of public utility companies, and place underground cable lines in highway and street rights-of-way.

I have seen passing references in the newspapers to similar situations in numerous counties of the State—and it appears to me that everyone might be assuming that TV cable companies enjoy the same rights as telephone, telegraph, and power companies, to use highway and street rights-of-way for their lines. Nothing has been directed to my attention that supports such a conclusion. In fact, unless I have missed something—and that does sometimes occur—I can think of nothing at the moment that gives TV cable companies such rights.

Several questions occur to me that are pertinent:

- (1) What right, if any, does a cable company have to use existing utility poles, inasmuch as the poles are owned by utility companies?
- (2) By what authority do cable companies claim the right to use highway and street rights-of-way at all?
- (3) Are telephone, telegraph, and power companies exceeding their statutory authority if they enter into private agreements to permit use by cable companies of their poles located on publicly-owned rights-of-way? (The statute gives the right to use such rights-of-way for their lines only.)
- (4) By what authority does a county or municipal governing body grant an 'easement' to a cable company to use publicly-owned rights-of-way for private purposes not authorized by statute? (This question is prompted by the fact that neither a county nor a city owns its highways in a proprietary sense.)

It appears to me that the whole, broad question of TV cable lines, insofar as it entails the use of publicly-owned rights-of-way, is one that needs much more study than it has gotten. I'd appreciate the benefit of any research you might have done on these questions, plus any that you have done in the field generally. In the absence of legislation, we'll probably be called upon sooner or later for opinions on all of them.

Sincerely,

Joseph C. Coleman

Deputy Attorney General

1973 WL 27599 (S.C.A.G.)

End of Document

© 2019 Thomson Reuters. No claim to original U.S. Government Works.