

# The State of South Carolina



## Office of the Attorney General

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December 4, 1990

The Honorable Paul E. Short, Jr.  
Member, House of Representatives  
126 Main Street  
Chester, South Carolina 29706

Dear Representative Short:

You recently asked for the opinion of this Office as to whether the Chester County Natural Gas Authority may legally expand its boundaries to serve people living in the Midford Community in Fairfield County.

The Chester County Natural Gas Authority was created by Act No. 802, 1954 Acts and Joint Resolutions, as amended by Act No. 527 of 1957. By section 1 of Act No. 802 of 1954, the Authority was created "to cause the construction of natural gas transmission lines and distribution systems, which will serve persons, resident in and nearby to the City of Chester and the Great Falls Public Service District in Chester County." The service area of the Authority is described in section 2 of that act: "The Authority shall be empowered to furnish natural gas service throughout the County of Chester, and, for the purposes of this act, the area of such county shall constitute the Service Area of the Authority."

Section 4 of that act lists the powers and duties of the Authority "[i]n order that the Authority shall be fully empowered to construct the System, to operate it, and to enlarge and extend the same within the limits of its Service Area ...." Subsection (e) permits the Authority to "build, construct, maintain and operate transmission lines and distribution systems within its Service Area, and from time to time to enlarge and extend the same."

Activity of the Authority outside Chester County is authorized to a limited extent by subsection 3(f), wherein the Authority is empowered to

purchase, manufacture, produce and transport, or in any other manner secure supplies of natural or manufactured gas, or both, and to enter into

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contracts for the acquisition of such gas, of such duration as the Authority shall approve; and to transport within the service area of this Authority for any other natural gas authority, whose service area shall be adjacent to the service area of this authority or for any municipality located in any county adjacent to the service area of this authority, any natural gas which such adjacent authority or such municipality shall have procured from any supplier of natural gas on such terms as shall be mutually agreed upon. [Emphasis added.]

Clearly Fairfield and Chester counties are adjoining or adjacent counties. However, according to the "1989 Directory of South Carolina Municipal Officials," a publication of the Municipal Association of South Carolina, the Midford Community does not appear to be a municipality. Even if the area was a municipality, the language emphasized above does not seem to authorize the provision of natural gas services or delivery to such municipality; transportation of natural gas on behalf of the municipality, by contract, is the only activity apparently authorized.

Applying the criteria listed in Op. Atty. Gen. No. 84-132 as to the attributes usually found in a special purpose district to the Authority, it is likely that the Chester County Natural Gas Authority would be considered a special purpose district. As such, the Authority would be a governmental entity of limited jurisdiction whose powers would be those expressly granted by its enabling legislation or reasonably and necessarily inferred from the express provisions. Carolina Water Service, Inc. v. S. C. Public Service Comm'n, 272 S.C. 81, 248 S.E.2d 924 (1978). Clearly, the Authority is not specifically authorized to serve customers outside the service area defined to be Chester County. Due to the express reference to activity which may be undertaken by the Authority under contract with a municipality in an adjacent county, 1/ it would be difficult to infer reasonably, as a matter of law, that the Authority could undertake the provision of natural gas services to potential customers in an adjacent county.

In conclusion, it is our opinion that the enabling legislation does not provide authorization for the Chester County Natural Gas Authority to serve customers outside its service area, which

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1/ Express mention of some things in a statute implies the exclusion of all other things not mentioned, as a general rule. Home Bldg. & Loan Ass'n v. City of Spartanburg, 185 S.C. 313, 194 S.E. 139 (1938).

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is delineated as Chester County. In reaching that conclusion, we agree with your opinion and that of the Chester County Attorney expressed in your letter requesting the opinion.

With kindest regards, I am

Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

*Robert D. Cook*

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Robert D. Cook  
Executive Assistant for Opinions