

1978 WL 35214 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
November 9, 1978

***1 Re: Opinion—Lakewood Utilities, Inc., Franchise**

The Honorable Marc H. Westbrook
Chairman
Lexington County Council
County Administration Building
Lexington, S.C. 29072

Dear Mr. Westbrook:

As previously advised, your letter of October 18, 1978, to the Attorney General has been referred to me for reply. Thank you for your patience in awaiting our response.

You have inquired whether the County of Lexington may require a private utility company to obtain a franchise from the county pursuant to an ordinance enacted last year which requires anyone setting up a water or sewer system in the county to obtain such a franchise prior to beginning operations. You further advised that prior to the time that the subject ordinance was enacted, the private utility had been making plans for such a system in an area of Lexington County. That system, however, had not begun actual operations prior to the passage of the subject ordinance.

While the propriety of the particular ordinance and its provisions is not before me at this time, it does appear that the county has the authority generally vested in it to require such franchises. [Section 4-9-30\(11\) of the 1976 Code of Laws of South Carolina](#) conveys authority to county governments to grant franchises generally to provide 'for the orderly control of services and utilities affected with the public interest.' Certain exceptions are expressly made to that grant of authority, however, none apply to the activity involved in this instance. Therefore, it is our opinion that the action of the County Council is generally authorized by [Section 4-9-30\(11\)](#).

I trust the preceding discussion adequately answers your question, however, if any further explanation is required, please feel free to contact me.

With best regards, I am
Very truly yours,

Richard P. Wilson
Assistant Attorney General

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