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November 14, 2024

Office of the Attorney General of Texas

Attn: Opinion Committee

P.O. Box 12548

Austin, Texas 78711-2548

Re: Applicability of Tex. Utilities Code Ann. § 181.082

Dear Sir or Madam:

At the request of the County Judge of Caldwell County, Texas, this request for legal opinion is sought from the Attorney General's Office.

Caldwell County is a rapidly growing jurisdiction in the Central Texas Capitol Area region. As a result of this rapid growth it has become increasingly necessary to upgrade and improve the County roads. Many of these upgrades and improvements require excavation work in the existing rights of way.

Certain utilities, and specifically AT&T, have taken the position that Tex. Utilities Code Ann. § 182.082 allows them to install their cables without either getting a permit from the County or meeting the County regulations for burying utilities in the right of way.

As a result, because the County is not involved in the installation of buried cables along the right-of-way, when County road crews are upgrading or improving County roads they often disturb and/or cut these buried cables which then must be repaired. The County has no means to estimate and budget the expense of repairing such cables and to place the burden on the County to do so in such circumstances would be an inconvenience to the taxpayers of the County.

Caldwell County is seeking an opinion from the Attorney General as to the following:

1. Whether a utility may bury cable along the right-of-way of a County road without first seeking a permit from the County to do so;
2. If the County cannot require a permit for a utility to bury a cable along the right-of way of a County road, can the County specify and enforce a minimum depth requirement for the burial of cable along County road rights of way; and

3. If neither a permit from the County for burial of cable along a County road right-of-way, nor a specified minimum depth for burial of a cable along a County road right-of-way may be imposed by a County, what party bears the cost for repair and reburial of a cable disturbed and/or cut by the County in upgrading and improving County roads?

Thank you for your attention to this matter and your service to Texas.

Sincerely,



Fred H. Weber
Criminal District Attorney,
Caldwell County, Texas