

August 21, 2023

Dave Yost
Ohio Attorney General
Opinions Section
30 East Broad Street
Columbus, Ohio 43215

RE: REQUEST FORMAL OPINION – USE OF RIGHT-OF-WAY FOR UTILITIES

Dear Mr. Yost:

I am seeking assistance at the request of the Board of County Commissioners and County Engineer regarding the authority of the County to utilize the road right-of-way for the installation of broadband. On behalf of Madison County, I am respectfully requesting that your office issue an opinion that answers the following questions:

1. Does the County Engineer have the authority to permit installations within the road right-of-way to a private broadband provider not registered with the PUCO?
2. If the County Engineer does have that authority, is the Engineer's Office required to permit said installations, with conditions, as long as it does not incommode the public use of the right-of-way?
3. If the County Engineer does have that authority, but is not required to permit said installations, is the Engineer's Office (or the County Commissioners) allowed to charge a fee beyond actual administrative and inspection costs for the permittee's ongoing use (as a private broadband provider) of the road right-of-way? Can proceeds from that fee be used to compensate property owners for use of their property, road maintenance, or other related issues as determined by the County Commissioners?
4. Can the Board of County Commissioners enter into an agreement with a private broadband provider allowing for the use of the right-of-way for broadband installations?

Thank you very much for your consideration and I look forward to reviewing your response.

Very Truly Yours,



Nicholas A. Adkins
Madison County Prosecutor
59 North Main St | London, OH 43140
Office 740.852.2259
Nick.Adkins@madison.oh.gov