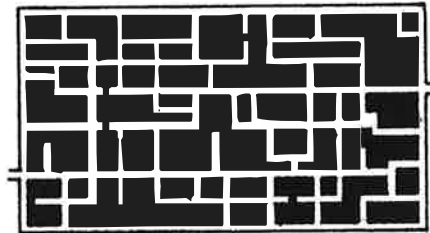


# 275 Miles of Fiber-Optic Right of Way in Less Than a Year

Douglas E. (Doug) Jackson, Jr.



## *What can happen when the only answer is extensive use of private right of way?*

The acquisition of right of way is a unique professional field that can be compared in many ways with the game of bridge. It is an art, rather than a science, practiced by a special group of people who possess the unique qualifications and dedication which are required to be successful. As in bridge there are few if any hard and fast rules that everyone must follow to participate. There are, however, many unwritten laws common to both that are generally adhered to by those serious about their art. Among these are careful research, accurate descriptions, and fairness. No one forces the participants to obey these laws. However, when they are not followed it will at some point in time become evident. Southwestern Bell Telephone Company (SWBT) in San Antonio, Texas learned some painful lessons about breaking these laws and how long the residual effects can last.

The Network Distribution Services (NDS) department of SWBT in San Antonio found itself in a very uncomfortable position early in 1986. Three major inter-city fiber-optic cable projects, totalling 275 miles, had just been approved and all

needed to be carrying traffic before the end of the year. All of the cables would carry high priority circuits, therefore, requiring a secure location that would not require relocation once placed in service. The only answer was to use private right of way as much as possible, but private right of way acquisition is painfully time-consuming and time was a very limited commodity. Since San Antonio had not experienced a program of this nature in a number of years, the right of way shop had dwindled to two agents, one of whom would retire at mid-year.

Lady Luck dealt two very favorable cards that really helped get the projects moving. There were people in the NDS department with right of way experience who wanted the challenge the projects offered. This helped bring the work force to strength. Research revealed substantial existing private right of way on all three routes that appeared to be intact and available for use. Route selection began immediately, incorporating as much as possible the existing easements. Engineering was under way and proceeding quickly while landowners were being identified and notified of the upcoming construction. As engineering was completed it became apparent that our right of way research on one of the projects was not thorough. One of the property owners, who is a registered public surveyor, challenged the description of the easement and the location of the existing cable supposedly in

it. Lady Luck would not have it any other way. He claimed that the cable was not in the easement as described and that the easements on the adjoining properties did not match his easement. Investigation proved his claim to be correct. The right of way agent who purchased the route some 35 years before had violated a number of the unwritten laws. The result was a cable route of significant length on private property located from 100-300 feet away from its easement and easements describing a route that resembled toothpicks dropped on a table with none of the ends touching. Needless to say, this route was abandoned and the engineering scrapped in favor of a more clearly defined route.

The other projects were having their problems but not as severe as the first. Whoever said "haste makes waste" knew what he was talking about. Incorrect abstract data caused many landowners to be notified of upcoming construction on existing right of way when their property was not involved. Other landowners were upset when a trenching crew arrived on their property and they had not been notified. More significant were the numerous loca-

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*Doug Jackson is a 22-year veteran of Southwestern Bell Telephone Company in Texas. He is currently responsible for the coordination of all fiber-optic projects in the San Antonio area. Mr. Jackson has been an IRWA member since 1974, is a past president of Ch. 39, and serves on the International Liaison Committee.*

tions overlooked where the easement rights had been deeded back to the property owner and the cable was placed in trespass. There were locations where we simply missed a parcel and failed to get an easement. Most of these instances were handled on the scene with no major problem except embarrassment. There are some, however, that have left scars that may never heal.

During the height of construction, 20 trenching, boring, and river crossing crews were working simultaneously and dealing with all types of terrain from solid rock to sugar sand. Generally, they were closely following the engineering staking crews who were right behind the right of way agents. There were four right of way agents, not 20, on the projects and a great deal of windshield time to handle the crises that arose. It also meant people other than right of way agents had contact with property owners. Lines of responsibility had been cast aside and everyone was willing to do what was necessary to keep the jobs on schedule. Construction workers were contacting landowners while right of way agents were handling cable and directing traffic.

When the end of the year arrived, all three cables were in service and everyone associated with them was very tired. Our condemnation was complete and three more were awaiting trial. We all left the job with a feeling of satisfaction, taking the challenge and a healthy respect for at least one other person's responsibility. From the right of way standpoint, the final score card has not been tallied. Lady Luck is still playing the trump card to remind us that "haste is waste." Every day we become more painfully aware of the truism: "If you don't have time to do it right, when will you (or someone else) have time to do it over?"

In retrospect, given the same situations, people, and experience levels we would

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probably do things the same way. Certainly, none of us want to see another crash program like 1986. However, the experience and confidence gained will make the normal job easier. It is worth mentioning that an early 1987 project gave us an opportunity to draw on our experiences. On this occasion time was available to do things correctly. The time and experience made a real difference. Construction was so uneventful, most of the upper level management people had no knowledge of the project until it was completed. We do learn from our mistakes! (IRWA)

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lawmakers address this problem and continue to protect individual property owners? The Florida Department of Transportation has been aware of this paradox and is trying to work with the legislature to remedy the situation. There is one thing for sure—as long as legal fees are guaranteed, win or lose, and as long as property owners are placed in a no-lose situation, the courts will continue to be flooded with condemnation cases and right of way costs in Florida will continue to rise. The money game will continue. (IRWA)

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