

By: Representative Ellis

To: Public Utilities

HOUSE BILL NO. 1501

1 AN ACT TO DEFINE THE DUTY OF CARE OWED TO THE PUBLIC BY
 2 PUBLIC UTILITIES WITH RESPECT TO THE PLACEMENT OF PUBLIC UTILITY
 3 FACILITIES ON OR ADJACENT TO RIGHTS-OF-WAY OF HIGHWAYS, ROADS,
 4 STREETS AND BRIDGES; TO PROVIDE THAT PROPERTY OWNERS WHO ARE NOT
 5 THE OWNERS OR OPERATORS OF A PUBLIC UTILITY OWE NO DUTY TO THE
 6 PUBLIC REGARDING THE PLACEMENT OF PUBLIC UTILITY FACILITIES; TO
 7 DEFINE THE TERM "PUBLIC UTILITY FACILITIES" AS USED IN THIS ACT;
 8 TO BRING FORWARD SECTION 11-27-43, MISSISSIPPI CODE OF 1972, WHICH
 9 PRESCRIBES CERTAIN REQUIREMENTS TO WHICH ELECTRIC UTILITIES MUST
 10 ADHERE IN ERECTING AND MAINTAINING UTILITY POLES AND LINES; AND
 11 FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** (1) The duty of care owed to the public by
 14 owners and operators of public utility facilities located adjacent
 15 to a highway, road, street or bridge in this state is satisfied
 16 when:

17 (a) With respect to state highways, the public utility
 18 facilities comply with the provisions of the applicable edition of
 19 the National Electrical Safety Code for structure placement
 20 relative to roadways.

21 (b) With respect to roads, streets and bridges that are
 22 not part of the state highway system, the public utility
 23 facilities located in a public right-of-way comply with the
 24 provisions of the applicable edition of the National Electrical
 25 Safety Code for structure placement relative to roadways.

26 (c) With respect to roads, streets and bridges that are
 27 not part of the state highway system, the public utility
 28 facilities located on private property comply with the provisions
 29 of the applicable edition of the National Electrical Safety Code
 30 for structure placement relative to roadways.



31 (d) With respect to structures, appurtenances,
32 equipment or appliances whose placement or installation is not
33 subject to the provisions of the National Electrical Safety Code,
34 the public utility facilities comply with the provisions of the
35 standards in effect when the structure, appurtenance, equipment or
36 appliance is placed, installed or located adjacent to any highway,
37 road, street or bridge in this state, whether or not a part of the
38 state highway system.

39 (2) (a) The owner of a road, street, highway or bridge,
40 which is not itself the owner or operator of a public utility,
41 owes no duty to the public regarding or relating to the placement
42 or location of public utility facilities within or appurtenant to
43 the right-of-way of the road, street, highway or bridge.

44 (b) The owner of private property, which is not itself
45 the owner or operator of a public utility, owes no duty to the
46 public regarding or relating to the placement or location of
47 public utility facilities on or appurtenant to the private
48 property.

49 (3) For the purpose of this section, the term "public
50 utility facilities" means pipes, mains, conduits, cables, wires,
51 towers, poles and other structures, equipment or appliances,
52 whether publicly or privately owned, installed or placed adjacent
53 to any roadway by an owner or operator of a public utility
54 facility.

55 **SECTION 2.** Section 11-27-43, Mississippi Code of 1972, is
56 brought forward as follows:

57 11-27-43. All companies or associations of persons
58 incorporated or organized for the purposes set forth in section
59 11-27-41 are authorized and empowered to erect, place and maintain
60 their posts, wires and conductors along and across any of the
61 public highways, streets or waters and along and across all
62 turnpikes, railroads and canals, and also through any of the
63 public lands, and to do such clearing as may be reasonably



64 necessary for the proper protection, operation and maintenance of
65 such facilities, provided in all cases such authorization shall
66 meet the requirements of the National Electrical Safety Code. The
67 same shall be so constructed and placed as not to be dangerous to
68 persons or property; nor interfere with the common use of such
69 roads, streets, or waters; nor with the use of the wires of other
70 wire-using companies; or more than is necessary with the
71 convenience of any landowner.

72 **SECTION 3.** This act shall take effect and be in force from
73 and after July 1, 2002.

