

By: Representative Ellis

To: Public Utilities

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1501

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

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

11 **SECTION 1.** Section 11-27-43, Mississippi Code of 1972, is
12 amended as follows:

13 11-27-43. (1) All companies or associations of persons
14 incorporated or organized for the purposes set forth in Section
15 11-27-41 are authorized and empowered to erect, place and maintain
16 their posts, wires and conductors along and across any of the
17 public highways, streets or waters and along and across all
18 turnpikes, railroads and canals, and also through any of the
19 public lands, and to do such clearing as may be reasonably
20 necessary for the proper protection, operation and maintenance of
21 such facilities, provided in all cases such authorization shall
22 meet the requirements of the National Electrical Safety Code. The
23 same shall be so constructed and placed as not to be dangerous to
24 persons or property; nor interfere with the common use of such
25 roads, streets, or waters; nor with the use of the wires of other
26 wire-using companies; or more than is necessary with the
27 convenience of any landowner.

28 (2) The duty of care owed to the public by owners and
29 operators of public utility facilities located adjacent to a
30 highway, road, street or bridge in this state is satisfied when:



31 (a) With respect to state highways, the public utility
32 facilities comply with the provisions of the applicable edition of
33 the National Electrical Safety Code for structure placement
34 relative to roadways.

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

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

45 (d) With respect to structures, appurtenances,
46 equipment or appliances whose placement or installation is not
47 subject to the provisions of the National Electrical Safety Code,
48 the public utility facilities comply with the provisions of the
49 standards in effect when the structure, appurtenance, equipment or
50 appliance is placed, installed or located adjacent to any highway,
51 road, street or bridge in this state, whether or not a part of the
52 state highway system.

53 (3) (a) The owner of a road, street, highway or bridge,
54 which is not itself the owner or operator of a public utility,
55 owes no duty to the public regarding or relating to the placement
56 or location of public utility facilities within or appurtenant to
57 the right-of-way of the road, street, highway or bridge.

58 (b) The owner of private property, which is not itself
59 the owner or operator of a public utility, owes no duty to the
60 public regarding or relating to the placement or location of
61 public utility facilities on or appurtenant to the private
62 property.



63 (4) For the purpose of this subsection, the term "public
64 utility facilities" means pipes, mains, conduits, cables, wires,
65 towers, poles and other structures, equipment or appliances,
66 whether publicly or privately owned, installed or placed adjacent
67 to any roadway by an owner or operator of a public utility
68 facility.

69 **SECTION 2.** This act shall take effect and be in force from
70 and after July 1, 2002.

