

1 ENGROSSED SENATE
2 BILL NO. 827

By: Committee on Transportation
of the Senate

3 and

4 Kirby and Newell of the
5 House

6
7 An Act relating to highway right-of-way; amending 69
8 O.S. 2011, Section 1401, which relates to public
9 utilities; modifying definition of certain public
10 utility; and providing an effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 69 O.S. 2011, Section 1401, is
13 amended to read as follows:

14 Section 1401. A. Any public utility, or cable television
15 system, not otherwise authorized to do so, lawfully operating or
16 doing business in the State of Oklahoma shall have the right to use
17 the public roads and highways of this state, including the right-of-
18 way and all easements pertaining thereto, as provided for in this
19 section.

20 B. The use of the public roads and highways by such public
21 utility or cable television system shall be for the purpose of
22 erecting poles and posts, attaching equipment, wires and fixtures
23 thereto and laying pipes and conduits under the surface thereof.
24 All poles, wires, fixtures, pipes, and conduits shall be erected,

1 placed, adjusted or laid and maintained only after obtaining the
2 consent pursuant to rules promulgated by the Department of
3 Transportation as to the state highway system, and the boards of
4 county commissioners of the various counties as to roads and
5 highways under their jurisdiction. Provided, however, in the event
6 a utility or cable television system which has facilities located on
7 private easements is included within the public right-of-way as a
8 result of construction, reconstruction, improvement or other
9 modification, it shall be granted prior rights, as defined below.
10 Such utility or cable television system, which complies with the
11 Underground Damage Prevention Act shall not be liable for damages to
12 any other utility, which locates facilities within the area
13 encompassed, to the extent practicable without interfering with or
14 endangering the public in the use of its roads and highways, by the
15 private easements of the public utility or cable television system
16 included within the public right-of-way, as a result of the
17 operation, maintenance or repair of such utility's or cable
18 television system's facilities. The term "prior rights" as used in
19 this section refers to a situation involving a utility company that
20 was located on private easements which are later encompassed by the
21 state's right-of-way. When a utility company is in private
22 easements which are acquired or encompassed by the right-of-way of
23 the Department, it is given a choice of relocating their conflicting
24 facilities into a public right-of-way or acquiring a new private

1 easement and relocating onto it. Either of said relocations shall
2 be at the expense of the Department. Whenever a utility company
3 relocates into a public right-of-way, the utility company shall have
4 prior rights. If a subsequent relocation is required by the
5 Department, the utility company shall be given a choice to relocate
6 onto public easements or to relocate into a private right-of-way,
7 and both will be at the expense of the Department. The utility
8 shall have prior rights for any subsequent relocation requested by
9 the Department. If a public utility or cable television system
10 elects to relocate its facilities to a newly acquired private right-
11 of-way, the utility shall forfeit all rights and claims in its
12 easements to the extent such easements are now contained in the
13 public right-of-way as a result of construction, reconstruction,
14 improvement, or other modification. Nothing in this section shall
15 be construed to grant the right to use the streets or other places
16 of any municipality of this state without the consent of the
17 municipality. Provided, further, that the boards of county
18 commissioners may grant to any citizen the right to lay pipes and
19 conduits under the surface of any road or highway under their
20 jurisdiction, subject to such rules, regulations and conditions as
21 shall be prescribed by the board of county commissioners. Nothing
22 in this section shall be construed to limit any rights granted by
23 other provisions of law. All poles, wires, posts, conduits and
24 equipment shall be erected, placed, adjusted, laid, constructed, and

1 maintained so as not to inconvenience or endanger the public in the
2 use of its roads and highways and shall conform to all applicable
3 provisions of the National Electrical Safety Code approved by the
4 American National Standards Institute, in effect at the time of such
5 erection, placement, adjustment, or construction.

6 Public utilities or cable television systems shall completely
7 repair or replace any damage, injury or other change to public roads
8 or highways or rights-of-way of this state or any county or
9 municipality which would inconvenience or endanger the public which
10 are caused by the erection, placement, adjustment, construction or
11 maintenance of any public utility or cable television system poles,
12 wires, posts, conduits or other equipment. Nothing in this act
13 shall be interpreted to impair the right of recovery against any
14 third party for such damage or injury.

15 C. The failure of any public utility or cable television system
16 to construct or maintain its poles, wires, conduits, pipe lines and
17 equipment upon or under such public highways in full compliance with
18 the rules promulgated by the Department of Transportation or the
19 board of county commissioners, including placement of its poles,
20 wires, conduits, pipe lines and equipment, shall forfeit the right
21 of the utility or cable television system to use the public highway
22 or highways, and the utility or cable television system may
23 thereupon be ousted from the use of the highway.
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1 D. "Public utility" and "cable television systems" as used in
2 this section and in Sections 1402 and 1403 of this title shall be
3 defined as a person, corporation, association, limited liability
4 company or partnership, company, or any other form of entity
5 organized and existing or domesticated under the laws of this state,
6 or tribal-owned or -operated utility and whose users lie within the
7 State of Oklahoma. Such terms as used in this section and Sections
8 1402 and 1403 of this title specifically shall not apply to persons,
9 corporations, associations, limited liability companies or
10 partnerships, companies, or any other form of entity which obtains
11 status through the Corporation Commission as a public utility, but
12 whose end users are not within the State of Oklahoma.

13 SECTION 2. This act shall become effective November 1, 2015.

14 Passed the Senate the 9th day of March, 2015.

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16 _____
17 Presiding Officer of the Senate

18 Passed the House of Representatives the ____ day of _____,
19 2015.

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21 _____
22 Presiding Officer of the House
23 of Representatives
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