

PROPOSED
SENATE AMENDMENTS TO H.B. 2201
(Reference to House engrossed bill)

Amendment instruction key:
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.
[Green strikethrough in brackets] indicates text removed from existing statute, previously enacted session law or new session law.
<<Green carets>> indicate a section added to the bill.
<<Green strikethrough in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Title 30, Arizona Revised Statutes, is amended by adding
3 chapter 7, to read:

4 CHAPTER 7

5 WILDFIRE MITIGATION PLANNING

6 ARTICLE 1. GENERAL PROVISIONS

7 30-901. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ATTACHOR" MEANS ANY CABLE TELEVISION SYSTEM OR PROVIDER OF
10 TELECOMMUNICATIONS OR BROADBAND COMMUNICATION SERVICES THAT OWNS OR
11 OPERATES EQUIPMENT THAT IS ATTACHED TO A POLE, DUCT OR CONDUIT OR THAT IS
12 OTHERWISE LOCATED WITHIN A RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY A
13 PUBLIC POWER ENTITY, PROVIDED THAT THE ATTACHING ENTITY IS A CURRENT PARTY
14 TO AND IN COMPLIANCE WITH AN ATTACHMENT AGREEMENT WITH THE PUBLIC POWER
15 ENTITY.

16 2. "ELECTRIC UTILITY" HAS THE SAME MEANING PRESCRIBED IN SECTION
17 40-1301.

18 3. "GOVERNING BODY" MEANS THE GOVERNING BODY OF A PUBLIC POWER
19 ENTITY.

20 4. "PUBLIC POWER ENTITY" MEANS ANY MUNICIPAL CORPORATION OR
21 POLITICAL SUBDIVISION THAT OWNS AND OPERATES FACILITIES THAT GENERATE,
22 TRANSMIT OR DISTRIBUTE ELECTRIC ENERGY FOR SALE TO RETAIL CUSTOMERS IN
23 THIS STATE.

24 5. "PUBLIC SAFETY POWER SHUT OFF" MEANS THE INTENTIONAL TEMPORARY
25 SHUT OFF OF POWER DURING CERTAIN WEATHER OR ENVIRONMENTAL CONDITIONS TO
26 REDUCE THE RISK OF WILDFIRES.

27 6. "WILDFIRE" MEANS ANY UNWANTED, UNPLANNED OR UNCONTROLLED FIRE
28 THAT IGNITES VEGETATION WITHIN A WILDLAND OR NATURAL AREA, INCLUDING:

- 1 (a) FORESTS.
- 2 (b) GRASSLANDS.
- 3 (c) PRAIRIES.
- 4 (d) ANY AREAS THAT INTERFACE BETWEEN WILDLAND OR NATURAL AND URBAN
- 5 AREAS.

6 7. "WILDFIRE MITIGATION PLAN" MEANS A PLAN THAT IS SUBMITTED TO THE
7 GOVERNING BODY IN ACCORDANCE WITH THIS CHAPTER.

8 30-902. Cause of action; exclusive means of recovery; legal
9 duty

10 A. THIS CHAPTER DOES NOT ESTABLISH A NEW CAUSE OF ACTION. IF THERE
11 IS A CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER STATE LAW, THIS CHAPTER
12 CONTROLS.

13 B. EXCEPT AS OTHERWISE AGREED TO IN WRITING OR ESTABLISHED BY
14 FEDERAL LAW, THIS CHAPTER ESTABLISHES THE EXCLUSIVE MEANS OF RECOVERY FROM
15 A PUBLIC POWER ENTITY FOR CLAIMS OR DAMAGES THAT RESULT FROM WILDFIRES.

16 C. THIS CHAPTER DOES NOT ESTABLISH ANY ADDITIONAL LEGAL DUTY THAT
17 SUPPORTS ANY CLAIM THAT WOULD NOT OTHERWISE ALREADY EXIST.

18 D. IN ANY CAUSE OF ACTION AGAINST A PARENT, SUBSIDIARY OR OTHER
19 CORPORATE AFFILIATE OF A PUBLIC POWER ENTITY THAT IS RELATED TO A
20 WILDFIRE, THAT PARENT, SUBSIDIARY OR OTHER CORPORATE AFFILIATE OF THE
21 PUBLIC POWER ENTITY SHALL BE TREATED THE SAME AS AND CONSIDERED EQUIVALENT
22 TO A PUBLIC POWER ENTITY FOR THE PURPOSES OF SECTION 30-904.

23 E. IN ANY CAUSE OF ACTION AGAINST A PUBLIC POWER ENTITY THAT IS
24 RELATED TO A WILDFIRE, AN ATTACHOR SHALL BE CONSIDERED TO BE A PUBLIC
25 POWER ENTITY FOR THE PURPOSES OF SECTION 30-904 WITH RESPECT TO ANY
26 LIABILITY THAT MAY BE ALLEGED TO HAVE ARISEN OUT OF THE ATTACHOR'S
27 EQUIPMENT.

28 30-903. Wildfire mitigation plan

29 A. A PUBLIC POWER ENTITY SHALL PREPARE AND SUBMIT A WILDFIRE
30 MITIGATION PLAN TO THE PUBLIC POWER ENTITY'S GOVERNING BODY FOR REVIEW AND
31 APPROVAL. THE PUBLIC POWER ENTITY MAY USE THE SUBMISSION AS AN UPDATE TO
32 THE LAST APPROVED WILDFIRE MITIGATION PLAN. THE PUBLIC POWER ENTITY SHALL
33 SUBMIT THE WILDFIRE MITIGATION PLAN TO THE PUBLIC POWER ENTITY'S GOVERNING
34 BODY ON OR BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR THEREAFTER
35 UNLESS THE GOVERNING BODY ORDERS OTHERWISE. BEFORE A PUBLIC POWER ENTITY
36 SUBMITS A WILDFIRE MITIGATION PLAN TO THE GOVERNING BODY, THE PUBLIC POWER
37 ENTITY SHALL CONSULT WITH A STATE OR FEDERAL LAND MANAGEMENT OR FIRE
38 PROTECTION AGENCY THAT HAS AUTHORITY IN THE PUBLIC POWER ENTITY'S SERVICE
39 TERRITORY, AS APPLICABLE, AS TO THE CONTENT OF THE WILDFIRE MITIGATION
40 PLAN [AND SHALL INCORPORATE COMMENTS AND RECOMMENDATIONS FROM THAT ENTITY
41 INTO THE FINAL PLAN, UNLESS THE PUBLIC POWER ENTITY DEMONSTRATES IN
42 WRITING THAT THE COMMENTS AND RECOMMENDATIONS ARE UNNECESSARY AND NOT
43 APPLICABLE].

44 B. THE GOVERNING BODY SHALL REVIEW THE SUBMITTED WILDFIRE
45 MITIGATION PLAN TO ENSURE THAT THE PLAN:

1 1. COMPLIES WITH THIS CHAPTER AND ALL APPLICABLE RULES AND
2 REGULATIONS.

3 2. IS REASONABLE.

4 3. IS IN THE PUBLIC INTEREST.

5 C. THE GOVERNING BODY MAY REQUEST ADDITIONAL INFORMATION OR A
6 MODIFICATION TO THE SUBMITTED WILDFIRE MITIGATION PLAN WITHIN ONE HUNDRED
7 TWENTY DAYS AFTER RECEIPT OF THE WILDFIRE MITIGATION PLAN BY PROVIDING
8 WRITTEN NOTICE TO THE PUBLIC POWER ENTITY. ~~[IF THE GOVERNING BODY DOES
9 NOT REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE
10 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY
11 APPROVED AT THE EXPIRATION OF ONE HUNDRED TWENTY DAYS.]~~

12 D. WITHIN NINETY DAYS AFTER RECEIPT OF THE NOTICE PRESCRIBED IN
13 SUBSECTION C OF THIS SECTION, THE PUBLIC POWER ENTITY SHALL REVISE THE
14 PUBLIC POWER ENTITY'S WILDFIRE MITIGATION PLAN TO ADDRESS THE GOVERNING
15 BODY'S REQUEST. THE GOVERNING BODY HAS SIXTY DAYS TO CONSIDER THE PUBLIC
16 POWER ENTITY'S RESPONSE AND ANY PROPOSED ADDITIONAL INFORMATION OR
17 MODIFICATION TO THE WILDFIRE MITIGATION PLAN. ~~[THE WILDFIRE MITIGATION
18 PLAN IS DEEMED APPROVED DURING THE PENDENCY OF ANY JUDICIAL ACTION THAT
19 SEEKS REVIEW OF THE GOVERNING BODY'S APPROVAL OR REJECTION OF THE WILDFIRE
20 MITIGATION PLAN OR ANY PORTION OF THE WILDFIRE MITIGATION PLAN. IF THE
21 GOVERNING BODY DOES NOT REQUEST ADDITIONAL INFORMATION OR A MODIFICATION
22 TO THE WILDFIRE MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED
23 ADMINISTRATIVELY APPROVED AT THE EXPIRATION OF SIXTY DAYS.]~~

24 E. THE WILDFIRE MITIGATION PLAN SHALL INCLUDE THE FOLLOWING:

25 1. A DESCRIPTION OF AREAS WITHIN THE GEOGRAPHIC REGION WHERE THE
26 PUBLIC POWER ENTITY'S FACILITIES MAY BE SUBJECT TO A HEIGHTENED RISK OF
27 WILDFIRE.

28 ~~[2. A MAP AND RISK ASSESSMENT FOR AREAS WITHIN THE PUBLIC POWER
29 ENTITY'S GEOGRAPHIC REGION.]~~

30 ~~[2.]~~ ~~[3.]~~ A DESCRIPTION OF THE PROCEDURES ~~[, TIMEFRAMES]~~ AND
31 STANDARDS THAT THE PUBLIC POWER ENTITY WILL USE TO INSPECT AND OPERATE THE
32 PUBLIC POWER ENTITY'S INFRASTRUCTURE TO MITIGATE THE RISK OF WILDFIRES.

33 ~~[3.]~~ ~~[4.]~~ A DESCRIPTION OF THE KEY INDIVIDUALS OR POSITION TITLES OF
34 THOSE PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING THE WILDFIRE MITIGATION
35 PLAN.

36 ~~[4.]~~ ~~[5.]~~ A DESCRIPTION OF PROCEDURES FOR DEENERGIZING POWER LINES
37 AND DISABLING RECLOSERS TO MITIGATE POTENTIAL WILDFIRES OR PROVIDE A
38 PUBLIC SAFETY POWER SHUT OFF PLAN.

39 ~~[5.]~~ ~~[6.]~~ A PLAN FOR VEGETATION MANAGEMENT.

40 ~~[6.]~~ ~~[7.]~~ A SUMMARY OF THE PROCEDURES THE PUBLIC POWER ENTITY
41 INTENDS TO USE TO RESTORE THE PUBLIC POWER ENTITY'S ELECTRICAL SYSTEM IN
42 THE EVENT OF A WILDFIRE.

43 ~~[7.]~~ ~~[8.]~~ A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS
44 EFFORTS.

1 ~~[8.]~~[9.] A DESCRIPTION OF POTENTIAL PARTICIPATION, IF APPLICABLE,
2 WITH STATE OR LOCAL WILDFIRE PROTECTION EFFORTS.

3 ~~[10. A DESCRIPTION OF HOW THE PUBLIC POWER ENTITY WILL INSPECT AND~~
4 ~~MAINTAIN INFRASTRUCTURE TO MINIMIZE FIRE RISK.~~

5 ~~11. A DESCRIPTION OF EMERGENCY PLANNING AND PREPAREDNESS.]~~

6 9. A DESCRIPTION OF HOW THE PUBLIC POWER ENTITY WILL MONITOR
7 COMPLIANCE WITH THE WILDFIRE MITIGATION PLAN.

8 F. A PUBLIC POWER ENTITY MAY REFERENCE PROCEDURES AND STANDARDS
9 THAT ARE NOT SPECIFICALLY ENUMERATED IN THE WILDFIRE MITIGATION PLAN IN
10 LIEU OF THE REQUIREMENTS UNDER SUBSECTION E OF THIS SECTION. REFERENCED
11 MATERIAL MUST BE INCLUDED AS ATTACHMENTS TO THE WILDFIRE MITIGATION PLAN
12 SUBMISSION.

13 ~~[. THE FINAL WILDFIRE MITIGATION PLAN SHALL BE POSTED TO THE PUBLIC~~
14 ~~POWER ENTITY'S WEBSITE AND BE AVAILABLE FOR REVIEW AT ITS OFFICES UNTIL IT~~
15 ~~IS REPLACED BY AN UPDATED PLAN.]~~

16 30-904. Liability for causing wildfires; severability

17 ~~[A. FOR ANY CAUSE OF ACTION AGAINST A PUBLIC POWER ENTITY THAT IS~~
18 ~~RELATED TO A WILDFIRE, ALL OF THE ELEMENTS MUST BE PROVEN BY CLEAR AND~~
19 ~~CONVINCING EVIDENCE.]~~

20 ~~[B.] [A. AS TO ANY CAUSE OF ACTION FOR NEGLIGENCE AGAINST A PUBLIC~~
21 ~~POWER ENTITY THAT IS RELATED TO A WILDFIRE.] A PUBLIC POWER ENTITY THAT~~
22 ~~[SUBSTANTIALLY] ACTS IN COMPLIANCE WITH THE APPROVED WILDFIRE MITIGATION~~
23 ~~PLAN IS ~~[DEEMED]~~[PRESUMED] TO MEET THE STANDARD OF CARE FOR A REASONABLY~~
24 ~~PRUDENT PUBLIC POWER ENTITY [AND A PARTY ASSERTING THE CAUSE OF ACTION~~
25 ~~MUST PROVE THAT A FAILURE TO COMPLY WITH THE APPROVED WILDFIRE MITIGATION~~
26 ~~PLAN WAS A PROXIMATE CAUSE OF ANY LOSS, INJURY, OR OTHER HARM ALLEGED.~~
27 ~~NOTWITHSTANDING THE FOREGOING, A PUBLIC POWER ENTITY THAT ENGAGES IN~~
28 ~~NEGLIGENT.] [UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE OF] WILFUL,~~
29 ~~INTENTIONAL OR RECKLESS MISCONDUCT [THAT CAUSE A WILDFIRE DOES NOT MEET~~
30 ~~THE STANDARD OF CARE FOR A REASONABLY PRUDENT PUBLIC POWER ENTITY]. A~~
31 ~~FAILURE TO COMPLY WITH AN APPROVED WILDFIRE MITIGATION PLAN DOES NOT~~
32 ~~CONSTITUTE NEGLIGENCE PER SE. A PUBLIC POWER ENTITY'S OR ELECTRIC~~
33 ~~UTILITY'S WILDFIRE MITIGATION PLAN SHALL NOT BE ADMISSIBLE AS EVIDENCE~~
34 ~~AGAINST ANOTHER PUBLIC POWER ENTITY OR ELECTRIC UTILITY IN A CIVIL ACTION~~
35 ~~THAT AROSE OUT OF A WILDFIRE.~~

36 ~~[C.] [B.] A PUBLIC POWER ENTITY SHALL NOT BE APPORTIONED ANY FAULT~~
37 ~~FOR THE IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE PUBLIC~~
38 ~~POWER ENTITY'S CONTROL, INCLUDING LIGHTNING STRIKES [OR ACTIONS BY THIRD~~
39 ~~PARTIES].~~

40 ~~[D.] [C.] A PUBLIC POWER ENTITY SHALL NOT BE APPORTIONED ANY FAULT~~
41 ~~FOR VEGETATION OR OTHER WILDFIRE RISKS OUTSIDE OF THE PUBLIC POWER~~
42 ~~ENTITY'S RIGHT-OF-WAY, LEASE OR OTHER PROPERTY RIGHTS OR AREAS IN WHICH~~
43 ~~THE PUBLIC POWER ENTITY HAS BEEN DELAYED IN ACCESSING OR DENIED ACCESS TO~~
44 ~~FOR PURPOSES OF PERFORMING VEGETATION MANAGEMENT.~~

1 E. A CLAIM FOR CONDEMNATION OR INVERSE CONDEMNATION SHALL NOT EXIST
2 AGAINST A PUBLIC POWER ENTITY RELATED TO WILDFIRES.

3 F. IN AN ACTION PURSUANT TO THIS SECTION TO RECOVER ANY DAMAGES
4 THAT RESULT FROM A WILDFIRE, NEITHER CONSEQUENTIAL PROPERTY DAMAGES NOR
5 EXEMPLARY OR PUNITIVE BODILY INJURY OR PROPERTY DAMAGES SHALL BE
6 RECOVERED.

7 G. IF ANY PROVISION OF THIS CHAPTER OR THE PUBLIC POWER ENTITY'S
8 APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY
9 DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS CHAPTER THAT CAN
10 BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION AND TO THIS
11 END THE PROVISIONS OF THIS CHAPTER ARE SEVERABLE.

12 Sec. 2. Title 40, Arizona Revised Statutes, is amended by adding
13 chapter 8, to read:

14 CHAPTER 8
15 WILDFIRE MITIGATION PLANNING
16 ARTICLE 1. GENERAL PROVISIONS

17 40-1301. Definitions

18 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

19 1. "ATTACHOR" MEANS ANY CABLE TELEVISION SYSTEM OR PROVIDER OF
20 TELECOMMUNICATIONS OR BROADBAND COMMUNICATION SERVICES THAT OWNS OR
21 OPERATES EQUIPMENT THAT IS ATTACHED TO A POLE, DUCT OR CONDUIT OR THAT IS
22 OTHERWISE LOCATED WITHIN A RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY AN
23 ELECTRIC UTILITY, PROVIDED THAT THE ATTACHING ENTITY IS A CURRENT PARTY TO
24 AND IN COMPLIANCE WITH AN ATTACHMENT AGREEMENT WITH THE ELECTRIC UTILITY.

25 2. "COMMISSION" MEANS THE CORPORATION COMMISSION.

26 3. "ELECTED BOARD" MEANS THE GOVERNING BODY OF AN ELECTRIC UTILITY
27 THAT IS SELECTED BY VOTERS OR MEMBERS OF AN ELECTRIC COOPERATIVE IN AN
28 ELECTION.

29 4. "ELECTRIC UTILITY":

30 (a) MEANS:

31 (i) ANY PERSON, BUSINESS ORGANIZATION, PUBLIC SERVICE CORPORATION,
32 ELECTRIC COOPERATIVE OR OTHER LEGAL ENTITY THAT OWNS AND OPERATES
33 FACILITIES FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC
34 ENERGY FOR SALE TO RETAIL CUSTOMERS IN THIS STATE.

35 (ii) ANY GENERATION AND TRANSMISSION COOPERATIVE OPERATING IN THIS
36 STATE.

37 (b) DOES NOT INCLUDE A PUBLIC POWER ENTITY.

38 5. "PUBLIC POWER ENTITY" MEANS A PUBLIC POWER ENTITY AS DEFINED IN
39 SECTION 30-901.

40 6. "PUBLIC SAFETY POWER SHUT OFF" MEANS THE INTENTIONAL TEMPORARY
41 SHUT OFF OF POWER DURING CERTAIN WEATHER OR ENVIRONMENTAL CONDITIONS TO
42 REDUCE THE RISK OF WILDFIRES.

43 7. "WILDFIRE" MEANS ANY UNWANTED, UNPLANNED OR UNCONTROLLED FIRE
44 THAT IGNITES VEGETATION WITHIN A WILDLAND OR NATURAL AREA, INCLUDING:

45 (a) FORESTS.

1 (b) GRASSLANDS.

2 (c) PRAIRIES.

3 (d) ANY AREAS THAT INTERFACE BETWEEN WILDLAND OR NATURAL AND URBAN
4 AREAS.

5 8. "WILDFIRE MITIGATION PLAN" MEANS A PLAN THAT IS SUBMITTED TO THE
6 COMMISSION OR ELECTED BOARD IN ACCORDANCE WITH THIS CHAPTER.

7 40-1302. Cause of action; exclusive means of recovery; legal
8 duty

9 A. THIS CHAPTER DOES NOT ESTABLISH A NEW CAUSE OF ACTION. IF THERE
10 IS A CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER STATE LAW, THIS CHAPTER
11 CONTROLS.

12 B. EXCEPT AS OTHERWISE AGREED TO IN WRITING OR ESTABLISHED BY
13 FEDERAL LAW, THIS CHAPTER ESTABLISHES THE EXCLUSIVE MEANS OF RECOVERY FROM
14 AN ELECTRIC UTILITY FOR CLAIMS OR DAMAGES THAT RESULT FROM WILDFIRES.

15 C. THIS CHAPTER DOES NOT ESTABLISH ANY ADDITIONAL LEGAL DUTY THAT
16 SUPPORTS ANY CLAIM THAT WOULD NOT OTHERWISE ALREADY EXIST.

17 D. IN ANY CAUSE OF ACTION AGAINST A PARENT, SUBSIDIARY OR OTHER
18 CORPORATE AFFILIATE OF AN ELECTRIC UTILITY THAT IS RELATED TO A WILDFIRE,
19 THAT PARENT, SUBSIDIARY OR OTHER CORPORATE AFFILIATE OF THE ELECTRIC
20 UTILITY SHALL BE TREATED THE SAME AS AND CONSIDERED EQUIVALENT TO AN
21 ELECTRIC UTILITY FOR THE PURPOSES OF SECTION 40-1304.

22 E. IN ANY CAUSE OF ACTION AGAINST AN ELECTRIC UTILITY THAT IS
23 RELATED TO A WILDFIRE, ANY ATTACHOR SHALL BE CONSIDERED TO BE AN ELECTRIC
24 UTILITY FOR THE PURPOSES OF SECTION 40-1304 WITH RESPECT TO ANY LIABILITY
25 THAT MAY BE ALLEGED TO HAVE ARISEN OUT OF THE ATTACHOR'S EQUIPMENT.

26 [F. ANY ACTION BY THE COMMISSION PURSUANT TO THIS CHAPTER IS THE
27 EXERCISE OF AN ADMINISTRATIVE FUNCTION INVOLVING THE DETERMINATION OF
28 FUNDAMENTAL GOVERNMENTAL POLICY PURSUANT TO ARIZONA REVISED STATUTES
29 SECTION 12-820.01.]

30 40-1303. Wildfire mitigation plan

31 A. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, AN ELECTRIC
32 UTILITY SHALL PREPARE AND SUBMIT A WILDFIRE MITIGATION PLAN TO THE
33 COMMISSION FOR REVIEW AND APPROVAL. THE ELECTRIC UTILITY MAY USE THE
34 SUBMISSION AS AN UPDATE TO THE LAST APPROVED WILDFIRE MITIGATION PLAN.
35 THE ELECTRIC UTILITY SHALL SUBMIT THE WILDFIRE MITIGATION PLAN TO THE
36 COMMISSION ON OR BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR
37 THEREAFTER. BEFORE AN ELECTRIC UTILITY SUBMITS A WILDFIRE MITIGATION PLAN
38 TO THE COMMISSION, THE ELECTRIC UTILITY SHALL CONSULT WITH A STATE OR
39 FEDERAL LAND MANAGEMENT OR FIRE PROTECTION AGENCY THAT HAS AUTHORITY IN
40 THE ELECTRIC UTILITY'S SERVICE TERRITORY, AS APPLICABLE, AS TO THE CONTENT
41 OF THE WILDFIRE MITIGATION PLAN [AND SHALL INCORPORATE COMMENTS AND
42 RECOMMENDATIONS FROM THAT ENTITY INTO THE FINAL PLAN, UNLESS THE ELECTRIC
43 UTILITY DEMONSTRATES IN WRITING THAT THE COMMENTS AND RECOMMENDATIONS ARE
44 UNNECESSARY AND NOT APPLICABLE].

1 B. THE COMMISSION SHALL REVIEW THE SUBMITTED WILDFIRE MITIGATION
2 PLAN TO ENSURE THAT THE PLAN:

3 1. COMPLIES WITH THIS CHAPTER AND ALL APPLICABLE RULES AND
4 REGULATIONS.

5 2. IS REASONABLE.

6 3. IS IN THE PUBLIC INTEREST.

7 C. THE COMMISSION MAY REQUEST ADDITIONAL INFORMATION OR A
8 MODIFICATION TO THE SUBMITTED WILDFIRE MITIGATION PLAN WITHIN ONE HUNDRED
9 TWENTY DAYS AFTER RECEIPT OF THE WILDFIRE MITIGATION PLAN BY PROVIDING
10 WRITTEN NOTICE TO THE ELECTRIC UTILITY. ~~[IF THE COMMISSION DOES NOT
11 REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE
12 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY
13 APPROVED AT THE EXPIRATION OF ONE HUNDRED TWENTY DAYS.]~~

14 D. WITHIN NINETY DAYS AFTER RECEIPT OF THE NOTICE PRESCRIBED IN
15 SUBSECTION C OF THIS SECTION, THE ELECTRIC UTILITY SHALL REVISE THE
16 ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN TO ADDRESS THE COMMISSION'S
17 REQUEST. THE COMMISSION HAS SIXTY DAYS TO CONSIDER THE ELECTRIC UTILITY'S
18 RESPONSE AND ANY PROPOSED ADDITIONAL INFORMATION OR MODIFICATION TO THE
19 WILDFIRE MITIGATION PLAN. ~~[THE WILDFIRE MITIGATION PLAN IS DEEMED
20 APPROVED DURING THE PENDENCY OF ANY JUDICIAL ACTION THAT SEEKS REVIEW OF
21 THE COMMISSION'S APPROVAL OR REJECTION OF THE WILDFIRE MITIGATION PLAN OR
22 ANY PORTION OF THE WILDFIRE MITIGATION PLAN. IF THE COMMISSION DOES NOT
23 REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE
24 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY
25 APPROVED AT THE EXPIRATION OF SIXTY DAYS.]~~

26 E. THE WILDFIRE MITIGATION PLAN SHALL INCLUDE THE FOLLOWING:

27 1. A DESCRIPTION OF AREAS WITHIN THE GEOGRAPHIC REGION WHERE THE
28 UTILITIES FACILITIES MAY BE SUBJECT TO A HEIGHTENED RISK OF WILDFIRE.

29 ~~[2.]~~ [2.A MAP AND RISK ASSESSMENT FOR AREAS WITHIN THE PUBLIC POWER
30 ENTITY'S GEOGRAPHIC REGION.]

31 ~~[2.]~~ [3.] A DESCRIPTION OF THE PROCEDURES AND STANDARDS THAT THE
32 ELECTRIC UTILITY WILL USE TO INSPECT AND OPERATE THE ELECTRIC UTILITY'S
33 INFRASTRUCTURE TO MITIGATE THE RISK OF WILDFIRES.

34 ~~[3.]~~ [4.] A DESCRIPTION OF THE KEY INDIVIDUALS OR POSITION TITLES OF
35 THOSE PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING THE WILDFIRE MITIGATION
36 PLAN.

37 ~~[4.]~~ [5.] A DESCRIPTION OF PROCEDURES FOR DEENERGIZING POWER LINES
38 AND DISABLING RECLOSERS TO MITIGATE POTENTIAL WILDFIRES OR PROVIDE A
39 PUBLIC SAFETY POWER SHUT OFF PLAN.

40 ~~[5.]~~ [6.] A PLAN FOR VEGETATION MANAGEMENT.

41 ~~[6.]~~ [7.] A SUMMARY OF THE PROCEDURES THE ELECTRIC UTILITY INTENDS TO
42 USE TO RESTORE THE ELECTRIC UTILITY'S ELECTRICAL SYSTEM IN THE EVENT OF A
43 WILDFIRE.

44 ~~[7.]~~ [8.] A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS
45 EFFORTS.

1 ~~[8.]~~ [9.] A DESCRIPTION OF POTENTIAL PARTICIPATION, IF APPLICABLE,
2 WITH STATE OR LOCAL WILDFIRE PROTECTION EFFORTS.

3 [10. A DESCRIPTION OF HOW THE PUBLIC POWER ENTITY WILL INSPECT AND
4 MAINTAIN INFRASTRUCTURE TO MINIMIZE FIRE RISK.

5 11. A DESCRIPTION OF EMERGENCY PLANNING AND PREPAREDNESS.]

6 ~~[9.]~~[12.] A DESCRIPTION OF HOW THE ELECTRIC UTILITY WILL MONITOR
7 COMPLIANCE WITH THE WILDFIRE MITIGATION PLAN.

8 F. AN ELECTRIC UTILITY MAY REFERENCE PROCEDURES AND STANDARDS THAT
9 ARE NOT SPECIFICALLY ENUMERATED IN THE WILDFIRE MITIGATION PLAN IN LIEU OF
10 THE REQUIREMENTS UNDER SUBSECTION E OF THIS SECTION. REFERENCED MATERIAL
11 MUST BE INCLUDED AS ATTACHMENTS TO THE WILDFIRE MITIGATION PLAN
12 SUBMISSION.

13 G. ON OR BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR THEREAFTER
14 UNLESS AN ELECTRIC UTILITY'S GOVERNING BOARD ORDERS OTHERWISE, AN ELECTRIC
15 UTILITY THAT IS GOVERNED BY AN ELECTED BOARD SHALL SUBMIT A COPY OF THE
16 ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN TO THE ELECTED BOARD, INSTEAD
17 OF THE COMMISSION, FOR REVIEW AND APPROVAL. THE ELECTED BOARD SHALL
18 REPLACE THE ROLE OF THE COMMISSION FOR THE PURPOSES OF THIS SECTION.
19 BEFORE AN ELECTRIC UTILITY SUBMITS A WILDFIRE MITIGATION PLAN TO THE
20 ELECTED BOARD, THE ELECTRIC UTILITY SHALL CONSULT WITH A STATE OR FEDERAL
21 LAND MANAGEMENT OR FIRE PROTECTION AGENCY THAT HAS AUTHORITY IN THE
22 ELECTRIC UTILITY'S SERVICE TERRITORY, AS APPLICABLE, AS TO THE CONTENT OF
23 THE WILDFIRE MITIGATION PLAN.

24 [H. THE COMMISSION MAY DEVELOP RULES AND REGULATIONS IMPLEMENTING
25 THE COMMISSION PROCESS FOR THE REVIEW AND APPROVAL OF WILDFIRE MITIGATION
26 PLANS.

27 I. COMMISSION OR ELECTED BOARD ACTION APPROVING A WILDFIRE
28 MITIGATION PLAN SHALL NOT BE CONSIDERED APPROVAL FOR RECOVERY OF THE
29 ELECTRIC UTILITY'S COSTS NECESSARY TO IMPLEMENT THE WILDFIRE MITIGATION
30 PLAN THROUGH RATES FOR SERVICE CHARGED TO THE ELECTRIC UTILITY'S
31 CUSTOMERS.]

32 40-1304. Liability for causing wildfires; severability

33 ~~[A. FOR ANY CAUSE OF ACTION AGAINST AN ELECTRIC UTILITY THAT IS~~
34 ~~RELATED TO A WILDFIRE, ALL OF THE ELEMENTS MUST BE PROVEN BY CLEAR AND~~
35 ~~CONVINCING EVIDENCE.]~~

36 ~~[B.]~~[A. FOR ANY CAUSE OF ACTION FOR NEGLIGENCE AGAINST AN ELECTRIC
37 UTILITY THAT IS RELATED TO A WILDFIRE,] AN ELECTRIC UTILITY THAT
38 ~~[SUBSTANTIALLY]~~ ACTS IN COMPLIANCE WITH THE APPROVED WILDFIRE MITIGATION
39 PLAN IS ~~[DEEMED]~~ [PRESUMED] TO MEET THE STANDARD OF CARE FOR A REASONABLY
40 PRUDENT ELECTRIC UTILITY [AND A PARTY ASSERTING THE CAUSE OF ACTION MUST
41 PROVE THAT A FAILURE TO COMPLY WITH THE APPROVED WILDFIRE MITIGATION PLAN
42 WAS A PROXIMATE CAUSE OF ANY LOSS, INJURY, OR OTHER HARM ALLEGED.
43 NOTWITHSTANDING THE FOREGOING, AN ELECTRIC UTILITY THAT ENGAGES IN
44 NEGLIGENT,] ~~[UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE OF]~~ WILFUL,
45 INTENTIONAL OR RECKLESS MISCONDUCT [THAT CAUSES A WILDFIRE DOES NOT MEET

1 ~~THE STANDARD OF CARE FOR A REASONABLY PRUDENT ELECTRIC UTILITY]. A~~
2 FAILURE TO COMPLY WITH AN APPROVED WILDFIRE MITIGATION PLAN DOES NOT
3 CONSTITUTE NEGLIGENCE PER SE. A PUBLIC POWER ENTITY'S OR ELECTRIC
4 UTILITY'S WILDFIRE MITIGATION PLAN SHALL NOT BE ADMISSIBLE AS EVIDENCE
5 AGAINST ANOTHER PUBLIC POWER ENTITY OR ELECTRIC UTILITY IN A CIVIL ACTION
6 THAT AROSE OUT OF A WILDFIRE.

7 C. AN ELECTRIC UTILITY SHALL NOT BE APPORTIONED ANY FAULT FOR THE
8 IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE ELECTRIC
9 UTILITY'S CONTROL, INCLUDING LIGHTNING STRIKES ~~[OR ACTIONS BY THIRD~~
10 ~~PARTIES]~~.

11 D. AN ELECTRIC UTILITY SHALL NOT BE APPORTIONED ANY FAULT FOR
12 VEGETATION OR OTHER WILDFIRE RISKS OUTSIDE OF THE ELECTRIC UTILITY'S
13 RIGHT-OF-WAY, LEASE OR OTHER PROPERTY RIGHTS OR AREAS IN WHICH THE
14 ELECTRIC UTILITY HAS BEEN DELAYED IN ACCESSING OR DENIED ACCESS TO FOR
15 PURPOSES OF PERFORMING VEGETATION MANAGEMENT.

16 E. A CLAIM FOR CONDEMNATION OR INVERSE CONDEMNATION SHALL NOT EXIST
17 AGAINST AN ELECTRIC UTILITY RELATED TO WILDFIRES.

18 F. IN AN ACTION PURSUANT TO THIS SECTION TO RECOVER ANY DAMAGES
19 THAT RESULT FROM A WILDFIRE, NEITHER CONSEQUENTIAL PROPERTY DAMAGES NOR
20 EXEMPLARY OR PUNITIVE BODILY INJURY OR PROPERTY DAMAGES SHALL BE
21 RECOVERED.

22 G. IF ANY PROVISION OF THIS CHAPTER OR ITS APPLICATION TO ANY
23 PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT
24 OTHER PROVISIONS OR APPLICATIONS OF THIS CHAPTER THAT CAN BE GIVEN EFFECT
25 WITHOUT THE INVALID PROVISION OR APPLICATION AND TO THIS END THE
26 PROVISIONS OF THIS CHAPTER ARE SEVERABLE.

27 Enroll and engross to conform
28 Amend title to conform

BRIAN FERNANDEZ

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