

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 strikeout 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 strikeout 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.

41 B. THE GOVERNING BODY SHALL REVIEW THE SUBMITTED WILDFIRE
42 MITIGATION PLAN TO ENSURE THAT THE PLAN:

43 1. COMPLIES WITH THIS CHAPTER AND ALL APPLICABLE RULES AND
44 REGULATIONS.

45 2. IS REASONABLE.

1 3. IS IN THE PUBLIC INTEREST.

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

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

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

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

25 [2. IDENTIFY PREVENTIVE ACTIONS, PROTECTIVE EQUIPMENT AND MONITORING
26 PROGRAMS THAT THE PUBLIC POWER ENTITY WILL CARRY OUT, INSTALL OR IMPLEMENT
27 TO MINIMIZE THE RISK OF WILDFIRE.]

28 ~~[2.]~~[3.] A DESCRIPTION OF THE PROCEDURES~~[.]~~ [.] TIMEFRAMES] AND
29 STANDARDS THAT THE PUBLIC POWER ENTITY WILL USE TO INSPECT AND OPERATE THE
30 PUBLIC POWER ENTITY'S INFRASTRUCTURE TO MITIGATE THE RISK OF WILDFIRES.

31 ~~[3.]~~[4.] A DESCRIPTION OF THE KEY INDIVIDUALS OR POSITION TITLES OF
32 THOSE PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING THE WILDFIRE MITIGATION
33 PLAN.

34 ~~[4.]~~[5.] A DESCRIPTION OF PROCEDURES FOR DEENERGIZING POWER LINES
35 AND DISABLING RECLOSERS TO MITIGATE POTENTIAL WILDFIRES OR PROVIDE A
36 PUBLIC SAFETY POWER SHUT OFF PLAN.

37 ~~[5.]~~[6. A DESCRIPTION OF THE PROCEDURES, STANDARDS AND TIMEFRAMES
38 THAT THE PUBLIC POWER ENTITY WILL USE TO CARRY OUT]~~[A PLAN FOR]~~ VEGETATION
39 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 ~~[9.]~~[10.] A DESCRIPTION OF HOW THE PUBLIC POWER ENTITY WILL MONITOR
4 COMPLIANCE WITH THE WILDFIRE MITIGATION PLAN.

5 [11. NOTICE TO AFFECTED JURISDICTIONS WITH INSTRUCTION ON HOW AND
6 WHEN TO PROVIDE COMMENT ON THE PLAN TO THE GOVERNING BODY.]

7 12. IDENTIFY THE COSTS NECESSARY TO IMPLEMENT ELEMENTS OF THE
8 WILDFIRE MITIGATION PLAN SPECIFIED IN SUBSECTION E.]

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

14 [G. A PUBLIC POWER ENTITY SHALL SUBMIT THE APPROVED WILDFIRE
15 MITIGATION PLAN TO THE STATE FORESTER FOR FURTHER REVIEW AND APPROVAL.]

16 H. THE STATE FORESTER SHALL CONDUCT AN INDEPENDENT AUDIT OF A PUBLIC
17 POWER ENTITY'S APPROVED WILDFIRE MITIGATION PLAN EVERY ODD-NUMBERED YEAR
18 FOR THE PURPOSE OF VERIFYING THAT THE ENTITY IS IN COMPLIANCE WITH THE
19 PLAN.]

20 30-904. Liability for causing wildfires; severability

21 A. FOR ANY CAUSE OF ACTION AGAINST A PUBLIC POWER ENTITY THAT IS
22 RELATED TO A WILDFIRE, ALL OF THE ELEMENTS MUST BE PROVEN BY CLEAR AND
23 CONVINCING EVIDENCE.

24 B. A PUBLIC POWER ENTITY THAT SUBSTANTIALLY ACTS IN COMPLIANCE WITH
25 THE APPROVED WILDFIRE MITIGATION PLAN IS DEEMED TO MEET THE STANDARD OF
26 CARE FOR A REASONABLY PRUDENT PUBLIC POWER ENTITY UNLESS THERE IS CLEAR
27 AND CONVINCING EVIDENCE OF WILFUL, INTENTIONAL OR RECKLESS MISCONDUCT. A
28 FAILURE TO COMPLY WITH AN APPROVED WILDFIRE MITIGATION PLAN DOES NOT
29 CONSTITUTE NEGLIGENCE PER SE. A PUBLIC POWER ENTITY'S OR ELECTRIC
30 UTILITY'S WILDFIRE MITIGATION PLAN SHALL NOT BE ADMISSIBLE AS EVIDENCE
31 AGAINST ANOTHER PUBLIC POWER ENTITY OR ELECTRIC UTILITY IN A CIVIL ACTION
32 THAT AROSE OUT OF A WILDFIRE.

33 C. A PUBLIC POWER ENTITY SHALL NOT BE APPORTIONED ANY FAULT FOR THE
34 IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE PUBLIC POWER
35 ENTITY'S CONTROL, INCLUDING LIGHTNING STRIKES OR ACTIONS BY THIRD PARTIES.

36 D. A PUBLIC POWER ENTITY SHALL NOT BE APPORTIONED ANY FAULT FOR
37 VEGETATION OR OTHER WILDFIRE RISKS OUTSIDE OF THE PUBLIC POWER ENTITY'S
38 RIGHT-OF-WAY, LEASE OR OTHER PROPERTY RIGHTS OR AREAS IN WHICH THE PUBLIC
39 POWER ENTITY HAS BEEN DELAYED IN ACCESSING OR DENIED ACCESS TO FOR
40 PURPOSES OF PERFORMING VEGETATION MANAGEMENT.

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

43 F. IN AN ACTION PURSUANT TO THIS SECTION TO RECOVER ANY DAMAGES
44 THAT RESULT FROM A WILDFIRE, NEITHER CONSEQUENTIAL PROPERTY DAMAGES NOR

1 EXEMPLARY OR PUNITIVE BODILY INJURY OR PROPERTY DAMAGES SHALL BE
2 RECOVERED.

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

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

10 CHAPTER 8
11 WILDFIRE MITIGATION PLANNING
12 ARTICLE 1. GENERAL PROVISIONS

13 40-1301. Definitions

14 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

21 2. "COMMISSION" MEANS THE CORPORATION COMMISSION.

22 3. "ELECTED BOARD" MEANS THE GOVERNING BODY OF AN ELECTRIC UTILITY
23 THAT IS SELECTED BY VOTERS OR MEMBERS OF AN ELECTRIC COOPERATIVE IN AN
24 ELECTION.

25 4. "ELECTRIC UTILITY":

26 (a) MEANS:

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

31 (ii) ANY GENERATION AND TRANSMISSION COOPERATIVE OPERATING IN THIS
32 STATE.

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

34 5. "PUBLIC POWER ENTITY" MEANS A PUBLIC POWER ENTITY AS DEFINED IN
35 SECTION 30-901.

36 6. "PUBLIC SAFETY POWER SHUT OFF" MEANS THE INTENTIONAL TEMPORARY
37 SHUT OFF OF POWER DURING CERTAIN WEATHER OR ENVIRONMENTAL CONDITIONS TO
38 REDUCE THE RISK OF WILDFIRES.

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

41 (a) FORESTS.

42 (b) GRASSLANDS.

43 (c) PRAIRIES.

44 (d) ANY AREAS THAT INTERFACE BETWEEN WILDLAND OR NATURAL AND URBAN
45 AREAS.

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

3 40-1302. Cause of action; exclusive means of recovery; legal
4 duty

5 A. THIS CHAPTER DOES NOT ESTABLISH A NEW CAUSE OF ACTION. IF THERE
6 IS A CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER STATE LAW, THIS CHAPTER
7 CONTROLS.

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

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

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

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

22 40-1303. Wildfire mitigation plan

23 A. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, AN ELECTRIC
24 UTILITY SHALL PREPARE AND SUBMIT A WILDFIRE MITIGATION PLAN TO THE
25 COMMISSION FOR REVIEW AND APPROVAL. THE ELECTRIC UTILITY MAY USE THE
26 SUBMISSION AS AN UPDATE TO THE LAST APPROVED WILDFIRE MITIGATION PLAN.
27 THE ELECTRIC UTILITY SHALL SUBMIT THE WILDFIRE MITIGATION PLAN TO THE
28 COMMISSION ON OR BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR
29 THEREAFTER. BEFORE AN ELECTRIC UTILITY SUBMITS A WILDFIRE MITIGATION PLAN
30 TO THE COMMISSION, THE ELECTRIC UTILITY SHALL CONSULT WITH A STATE OR
31 FEDERAL LAND MANAGEMENT OR FIRE PROTECTION AGENCY THAT HAS AUTHORITY IN
32 THE ELECTRIC UTILITY'S SERVICE TERRITORY, AS APPLICABLE, AS TO THE CONTENT
33 OF THE WILDFIRE MITIGATION PLAN.

34 B. THE COMMISSION SHALL REVIEW THE SUBMITTED WILDFIRE MITIGATION
35 PLAN TO ENSURE THAT THE PLAN:

36 1. COMPLIES WITH THIS CHAPTER AND ALL APPLICABLE RULES AND
37 REGULATIONS.

38 2. IS REASONABLE.

39 3. IS IN THE PUBLIC INTEREST.

40 C. THE COMMISSION MAY REQUEST ADDITIONAL INFORMATION OR A
41 MODIFICATION TO THE SUBMITTED WILDFIRE MITIGATION PLAN WITHIN ONE HUNDRED
42 TWENTY DAYS AFTER RECEIPT OF THE WILDFIRE MITIGATION PLAN BY PROVIDING
43 WRITTEN NOTICE TO THE ELECTRIC UTILITY. IF THE COMMISSION DOES NOT
44 REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE

1 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY
2 APPROVED AT THE EXPIRATION OF ONE HUNDRED TWENTY DAYS.

3 D. WITHIN NINETY DAYS AFTER RECEIPT OF THE NOTICE PRESCRIBED IN
4 SUBSECTION C OF THIS SECTION, THE ELECTRIC UTILITY SHALL REVISE THE
5 ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN TO ADDRESS THE COMMISSION'S
6 REQUEST. THE COMMISSION HAS SIXTY DAYS TO CONSIDER THE ELECTRIC UTILITY'S
7 RESPONSE AND ANY PROPOSED ADDITIONAL INFORMATION OR MODIFICATION TO THE
8 WILDFIRE MITIGATION PLAN. THE WILDFIRE MITIGATION PLAN IS DEEMED APPROVED
9 DURING THE PENDENCY OF ANY JUDICIAL ACTION THAT SEEKS REVIEW OF THE
10 COMMISSION'S APPROVAL OR REJECTION OF THE WILDFIRE MITIGATION PLAN OR ANY
11 PORTION OF THE WILDFIRE MITIGATION PLAN. IF THE COMMISSION DOES NOT
12 REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE
13 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY
14 APPROVED AT THE EXPIRATION OF SIXTY DAYS.

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

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

18 [2. IDENTIFY PREVENTIVE ACTIONS, PROTECTIVE EQUIPMENT AND MONITORING
19 PROGRAMS THAT THE ELECTRIC UTILITY WILL CARRY OUT, INSTALL OR IMPLEMENT TO
20 MINIMIZE THE RISK OF A WILDFIRE.]

21 ~~[2.]~~[3.] A DESCRIPTION OF THE PROCEDURES~~[, TIMEFRAMES]~~ AND
22 STANDARDS THAT THE ELECTRIC UTILITY WILL USE TO INSPECT AND OPERATE THE
23 ELECTRIC UTILITY'S INFRASTRUCTURE TO MITIGATE THE RISK OF WILDFIRES.

24 ~~[3.]~~[4.] A DESCRIPTION OF THE KEY INDIVIDUALS OR POSITION TITLES OF
25 THOSE PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING THE WILDFIRE MITIGATION
26 PLAN.

27 ~~[4.]~~[5.] A DESCRIPTION OF PROCEDURES FOR DEENERGIZING POWER LINES
28 AND DISABLING RECLOSERS TO MITIGATE POTENTIAL WILDFIRES OR PROVIDE A
29 PUBLIC SAFETY POWER SHUT OFF PLAN.

30 [6. A DESCRIPTION OF THE PROCEDURES, STANDRDS AND TIMEFRAMES THAT
31 THE ELECTRIC UTILITY WILL USE TO CARRY OUT] [A PLAN FOR] VEGETATION
32 MANAGEMENT.

33 ~~[6.]~~[7.] A SUMMARY OF THE PROCEDURES THE ELECTRIC UTILITY INTENDS
34 TO USE TO RESTORE THE ELECTRIC UTILITY'S ELECTRICAL SYSTEM IN THE EVENT OF
35 A WILDFIRE.

36 ~~[7.]~~[8.] A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS
37 EFFORTS.

38 ~~[8.]~~[9.] A DESCRIPTION OF POTENTIAL PARTICIPATION, IF APPLICABLE,
39 WITH STATE OR LOCAL WILDFIRE PROTECTION EFFORTS.

40 ~~[9.]~~[10.] A DESCRIPTION OF HOW THE ELECTRIC UTILITY WILL MONITOR
41 COMPLIANCE WITH THE WILDFIRE MITIGATION PLAN.

42 [11. NOTICE TO AFFECTED JURISDICTIONS WITH INSTRUCTION ON HOW AND
43 WHEN TO PROVIDE COMMENT ON THE PLAN TO THE COMMISSION OR ELECTED BOARD AS
44 APPLICABLE.

1 12. IDENTIFY THE COSTS NECESSARY TO IMPLEMENT ELEMENTS OF THE
2 WILDFIRE MITIGATION PLAN SPECIFIED IN SUBSECTION E.]

3 F. AN ELECTRIC UTILITY MAY REFERENCE PROCEDURES AND STANDARDS THAT
4 ARE NOT SPECIFICALLY ENUMERATED IN THE WILDFIRE MITIGATION PLAN IN LIEU OF
5 THE REQUIREMENTS UNDER SUBSECTION E OF THIS SECTION. REFERENCED MATERIAL
6 MUST BE INCLUDED AS ATTACHMENTS TO THE WILDFIRE MITIGATION PLAN
7 SUBMISSION.

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

19 40-1304. Liability for causing wildfires; severability

20 A. FOR ANY CAUSE OF ACTION AGAINST AN ELECTRIC UTILITY THAT IS
21 RELATED TO A WILDFIRE, ALL OF THE ELEMENTS MUST BE PROVEN BY CLEAR AND
22 CONVINCING EVIDENCE.

23 B. AN ELECTRIC UTILITY THAT SUBSTANTIALLY ACTS IN COMPLIANCE WITH
24 THE APPROVED WILDFIRE MITIGATION PLAN IS DEEMED TO MEET THE STANDARD OF
25 CARE FOR A REASONABLY PRUDENT ELECTRIC UTILITY UNLESS THERE IS CLEAR AND
26 CONVINCING EVIDENCE OF WILFUL, INTENTIONAL OR RECKLESS MISCONDUCT. A
27 FAILURE TO COMPLY WITH AN APPROVED WILDFIRE MITIGATION PLAN DOES NOT
28 CONSTITUTE NEGLIGENCE PER SE. A PUBLIC POWER ENTITY'S OR ELECTRIC
29 UTILITY'S WILDFIRE MITIGATION PLAN SHALL NOT BE ADMISSIBLE AS EVIDENCE
30 AGAINST ANOTHER PUBLIC POWER ENTITY OR ELECTRIC UTILITY IN A CIVIL ACTION
31 THAT AROSE OUT OF A WILDFIRE.

32 C. AN ELECTRIC UTILITY SHALL NOT BE APPORTIONED ANY FAULT FOR THE
33 IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE ELECTRIC
34 UTILITY'S CONTROL, INCLUDING LIGHTNING STRIKES OR ACTIONS BY THIRD
35 PARTIES.

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

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

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

5 G. IF ANY PROVISION OF THIS CHAPTER OR ITS APPLICATION TO ANY
6 PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT
7 OTHER PROVISIONS OR APPLICATIONS OF THIS CHAPTER THAT CAN BE GIVEN EFFECT
8 WITHOUT THE INVALID PROVISION OR APPLICATION AND TO THIS END THE
9 PROVISIONS OF THIS CHAPTER ARE SEVERABLE.

10 Enroll and engross to conform
11 Amend title to conform

BRIAN FERNANDEZ

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