

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. A DESCRIPTION OF THE PROCEDURES AND STANDARDS THAT THE PUBLIC
26 POWER ENTITY WILL USE TO INSPECT AND OPERATE THE PUBLIC POWER ENTITY'S
27 INFRASTRUCTURE TO MITIGATE THE RISK OF WILDFIRES.

28 3. A DESCRIPTION OF THE KEY INDIVIDUALS OR POSITION TITLES OF THOSE
29 PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING THE WILDFIRE MITIGATION PLAN.

30 4. A DESCRIPTION OF PROCEDURES FOR DEENERGIZING POWER LINES AND
31 DISABLING RECLOSERS TO MITIGATE POTENTIAL WILDFIRES OR PROVIDE A PUBLIC
32 SAFETY POWER SHUT OFF PLAN.

33 5. A PLAN FOR VEGETATION MANAGEMENT.

34 6. A SUMMARY OF THE PROCEDURES THE PUBLIC POWER ENTITY INTENDS TO
35 USE TO RESTORE THE PUBLIC POWER ENTITY'S ELECTRICAL SYSTEM IN THE EVENT OF
36 A WILDFIRE.

37 7. A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS
38 EFFORTS.

39 8. A DESCRIPTION OF POTENTIAL PARTICIPATION, IF APPLICABLE, WITH
40 STATE OR LOCAL WILDFIRE PROTECTION EFFORTS.

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

43 F. A PUBLIC POWER ENTITY MAY REFERENCE PROCEDURES AND STANDARDS
44 THAT ARE NOT SPECIFICALLY ENUMERATED IN THE WILDFIRE MITIGATION PLAN IN
45 LIEU OF THE REQUIREMENTS UNDER SUBSECTION E OF THIS SECTION. REFERENCED

1 MATERIAL MUST BE INCLUDED AS ATTACHMENTS TO THE WILDFIRE MITIGATION PLAN
2 SUBMISSION.

3 30-904. Liability for causing wildfires; severability

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

7 B. A PUBLIC POWER ENTITY THAT SUBSTANTIALLY ACTS IN COMPLIANCE WITH
8 THE APPROVED WILDFIRE MITIGATION PLAN IS DEEMED TO MEET THE STANDARD OF
9 CARE FOR A REASONABLY PRUDENT PUBLIC POWER ENTITY UNLESS THERE IS CLEAR
10 AND CONVINCING EVIDENCE OF WILFUL, INTENTIONAL OR RECKLESS MISCONDUCT. A
11 FAILURE TO COMPLY WITH AN APPROVED WILDFIRE MITIGATION PLAN DOES NOT
12 CONSTITUTE NEGLIGENCE PER SE. A PUBLIC POWER ENTITY'S OR ELECTRIC
13 UTILITY'S WILDFIRE MITIGATION PLAN SHALL NOT BE ADMISSIBLE AS EVIDENCE
14 AGAINST ANOTHER PUBLIC POWER ENTITY OR ELECTRIC UTILITY IN A CIVIL ACTION
15 THAT AROSE OUT OF A WILDFIRE.

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

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

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

26 ~~[F. IN AN ACTION PURSUANT TO THIS SECTION TO RECOVER ANY DAMAGES~~
27 ~~THAT RESULT FROM A WILDFIRE, NEITHER CONSEQUENTIAL PROPERTY DAMAGES NOR~~
28 ~~EXEMPLARY OR PUNITIVE BODILY INJURY OR PROPERTY DAMAGES SHALL BE~~
29 ~~RECOVERED.]~~

30 [G. IF ANY PROVISION OF THIS CHAPTER OR THE PUBLIC POWER ENTITY'S
31 APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY
32 DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS CHAPTER THAT CAN
33 BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION AND TO THIS
34 END THE PROVISIONS OF THIS CHAPTER ARE SEVERABLE.

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

37 CHAPTER 8

38 WILDFIRE MITIGATION PLANNING

39 ARTICLE 1. GENERAL PROVISIONS

40 40-1301. Definitions

41 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

42 1. "ATTACHOR" MEANS ANY CABLE TELEVISION SYSTEM OR PROVIDER OF
43 TELECOMMUNICATIONS OR BROADBAND COMMUNICATION SERVICES THAT OWNS OR
44 OPERATES EQUIPMENT THAT IS ATTACHED TO A POLE, DUCT OR CONDUIT OR THAT IS
45 OTHERWISE LOCATED WITHIN A RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY AN

1 ELECTRIC UTILITY, PROVIDED THAT THE ATTACHING ENTITY IS A CURRENT PARTY TO
2 AND IN COMPLIANCE WITH AN ATTACHMENT AGREEMENT WITH THE ELECTRIC UTILITY.
3 2. "COMMISSION" MEANS THE CORPORATION COMMISSION.
4 3. "ELECTED BOARD" MEANS THE GOVERNING BODY OF AN ELECTRIC UTILITY
5 THAT IS SELECTED BY VOTERS OR MEMBERS OF AN ELECTRIC COOPERATIVE IN AN
6 ELECTION.
7 4. "ELECTRIC UTILITY":
8 (a) MEANS:
9 (i) ANY PERSON, BUSINESS ORGANIZATION, PUBLIC SERVICE CORPORATION,
10 ELECTRIC COOPERATIVE OR OTHER LEGAL ENTITY THAT OWNS AND OPERATES
11 FACILITIES FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC
12 ENERGY FOR SALE TO RETAIL CUSTOMERS IN THIS STATE.
13 (ii) ANY GENERATION AND TRANSMISSION COOPERATIVE OPERATING IN THIS
14 STATE.
15 (b) DOES NOT INCLUDE A PUBLIC POWER ENTITY.
16 5. "PUBLIC POWER ENTITY" MEANS A PUBLIC POWER ENTITY AS DEFINED IN
17 SECTION 30-901.
18 6. "PUBLIC SAFETY POWER SHUT OFF" MEANS THE INTENTIONAL TEMPORARY
19 SHUT OFF OF POWER DURING CERTAIN WEATHER OR ENVIRONMENTAL CONDITIONS TO
20 REDUCE THE RISK OF WILDFIRES.
21 7. "WILDFIRE" MEANS ANY UNWANTED, UNPLANNED OR UNCONTROLLED FIRE
22 THAT IGNITES VEGETATION WITHIN A WILDLAND OR NATURAL AREA, INCLUDING:
23 (a) FORESTS.
24 (b) GRASSLANDS.
25 (c) PRAIRIES.
26 (d) ANY AREAS THAT INTERFACE BETWEEN WILDLAND OR NATURAL AND URBAN
27 AREAS.
28 8. "WILDFIRE MITIGATION PLAN" MEANS A PLAN THAT IS SUBMITTED TO THE
29 COMMISSION OR ELECTED BOARD IN ACCORDANCE WITH THIS CHAPTER.
30 40-1302. Cause of action; exclusive means of recovery; legal
31 duty
32 A. THIS CHAPTER DOES NOT ESTABLISH A NEW CAUSE OF ACTION. IF THERE
33 IS A CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER STATE LAW, THIS CHAPTER
34 CONTROLS.
35 B. EXCEPT AS OTHERWISE AGREED TO IN WRITING OR ESTABLISHED BY
36 FEDERAL LAW, THIS CHAPTER ESTABLISHES THE EXCLUSIVE MEANS OF RECOVERY FROM
37 AN ELECTRIC UTILITY FOR CLAIMS OR DAMAGES THAT RESULT FROM WILDFIRES.
38 C. THIS CHAPTER DOES NOT ESTABLISH ANY ADDITIONAL LEGAL DUTY THAT
39 SUPPORTS ANY CLAIM THAT WOULD NOT OTHERWISE ALREADY EXIST.
40 D. IN ANY CAUSE OF ACTION AGAINST A PARENT, SUBSIDIARY OR OTHER
41 CORPORATE AFFILIATE OF AN ELECTRIC UTILITY THAT IS RELATED TO A WILDFIRE,
42 THAT PARENT, SUBSIDIARY OR OTHER CORPORATE AFFILIATE OF THE ELECTRIC
43 UTILITY SHALL BE TREATED THE SAME AS AND CONSIDERED EQUIVALENT TO AN
44 ELECTRIC UTILITY FOR THE PURPOSES OF SECTION 40-1304.

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

5 40-1303. Wildfire mitigation plan

6 A. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, AN ELECTRIC
7 UTILITY SHALL PREPARE AND SUBMIT A WILDFIRE MITIGATION PLAN TO THE
8 COMMISSION FOR REVIEW AND APPROVAL. THE ELECTRIC UTILITY MAY USE THE
9 SUBMISSION AS AN UPDATE TO THE LAST APPROVED WILDFIRE MITIGATION PLAN.
10 THE ELECTRIC UTILITY SHALL SUBMIT THE WILDFIRE MITIGATION PLAN TO THE
11 COMMISSION ON OR BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR
12 THEREAFTER. BEFORE AN ELECTRIC UTILITY SUBMITS A WILDFIRE MITIGATION PLAN
13 TO THE COMMISSION, THE ELECTRIC UTILITY SHALL CONSULT WITH A STATE OR
14 FEDERAL LAND MANAGEMENT OR FIRE PROTECTION AGENCY THAT HAS AUTHORITY IN
15 THE ELECTRIC UTILITY'S SERVICE TERRITORY, AS APPLICABLE, AS TO THE CONTENT
16 OF THE WILDFIRE MITIGATION PLAN.

17 B. THE COMMISSION SHALL REVIEW THE SUBMITTED WILDFIRE MITIGATION
18 PLAN TO ENSURE THAT THE PLAN:

19 1. COMPLIES WITH THIS CHAPTER AND ALL APPLICABLE RULES AND
20 REGULATIONS.

21 2. IS REASONABLE.

22 3. IS IN THE PUBLIC INTEREST.

23 C. THE COMMISSION MAY REQUEST ADDITIONAL INFORMATION OR A
24 MODIFICATION TO THE SUBMITTED WILDFIRE MITIGATION PLAN WITHIN ONE HUNDRED
25 TWENTY DAYS AFTER RECEIPT OF THE WILDFIRE MITIGATION PLAN BY PROVIDING
26 WRITTEN NOTICE TO THE ELECTRIC UTILITY. IF THE COMMISSION DOES NOT
27 REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE
28 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY
29 APPROVED AT THE EXPIRATION OF ONE HUNDRED TWENTY DAYS.

30 D. WITHIN NINETY DAYS AFTER RECEIPT OF THE NOTICE PRESCRIBED IN
31 SUBSECTION C OF THIS SECTION, THE ELECTRIC UTILITY SHALL REVISE THE
32 ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN TO ADDRESS THE COMMISSION'S
33 REQUEST. THE COMMISSION HAS SIXTY DAYS TO CONSIDER THE ELECTRIC UTILITY'S
34 RESPONSE AND ANY PROPOSED ADDITIONAL INFORMATION OR MODIFICATION TO THE
35 WILDFIRE MITIGATION PLAN. THE WILDFIRE MITIGATION PLAN IS DEEMED APPROVED
36 DURING THE PENDENCY OF ANY JUDICIAL ACTION THAT SEEKS REVIEW OF THE
37 COMMISSION'S APPROVAL OR REJECTION OF THE WILDFIRE MITIGATION PLAN OR ANY
38 PORTION OF THE WILDFIRE MITIGATION PLAN. IF THE COMMISSION DOES NOT
39 REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE
40 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY
41 APPROVED AT THE EXPIRATION OF SIXTY DAYS.

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

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

1 2. A DESCRIPTION OF THE PROCEDURES AND STANDARDS THAT THE ELECTRIC
2 UTILITY WILL USE TO INSPECT AND OPERATE THE ELECTRIC UTILITY'S
3 INFRASTRUCTURE TO MITIGATE THE RISK OF WILDFIRES.

4 3. A DESCRIPTION OF THE KEY INDIVIDUALS OR POSITION TITLES OF THOSE
5 PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING THE WILDFIRE MITIGATION PLAN.

6 4. A DESCRIPTION OF PROCEDURES FOR DEENERGIZING POWER LINES AND
7 DISABLING RECLOSERS TO MITIGATE POTENTIAL WILDFIRES OR PROVIDE A PUBLIC
8 SAFETY POWER SHUT OFF PLAN.

9 5. A PLAN FOR VEGETATION MANAGEMENT.

10 6. A SUMMARY OF THE PROCEDURES THE ELECTRIC UTILITY INTENDS TO USE
11 TO RESTORE THE ELECTRIC UTILITY'S ELECTRICAL SYSTEM IN THE EVENT OF A
12 WILDFIRE.

13 7. A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS
14 EFFORTS.

15 8. A DESCRIPTION OF POTENTIAL PARTICIPATION, IF APPLICABLE, WITH
16 STATE OR LOCAL WILDFIRE PROTECTION EFFORTS.

17 9. A DESCRIPTION OF HOW THE ELECTRIC UTILITY WILL MONITOR
18 COMPLIANCE WITH THE WILDFIRE MITIGATION PLAN.

19 F. AN ELECTRIC UTILITY MAY REFERENCE PROCEDURES AND STANDARDS THAT
20 ARE NOT SPECIFICALLY ENUMERATED IN THE WILDFIRE MITIGATION PLAN IN LIEU OF
21 THE REQUIREMENTS UNDER SUBSECTION E OF THIS SECTION. REFERENCED MATERIAL
22 MUST BE INCLUDED AS ATTACHMENTS TO THE WILDFIRE MITIGATION PLAN
23 SUBMISSION.

24 G. ON OR BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR THEREAFTER
25 UNLESS AN ELECTRIC UTILITY'S GOVERNING BOARD ORDERS OTHERWISE, AN ELECTRIC
26 UTILITY THAT IS GOVERNED BY AN ELECTED BOARD SHALL SUBMIT A COPY OF THE
27 ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN TO THE ELECTED BOARD, INSTEAD
28 OF THE COMMISSION, FOR REVIEW AND APPROVAL. THE ELECTED BOARD SHALL
29 REPLACE THE ROLE OF THE COMMISSION FOR THE PURPOSES OF THIS SECTION.
30 BEFORE AN ELECTRIC UTILITY SUBMITS A WILDFIRE MITIGATION PLAN TO THE
31 ELECTED BOARD, THE ELECTRIC UTILITY SHALL CONSULT WITH A STATE OR FEDERAL
32 LAND MANAGEMENT OR FIRE PROTECTION AGENCY THAT HAS AUTHORITY IN THE
33 ELECTRIC UTILITY'S SERVICE TERRITORY, AS APPLICABLE, AS TO THE CONTENT OF
34 THE WILDFIRE MITIGATION PLAN.

35 40-1304. Liability for causing wildfires; severability

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

39 B. AN ELECTRIC UTILITY THAT SUBSTANTIALLY ACTS IN COMPLIANCE WITH
40 THE APPROVED WILDFIRE MITIGATION PLAN IS DEEMED TO MEET THE STANDARD OF
41 CARE FOR A REASONABLY PRUDENT ELECTRIC UTILITY UNLESS THERE IS CLEAR AND
42 CONVINCING EVIDENCE OF WILFUL, INTENTIONAL OR RECKLESS MISCONDUCT. A
43 FAILURE TO COMPLY WITH AN APPROVED WILDFIRE MITIGATION PLAN DOES NOT
44 CONSTITUTE NEGLIGENCE PER SE. A PUBLIC POWER ENTITY'S OR ELECTRIC
45 UTILITY'S WILDFIRE MITIGATION PLAN SHALL NOT BE ADMISSIBLE AS EVIDENCE

1 AGAINST ANOTHER PUBLIC POWER ENTITY OR ELECTRIC UTILITY IN A CIVIL ACTION
2 THAT AROSE OUT OF A WILDFIRE.

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

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

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

14 ~~[F. IN AN ACTION PURSUANT TO THIS SECTION TO RECOVER ANY DAMAGES~~
15 ~~THAT RESULT FROM A WILDFIRE, NEITHER CONSEQUENTIAL PROPERTY DAMAGES NOR~~
16 ~~EXEMPLARY OR PUNITIVE BODILY INJURY OR PROPERTY DAMAGES SHALL BE~~
17 ~~RECOVERED.~~

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

23 Enroll and engross to conform

24 Amend title to conform

BRIAN FERNANDEZ

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