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2025

STATE OF WYOMING

25LSO-0201
Working Draft
0.2

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Electric Utilities Wildfire Mitigation Plans and Liability.

Sponsored by: Joint Minerals, Business & Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to Electric Utilities;
2 establishing a process by which Electric Utilities
3 may submit Wildfire Mitigation Plans to the Public Service
4 Commission for approval; and specifying limits for
5 liability and damages for Electric Utilities related
6 to wildfires.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

1

[Bill Number],

1 *****
 2 *****
 3 STAFF COMMENT
 4
 5 Please note that this draft has not gone through the normal
 6 LSO review process and may be subject to further changes
 7 and suggestions/comments.
 8
 9 *****
 10 *****
 11

12 Section 1. 37-3-401 through 37-3-405 are created to
 13 read:

14
 15 ARTICLE 4
 16 WILDFIRE MITIGATION

17
 18 37-3-401. Definitions.

19
 20 (a) As used in this article:

21
 22 (i) "Economic Loss" means the pecuniary loss
 23 resulting from medical expenses, business
interruption or business
income, property damage loss,
 24 replacement services loss, loss of use, loss due to death,
 25 and burial costs to the extent recovery for the loss is
 26 otherwise allowed under the laws of Wyoming;

1 *****
2 *****
3 STAFF COMMENT
4

5 The Committee may wish to consider whether the definition
6 of "economic loss" above—which includes references to "loss
7 due to death"—implicates Article 10, Section 4(a) of the
8 Wyoming Constitution, which provides that no law "shall be
9 enacted limiting the amount of damages to be recovered for
10 causing the injury or death of any person."

Commented [LS1]: See legal memorandum from
Lewis Roca

11
12 Wyoming law for crime-victim compensation uses the
13 following definition for "economic loss" (W.S. 1-40-
14 102(a)(v)):

15
16 (v) "Economic loss" means and includes medical
17 and hospital expenses, loss of earnings, loss of future
18 earnings resulting from the injury, funeral and burial
19 expenses and loss of support to the dependents of the
20 victim to include home maintenance and child care;

21
22 *****
23 *****
24

25 (ii) "Electric Utility" means any person,
26 including cooperative electric utilities as defined by W.S.
27 37-17-101(a) ~~(iv)~~ (vi) (C) ~~and governmental subdivisions~~, that
28 is authorized to engage in business in Wyoming and that
29 is primarily engaged in the generation, transmission, or
30 sale of
31 electric energy. "Electric Utility" shall not include any
32 Electric Utility owned or operated by a city or town;

33 (iii) "Wildfire Mitigation Plan" means a plan

34 submitted to and approved by the Commission.

35 (iv) "Wildfire" means an unplanned, unwanted fire
burning in any ~~natural~~ area, ~~including but not~~
~~limited to, a forest, grassland, or prairie~~ that
may impact, damage, or cause harm to any area,
including but not limited to, natural resources,
agricultural resources, homes and property, and
threaten lives and safety ~~wilderness, urban,~~
~~suburban, or rural areas~~ within the state of
Wyoming.

1

2 *****

3 *****

4 STAFF COMMENT

5
6 For the definition of "wildfire mitigation plan," the
7 Committee may wish to consider whether a reference to an
8 "approved" plan should be included given the discretion
9 that utilities have in applying for approval of the plan.

10 *****

11 *****

12

13
14 37-3-402. Wildfire Mitigation Plans; Commission
15 authority.

16

17 The Commission may promulgate rules to implement this
18 article, including rules establishing procedures and
19 requirements for the filing, review, and approval of
20 Wildfire Mitigation Plans and any other rules that the
21 Commission determines are necessary to protect the public
22 interest.

23

24 37-3-403. Electric Utilities; Wildfire Mitigation
25 Plans; contents.

26

27 (a) Each Electric Utility may prepare a Wildfire
28 Mitigation Plan that shall include, at a minimum:

1

2 (i) A description of the Electric Utility's
3 service territory and the areas within the service
4 territory or rights of way that may be subject to a
heightened risk of wildfire;

6 (ii) A description of the procedures, standards,
7 and schedules that the Electric Utility will use to inspect
8 and operate its transmission and distribution
9 infrastructure, if any;

10

11 (iii) A description of the procedures and
12 standards that the Electric Utility will use to perform
13 vegetation management;

14

15 (iv) A description of proposed modifications,
16 Replacements, and upgrades to facilities and preventative
17 programs that the Electric Utility will implement to reduce
18 the risk of its electric facilities initiating a wildfire;

19

20 (v) A description of how the Electric Utility's
21 wildfire mitigation strategies and policies have changed
22 since the later of the immediately preceding five (5) years

~~1 or the submission of the most recent Wildfire Mitigation
21 Plan to the Commission;~~

3

4 (vi) A description of how the Electric Utility
5 will coordinate with other electric utilities regarding any
6 shared facilities;

7

8 (vii) A description of procedures for de-
9 energizing power lines and disabling reclosers to mitigate
10 potential wildfires, including:

11

12 (A) The ability of the Electric Utility to
13 reasonably access the proposed power line to be de-
14 energized;

15

16 (B) Balancing the risk of wildfire with the
17 need for the continued supply of electricity to a
18 community;

19

20 *****

21

22

STAFF COMMENT

23

24 The terms "fire" and wildfire" appear to be used
25 interchangeably in this bill draft. The Committee may wish
26 to consider whether those terms should be aligned (i.e.,

1 use only "fire" or "wildfire") or if those terms should be
2 defined for clarity.

3
4 *****
5 *****
6

7 (C) Any potential impact that de-energizing
8 lines may have on the resilience of the remainder of the
9 Electric Utility's transmission and distribution
10 facilities, if any;

11
12 (D) The need to provide notice to customers
13 and the public before, where possible, or soon after de-
14 energization;

15
16 (E) Any need to communicate and coordinate
17 with any other ~~electric-Electric utilities-Utilities~~ that
18 may be impacted by a
19 de-energization and any plans to accomplish communications,
20 including communications with transmission operators,
21 reliability coordinators and cooperative member systems;

22 (F) Any potential impact to public safety.
23

1 (viii) A description of the procedures the
2 Electric Utility intends to use to restore its electrical
3 system in the event of a wildfire;

4

5 (ix) For Electric Utilities whose rates are
6 regulated by the Commission, a description of the estimated
7 incremental costs and potential associated rate impacts for
8 the implementation of the Wildfire Mitigation Plan,
9 including system improvements and upgrades;

10

11 (x) A description of community outreach and
12 public awareness efforts before and during the wildfire
13 season, particularly in areas impacted by wildfires or de-
14 energizations;

15

16 (xi) A description of potential participation
17 with emergency coordinators, if applicable.

18

19 **37-3-404. Wildfire Mitigation Plans; Commission**
20 **approval.**

21

22 (a) An Electric Utility may apply to the Commission
23 for approval of a Wildfire Mitigation Plan.

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4
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9

(b) Upon receiving an application for approval of a
~~Wildfire Mitigation Plan and subject to subsection (d) of~~
~~4~~
~~this section~~, the Commission shall approve the plan if:
~~(i) The Wildfire Mitigation Plan is reasonable,~~
in the public
Interest, ~~and appropriately balances the costs of implementing~~
~~the Wildfire Mitigation Plan with the risks of~~
1 a potential wildfire.

For Electric Utilities whose rates are regulated by the Commission, approval of a Wildfire Mitigation Plan (ii) The approval does not confer to the Electric

Utility the right to recover ~~a specific amount of~~ the costs associated with
~~of the Wildfire Mitigation Plan. Nothing in this paragraph shall be construed to limit~~
A rate-regulated Electric Utility may seek, and the Commission may authorize cost recovery for the costs associated with implementing a Wildfire Mitigation Plan through rate cases or other separate filings. from considering
~~the recovery of costs in a separate proceeding for Electric Utilities whose rates are regulated by the Commission.~~

15

(c) If an Electric Utility submits a Wildfire Mitigation Plan that is approved by the Commission, the Electric Utility shall submit subsequent or

2025 updated plans to STATE COMMISSION no later than 25130-021
fifth year or as ordered by the Commission. Working Draft 0.2

20

~~21 (d) The Commission shall approve or modify a
Wildfire Mitigation Plan to ensure that the plan is
reasonable, in the public interest, and appropriately
balances the costs of~~

~~implementing the Wildfire Mitigation Plan with the risks of
1 a potential wildfire.~~

3

4 (ed) Not later than June 1 in each year following
any
5 year in which the Commission approves a Wildfire Mitigation
6 Plan under this section, an Electric Utility shall file
7 an annual report with the Commission detailing the
8 Electric Utility's compliance with the Commission-
9 approved Wildfire Mitigation Plan. Within 60 days of
10 receiving each annual report, the Commission may ~~engage~~
initiate in a
11 proceeding to evaluate whether the Electric Utility is in
12 substantial compliance with its Commission-approved Wildfire
13 Mitigation Plan. If the Commission takes no action within 60
14 days, the Electric Utility is presumed to be in substantial
15 compliance with its Commission-approved Wildfire Mitigation
16 Plan.

11

12 **37-3-405. Wildfire Mitigation Plans; limitations of**
13 **liability and damages for Electric Utilities.**

14

15 (a) Except as otherwise provided in this section, for
16 Commission-approved Wildfire Mitigation Plans, there shall

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17 be a presumption in any civil action that the
18 Commission-approved Wildfire Mitigation Plan is a
19 reasonable and prudent preparation for, and mitigation of,
20 wildfire risk.

22

1 (b) A plaintiff may recover ~~damages~~ Economic Loss
 from an Electric
 2 Utility as a result of a wildfire only if the plaintiff
 3 ~~shows~~ one (1) or more of the following by ~~clear and~~
 4 convincing a preponderance of the evidence:

5

6 (i) The Electric Utility failed to substantially
 7 comply with ~~an essential element of~~ a Commission-
 8 approved Wildfire Mitigation Plan, and that failure was
 9 the actual and proximate cause of the damages to the
 10 plaintiff. For purposes of this paragraph, an Electric
 11 Utility shall be deemed to have substantially complied with
 12 the Wildfire Mitigation Plan if the Electric Utility
 13 attempted in good faith to comply with the plan but was
 denied or delayed
 14 access to a right- of-way after the Electric Utility
 15 requested access to the right-of-way to perform
 16 vegetation management or fire mitigation work in accordance
 17 with the plan;

19

20 (ii) The Electric Utility acted with malice or
 21 criminal intent, and the Electric Utility's action was the

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22 actual and proximate cause of the damages to the plaintiff.

23

1 (c) The following shall apply in any civil action that
2 a plaintiff brings against an Electric Utility for damages
3 caused by wildfire:

4

5 (i) An action against an Electric Utility
6 for damages caused by wildfire shall only be
7 brought within four (4) years after the date of the
8
9 ignition of the wildfire;
10

11
12 ~~(ii) A plaintiff may recover economic ~~economic~~
~~losses~~ Losses~~

13 ~~compensate for damage to property;~~ 11

14 (iii) No plaintiff shall recover noneconomic
15 losses unless the plaintiff suffered bodily injury ~~in the~~
16 ~~form of a burn~~ from a wildfire; 15

17 ~~(iv) For the purposes of calculating~~
18 ~~damages, The amount value of damages~~
19 ~~recoverable for~~

20 ~~economic losses to~~ real or personal property,
21 including ~~for~~

22 any vegetation on real property, shall be the ~~greater~~
~~lesser~~ of:

23 (A) The costs to restore the property to the
24 property's pre-wildfire condition; ~~the cost to replace the~~
25 ~~lost use of the property;~~ or

1 (B) The difference between the ~~fair~~
 ~~market~~productive
2 value of the property immediately before the wildfire and
3 the ~~fair market~~productive value of the property immediately
after the wildfire.

4

5 (v) Nothing in this section shall be construed to
6 limit any defenses that an Electric Utility may be entitled
7 to raise in a civil action for damages caused by wildfire.

8

9 **Section 2.** The Public Service Commission shall
10 promulgate any rules necessary to implement this act.

11

12 **Section 3.**

13

14 (a) Except as provided in subsection (b) of this
15 section, this act is effective immediately upon completion
16 of all acts necessary for a bill to become law as provided
17 by Article 4, Section 8 of the Wyoming Constitution.

18

19

20

21

(END)