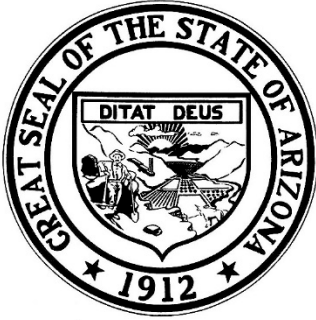


HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: HB 2201

Carter N Floor Amendment

-
1. States that the Wildfire Mitigation Plan (Plan) is deemed administratively approved after 120 days if the governing body or the Arizona Corporation Commission (ACC) does not request additional information or modification to the Plan.
 2. Adds that, within 90 days after receipt of the notice for a Public Power Entity or Electric Utility to revise their Plan, if the governing body or the ACC does not request additional information or modification to the Plan, the Plan is deemed administratively approved after 60 days.
 3. Removes the specification that a Public Power Entity's or Electric Utility's:
 - a) plan or an updated Plan is deemed approved when submitted to the governing body or the ACC;
 - b) plan remains approved while they make a good faith effort to address the governing body's or the ACC's request;
 - c) plan is deemed approved if the governing body or the ACC within 60 days does not take any action to reject the Plan;
 - d) plan is deemed approved during the pendency of any rehearing that seeks review of the governing body's or the ACC's rejection of the Plan;
 - e) has sole discretion regarding when deenergization is appropriate; and
 - f) cannot be apportioned any fault for their decision to deenergize or not deenergize.
 4. Removes the prohibition that a class action brought under Arizona rule of civil procedure from being maintained for any cause of action against a Public Power Entity or Electric Utility related to a wildfire.
 5. Makes technical and conforming changes.

Amendment explanation prepared by B. Santillan Ramos
Phone Number 6-3046

ls

2/21/2025

ADDITIONAL COW
CARTER N FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES 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.

1 ~~[C.]~~ [B.] THE GOVERNING BODY SHALL REVIEW THE SUBMITTED WILDFIRE
2 MITIGATION 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 ~~[D.]~~ [C.] THE GOVERNING BODY MAY REQUEST ADDITIONAL INFORMATION OR
8 A MODIFICATION TO THE SUBMITTED WILDFIRE MITIGATION PLAN WITHIN ONE
9 HUNDRED TWENTY DAYS AFTER RECEIPT OF THE WILDFIRE MITIGATION PLAN BY
10 PROVIDING WRITTEN NOTICE TO THE PUBLIC POWER ENTITY. ~~[A WILDFIRE
11 MITIGATION PLAN REMAINS APPROVED WHILE THE PUBLIC POWER ENTITY MAKES A
12 GOOD FAITH EFFORT TO ADDRESS THE GOVERNING BODY'S REQUEST.] [IF THE
13 GOVERNING BODY DOES NOT REQUEST ADDITIONAL INFORMATION OR A MODIFICATION
14 TO THE WILDFIRE MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED
15 ADMINISTRATIVELY APPROVED AT THE EXPIRATION OF ONE HUNDRED AND TWENTY
16 DAYS.]~~

17 ~~[E.]~~ [D.] WITHIN NINETY DAYS AFTER RECEIPT OF THE NOTICE
18 PRESCRIBED IN SUBSECTION ~~[D.]~~ [C] OF THIS SECTION, THE PUBLIC POWER ENTITY
19 SHALL REVISE THE PUBLIC POWER ENTITY'S WILDFIRE MITIGATION PLAN TO ADDRESS
20 THE GOVERNING BODY'S REQUEST. THE GOVERNING BODY HAS SIXTY DAYS TO
21 CONSIDER THE PUBLIC POWER ENTITY'S RESPONSE AND ANY PROPOSED ADDITIONAL
22 INFORMATION OR MODIFICATION TO THE WILDFIRE MITIGATION PLAN. ~~[IF THE
23 GOVERNING BODY DOES NOT TAKE ANY ACTION WITHIN SIXTY DAYS TO REJECT THE
24 WILDFIRE MITIGATION PLAN OR ANY PORTION OF THE WILDFIRE MITIGATION PLAN,
25 THE WILDFIRE MITIGATION PLAN IS DEEMED APPROVED. THE WILDFIRE MITIGATION
26 PLAN IS DEEMED APPROVED DURING THE PENDENCY OF ANY REHEARING OR JUDICIAL
27 ACTION THAT SEEKS REVIEW OF THE GOVERNING BODY'S REJECTION OF THE WILDFIRE
28 MITIGATION PLAN OR ANY PORTION OF THE WILDFIRE MITIGATION PLAN.] [THE
29 WILDFIRE MITIGATION PLAN IS DEEMED APPROVED DURING THE PENDENCY OF ANY
30 JUDICIAL ACTION THAT SEEKS REVIEW OF THE GOVERNING BODY'S APPROVAL OR
31 REJECTION OF THE WILDFIRE MITIGATION PLAN OR ANY PORTION OF THE WILDFIRE
32 MITIGATION PLAN. IF THE GOVERNING BODY DOES NOT REQUEST ADDITIONAL
33 INFORMATION OR A MODIFICATION TO THE WILDFIRE MITIGATION PLAN, THE
34 WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY APPROVED AT THE
35 EXPIRATION OF SIXTY DAYS.]~~

36 ~~[F.]~~ [E.] THE WILDFIRE MITIGATION PLAN SHALL INCLUDE THE
37 FOLLOWING:

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

41 2. A DESCRIPTION OF THE PROCEDURES AND STANDARDS THAT THE PUBLIC
42 POWER ENTITY WILL USE TO INSPECT AND OPERATE THE PUBLIC POWER ENTITY'S
43 INFRASTRUCTURE TO MITIGATE THE RISK OF WILDFIRES.

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

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

4 5. A PLAN FOR VEGETATION MANAGEMENT.

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

8 7. A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS
9 EFFORTS.

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

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

14 ~~[G.]~~ [F.] A PUBLIC POWER ENTITY MAY REFERENCE PROCEDURES AND
15 STANDARDS THAT ARE NOT SPECIFICALLY ENUMERATED IN THE WILDFIRE MITIGATION
16 PLAN IN LIEU OF THE REQUIREMENTS UNDER SUBSECTION ~~[F-]~~ [E] OF THIS
17 SECTION. REFERENCED MATERIAL MUST BE INCLUDED AS ATTACHMENTS TO THE
18 WILDFIRE MITIGATION PLAN SUBMISSION.

19 30-904. Liability for causing wildfires; severability

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

23 B. A PUBLIC POWER ENTITY 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 PUBLIC POWER ENTITY UNLESS THERE IS CLEAR
26 AND CONVINCING EVIDENCE OF WILFULL, 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. A PUBLIC POWER ENTITY SHALL NOT BE APPORTIONED ANY FAULT FOR THE
33 IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE PUBLIC POWER
34 ENTITY'S CONTROL, INCLUDING LIGHTNING STRIKES OR ACTIONS BY THIRD PARTIES.

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

40 ~~[E. A PUBLIC POWER ENTITY HAS SOLE DISCRETION REGARDING WHEN
41 DEENERGIZATION IS APPROPRIATE. A PUBLIC POWER ENTITY SHALL NOT BE
42 APPORTIONED ANY FAULT FOR THE PUBLIC POWER ENTITY'S DECISION TO DEENERGIZE
43 OR NOT DEENERGIZE, INCLUDING FAULT FOR INTERRUPTED SERVICE.]~~

44 ~~[F.]~~ [E.] A CLAIM FOR CONDEMNATION OR INVERSE CONDEMNATION SHALL
45 NOT EXIST AGAINST A PUBLIC POWER ENTITY RELATED TO WILDFIRES.

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

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

8 40-1302. 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 AN ELECTRIC UTILITY 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 AN ELECTRIC UTILITY THAT IS RELATED TO A WILDFIRE,
20 THAT PARENT, SUBSIDIARY OR OTHER CORPORATE AFFILIATE OF THE ELECTRIC
21 UTILITY SHALL BE TREATED THE SAME AS AND CONSIDERED EQUIVALENT TO AN
22 ELECTRIC UTILITY FOR THE PURPOSES OF SECTION 40-1304.

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

27 40-1303. Wildfire mitigation plan

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

39 ~~[B. THE WILDFIRE MITIGATION PLAN IS DEEMED APPROVED WHEN SUBMITTED~~
40 ~~TO THE COMMISSION. AN ELECTRIC UTILITY MAY UPDATE THE ELECTRIC UTILITY'S~~
41 ~~WILDFIRE MITIGATION PLAN AS NEEDED. ANY SUBMISSION OF AN UPDATED PLAN IS~~
42 ~~DEEMED APPROVED WHEN SUBMITTED TO THE COMMISSION.]~~

43 ~~[C.]~~ [B.] THE COMMISSION SHALL REVIEW THE SUBMITTED WILDFIRE
44 MITIGATION PLAN TO ENSURE THAT THE PLAN:

- 45 1. COMPLIES WITH THIS CHAPTER AND ALL APPLICABLE RULES AND
- 46 REGULATIONS.

1 2. IS REASONABLE.

2 3. IS IN THE PUBLIC INTEREST.

3 ~~[D.]~~ [C.] THE COMMISSION MAY REQUEST ADDITIONAL INFORMATION OR A
4 MODIFICATION TO THE SUBMITTED WILDFIRE MITIGATION PLAN WITHIN ONE HUNDRED
5 TWENTY DAYS AFTER RECEIPT OF THE WILDFIRE MITIGATION PLAN BY PROVIDING
6 WRITTEN NOTICE TO THE ELECTRIC UTILITY. ~~[A WILDFIRE MITIGATION PLAN~~
7 ~~REMAINS APPROVED WHILE THE ELECTRIC UTILITY MAKES A GOOD FAITH EFFORT TO~~
8 ~~ADDRESS THE COMMISSION'S REQUEST.]~~ [IF THE COMMISSION DOES NOT REQUEST
9 ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE MITIGATION PLAN,
10 THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY APPROVED AT THE
11 EXPIRATION OF ONE HUNDRED AND TWENTY DAYS.]

12 ~~[E.]~~ [D.] WITHIN NINETY DAYS AFTER RECEIPT OF THE NOTICE
13 PRESCRIBED IN SUBSECTION ~~[D.]~~ [C] OF THIS SECTION, THE ELECTRIC UTILITY
14 SHALL REVISE THE ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN TO ADDRESS
15 THE COMMISSION'S REQUEST. THE COMMISSION HAS SIXTY DAYS TO CONSIDER THE
16 ELECTRIC UTILITY'S RESPONSE AND ANY PROPOSED ADDITIONAL INFORMATION OR
17 MODIFICATION TO THE WILDFIRE MITIGATION PLAN. ~~[IF THE COMMISSION DOES NOT~~
18 ~~TAKE ANY ACTION WITHIN SIXTY DAYS TO REJECT THE WILDFIRE MITIGATION PLAN~~
19 ~~OR ANY PORTION OF THE WILDFIRE MITIGATION PLAN, THE WILDFIRE MITIGATION~~
20 ~~PLAN IS DEEMED APPROVED. THE WILDFIRE MITIGATION PLAN IS DEEMED APPROVED~~
21 ~~DURING THE PENDENCY OF ANY REHEARING OR JUDICIAL ACTION PURSUANT TO~~
22 ~~SECTION 40-253 OR 40-254 OR ANY OTHER REHEARING OR JUDICIAL ACTION THAT~~
23 ~~SEEKS REVIEW OF THE COMMISSION'S REJECTION OF THE WILDFIRE MITIGATION PLAN~~
24 ~~OR ANY PORTION OF THE WILDFIRE MITIGATION PLAN.]~~ [THE WILDFIRE MITIGATION
25 PLAN IS DEEMED APPROVED DURING THE PENDENCY OF ANY JUDICIAL ACTION THAT
26 SEEKS REVIEW OF THE COMMISSION'S APPROVAL OR REJECTION OF THE WILDFIRE
27 MITIGATION PLAN OR ANY PORTION OF THE WILDFIRE MITIGATION PLAN. IF THE
28 COMMISSION DOES NOT REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO
29 THE WILDFIRE MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED
30 ADMINISTRATIVELY APPROVED AT THE EXPIRATION OF SIXTY DAYS.]

31 ~~[F.]~~ [E.] THE WILDFIRE MITIGATION PLAN SHALL INCLUDE THE
32 FOLLOWING:

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

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

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

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

43 5. A PLAN FOR VEGETATION MANAGEMENT.

44 6. A SUMMARY OF THE PROCEDURES THE ELECTRIC UTILITY INTENDS TO USE
45 TO RESTORE THE ELECTRIC UTILITY'S ELECTRICAL SYSTEM IN THE EVENT OF A
46 WILDFIRE.

1 7. A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS
2 EFFORTS.

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

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

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

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

23 40-1304. Liability for causing wildfires; severability

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

27 B. AN ELECTRIC UTILITY THAT SUBSTANTIALLY ACTS IN COMPLIANCE WITH
28 THE APPROVED WILDFIRE MITIGATION PLAN IS DEEMED TO MEET THE STANDARD OF
29 CARE FOR A REASONABLY PRUDENT ELECTRIC UTILITY UNLESS THERE IS CLEAR AND
30 CONVINCING EVIDENCE OF WILFULL, INTENTIONAL OR RECKLESS MISCONDUCT. 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. AN ELECTRIC UTILITY SHALL NOT BE APPORTIONED ANY FAULT FOR THE
37 IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE ELECTRIC
38 UTILITY'S CONTROL, INCLUDING LIGHTNING STRIKES OR ACTIONS BY THIRD
39 PARTIES.

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

1 ~~[E. AN ELECTRIC UTILITY HAS SOLE DISCRETION REGARDING WHEN~~
2 ~~DEENERGIZATION IS APPROPRIATE. AN ELECTRIC UTILITY SHALL NOT BE~~
3 ~~APPORTIONED ANY FAULT FOR THE ELECTRIC UTILITY'S DECISION TO DEENERGIZE OR~~
4 ~~NOT DEENERGIZE, INCLUDING FAULT FOR INTERRUPTED SERVICE.]~~

5 [F.] [E.] A CLAIM FOR CONDEMNATION OR INVERSE CONDEMNATION SHALL
6 NOT EXIST AGAINST AN ELECTRIC UTILITY RELATED TO WILDFIRES.

7 [G.] [F.] IN AN ACTION PURSUANT TO THIS SECTION TO RECOVER ANY
8 DAMAGES THAT RESULT FROM A WILDFIRE, NEITHER CONSEQUENTIAL PROPERTY
9 DAMAGES NOR EXEMPLARY OR PUNITIVE BODILY INJURY OR PROPERTY DAMAGES SHALL
10 BE RECOVERED.

11 ~~[H. CLASS ACTIONS BROUGHT UNDER THE ARIZONA RULES OF CIVIL~~
12 ~~PROCEDURE SHALL NOT BE MAINTAINED FOR ANY CAUSE OF ACTION AGAINST AN~~
13 ~~ELECTRIC UTILITY RELATED TO A WILDFIRE.]~~

14 [I.] [G.] IF ANY PROVISION OF THIS CHAPTER OR ITS APPLICATION TO
15 ANY PERSON OR [CIRCUMSTANCES] [CIRCUMSTANCE] IS HELD INVALID, THE
16 INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS
17 CHAPTER THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR
18 APPLICATION AND TO THIS END THE PROVISIONS OF THIS CHAPTER ARE SEVERABLE.

19 Enroll and engross to conform

20 Amend title to conform

NEAL CARTER

2201FloorCARTER N.docx

02/21/2025

5:53 PM

C: SK