

1 **SENATE FLOOR VERSION**

February 9, 2023

2 **AS AMENDED**

3 SENATE BILL NO. 517

By: Newhouse

4
5
6 **[electric utilities - protection plan - liability -**
7 **codification - effective date]**
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9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 16-41 of Title 2, unless there
12 is created a duplication in numbering, reads as follows:

13 A. This act shall be known and may be cited as the "Wildland
14 Fire Protection Act".

15 B. As used in this act:

16 1. "Electric cooperative" means a cooperative as defined
17 pursuant to Section 437.1 of Title 18 of the Oklahoma Statutes;

18 2. "Electric utility" means an electric cooperative or public
19 utility;

20 3. "Electrical wildland fire protection plan" means a plan that
21 is prepared by an electric utility for the purpose of mitigating a
22 wildland fire within the utility's service area;

23 4. "Injuries arising from the ownership of property" means all
24 claims for property damage, trespass, nuisance, loss of use,

1 injuries to timber, loss of employment, or emotional distress
2 arising from a wildland fire;

3 5. "Public utility" means a utility as defined pursuant to
4 Section 151 of Title 17 of the Oklahoma Statutes; and

5 6. "Wildland fire" means any uncontrolled fire on forests,
6 grasslands, fields, croplands, or wildlands; provided, wildland fire
7 also includes any such fire which damages or destroys improvements
8 or structures.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 16-42 of Title 2, unless there
11 is created a duplication in numbering, reads as follows:

12 A. An electric utility operating in this state may prepare an
13 electrical wildland fire protection plan in accordance with the
14 requirements of this section as deemed necessary by the utility for
15 the purpose of mitigating wildland fires.

16 B. An electrical wildland fire protection plan under this
17 section shall include a description of:

18 1. Areas within the service area of the electric utility that
19 may be subject to a heightened risk of wildland fire;

20 2. The procedures, standards, and time frames that the electric
21 utility will use to inspect its infrastructure and perform
22 vegetation management;

23 3. Proposed modifications or upgrades to facilities;

24

1 4. Preventative programs that the electric utility will
2 implement to reduce the risk of its electric facilities initiating a
3 wildfire;

4 5. The procedures that the electric utility intends to use to
5 restore its electrical system in the event of a wildland fire; and

6 6. Potential consultation, if applicable, with state or local
7 wildland fire protection plans.

8 C. Any electric utility that prepares an electric wildland fire
9 protection plan under this section shall maintain a copy of such
10 plan and make it available for public inspection upon request. The
11 utility shall consider input from the Oklahoma Department of
12 Agriculture, Food, and Forestry, the State Fire Marshal, and any
13 other appropriate federal, state, or local entity that requests to
14 provide input to the utility.

15 D. Nothing in this act shall be construed to require an
16 electric utility to implement modifications or upgrades to
17 facilities or preventative programs which, commensurate with the
18 level or risk of wildland fire for an area within the utility's
19 service area, are not commonly utilized in the electric distribution
20 and transmission process of the utility or exceed comparable
21 industry standards.

22 E. An electric utility may recover in rates all prudently
23 incurred investments and expenditures, including capital costs, as a
24 result of the implementation of a wildland fire protection plan. A

1 rate adjustment under this subsection shall be subject to the
2 requirements of Section 250 et seq. of Title 17 of the Oklahoma
3 Statutes. Subject to approval by the Corporation Commission, an
4 electric utility may defer or collect the incremental revenue
5 requirements for the capital investments and expenses that are not
6 included in base rates in order to implement a wildland fire
7 protection plan under this act.

8 SECTION 3. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 16-43 of Title 2, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Except as provided in subsection B of this section, a person
12 who negligently, recklessly, or intentionally causes or spreads a
13 wildland fire shall be liable for the injuries arising from the
14 ownership of property which result from that wildland fire. A
15 person liable under this subsection shall be liable regardless of
16 whether the fire begins on federal, tribal, state-owned, or private
17 land.

18 B. In any civil action or other legal proceeding seeking to
19 recover for injuries arising from the ownership of property which
20 resulted from a wildland fire, an electric utility shall not be
21 considered to have negligently caused a wildland fire if:

22 1. An electrical wildland fire protection plan of the electric
23 utility identified and sought to mitigate conditions which may have
24 caused or contributed to the cause of the wildland fire or fires;

1 2. For the area of origin of the wildland fire, the electric
2 utility has undertaken the fire mitigation work identified in the
3 electrical wildland fire protection plan, including:

- 4 a. inspection, maintenance, and repair activities,
- 5 b. modifications or upgrades to facilities or the
6 construction of new facilities,
- 7 c. vegetation management, and
- 8 d. preventative programs; or

9 3. The electric utility is denied or delayed access to a right-
10 of-way on land owned by a state, federal, or tribal governmental
11 agency after the utility requested access to the right-of-way to
12 perform fire mitigation work in accordance with the electrical
13 wildland protection plan.

14 C. 1. In the event an electric utility does not have an
15 electric wildland fire protection plan that identified and sought to
16 address the cause of a wildland fire for fire mitigation purposes, a
17 property owner who suffers damages resulting from **a wildland fire**
18 **caused intentionally, recklessly, or negligently by an electric**
19 **utility** may bring an action under this section to recover injuries
20 arising from the ownership of the property which resulted from the
21 wildland fire.

22 2. An award for damages for injuries arising from the ownership
23 of property from a wildland fire, including loss of vegetation,
24 shall be the lesser of:

1 a. the cost to restore the real property to the condition
2 prior to the wildland fire, or

3 b. the difference between:

4 (1) the fair market value of the real property before
5 the wildland fire, and

6 (2) the fair market value of the real property after
7 the wildland fire.

8 3. The lack of an applicable electrical fire protection plan
9 shall not be considered in any award for punitive damages against an
10 electric utility.

11 D. Nothing in this act shall be construed to address or impact
12 liability for and recovery of damages for bodily injuries resulting
13 from a wildland fire.

14 SECTION 4. This act shall become effective November 1, 2023.

15 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TELECOMMUNICATIONS
16 February 9, 2023 - DO PASS AS AMENDED
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