

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 517

By: Newhouse

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5  
6 AS INTRODUCED

7 An Act relating to electric utilities; creating the  
8 Wildland Fire Protection Act; providing short title;  
9 defining terms; establishing requirements for  
10 electrical wildland fire protection plan; requiring  
11 utility to furnish plan upon request; directing  
12 utility to consult with certain agencies; construing  
13 provisions; allowing utility to recover costs under  
14 certain circumstances subject to certain  
15 requirements; establishing liability for certain  
16 persons for certain causes of wildland fires,  
17 regardless of land jurisdiction; providing for  
18 certain exceptions to cause determination; allowing  
19 property owner to bring certain action; establishing  
20 award for damages; providing for codification; and  
21 providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

28 B. As used in this act:

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

3 2. "Electric utility" means an electric cooperative or public  
4 utility;

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

8 4. "Injuries arising from the ownership of property" means all  
9 claims for property damage, trespass, nuisance, loss of use,  
10 injuries to timber, loss of employment, or emotional distress  
11 arising from a wildland fire;

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

14 6. "Wildland fire" means any uncontrolled fire on forests,  
15 grasslands, fields, croplands, or wildlands; provided, wildland fire  
16 also includes any such fire which damages or destroys improvements  
17 or structures.

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

21 A. An electric utility operating in this state may prepare an  
22 electrical wildland fire protection plan in accordance with the  
23 requirements of this section as deemed necessary by the utility for  
24 the purpose of mitigating wildland fires.

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

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

5 2. The procedures, standards, and time frames that the electric  
6 utility will use to inspect its infrastructure and perform  
7 vegetation management;

8 3. Proposed modifications or upgrades to facilities;

9 4. Preventative programs that the electric utility will  
10 implement to reduce the risk of its electric facilities initiating a  
11 wildfire;

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

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

16 C. Any electric utility that prepares an electric wildland fire  
17 protection plan under this section shall maintain a copy of such  
18 plan and make it available for public inspection upon request. The  
19 utility shall consider input from the Oklahoma Department of  
20 Agriculture, Food, and Forestry, the State Fire Marshal, and any  
21 other appropriate federal, state, or local entity that requests to  
22 provide input to the utility.

23 D. Nothing in this act shall be construed to require an  
24 electric utility to implement modifications or upgrades to  
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1 facilities or preventative programs which, commensurate with the  
2 level or risk of wildland fire for an area within the utility's  
3 service area, are not commonly utilized in the electric distribution  
4 and transmission process of the utility or exceed comparable  
5 industry standards.

6 E. An electric utility may recover in rates all prudently  
7 incurred investments and expenditures, including capital costs, as a  
8 result of the implementation of a wildland fire protection plan. A  
9 rate adjustment under this subsection shall be subject to the  
10 requirements of Section 250 et seq. of Title 17 of the Oklahoma  
11 Statutes. Subject to approval by the Corporation Commission, an  
12 electric utility may defer or collect the incremental revenue  
13 requirements for the capital investments and expenses that are not  
14 included in base rates in order to implement a wildland fire  
15 protection plan under this act.

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

19 A. Except as provided in subsection B of this section, a person  
20 who negligently, recklessly, or intentionally causes or spreads a  
21 wildland fire shall be liable for the injuries arising from the  
22 ownership of property which result from that wildland fire. A  
23 person liable under this subsection shall be liable regardless of  
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1 whether the fire begins on federal, tribal, state-owned, or private  
2 land.

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

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

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

- 13 a. inspection, maintenance, and repair activities,
- 14 b. modifications or upgrades to facilities or the  
15 construction of new facilities,
- 16 c. vegetation management, and
- 17 d. preventative programs; or

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

23 C. 1. In the event an electric utility does not have an  
24 electric wildland fire protection plan that identified and sought to

1 address the cause of a wildland fire for fire mitigation purposes, a  
2 property owner who suffers damages resulting from the wildland fire  
3 may bring an action under this section to recover injuries arising  
4 from the ownership of the property which resulted from the wildland  
5 fire.

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

9 a. the cost to restore the real property to the condition  
10 prior to the wildland fire, or

11 b. the difference between:

12 (1) the fair market value of the real property before  
13 the wildland fire, and

14 (2) the fair market value of the real property after  
15 the wildland fire.

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

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

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

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