Electric Utilities and Wildfire Risk

Several Western states have considered various policy solutions to help reduce utility wildfire risk and the financial exposure generated by wildfire liabilities. These forward looking solutions are focused on holistically addressing utility wildfire risk, and incorporate multiple elements help clarify standards for care, create a safe harbor for utilities that meet or exceed that standard, and create a simplified and accelerated path to damages for wildfire victims.

Below are summaries of various areas of utility-focused issues and how they have been addressed by Oregon, California, Idaho, Utah, and Washington.

a. Wildfire Mitigation Planning

Initial efforts to address wildfire risk are focused on utility wildfire mitigation plans. In the west, California leads these efforts with the creation of a stand-alone agency—the Office of Energy Infrastructure Safety (OEIS)—to review utility wildfire mitigation plans and verify implementation. With the passage of SB 762, Oregon electric IOUs submit annual wildfire mitigation plans reviewed by the PUC, but the agency does not currently perform field audits to verify the utilities' mitigation actions. COUs also develop plans with their governing boards and submit copies of approved plans with the PUC.

Wildfire mitigation plans identify high risk areas and create the foundation for review of costs and performance. In response to the rapid increases in utility mitigation spending, Western states have been evaluating how their regulatory processes can keep pace to help ensure that utility spending is effective, efficient, and properly prioritized.

Except for California, other Western states have not treated wildfire mitigation investments differently from other types of utility investments, and they are typically evaluated as part of wildfire mitigation planning activities and cost prudency is determined as part of general rate cases.

A summary of the wildfire mitigation plans and related components adopted by the Western states is as follows:

Oregon	California	Idaho	Utah	Washington
Reviewing Authority				
Oregon PUC has oversight of utility safety, including wildfire mitigation activities.	OEIS created as a stand-alone department to provide oversight that had previously been provided by the CPUC.	Utilities are required to submit plans to IPUC as part of general rate cases.	Utah PSC has oversight of wildfire mitigation issues.	Dept of Natural Resources working developing IOU plans for review with the WA Commission.
Identification of High Risk Areas				
Utilities identify HRFZs. ODF state map will provide an alternative perspective on risk areas.	Statewide California map created by scientists, foresters, fire fighters, and utilities to prioritize areas for action.	Idaho Utilities identify HRFZs but seek input from state and federal agencies.	Utah utilities identifies HRFZs in their protection plans with assistance from state agencies.	Washington IOUs identify HRFZs.
Efficacy of Mitigation Actions				
PUC balances IOU risk versus spend and continues to strengthen the valuation process. Annual cost recovery mechanisms have been established for PGE and PacifiCorp.	California created process to determine an objective risk spend efficiency to prioritize investments based on identifying threats, costs to mitigate, and potential threat impact.	Least-cost, least-risk investments are focus in Idaho but utilities are empowered to pursue additional investments through the pilot process.	Utah WPPs and annual reports describe the costs of implementation but cost-effectiveness is not a specific requirement.	The issue has been a topic of discussion in Washington rate cases, but there are not specific rules.
Verification of Equipment Installation				
Oregon performs no specific audits of mitigation investments; are validated as part of routine line audits.	OEIS conducts extensive audits for work reported in the quarterly progress report. Costs for mitigation are assessed by CPUC as part of rate cases.	As part of a rate case Idaho PUC audits audit 5-10% of investments, some randomly and others are selected by prioritization.	The Utah PSC does not specifically audit mitigation investments and specific locations from physical infrastructure aren't provided as part of reports.	The WA UTC does not specifically audit wildfire mitigation investments differently than other utility spending during a rate case.

b. Wildfire Liability Funds

PG&E's 2019 bankruptcy necessitated aggressive action by California, which created a $21 billion Wildfire Fund that acts as a secondary insurance fund to pay out future wildfire liabilities for participating IOUs. The fund is initially seeded by the state and subsequently funded evenly by IOU shareholders and ratepayers.

The fund is available when utility liabilities have exceeded $1 billion and allows victims of suspected IOU-ignited wildfires to be compensated more quickly. If the IOU is a paying into the Fund, operated in accordance with their mitigation plans, and certified by OEIS, it would not need to repay the Fund for funds disbursed.

In March 2024, Utah passed SB 224, which allows the state's one major IOU, PacifiCorp's Rocky Mountain Power, to file a request to the Utah Public Service Commission (PSC) to create a Utah Fire Fund. If approved, Rocky Mountain would be able to collect more than $1 billion from ratepayers over ten years to cover future wildfire liabilities that the utility might incur in Utah. The fund is designed to supplement other forms of insurance to pay third party claims and is not intended to replace other forms of commercial, self-insurance, or PSC-created mechanisms. The PSC can order the utility to reimburse the Fund up to 10% of the utility's rate base of investments in Utah if it was not acting in compliance with its mitigation plan.

Both states funds seek a balance between providing value to wildfire victims through accelerated compensation and making a large pool of money available to insure in-state IOUs against substantial wildfire liabilities.

Oregon	California	Idaho	Utah	Washington
Safety Certification				
None	Certification by OEIS aids IOUs in access to the Wildfire Fund and wildfire cost recovery at the CPUC.	None	No specific, but Utah PSC does acknowledge protection plans that meet specific requirements.	None
State Wildfire Damages Fund				
None	$21B Wildfire Fund. Funding is evenly split: shareholder funds front-loaded and ratepayer payments being spread evenly over 10 years.	None	Rocky Mountain to seek approval for a $1B fund to pay for utility-caused wildfire liabilities. Fund would come from a ratepayer surcharge.	Not yet. It's been proposed as a policy solution by the Office of the Insurance Commissioner.

c. Financial Limits on Wildfire Liability

Along with the creation of Utah's Fire Fund, SB 224 also capped the compensation that Utah wildfire victims could receive from the Fund. Economic losses are capped up to $100,000 in noneconomic damages for victims who are not physically harmed and $450,000 for victims who are physically harmed. There is not a cap on the compensation for wrongful deaths resulting from the wildfire. These caps don't apply if the utility materially operated outside of their UPSC-approved wildland fire protection plan.

Idaho already has liability caps in statute, limiting victims of utility-caused property damage, including from wildfires, to compensation equal to the market value of economic losses while physical harm is eligible for compensation up to $250,000. Plaintiffs in Idaho are eligible for punitive damages equal to the higher of $250,000 or three times the compensatory damages if the plaintiff can prove the wildfire was the result of oppressive, fraudulent, malicious, or outrageous conduct by the utility.

Oregon	California	Idaho	Utah	Washington
Financial Liability Limits				
None	Compensation not limited, but CPUC may determine max liability an IOU can pay before bankruptcy and direct further costs to be paid by ratepayers. Wildfire Fund should limit the need for the CPUC to exercise this authority unless an IOU is found to have operated irresponsibly.	Idaho law has $250k caps for economic damages from negligent destruction of property and damages for physical harm. Punitive damages are capped at $250k or three times the compensatory damages if utility acted in oppressive, fraudulent, malicious, or outrageous manner.	Compensation is capped up to $100k for people physically unharmed and up to $450k for people physically harmed. No limitation for wrongful death actions; no liability caps if the PSC determines RMP operated in a manner materially out of compliance with PSC-approved WPP.	WA law requires electric utilities to demonstrate the "highest standard of care" for prudence in utility operations in order to avoid being found negligent for wildfire-related damages.

d. Clarifying Cost Recovery

California and Utah, having set up wildfire funds, have taken differing approaches to address how utilities are expected to recover the costs of any wildfire liabilities they incur in the future. In California, IOUs are expected to pay eligible wildfire claimants directly and seek appropriate reimbursement from the Wildfire Fund, which is being paid into annually by the shareholders of the state's three major IOUs and their ratepayers. If the CPUC determines the IOU in question operated reasonably when the wildfire occurred, the IOU will receive full reimbursement for wildfire liability costs exceeding $1 billion. Partial or no reimbursement is possible if the CPUC finds that unreasonable operation by the IOU contributed to the resulting damages from the wildfire. The CPUC is empowered to allow IOUs to recover wildfire liability costs from ratepayers but this outcome is unlikely unless the Wildfire Fund has been exhausted or the IOU is facing bankruptcy.

In Utah, the proposed Fire Fund is to be administered by the utility, funded by ratepayers, and claimants are to be paid by RMP from the Fund. If UPSC finds that RMP did not operate in compliance with its wildland fire protection plan, UPSC can order RMP to reimburse the Fund for disbursements up to 10% of the utility's in-state distribution equity rate base, a metric intended to protect RMP's financial solvency. It is unclear what cost recovery would look like if RMP incurred wildfire costs in excess of the Fire Fund, however, what you see in both California and Utah are policies intended, if at all possible, to avoid utility bankruptcy by making ratepayers the payer of last resort for wildfire liabilities.

Oregon	California	Idaho	Utah	Washington
Policy for Wildfire Liability Cost Recovery				
None.	CPUC can determine an IOUs share of fault using several additional factors, including the IOU's compliance with new safety plans. The CPUC may allow utilities to recover costs from ratepayers if their actions are considered to be reasonable, but they are not required to do so.	None.	Liabilities are to come from the newly-created Utah Fire Fund created by a ratepayer surcharge. If the utility is found to have operated outside of its WMP, the PSC can order the utility to reimburse the Fund for disbursements up to 10% of the utility's in-state distribution equity rate base.	Currently being considered as part of a contested case.