

State of Utah
Administrative Rule Analysis
 Revised May 2020

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New <input checked="" type="checkbox"/> ; Amendment <input type="checkbox"/> ; Repeal <input type="checkbox"/> ; Repeal and Reenact <input type="checkbox"/>		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R746-315	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Public Service Commission	
Agency:	Public Service Commission	
Room no.:		
Building:	Heber M. Wells Building	
Street address:	160 E. 300 S., 4 th Floor	
City, state:	Salt Lake City, Utah 84111	
Mailing address:	PO Box 4558	
City, state, zip:	Salt Lake City, Utah 84114-4558	
Contact person(s):		
Name:	Phone:	Email:
Michael Hammer	801-530-6729	michaelhammer@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Wildland Fire Protection Plans
3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The purpose of the rule is to comply with the recently enacted Wildland Fire Planning and Cost Recovery Act ("Act"). The Act requires the PSC to initiate rulemaking proceedings to implement the Act and, specifically, to establish procedures for review and approval of a utility's wildland fire protection plans and attendant expenditures. Utah Code Ann. 54-24-103.
4. Summary of the new rule or change:
The rule adopts procedures for the PSC's prompt review and approval of utilities' wildland fire protection plans and the expenditures utilities incur to implement such plans.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The rule is not anticipated to affect the state budget. The rule contemplates that the State Division of Forestry, Fire, and State Lands will have an opportunity to provide input in proceedings to review utilities' wildland fire protection plans, but it is not required to do so and its right to do so originates in the Act.
B) Local governments:
The rule does not pertain in any manner to local governments and is not anticipated to affect local governments' budgets.
C) Small businesses ("small business" means a business employing 1-49 persons):
The rule does not pertain to small businesses and is not anticipated to affect them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The only non-small businesses the rule may potentially affect are qualified utilities. Any expense or burden the rule imposes on such utilities, such as preparing and filing a wildland fire protection plan, are created and imposed by the Act itself, not the rule. The rule imposes no additional obligations on such entities but creates a process by which they may receive timely review from the PSC to recoup costs they incur in complying with the Act through utility rates.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The rule does not pertain to and is not anticipated to affect any other individual, partnership, corporation, association, governmental entity, or public or private organization.

F) Compliance costs for affected persons:

The rule imposes no compliance costs on affected utilities, rather any costs for compliance stem from obligations expressly created in the Act.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Chair of the Public Service Commission, Thad LeVar, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

As discussed above, the rule merely complies with rulemaking the Act requires. The only businesses it stands to affect are qualified utilities and any expense or burden imposed on such utilities arises out of the Act, not the rule.

B) Name and title of department head commenting on the fiscal impacts:

Thad LeVar, PSC Chair

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Utah Code Ann. Section 54-24-103		

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 12/01/2020

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

10. This rule change MAY become effective on (mm/dd/yyyy): 12/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or designee, and title:	Thad LeVar, PSC Chair	Date (mm/dd/yyyy):	10/08/2020
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R746. Public Service Commission, Administration.

R746-315. Wildland Fire Protection Plans.

R746-315-1. Definitions.

- (1) “Wildland fire protection plan” is defined at Section 54-24-102.
- (2) “Qualified utility” is defined at Section 54-17-801.
- (3) “Cost and compliance report” is the annual report submitted by a qualified utility under an approved wildland fire protection plan as further described under Subsection R746-315-3(1).

R746-315-2. Filing and Approval.

(1) A qualified utility shall submit a wildland fire protection plan that includes the items required by Subsection 54-24-201(2) to the Commission for approval on June 1, 2020 and each October 1 every third year thereafter.

(2) The Commission shall provide public notice of the wildland fire protection plan filing, solicit input on such plan from the State Division of Forestry, Fire, and State Lands, hold a scheduling conference, and set a schedule that allows time for a Commission decision within 120 days of a qualified utility’s submittal of a wildland fire protection plan, unless the Commission determines that additional time is warranted and is in the public interest.

(i) The Commission shall enter any input received from the State Division of Forestry, Fire, and State Lands into the record after 45 days, or indicate on the record that no such input was received.

(ii) Within the 30 days following entry of input from the State Division of Forestry, Fire, and State Lands into the record, or entry that no such input was received, interested parties may file comments on the qualified utility’s wildland fire protection plan.

(iii) The qualified utility shall have 15 days to respond to any comments.

(iv) Unless the Commission determines that another process or additional time is warranted and is in the public interest, the Commission will issue an order within 120 days of a qualified utility’s submittal of a wildland fire protection plan.

(3) The Commission shall approve a qualified utility’s wildland fire protection plan to the extent that the evidence in the record establishes that it:

(i) is reasonable and in the public interest; and

(ii) appropriately balances the costs of implementing the wildland fire protection plan with the risk of a potential wildland fire.

R746-315-3. Annual Cost and Compliance Report.

(1) No later than June 1, 2021, and each year after 2021, a qualified utility shall submit a cost and compliance report:

(i) detailing the qualified utility’s compliance with the qualified utility’s approved wildland fire protection plan;

(ii) identifying the actual capital investments and expenses made in the prior calendar year and a forecast of the capital investments and expenses for the present year to implement the wildland fire protection plan approved under Section R746-315-2; and

(iii) requesting the deferral and collection of the incremental revenue requirement for the capital investments and expenses to implement its approved wildland fire protection plan that is not included in base rates.

(2) The Commission shall provide public notice of a qualified utility’s filing of its cost and compliance report.

(3) Within 30 days following such public notice, interested parties may file comments on the qualified utility's cost and compliance report.

(4) The qualified utility shall respond to discovery requests within 10 days.

(5) The qualified utility shall have 15 days to respond to any initial comments filed with the Commission.

(6) Within 90 days of a qualified utility's submittal of its cost and compliance report, unless the Commission determines that another process or additional time is warranted and is in the public interest, the Commission will issue an order regarding the qualified utility's cost and compliance report, and, to the extent requested by the qualified utility, approving any deferral and collection of the incremental revenue requirement reasonably demonstrated by such report, provided the Commission finds the cost and compliance report satisfies statutory requirements and that the reported costs were prudently incurred.

KEY: public utilities; wildland fire protection plan

Date of Enactment or Last Substantive Amendment: December 8, 2020

Authorizing, and Implemented or Interpreted Law: Utah Code Ann. § 54-24-103