

Statement of

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**On Behalf of
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**Hearing on
“Vegetation Management Requirements for Electricity Assets Located on Federal Lands”
Section 2310 of S. 1460, *the Energy and Natural Resources Act of 2017*
H.R. 1873, *the Electricity Reliability and Forest Protection Act***

**Committee on Energy and Natural Resources
United States Senate
September 19, 2017**

Chairman Murkowski, Ranking Member Cantwell, and members of the Committee, my name is Andrew Rable, Manager of Forestry and Special Programs for Arizona Public Service (APS). I appreciate the opportunity to testify before you today on the importance of vegetation management to ensure the safety and reliability of energy infrastructure.

APS, Arizona’s largest and longest-serving electric company, serves more than 1 million customers in 11 of the state’s 15 counties. With headquarters in Phoenix, APS is the largest subsidiary of Pinnacle West Capital Corporation. In my job at APS, I administer some 6,000 miles of transmission and 11,000 miles of distribution lines throughout Arizona. APS’ power lines cross five national forests, four Bureau of Land Management districts, four wildlife refuges, eleven units managed by the National Park Service, and three National Monuments managed by BLM (Agua Fria, Ironwood Forest, and Sonoran Desert).

I am also testifying on behalf of the Edison Electric Institute (EEI), the association that represents all U.S. investor-owned electric companies. EEI’s members provide electricity for about 220 million Americans, and operate in all 50 states and the District of Columbia. As a whole, the electric power industry supports more than 7 million jobs in communities across the United States.

Managing vegetation on electric transmission and distribution rights-of-way (ROWs) is a key part of electric company efforts to protect the security and reliability of the energy grid. Failure to properly manage vegetation can cause wildfires, lead to power outages, and jeopardize the physical integrity of energy infrastructure. For example, the August 2003 Northeast blackout was initially triggered by contact between a power line and a tree, eventually leading Congress to enact legislation in 2005 that established our current regime of mandatory and enforceable

reliability standards—including vegetation management standards—for the electric power industry.

Electric companies must have timely access to both public and private lands on which power line ROWs are located, to perform necessary vegetation management on and adjacent to the ROWs, thus reducing risk to electric company facilities and the lands on which they are located. Electric companies need to be able to use integrated vegetation management (IVM) measures, which include use of appropriate vegetation combined with physical pruning and selective use of herbicides, to ensure proper distances are maintained between electric company facilities and nearby vegetation. Particular challenges arise when ROWs cross federal lands because electric companies often face significant delays in obtaining approvals from federal land management agencies to access their ROWs and implement IVM.

Transmission line ROWs crossing federal lands face multiple layers of jurisdiction and decision-making, which can hamper electric companies' ability to manage vegetation and reduce wildfire risk in a timely manner. In recent years, efforts to improve ROW access have been accompanied by significant burdens. For example, efforts to expedite IVM often are slowed down by costly and lengthy environmental studies and monitoring in order to obtain approvals from federal land managers.

This puts electric companies in a bind. Courts have found companies liable for wildfire damages involving power line contact with vegetation despite their extensive, proactive vegetation management efforts, often in high hazard conditions. At the same time, companies are subject to significant fines for violations of the mandatory reliability standards for vegetation management developed by the North American Electric Reliability Corporation (NERC) and approved by the Federal Energy Regulatory Commission (FERC). Increased wildfire risk has elevated the need for companies to address vegetation management proactively. Yet issues remain regarding how best to access federal lands cost-effectively to remove forest debris, obtain authorizations to perform routine vegetation management, and enhance liability protection.

One way industry has responded is through development of national consensus standards issued by the American National Standards Institute (ANSI), with participation by the U.S. Forest Service and National Park Service. The ANSI standards are a key component of the electric power industry's IVM practices to get ahead of potential fire hazards before they become critical. The Wildland Fire Directive issued by Interior Secretary Zinke on September 12 is also consistent with the IVM approach.

Another effort involves a 2016 Memorandum of Understanding (MOU) for Vegetation Management in Power Lines Rights-of-Way. Signed by EEI and federal agencies, the purpose of the MOU is to facilitate cooperation and coordination between the electric power industry and the federal land management agencies to manage vegetation within and immediately adjacent to existing ROWs. The MOU is designed to enable implementation of cost-effective and environmentally sound vegetation management plans, procedures and practices, while

enhancing the ability of EEI member companies to provide safe, reliable electricity to customers.

The Forest Service has been a valuable partner in implementing the MOU and integrating it into their Desktop Guide for Utility Vegetation Management. While the signing of the MOU clearly was a very positive step, more needs to be done to ensure that agencies are authorized and required to act in a timely manner, enabling EEI member companies to perform appropriate vegetation management on and near their ROWs with reasonable limits on liability for wildfires, especially if agencies prevent needed vegetation management measures.

That is why EEI supports federal legislation to improve the ability of electric companies to perform vegetation management on federal lands in order to enhance reliability and reduce wildfire risks. This year, the House of Representatives has passed the bipartisan LaMalfa-Schrader "Electricity Reliability and Forest Protection Act" (H.R. 1873), which provides for expedited and more consistent review processes for vegetation management on federal lands. It also directs the Secretaries of Interior and Agriculture to develop new categorical exclusions under the National Environmental Policy Act (NEPA) for existing transmission and distribution ROWs. Once created, these categorical exclusions will create significant efficiencies in the federal review process and allow electric companies to expedite their necessary vegetation management in a timely and cost-effective manner.

We appreciate that Chairman Murkowski and Ranking Member Cantwell also included a vegetation management provision, Section 2310, when they re-introduced their comprehensive energy bill this year, the "Energy and Natural Resources Act of 2017" (S. 1460). While the language in S. 1460 is similar to H.R. 1873 in many respects, including authority for NEPA categorical exclusions for existing ROWs, the House bill contains a number of noteworthy beneficial features, including shorter approval timelines (90 days versus 180 days), a "hazard tree" definition that provides additional clarity, references to current vegetation management technology (e.g., unmanned aircraft systems), and generally more flexible and less burdensome authorities. One positive feature of S. 1460 that is lacking in H.R. 1873 is a requirement that agency guidance take into account the EEI MOU with federal land management agencies. Both bills would provide a more streamlined and consistent process for vegetation management plan approvals.

The House and Senate bills each contain limited liability protections that are different, but potentially complementary, and that together could help reduce disincentives for electric companies seeking to proactively develop vegetation management plans or engage in appropriate vegetation management activities. H.R. 1873 would protect an electric company from wildfire liability to the United States if an agency fails to allow activities consistent with an approved vegetation management plan and necessary to comply with reliability and fire safety standards, or appropriate vegetation management activities to deal with a hazard tree or imminent danger of contact. S. 1460, on the other hand, would protect against strict liability in case of a land agency's unreasonable delay or failure to approve or adhere to a vegetation management plan or an MOU.

Conclusion

Vegetation management is an important priority for EEI and its member companies to ensure the safety and reliability of energy infrastructure.

We will continue to work with federal lands management agencies to achieve effective 'on-the-ground' implementation of the MOU and other means to improve vegetation management on and adjacent to ROWs across federal lands.

In addition, Congress should enact legislation to establish a better framework to promote federal land management consistency, accountability and timely decision-making as it relates to protecting power lines on federal lands and reducing the risk of wildfires, while respecting the mission of federal management agencies to appropriately manage lands within their respective jurisdictions. We look forward to working with this Committee and others in Congress to achieve this goal.