OFFICE of the INSURANCE COMMISSIONER
WASHINGTON STATE

Liability insurance market conditions

For Washington state electric utility companies

Jan. 1, 2023

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www.insurance.wa.gov

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Executive summary

In April 2022, the Washington state Legislature directed the Office of the Insurance Commissioner (OIC) to coordinate with the Washington Utilities and Transportation Commission (WUTC) to study:

- The availability and affordability of liability insurance (coverage that protects insureds financially when they've caused another's injury or property damage) for electric utilities that serve Washington state residents.
- Identify any obstacles in obtaining liability insurance.
- Evaluate the financial risk from increasing costs of liability insurance.
- Make policy recommendations to improve access to liability insurance.
- By June 1, 2023, report the findings to the governor and appropriate legislative committees.

From May 2022 until the drafting of this report, OIC, WUTC and Commerce have held weekly meetings to develop cross agency coordination. This coordination allowed OIC staff to meet with more than 30 utility companies. And OIC staff subsequently developed a comprehensive survey for the electric utility companies to describe in detail their past liability insurance experiences, development of wildfire mitigation and response plans. We received 36 survey submissions from utility companies.

Most utility companies reported they did NOT have any challenges obtaining liability coverage over the past five years. However, those that did report challenges indicated it was significant. These companies report that the dramatic increase to cost of liability insurance, new wildfire exclusions[1] or sublimits[2], and difficulties of finding enough insurance companies willing to provide coverage has made it difficult to obtain the levels of liability coverage they desire at a price that doesn't impact other operational activities.

These survey results reflect broader trends in the insurance industry. The insurance industry goes through market cycles marked by periods of increased insurance availability with stable premium rates (soft market) and periods of limited insurance availability with increased premium costs (hard market). By the end of 2019, the property & casualty (P&C) commercial market was considered a soft market for almost 15 years, but trends were showing it was moving toward a hard market. As of fall 2022, it was clear the P&C industry was in the depths of a hard market. For the past 18 consecutive quarters,[3] underwriting losses have driven rate increases in the commercial P&C market.

It is important for policy leaders to clearly understand that the potential for expensive damage claims directly impacts liability insurance access and affordability. The goal of insurance pricing should be to accurately price the risk to the individual company. Unfortunately, it appears Washington state utility companies are combined into a much wider risk category by the remaining insurance companies willing

[1] An exclusion is a provision in an insurance policy that eliminates coverage for a specific condition or event.
[2] A sublimit is a limitation to, rather than an addition to, the policy limit that would otherwise apply to the event.
[3] (https://www.propertycasualty360.com/2022/06/09/the-current-state-of-the-insurance-market/).

to cover this risk. This "market" includes other Western U.S states, including and especially California, that have higher risks associated with them due to their unique climate conditions and liability standards.

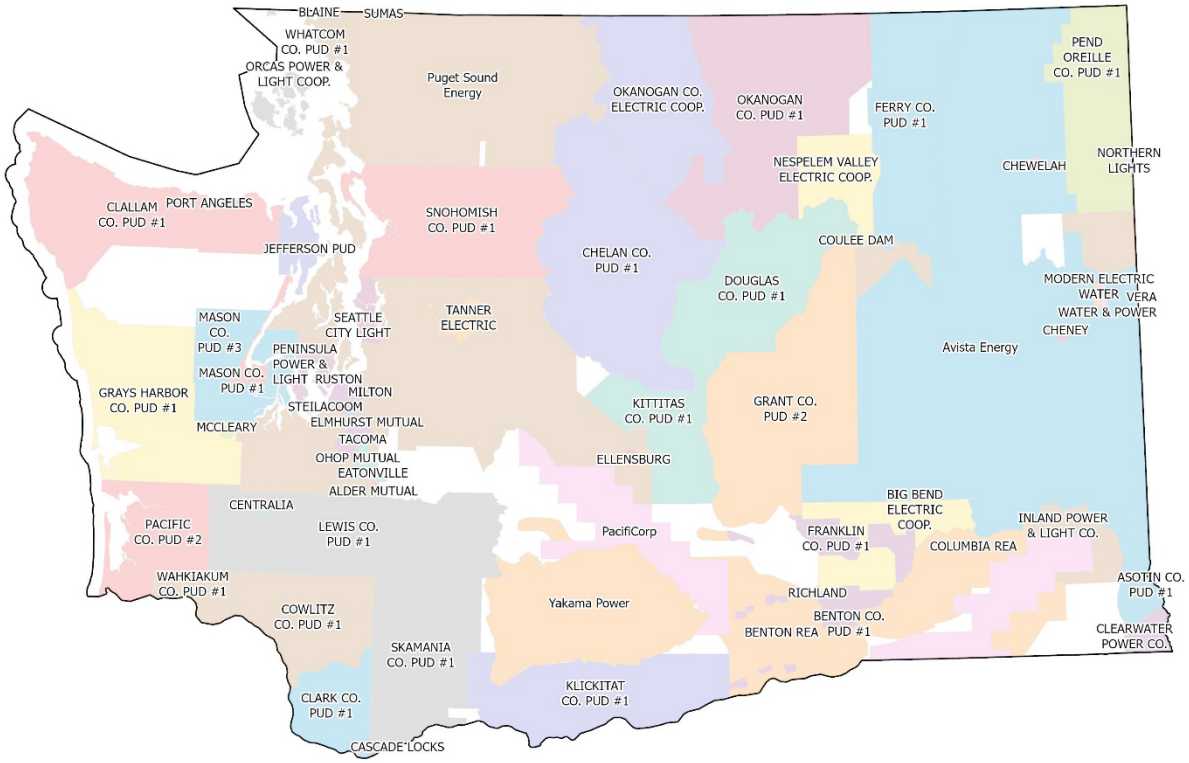
For the Washington state utility companies that are experiencing a reduction in affordable liability insurance, the financial consequence ranges from being forced to pass increased operational costs to rate payers or put their company at risk of large claim payouts not covered under any insurance policy.

Below are policy options for the Washington state legislature to consider to positively affect the liability insurance market condition for its utility companies:

- Shaping the environment under which a damage claim is generated.
- Government funding assistance of mitigation efforts.
- Modify negligence standards that affect utility companies.
- Research statutory barriers for unified risk pooling for Washington state utilities with different ownership structures.
- Develop reinsurance or other funding for catastrophic claim payouts.
- Develop educational programs to help insurance underwriters better understand Washington state specific risks.
- State-operated wildfire liability fund

While liability insurance serves to protect the utility company from costs against potential claims, it also serves injured parties seeking recovery for a utilities company's liability. Because liability insurance coverage is triggered when there is an allegation the utility company caused another injury or damaged their property, efforts to lower the possibility of a damage event occurring in the first place is an effective way to support the liability insurance market. Additionally, lowering the severity of the damage when events do occur is another important consideration to improve the environment around liability claims. The policy options listed above are designed to help achieve those goals.

Washington Electric Utilities



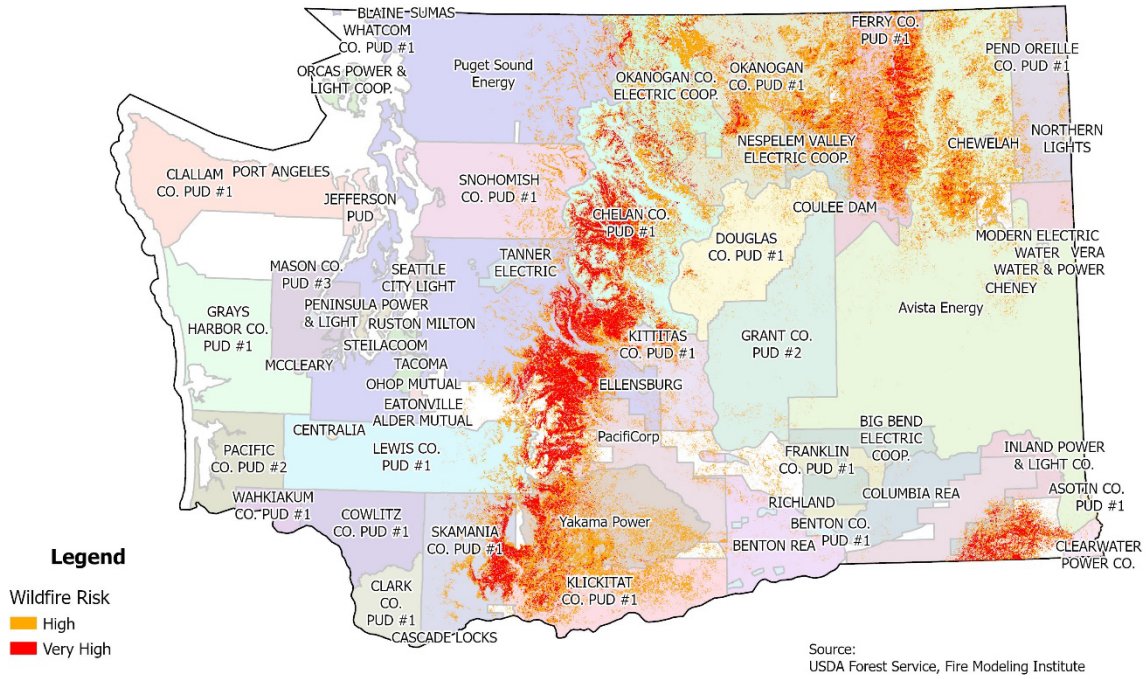
Introduction

The Washington state Legislature directed Insurance Commissioner, Mike Kreidler, to coordinate with the Utilities and Transportation Commission to study:

- The availability and affordability of liability insurance for electric utilities that serve Washington state residents.
- Identify any obstacles in obtaining liability insurance.
- Evaluate the financial risk from increasing costs of liability insurance.
- Make policy recommendations to improve access to liability insurance.
- By June 1, 2023, report the findings to the governor and appropriate legislative committees.

Besides the general liability market, we were additionally asked to review wildfire risk's effect on the liability insurance market. The study found the liability insurance market is responding differently across utility companies in Washington state. For some there has been little change in cost and availability. For others it has been dramatic, with liability insurance companies reducing the coverage available and increasing premium cost to these utility companies. Insurance companies that were once active in the liability insurance market have retreated, thus reducing the number of insurance companies willing to provide liability insurance to utility companies. Generally, liability insurance availability and affordability are driven by historical damage claim amounts and the perceived potential for future damage claims. The financial risk of a hardening liability insurance market is substantial to utility companies and their rate payers. All steps taken to reduce the potential for future liability claims against utility companies may help the liability insurance market stabilize for those impacted and entice more insurance entities to reenter the liability insurance market in Washington state.

High Wildfire Hazard Potential and Electric Utility Service Areas



Utility ownership structure

Investor-owned utilities (IOU's): The Washington Utilities and Transportation Commission (UTC) regulates private, investor-owned electric and natural gas utilities in Washington state. It is the Commission's responsibility to ensure regulated companies provide safe and reliable service to customers at reasonable rates, while allowing them the opportunity to earn a fair profit. These include companies such as Avista, Puget Sound Energy, PacifiCorp, Cascade Natural Gas and NW Natural Gas.

Non-UTC regulated utility services: Utilities operated as public utility districts (PUDs), cooperatives (co-ops) and municipal utilities are not regulated by the WUTC. As public entities, PUDs, co-ops, municipal utilities are each governed by their own elected commissioners and/or city council.

> **PUDs** are municipal corporations that are run by PUD commissioners who are elected by those who reside in a district.
>
> **Municipal electric companies,** such as Seattle City Light, are owned and operated by a city.
>
> **Cooperatives** are owned by their members. Generally, individuals form co-ops when they live outside the service area of another electricity provider.

The Department of Commerce has also comprehensive reporting procedures for consumer-owned utilities, including public utilities, municipal electrical utilities and electric cooperatives. These utilities, for example, must submit clean energy implementation plans every four years, and all utilities must submit progress or compliance reports.

Commerce's rules apply to consumer-owned utilities, including public utility districts, municipal electric utilities and electric cooperatives. In most cases, they do not apply to investor-owned utilities, who are subject to regulation by UTC.

The Bonneville Power Administration (BPA) is a not-for-profit federal agency that does not receive congressional appropriations. BPA is self-funded and is subject to federal laws.

Federal government agencies, including the BPA, are subject to the self-insurance rule, which states that federal agencies generally cannot buy insurance to cover losses. The exceptions are limited and would not be applicable to personal injury and property damage related to wildfires. Such claims are subject to the Federal Tort Claims Act. Judgments and settlements related to such claims in amounts exceeding $2,500 are paid by the U.S. Treasury from the Judgment Fund, an appropriation established by Congress. Because the Federal Tort Claims Act is a limited waiver of sovereign immunity, the BPA has no authority to waive its requirements. Any expansion of Federal Tort Claims Act coverage would require a clear expression of Congress.

Forty percent of all the power used in the Pacific Northwest comes from BPA, which is more than 80% hydroelectric. Overall, almost 60% of the region's electricity comes from hydropower. Approximately 24%

of BPA revenue comes from PUDs in Washington state purchases. Collectively, PUDs are the largest BPA customer.

The difference between transmission lines and distribution lines is important to note[4].

Transmission lines:

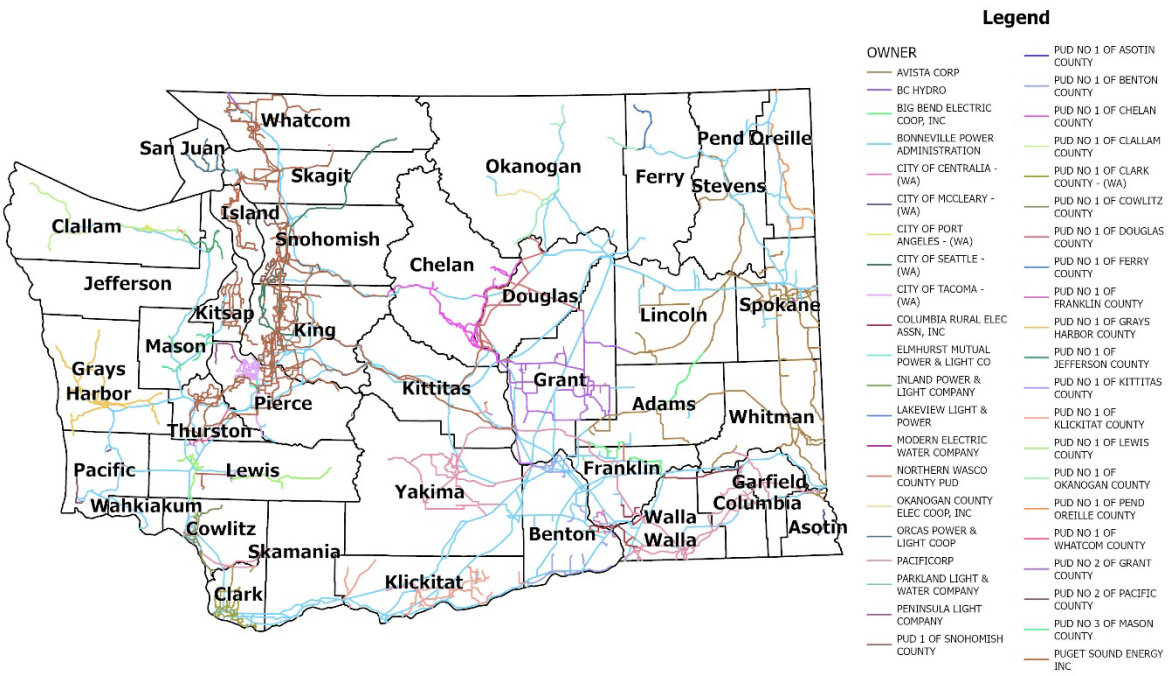
- Carry electricity across the state.
- Transport bulk electricity at high voltages ranging from 60 kV-500 kV.
- Are usually supported on tall metal towers, but sometimes on wooden poles.

Distribution lines:

- Deliver electricity to neighborhoods and communities over a shorter distance than transmission lines.
- Are generally supported by wooden poles and not as high as transmission lines.
- Are the final stage of electricity delivery to homes and businesses.

[4] (https://www.pge.com/en_US/safety/yard-safety/powerlines-and-trees/transmission-vs-distribution-power-lines.page).

Washington Transmission Lines



Study details

Upon receiving the legislative assignment in April 2022, Insurance Commissioner, Mike Kreidler, directed the Office of the Insurance Commissioner (OIC) staff to begin our coordinated efforts with the Washington Utilities and Transportation Commission (WUTC). The OIC and the WUTC also worked with the Washington state Department of Commerce during the study to assist with contacting our community and cooperative owned utility companies.

From May 2022 until the drafting of this report, OIC, WUTC and Commerce have held weekly meetings to develop cross agency coordination. This coordination allowed OIC staff to meet with more than 30 utility companies, many multiple times. OIC staff has spent over 60 hours attending utility industry and wildfire conferences and speaking directly with many electric utility companies spanning across all ownership structures to hear their thoughts on:

- The liability insurance market
- Financial risk with the hardening insurance market
- Ideas to help the situation

OIC staff developed a comprehensive survey for the electric utility companies to describe in detail their past liability insurance experiences, development of wildfire mitigation and response plans. We received 36 survey submissions from utility companies. OIC staff additionally spoke with insurance company brokers and reinsurance representatives to discuss how they view the market pressures. OIC staff also discussed the liability insurance issue with the Bonneville Power Administration, the Department of Natural Resources and the U.S. Forest Service to get a better sense of wildfire origin and cause investigations, and utility interactions.

Explanation of liability insurance and layers

Liability insurance is a broad term that describes types of coverages that protect insureds financially when an insured is responsible for another's injury or property damage. If someone files a lawsuit or reports a claim against an insured, this type of insurance usually covers litigation defense costs, negotiated settlements and verdicts up to the policy limits for which an insured is found liable. Some commercial primary liability policies require a self-insured retention (SIR). SIR is a dollar amount specified in the policy that must be paid by the insured before the insurance policy will respond to a claim.

If a utility company needs to obtain large amounts of liability coverage, it may exceed the capacity, or desire, of any one insurance company to provide. To reach the intended amount of liability coverage, utilities use multiple insurance companies to stack excess liability coverage on top of the primary liability coverage. This layering of coverage builds a program, sometimes called a tower. Generally, the primary liability coverage must be completely exhausted before the next layer is triggered. This pattern continues up the tower sequentially.

Example of a liability tower:

1. SIR: $0 to $1 million
2. Insurance Company A: $1 million to $25 million in primary coverage
3. Insurance Company B: Additional $20 million in excess coverage over $25 million (total of $46 million in coverage)
4. Insurance Company C: Additional $10 million in excess coverage once layers 1 and 2 have been exhausted (total of $55 million in coverage)
5. Insurance Company D: Additional $5 million in excess coverage once layers 1,2 and 3 have been exhausted (total of $60 million in coverage)

For example, for a $5 million damage claim, insurance company A provides coverage above the SIR. But in a catastrophic event reaching $60 million in damage, all four insurance companies have their liability coverage triggered.

Insurance company A, as the primary insurance coverage, will charge the most premium per coverage amount as they carry the largest risk of being used. A SIR may help reduce cost- the higher the SIR, the less likely the primary coverage triggers. In a normal insurance market, one would see excess insurance company B charge more than excess insurance company C because they bear more risk, and so on up the tower, with Company D charging the least expensive premium to coverage amount. This is not the practice our Washington state-based electric utility companies are experiencing in the current liability insurance market. Once they leave their primary insurance layer, the costs are seemingly inverted, meaning the last dollar of coverage is more expensive than the excess liability coverage below it. This

price inversion is causing utility companies to examine whether it is economically feasible to obtain the level of liability coverage they desire.

Negligence standard that applies to Washington state public utilities

Washington state electric utility companies are integral to the communities they serve and have enormous responsibilities. In general, the power produced by electric utility companies is considered a service rather than a product. As a result, the principles of negligence apply to liability cases involving electric utility companies. Negligence law is designed to provide recourse to those who sustain injury or property damage. Negligence occurs when a person breaches a duty of reasonable care, and the breach is a proximate cause of injury or damages.[5] What constitutes "reasonable care" is a fact-specific question. Reasonable care requires a person to do what a hypothetical reasonably prudent person would do under the circumstances presented in a particular case.[6] A prudent and reasonable person is more careful when conducting activities that are more dangerous, and, thus, the degree of caution required to meet the duty of reasonable care depends on the risks presented by the activity under the circumstances.[7]

The standard of care electric companies owe to consumers differs from jurisdiction to jurisdiction. Energy utility companies usually are required to use reasonable or ordinary care. Some jurisdictions like New York use a reasonable care and diligence standard. Other jurisdictions like North Carolina, require electric utilities to use the highest care[8]. Because of the significant danger of death or serious injury from high-voltage power lines, Washington state courts have required utilities to use utmost care to maintain the lines. Washington state cases beginning with *Vannoy v. Pacific Power & Light Co*., have consistently held that the highest standard of care is required of suppliers of electricity for high-voltage systems. [T]he duty of care owed by the power company is the highest that can be imposed, short of insurer's liability.[9]

In *Brashear,* the Washington state Supreme Court reiterated that when high voltage is involved "the power company owe[s] the duty of '*highest care that human prudence is equal to.*' "[10] Electrical distribution lines, which supply electricity from substations to customers, typically carry from 4,000 to 69,000 volts while electrical transmission lines, which carry electricity from generation sources to substations, typically carry voltages above 69,000 volts. Thus, under the Brashear analysis the highest degree of care standard applies to maintenance of both electrical transmission and distribution lines. In

[5] *Hartley v. State*, 103 Wn.2d 768, 777, 698 P.2d 77 (1985).
[6] *Brashear v. Puget Power & Light,* 100 Wn.2d 204, 210, 667 P.2d 78 (1983); 16 David K. DeWolf & Keller W. Allen, *Washington Practice: Tort Law and Practice* § 1.32 at 53 (3d ed. 2006).
[7] *Id.; Ulve v. City of Raymond*, 51 Wn.2d 241, 245-46, 317 P.2d 908 (1957).
[8] McAllister v Pryor, 187 N.C. 832, 123 S.E. 92, 34 A.L.R. 25 (1925).
[9] *Vannoy v. Pacific Power & Light Co*., 59 Wn.2d 623, 369 P.2d 848 (1962).
[10] *Brashear*, 100 Wn.2d at 211 (emphasis added).

contrast, the utmost care standard does not apply to low voltage lines such as 120-volt lines carrying household current.[11]

Finally, a utility's compliance with minimum legal requirements for maintenance of its lines does not, in and of itself, establish that that the utility has met the standard of care. In *Estate of Celiz v. PUD*, the PUD argued that it was not negligent because it had complied with rule requirements pertaining to minimum clearances for power lines.[12] The court held that "[t]he duty of care exercised by an electrical power company is more than mere mechanical skill in compliance with minimal State requirements; it also includes foresight. It has been said that those engaged in the business of conducting electricity over high voltage wires are bound to anticipate more remote possibilities of danger."[13] Washington state courts have followed this higher standard of care with the goal of protecting people and property from damage caused by electrical infrastructure.

It is also worth noting that recent wildfire litigation in Washington state has included the assertion of inverse condemnation/strict liability claims against utilities. While the validity of these novel claims has yet to be established (and is sharply disputed by the utilities involved), the possibility of inverse condemnation liability in Washington state will further compound the problems associated with insuring against the risk of wildfire. Should Washington state ultimately recognize strict liability as a viable standard of liability for wildfire, it would have a profound effect on the ability of all utilities to access insurance markets at affordable prices.

[11] *Brashear*, 100 Wn.2d at 211 (emphasis added).
[12] *Estate of Celiz v. PUD*, 30 Wn. App. 682, 686, 638 P.2d 588 (1981).
[13] *Estate of Celiz v. PUD*, 30 Wn. App. 682, 686, 638 P.2d 588 (1981).

Summary of utility survey results

On July 21, 2022, the OIC issued a voluntary survey to all electric utility companies consisting of 29 multilayered questions relating to liability insurance and wildfire risk. Furthermore, since the survey asked for items that could be considered financial and proprietary in nature, we designed the submission process to ensure submitter anonymity. Thirty-seven utility companies responded to some or all of the survey questions. All survey responses are included as an attachment to this report and recommended to be reviewed for individual utility experiences.

When responding to questions of how much liability exposure they retain through self-insuring[14] or instituting a self-insured retention (SIR) prior to utilizing liability insurance coverage, most utilities responded they do not completely self-insure liability risk. About half of the utilities use a SIR prior to their liability coverage being accessed. For those that utilize a SIR, some report it is required by their primary liability insurance company. Others report it was a financial decision based on balancing how much the utility would assume that initial portion of risk versus how it would lower the cost of the primary liability coverage.

Most utility companies reported they did NOT have any challenges obtaining liability coverage over the past five years. This could be because they are participants in managed risk pools and are not individually searching for coverage in the insurance marketplace. However, those that did report challenges indicated it was significant. These companies report that the dramatic increase to cost of liability insurance, new wildfire exclusions[15] or sublimits[16], and difficulties of finding enough insurance companies willing to provide coverage has made it difficult to obtain the levels of liability coverage they desire at a price that doesn't impact other operational activities.

Some companies reported drastic reductions to their liability coverage amounts due to these market changes. For example, a utility that five years ago carried $42 million in liability coverage for $106,000 in premium cost, now can only carry $12 million in coverage for $73,000 in premiums. Another utility that was able to carry $125 million in coverage now only has $17 million. For those that can find increased coverage amounts, the cost has skyrocketed. One utility reported five years ago they obtained $22 million in coverage for $56 thousand in premium cost. While they were able to increase their coverage amount to $85 million, this policy period it is costing them $1.7 million in premiums. This premium cost has doubled since their first year of seeking $85 million in coverage only a few years ago.

When these companies incurred dramatic premium increases, the insurance companies did not spread the increase out over years for most of the utility companies — called rate-capping in the insurance

[14] Self-insurance involves a formal decision by a company to retain risk rather than insure it by setting aside an amount of its monies to provide for any losses that occur — losses that could ordinarily be covered under an insurance program.

[15] An exclusion is a provision in an insurance policy that eliminates coverage for a specific condition or event.

[16] A sublimit is a limitation to, rather than an addition to, the policy limit that would otherwise apply to the event.

industry. These utilities paid the full premium change every year it went up, likely causing additional operational cost pressure to them.

Relating to wildfire, many utility companies reported their insurance company adding a surcharge of $1 million. Most utilities reported they developed a wildfire mitigation plan, and some reported their insurance company also required it.

Current liability insurance market conditions

The insurance industry goes through market cycles marked by periods of increased insurance availability with stable premium rates (soft market) and periods of limited insurance availability with increased premium costs (hard market). Many factors contribute to a soft market environment including, access to capital, strong economy, reduced claim activity and favorable interest rates. In a soft market, many insurance companies are in a highly competitive selling market and therefore relax their underwriting guidelines to allow agents and brokers to negotiate with potential insureds to gain more policyholders. Factors that can cause a soft market to turn into a hard market include economic uncertainty, global and catastrophic events causing insurance distributions, volatility in the financial markets, decreased competition and limited capital. In other words, a hard market consists of an increased demand for insurance with a reduced supply available. Additional pressures on the market include an increase in the number of high jury awards and the cost associated with longer-than-expected legal proceedings.

By the end of 2019, the property & casualty (P&C) commercial market was considered a soft market for almost 15 years, but trends were showing it was moving toward a hard market. As of fall 2022, it was clear the P&C industry was in the depths of a hard market. For the past 18 consecutive quarters,[17] underwriting losses have driven rate increases in the commercial P&C market. Since liability insurance claims tend to have a much longer tail than property insurance claims, the liability market will likely move off the harden market after the property market does. Best practices in safety and risk management are critical for insurance companies that are not inclined to fully engage in the market.

For some electric utility companies in Washington state, this trend has become apparent by the limited number of insurance companies willing to insure this risk. As reported by the survey, the same handful of insurance companies are listed:

- Associated Electric & Gas Insurance Services (AEGIS)
- Federated Rural Electric Insurance Exchange
- Energy Insurance Mutual (EIM)

The main participants in this current liability insurance market are known as surplus line insurance companies in Washington state. The surplus line market can be considered the state's insurance safety net. Surplus line insurance is used when insurers in the standard market won't provide coverage because the risk is too much, it's unfamiliar to them, or does not meet their underwriting guidelines. In general, surplus line companies have tremendous flexibility to design and price their policies. They are required to follow the state's claim handling standards[18] and required to maintain a minimum of $15 million in

[17] (https://www.propertycasualty360.com/2022/06/09/the-current-state-of-the-insurance-market/).
[18] WAC 284-30.

capital and surplus. However, these companies are not licensed by the insurance commissioner[19], subject to review of rates and policy language, or protected by our state guaranty funds.

Some Washington state utility companies are eligible to participate in managed risk pools like the Public Utility Risk Management Services (PURMS) and the Washington Cities Insurance Authority (WCIA). These entities are not regulated by the insurance commissioner[20] but under the guidance of the State Risk Manager.

For the Washington state utility companies that are experiencing a reduction in affordable liability insurance, the financial risk ranges from being forced to pass the increased operational costs to their payers, to severely putting their company at risk of large claim payouts. It's also important to understand that while liability insurance serves to protect the utility company from costs associated with injury and damage caused to another, it's also important for the injured party as it provides some assurance of financial recovery if the utility company is found legally liable. Without liability insurance, a damaged party might have a more difficult time recovering the appropriate amount of funds from the utility company for the damage or injury they have caused.

[19] RCW 48.15.
[20] RCW 48.62.

Policy options to consider

What policy leaders must clearly understand is the potential for expensive damage claims is the primary condition relating to any liability insurance access and affordability challenges. The goal of insurance pricing should be to accurately price the risk to the individual company. Unfortunately, it appears Washington state utility companies are somewhat combined into a much wider risk category by the remaining insurance companies willing to cover this risk. This "market" includes other Western U.S states, including and especially California, that have higher risk associated with them due to their differing climate conditions, as well as liability standards for those utility companies that are not applicable in Washington state.

If Washington state wanted to affect the liability insurance market condition for its utility companies, it could look at:

1. Shaping the environment under which a damage claim is generated.

2. Support greater risk mitigation efforts.

3. Modify negligence standards that affect utility companies.

4. Research statutory barriers for unified risk pooling for Washington state utilities with different ownership structures.

5. Develop reinsurance or other funding for catastrophic claim payouts.

6. Develop educational programs to help insurance underwriters better understand Washington state specific risks.

Because liability insurance coverage is triggered when there is an allegation the utility company caused damage to a person or other's property, taking efforts to lower the possibility of a damage event occurring by supporting risk mitigation efforts is an effective way to positively affect the liability insurance market. Furthermore, lowering the severity of the damage if it did occur is another important consideration to try to improve the environment around liability claims. For wildfire risk, this could be accomplished through continued efforts to increase effective forest management, establish a statewide wildfire mitigation standard and provide funding for wildfire mitigation efforts. Below are additional considerations for improving availability and lowering the cost of liability insurance for Washington state utility companies.

State-operated wildfire liability fund

Wildfire risk poses a potential existential threat to utilities that are unable to obtain insurance sufficient to meet the risk. Some states have used state-operated wildfire liability funding to help address this concern. A prominent example of a state-operated wildfire liability fund is the California Wildfire Fund. This fund was established by the state in 2019 to keep utility companies solvent after causing major

wildfires.[21] Bill AB 1054 was authored by Assemblymember Holden (D-Pasadena) and established $21 billion liability fund to help utility companies cover the cost of major wildfires started by their equipment.[22] The state's three largest utilities; PG&E, Southern California Edison and San Diego Gas & Electric will pay for half of the $21 billion fund, and their customers will cover the other half through rate increases.[23]

Utility companies must invest $5 billion in safety improvements without profit and go through an annual wildfire safety review and certification process[24] This process includes hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment and facilities such as undergrounding, insulation of distribution wires and pole replacement. The certification requirement encourages utility companies to invest in safety culture to limit wildfire risk and reduce costs.[25]

For a utility company to recover costs and expenses arising from a covered wildfire, it first bears the burden to demonstrate, based on a preponderance of the evidence, that its conduct was reasonable, unless it has a valid safety certification. If the utility company has that valid safety certification, then its conduct would be deemed reasonable unless a party to the proceeding creates a serious doubt as to the reasonableness of the electrical corporation's conduct. Once serious conduct has been raised, the electrical corporation would have the burden of dispelling the doubt and providing the conduct to have been reasonable.[26]

Additionally, utility companies must pay $1 billion in claims before being able to access the fund.[27] This conditional requirement acts as a de facto cap on payments made by utilities and is designed to help keep utilities solvent. However, due to this high threshold, this fund is likely not equitable for any California utility other than the big three utilities, and some have chosen not to participate. Another thing to keep in mind is the cost to rate payers required to establish such a fund. If Washington state decides to create a similar program, it will need to take these concerns into consideration.

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[21] PG&E Could be the first utility to access California's wildfire liability fund after Starting Dixie Fire by Scott Rodd (January 6, 2022). (https://www.capradio.org/articles/2022/01/06/pge-could-be-the-first-utility-to-access-californias-wildfire-liability-fund-after-starting-dixie-fire/).

[22] (https://www.capradio.org/articles/2022/01/06/pge-could-be-the-first-utility-to-access-californias-wildfire-liability-fund-after-starting-dixie-fire/).

[23](https://www.capradio.org/articles/2022/01/06/pge-could-be-the-first-utility-to-access-californias-wildfire-liability-fund-after-starting-dixie-fire/).

[24] PG&E Could be the first utility to access California's wildfire liability fund after Starting Dixie Fire by Scott Rodd (January 6, 2022). (https://www.capradio.org/articles/2022/01/06/pge-could-be-the-first-utility-to-access-californias-wildfire-liability-fund-after-starting-dixie-fire/).

[25] Assembly Bill 1054 (July 12, 2019). (https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1054).

[26](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1054).

[27] PG&E Could be the first utility to access California's wildfire liability fund after Starting Dixie Fire by Scott Rodd (January 6, 2022). (https://www.capradio.org/articles/2022/01/06/pge-could-be-the-first-utility-to-access-californias-wildfire-liability-fund-after-starting-dixie-fire/).

State reinsurance program

The Washington state Legislature in 1989 addressed a somewhat similar liability market situation that the current utility liability market is heading towards. Then, the Legislature found owners and operators of underground storage tanks were unable to find affordable pollution liability insurance coverage. The solution developed then was for the state to develop a reinsurance program that contracts with private insurance companies as a financial backstop to share a portion of any loss and insulate the primary insurer from catastrophic claims[28]. The other benefit of using a similar model is this agency also administers loans and grants that could be used for mitigation purposes, as well as provide a Technical Assistance Program to assist these entities to comply with regulations.

Risk pooling

Risk pools presents another option to address the hardening market because it allows participants to share risks. Insurers have established risk pools in situations where a particular risk is too great for any one underwriter to bear.[29] Businesses may choose to create a risk pool if insurance is expensive or unavailable.[30] Governments may form risk pools to provide collective cover for catastrophic risks.[31] For instance, the Washington Counties Risk Pool was created by counties for counties in 1988 and pursuant to RCW Chapter 48.62 and 39.34 to provide to member counties with programs of joint self-insurance, joint purchasing of insurance and joint contracting for or hiring of personnel to provide risk management, claims handling and administrative services.[32]

Climate change continues to increase the risk of loss to homes and properties that were once considered low-risk and much easier to insure.[33] In instances where utilities face significant liability risk that they are unable to transfer to the insurance market, it may be appropriate to establish a risk pool.[34] Additional research is required by the state of Washington to determine if any statutory limitations in place that would prohibit utility companies from forming risk pools. One challenge associated with the risk pooling model is to ensure diversification of risk. In other words, pooling high risk with low-risk areas. Still, a viable economic model for utility companies is essential to ensuring access to electricity among the population.[35] Additionally, payments into the pool can come from levies on the electricity rates of households in areas of very high fire risk to make risk pooling more equitable.[36]

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[28] The Pollution Liability Insurance Agency. (https://plia.wa.gov/commercial-ust-reinsurance-program/).
[29] The Burning Issue: Managing Wildfire Risk study by Marsh & McLennan Advantage Insights (2019).
[30] The Burning Issue: Managing Wildfire Risk study by Marsh & McLennan Advantage Insights (2019).
[31] The Burning Issue: Managing Wildfire Risk study by Marsh & McLennan Advantage Insights (2019).
[32] Washington Countless Risk Pool website. (https://www.wcrp.info/).
[33] The Burning Issue: Managing Wildfire Risk study by Marsh & McLennan Advantage Insights (2019).
[34] The Burning Issue: Managing Wildfire Risk study by Marsh & McLennan Advantage Insights (2019).
[35] The Burning Issue: Managing Wildfire Risk study by Marsh & McLennan Advantage Insights (2019).
[36] The Burning Issue: Managing Wildfire Risk study by Marsh & McLennan Advantage Insights (2019).

Another option is to establish an intergovernmental wildfire risk pool across western states. Wildfire suppression costs vary from state to state due to each state's particular level of risk. This means pooling risks could provide a significant diversification benefit to insurer's looking for less volatility in claim volume. Western state governments could establish a pool to provide cover for suppression costs during the extreme wildfire years, and possibly transfer risk from the pool to the reinsurance or capital markets.[37] Greater diversification benefits could be achieved, for instance, by extending participation to the Southeastern states.

Government funding assistance of mitigation efforts

The survey results showed many utility companies have not yet looked to the federal government for funding assistance with mitigation efforts. There are multiple federal grant programs that provide funding to state mitigation efforts. For instance, the U.S. Department of Energy's grid hardening state/tribal formula grant program is funded through the Bipartisan Infrastructure Law and administered through the Building a Better Grid Initiative and is designed to strengthen and modernize America's power grid against wildfires, extreme weather and other natural disasters that are exacerbated by the climate crisis.[38] The program will distribute up to $2.3 billion over five years and will provide grants to states and tribes based on a formula that includes, among other things, population size, land area, probability and severity of disruptive events and a locality's historical expenditures on mitigation efforts.[39] Priority is given to projects that generate the greatest community benefit providing clean, affordable, and reliable energy to everyone.[40]

The Federal Emergency Management Agency (FEMA) offers another hazard mitigation assistance program, Building Resilient Infrastructure and Communities (BRIC)[41], which is designed to reduce disaster losses. Hazard mitigation is any sustainable action that reduces or eliminates long-term risk to people and property from future disasters. BRIC supports states, local communities, tribes and territories as they undertake hazard mitigation projects, reducing the risks they face from disasters and natural hazards.[42] The program was designed to foster innovation and provides a yearly grant cycle offering applicants a consistent source of funding.[43]

Washington's Emergency Management Division (EMD) assists with Hazard Mitigation Assistance Grants that are provided to Washington state jurisdictions and tribal governments to reduce the effects of

[37] The Burning Issue: Managing Wildfire Risk study by Marsh & McLennan Advantage Insights (2019).
[38] Grid Hardening State/Tribal Formula Grant Program page on the Department of Energy website. (https://www.energy.gov/gdo/grid-hardening-statetribal-formula-grant-program).
[39] (https://www.energy.gov/gdo/grid-hardening-statetribal-formula-grant-program).
[40] (https://www.energy.gov/gdo/grid-hardening-statetribal-formula-grant-program).
[41] Hazard Mitigation Assistance Grants page on the FEMA website. (https://www.fema.gov/grants/mitigation).
[42]Building Resilient Infrastructure and Communities page on the FEMA website. (https://www.fema.gov/grants/mitigation/building-resilient-infrastructure-communities).
[43] Hazard Mitigation Assistance-Mitigation Action Portfolio. FEMA. (October 2022). (https://www.fema.gov/sites/default/files/documents/fema_fy-22-mitigation-action-portfolio.pdf).

natural hazards and mitigate vulnerability to future disaster damage. Utility companies should reach out EMD to seek assistance on whether they can qualify for these grants.

Most of these grants will have a matching component that must be met. Another downside of these federal funding programs is they take a very long time to process, so if an entity is award funding, is the project still viable after the years have passed since initial application.

Education

A robust education program focused on science-based wildfire mitigation solutions is key to addressing the hardening insurance market for utility companies. Educating consumers, insurers and utility companies on how to protect property against risk can help reduce claim volume and severity of claims. The Insurance Institute for Business & Home Safety (IBHS) turns research and insights into actions home and business owners can take to reduce costs associated with weather-related losses.[44] IBHS was formed by the property and casualty insurance industry in 1977 to help coordinate emerging property insurance plans and evolved to become a robust, world-class applied research and communications organization.[45] In 2010, IBHS Research Center came to life to advance the scientific understanding of severe weather perils and their interaction with the home and businesses at real scale.[46] IBHS encourages a comprehensive approach to retrofitting and mitigation efforts involving: (a) public education on the importance of retrofitting and cost-effective approaches, (b) comprehensive analysis of specific federal/state programs to provide retrofit resources to homeowners and small businesses, and (c) creation of a Department of Insurance or other state-sponsored programs to provide retrofitting resources.[47] IBHS provides policyholder wildfire mitigation resources through their policyholder-focused website and member education in the form of webinars, slides and video.

In addition, IBHS has worked with local and state governments to share research results and recommendations. For example, IBHS recently launched its first-ever designation to distinguish homes mitigated against wildfire in Paradise, California. This program allows homeowners to achieve a designation showing they've taken the science-based actions required to meaningfully reduce their home's risk, is now open and accepting applications from single-family homeowners in California.[48] Joining IBHS for the program launch, the town of Paradise, California announced steps to create a path for every resident to achieve the Wildfire Prepared Home designation for their property, making it the first municipality in the nation to do so.

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[44] Wildfire page of the Insurance Institute for Business & Home Safety website. (https://ibhs.org/risk-research/wildfire/).
[45] Insurance Institute for Business & Home Safety website. (https://ibhs.org/about-ibhs/).
[46] (https://ibhs.org/about-ibhs/).
[47] Wildfire page of the insurance Institute for Business & Home Safety website. (https://ibhs.org/public-policy/wildfire-public-policy/).
[48] IBHS Wildfire Mitigation Designation Program in California page on the Insurance Institute for Business & Home Safety website. (https://ibhs.org/ibhs-news-releases/wildfire-prepared-home-launches/).

Utility easements

Expanding land access rights for utility companies is a potential way to strengthen wildfire mitigation efforts. Utility easements are designed to provide utility companies the right to access private property to maintain utility infrastructure. If mitigation efforts were able to expand on the land under transmission and distribution lines beyond what is currently available to utility companies, it may provide a reduction of damaging events. Under current law, an easements mitigation activity is limited to the area covered by an easement, which is clearly defined. If a utility company wants to perform mitigation activity on land not covered under the easement, the utility is required to reach an agreement with a landowner before accessing that land. Washington state could explore creative and equitable easements options for utilities to expand their mitigation efforts to address trouble trees or other vegetation.

Service of suit clause

As the number of insurance companies willing to offer Washington state utilities liability insurance continue to shrink, the remaining insurers are imposing contractual limitations that make it difficult for utilities in our state to comply with Washington state law. The current issue is some surplus line companies are not including a contract provision that designates the insurance commissioner[49] as the person whom service of process may be made. The state Legislature could provide a specific waiver of this requirement for utilities. The cost of this waiver would be that Washington state consumer or business could not utilize the commissioner to accept service on behalf of the insurer. It is unclear where the consumer would then file service for these companies who are often based outside of the U.S.

Modify negligence standards

Another potential way to address the hardening insurance market is to modify negligence standards that apply to utility companies. Lowering the negligence standard may decrease the number of damage claims utility companies are subject to, thus creating a more enticing market for insurance companies to participate in.

Washington state has implemented a prescribed burn manager certification program which modifies the negligence standard under a narrow set of circumstances. Under RCW 76.04.183, the Department of Natural Resources must create a prescribed burn manager certification program that includes training on all relevant aspects of prescribed fire in Washington state including, but not limited to, the following:

- Legal requirements
- Safety
- Weather
- Fire behavior
- Smoke management

[49] RCW 48.02.200 and RCW 48.15.150.

- Prescribed fire techniques

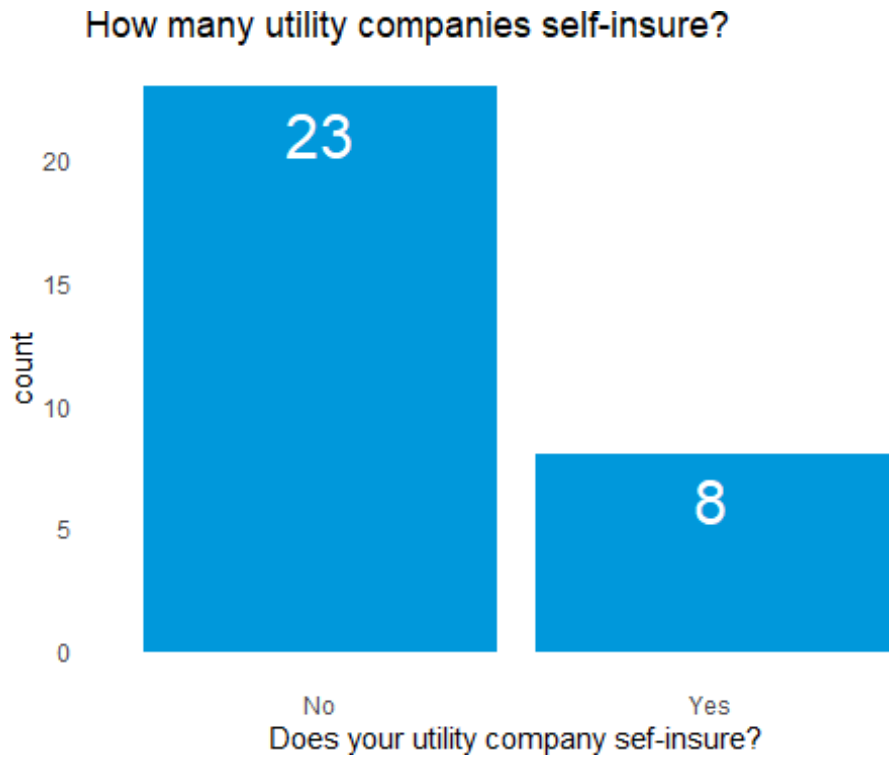
Under this RCW, no civil or criminal liability may be imposed on a prescribed burn manager certified under the program for loss or damages resulting from a prescribed fire as outlined under RCW 76.04.183, except for gross negligence or willful or wanton conduct. A similar program could be created for mitigation efforts made by utility companies.

Utility liability survey results

General Questions

NRs are included for responses that the submitter did not provide an answer or for which a response was not required.

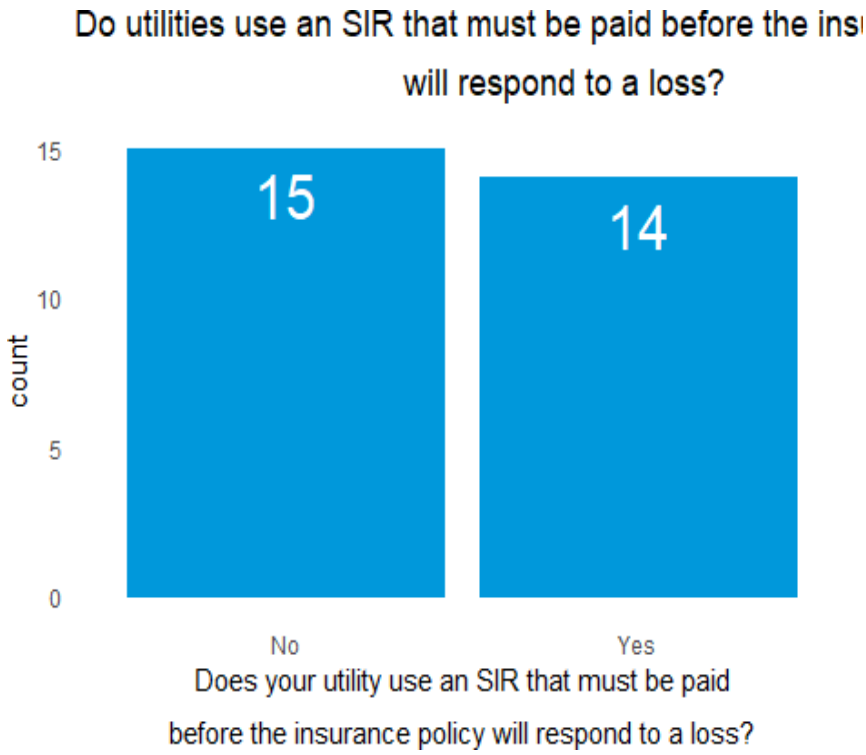
Question 1: Does your utility company self-insure?



Does your utility company self insure?	What percentage of total liability layers are self insured?	Why did you choose this percentage?
Yes	NR	NR
Yes	NR	NR
Yes	100	Chose to be a part of the WCIA Risk Pool for comprehensive coverage across our municipality
Yes	NR	NR
Yes	1	Historical
No	NR	NR

Does your utility company self insure?	What percentage of total liability layers are self insured?	Why did you choose this percentage?
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
Yes	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
Yes	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
Yes	1	Economics
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR
No	NR	NR

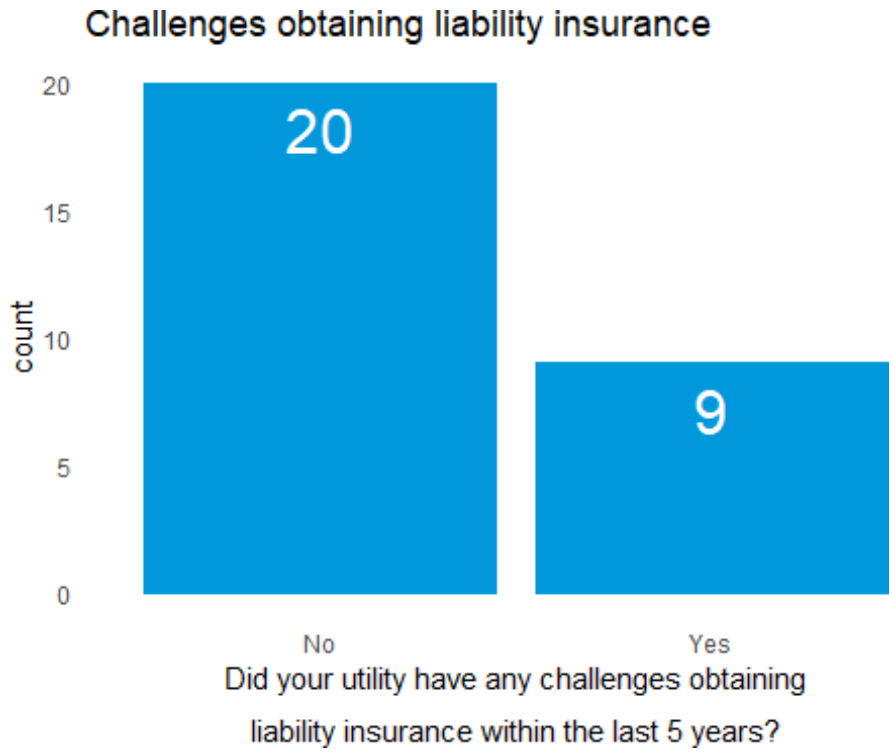
Question 2: Does your utility use an SIR that must be paid before the insurance policy will respond to a loss?



Does your utility use an SIR that must be paid before the insurance policy will respond to a loss?	Explain why you decided on your SIR level
Yes	NR
Yes	Weighing out the annual cost for coverage, this was the level we were comfortable with.
Yes	Felt comfortable with the level when considering the cost of various coverages.
Yes	Availability of insurance
Yes	Historical and costs
No	NR
No	NR
No	NR
No	NR
No	NR

Does your utility use an SIR that must be paid before the insurance policy will respond to a loss?	Explain why you decided on your SIR level
No	NR
No	NR
No	NR
No	NR
No	NR
Yes	Loss record supports $2M SIR level and premium levels do not change significantly for higher SIR's.
No	NR
No	NR
Yes	Commissioners reviewed and approved recommendation
No	NR
Yes	Required by Insurance Company.
Yes	Required by Insurance Company, attachment point.
Yes	Required by Insurance Company, attachment point.
Yes	Required by Insurance Company, attachment point.
Yes	It was the lowest available
Yes	Required by Insurance Company, attachment point.
No	NR
Yes	Our SIR has increased over time based on a combination of loss activity and amount of credit obtained to reach a desired premium level at that particular point in time. In recent years, it has not been economically prudent to increase our self-insured retention as the credit received to do so would not outweigh the resulting increase in pay back period if we incurred a loss in the new, expanded SIR layer.
No	NR

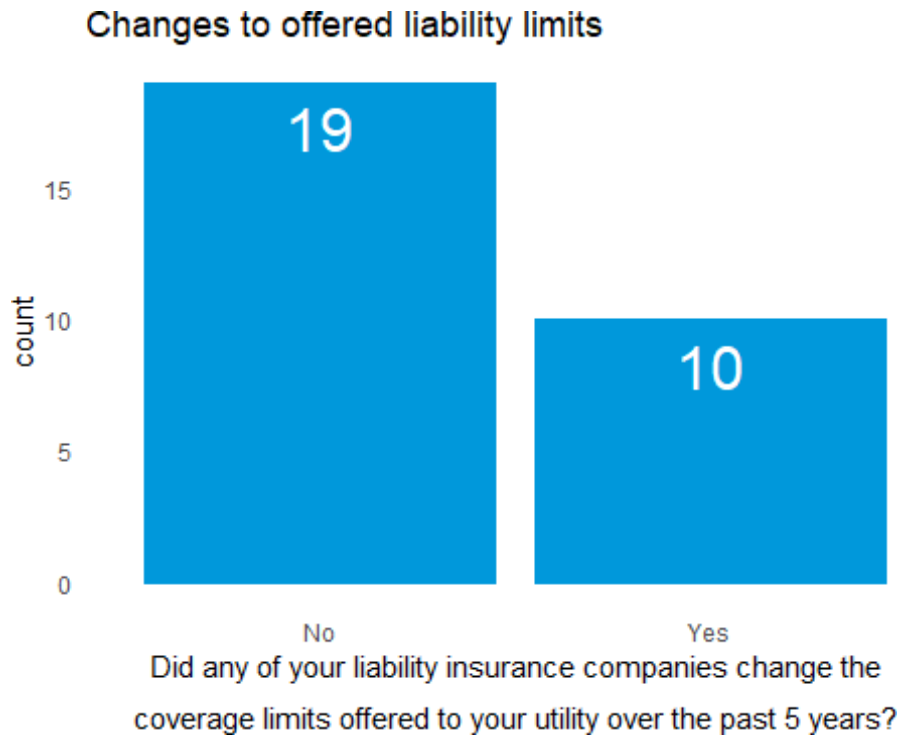
Question 3: Did your utility have any challenges obtaining liability insurance within the last 5 years?



Did your utility have any challenges obtaining liability insurance within the last 5 years?	Please explain
No	NR
Yes	The issue is the cost of the insurance continues to escalate.
Yes	Escalating cost of coverage is the issue for us.
No	NR
Yes	Cyber is restricted
No	NR
No	NR
No	NR
No	NR
No	NR
No	NR
No	NR
No	NR
No	NR

Did your utility have any challenges obtaining liability insurance within the last 5 years?	Please explain
Yes	In 2021 due to increased cost of over 66% for excess liability insurance, our utility opted into a co-participation insurance coverage
Yes	Several of our insurance carriers non-renewed our policies due to concerns over wildfire risk. We were forced to replace them with much costlier options.
Yes	It has been a challenge finding a provider who will cover the liability level that we would like to carry.
Yes	Because of the wildfire risk in Eastern Washington, we have been unable to obtain excessive coverage unless it has a wildfire exclusion. The wildfire exclusion makes the excess coverage obsolete because the biggest exposure to financial ruin is wildfires.
No	NR
No	NR
No	NR
No	NR
No	NR
No	NR
No	NR
No	NR
Yes	Excess Liability has been more and more difficult to obtain in the NW and all excess currently comes with a wildfire exclusion. Given the current situation of annual forest fires it has become almost impossible to get any additional coverage.
Yes	Obtaining sufficient wildfire liability coverage has been increasingly difficult beginning in late 2020, following the Labor Day Fires of 2020 in the Pacific Northwest. Over the last two renewal cycles, we have faced issues in terms of both availability and pricing of wildfire coverage through the traditional insurance commercial markets.
No	NR

Question 4: Did any of your liability insurance companies change the coverage limits offered to your utility over the past 5 years?



Did any of your liability insurance companies change the coverage limits offered to your utility over the past 5 years?	Please explain
Yes	Cyber changed limits. Wildfire as well.
No	NR
No	NR
Yes	Reduced limits
Yes	Limits reduced on GL
No	NR
No	NR
No	NR
No	NR
Yes	Our wildfire coverage was limited to $10-Million, and we had to obtain a $5-Million Excess Policy to make up the change.

Did any of your liability insurance companies change the coverage limits offered to your utility over the past 5 years?	Please explain
No	NR
No	NR
No	NR
No	NR
Yes	In 2021 our utility had to opt into less coverage for its excess liability, via a 50% co-participation insurance plan, due to increased costs driven by wildfire concern factors that impact the Northwest region
Yes	In addition to some insurance companies leaving the market, several have reduced the limits they offer.
Yes	We've had to reduce our excess liability coverage by 50% and pay a higher premium for the reduced coverage. We have been unable to find a carrier willing to insure us at the higher level.
No	NR
Yes	We had to increase our deductible to maintain the same coverage limit for cybersecurity
No	NR
No	NR
No	NR
No	NR
No	NR
Yes	Property EO limit reduced in 2021 from $250M to $150M due to underwriting restrictions.
No	NR
No	NR
Yes	Beginning with our renewal for 2022 insurance, one of our mutual insurers, EIM, placed a sublimit on wildfire coverage they were willing to provide. While we were able to obtain $100M in general liability coverage through EIM, we were only able to obtain $75M in wildfire coverage. This increased costs for our program, as the excess layers above this point, now had to drop down to a lower attachment point for wildfire coverage, which was more expensive. There were also insurance companies from

Did any of your liability insurance companies change the coverage limits offered to your utility over the past 5 years?	Please explain
	Lloyds of London that we had previously secured excess liability coverage, that were no longer willing to offer excess liability coverage due to the increased wildfire risk. As a result, we had to turn to the Bermuda marketplace as a last resort option in the traditional market space to secure such coverage. This market, as of the renewal for 2022 insurance, was significantly more expensive relative to the London or US based liability marketplace.
No	NR

Question 5: How have liability insurance premiums and coverage limits changed?

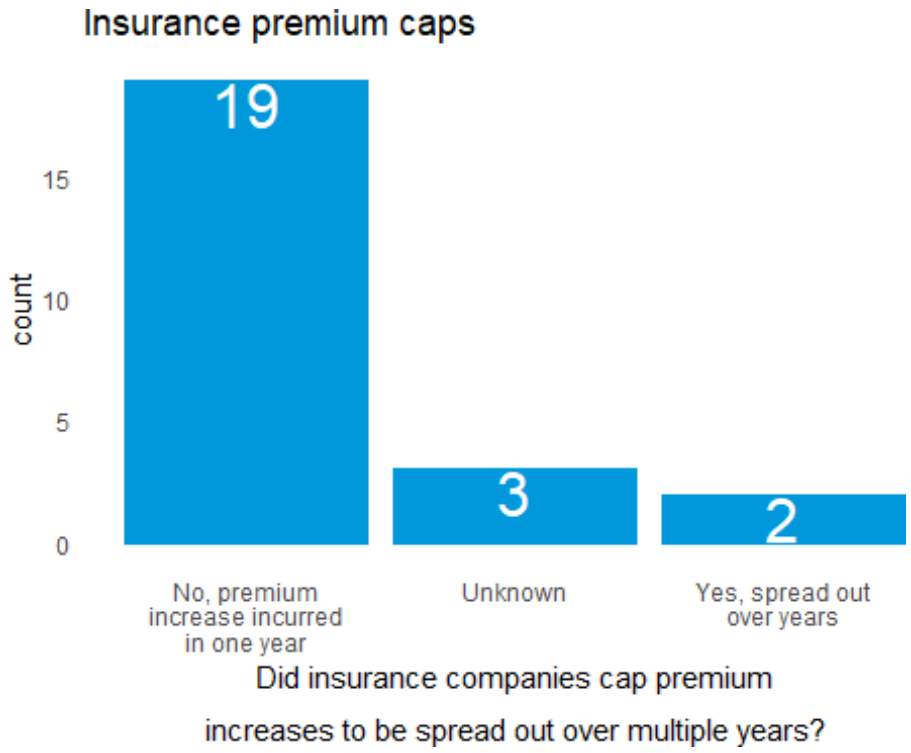
Policy period	Traditional liability limits ($)	Wildfire limits ($)	Total liability limits ($)	Total premium amount ($)	SIR amount ($)
Current policy period	20,000,000	NR	20,000,000	40,100	5,000
Previous policy period	20,000,000	NR	20,000,000	37,772	5,000
3 years ago	20,000,000	NR	20,000,000	35,597	5,000
4 years ago	20,000,000	NR	20,000,000	37,222	5,000
5 years ago	20,000,000	NR	20,000,000	36,555	5,000
Current policy period	4,000,000	NR	20,000,000	40,100	5,000
Previous policy period	4,000,000	NR	20,000,000	37,772	5,000
3 years ago	4,000,000	NR	20,000,000	35,597	5,000
4 years ago	4,000,000	NR	20,000,000	37,222	5,000
5 years ago	4,000,000	NR	20,000,000	36,555	5,000
Current policy period	70,000,000	35,000,000	70,000,000	1,905,000	250,000
Previous policy period	70,000,000	35,000,000	70,000,000	1,524,000	250,000
3 years ago	70,000,000	35,000,000	70,000,000	1,315,744	250,000
4 years ago	70,000,000	35,000,000	70,000,000	1,272,000	250,000
5 years ago	0	0	0	0	0
Current policy period	60,000,000	0	60,000,000	55,127	1,000,000
Previous policy period	60,000,000	0	60,000,000	35,951	1,000,000
3 years ago	60,000,000	0	60,000,000	30,255	1,000,000
4 years ago	60,000,000	0	60,000,000	28,602	1,000,000
5 years ago	60,000,000	0	60,000,000	25,031	1,000,000
Current policy period	27,000,000	NR	27,000,000	175,077	NR
Previous policy period	22,000,000	NR	22,000,000	141,699	NR
3 years ago	22,000,000	NR	22,000,000	134,890	NR
4 years ago	27,000,000	NR	27,000,000	116,676	NR
5 years ago	27,000,000	NR	27,000,000	117,070	NR

Policy period	Traditional liability limits ($)	Wildfire limits ($)	Total liability limits ($)	Total premium amount ($)	SIR amount ($)
Current policy period	50,000,000	NR	50,000,000	407,546	NR
Previous policy period	20,000,000	NR	20,000,000	206,739	NR
3 years ago	20,000,000	NR	20,000,000	203,652	NR
4 years ago	20,000,000	NR	20,000,000	186,336	NR
5 years ago	20,000,000	NR	20,000,000	185,516	NR
Current policy period	17,000,000	NR	17,000,000	73,849	NR
Previous policy period	17,000,000	NR	17,000,000	71,893	NR
3 years ago	17,000,000	NR	17,000,000	59,295	NR
4 years ago	17,000,000	NR	17,000,000	55,727	NR
5 years ago	17,000,000	NR	17,000,000	59,102	NR
Current policy period	20,000,000	NR	NR	49,167	NR
Previous policy period	20,000,000	NR	NR	45,762	NR
3 years ago	20,000,000	NR	NR	45,762	NR
Current policy period	61,000,000	NR	42,500,000	970,029	NR
Previous policy period	61,000,000	NR	42,500,000	807,591	NR
3 years ago	NR	NR	61,000,000	713,202	NR
4 years ago	NR	NR	61,000,000	602,217	NR
5 years ago	NR	NR	61,000,000	558,974	NR
Current policy period	150,000,000	150,000,000	150,000,000	2,301,330	2,000,000
Previous policy period	150,000,000	150,000,000	150,000,000	1,675,429	2,000,000
3 years ago	150,000,000	150,000,000	150,000,000	1,259,318	2,000,000
4 years ago	150,000,000	150,000,000	150,000,000	1,065,216	2,000,000
5 years ago	125,000,000	125,000,000	125,000,000	871,067	2,000,000
Current policy period	17,000,000	NR	17,000,000	55,944	NR
Previous policy period	17,000,000	NR	17,000,000	53,874	NR
3 years ago	22,000,000	NR	22,000,000	56,441	NR
4 years ago	22,000,000	NR	22,000,000	51,528	NR

Policy period	Traditional liability limits ($)	Wildfire limits ($)	Total liability limits ($)	Total premium amount ($)	SIR amount ($)
5 years ago	22,000,000	NR	22,000,000	56,993	NR
Current policy period	85,000,000	15,000,000	85,000,000	1,688,513	2,000,000
Previous policy period	85,000,000	15,000,000	85,000,000	1,275,530	2,000,000
3 years ago	85,000,000	NR	85,000,000	956,564	2,000,000
4 years ago	85,000,000	NR	85,000,000	848,388	2,000,000
Current policy period	2,000,000	NR	27,000,000	120,415	NR
Previous policy period	2,000,000	NR	27,000,000	112,652	NR
3 years ago	2,000,000	NR	27,000,000	109,813	NR
4 years ago	2,000,000	NR	27,000,000	102,925	NR
5 years ago	2,000,000	NR	27,000,000	102,925	NR
Current policy period	100,000,000	NR	100,000,000	3,400,000	1,000,000
Previous policy period	100,000,000	NR	100,000,000	2,595,000	1,000,000
3 years ago	85,000,000	NR	85,000,000	1,895,000	1,000,000
4 years ago	50,000,000	NR	50,000,000	1,573,000	1,000,000
5 years ago	50,000,000	NR	50,000,000	1,468,000	1,000,000
Current policy period	100,000,000	NR	100,000,000	3,400,000	NR
Previous policy period	100,000,000	NR	100,000,000	2,595,000	NR
3 years ago	85,000,000	NR	85,000,000	1,893,000	NR
4 years ago	50,000,000	NR	50,000,000	1,573,000	NR
5 years ago	50,000,000	NR	50,000,000	1,468,000	NR
Current policy period	100,000,000	NR	100,000,000	3,400,000	1,000,000
Previous policy period	100,000,000	NR	100,000,000	2,595,000	1,000,000
3 years ago	85,000,000	NR	85,000,000	1,893,000	1,000,000
4 years ago	50,000,000	NR	50,000,000	1,573,000	1,000,000
5 years ago	50,000,000	NR	50,000,000	1,468,000	1,000,000
Current policy period	100,000,000	100,000,000	100,000,000	3,400,000	1,000,000
Previous policy period	100,000,000	100,000,000	100,000,000	2,595,000	1,000,000

Policy period	Traditional liability limits ($)	Wildfire limits ($)	Total liability limits ($)	Total premium amount ($)	SIR amount ($)
3 years ago	85,000,000	85,000,000	85,000,000	1,893,000	1,000,000
4 years ago	50,000,000	50,000,000	50,000,000	1,573,000	1,000,000
5 years ago	50,000,000	50,000,000	50,000,000	1,468,000	1,000,000
Current policy period	22,000,000	42,000,000	47,000,000	373,000	0
Previous policy period	22,000,000	42,000,000	47,000,000	333,000	0
3 years ago	22,000,000	47,000,000	47,000,000	316,000	0
4 years ago	22,000,000	47,000,000	47,000,000	297,000	0
5 years ago	22,000,000	32,000,000	32,000,000	272,000	0
Current policy period	100,000,000	0	100,000,000	3,400,000	1,000,000
Previous policy period	100,000,000	0	100,000,000	2,595,000	1,000,000
3 years ago	85,000,000	0	85,000,000	1,893,000	1,000,000
4 years ago	50,000,000	0	50,000,000	1,573,000	1,000,000
5 years ago	50,000,000	0	50,000,000	1,468,000	1,000,000
Current policy period	12,000,000	NR	12,000,000	73,922	NR
Previous policy period	17,000,000	NR	17,000,000	103,519	NR
3 years ago	32,000,000	NR	32,000,000	115,244	NR
4 years ago	42,000,000	NR	42,000,000	125,390	NR
5 years ago	42,000,000	NR	42,000,000	106,780	NR
Current policy period	200,000,000	160,000,000	200,000,000	8,300,000	2,000,000
Previous policy period	160,000,000	160,000,000	160,000,000	5,600,000	2,000,000
3 years ago	185,000,000	185,000,000	185,000,000	2,800,000	2,000,000
4 years ago	185,000,000	185,000,000	185,000,000	2,300,000	2,000,000
5 years ago	185,000,000	185,000,000	185,000,000	2,300,000	2,000,000

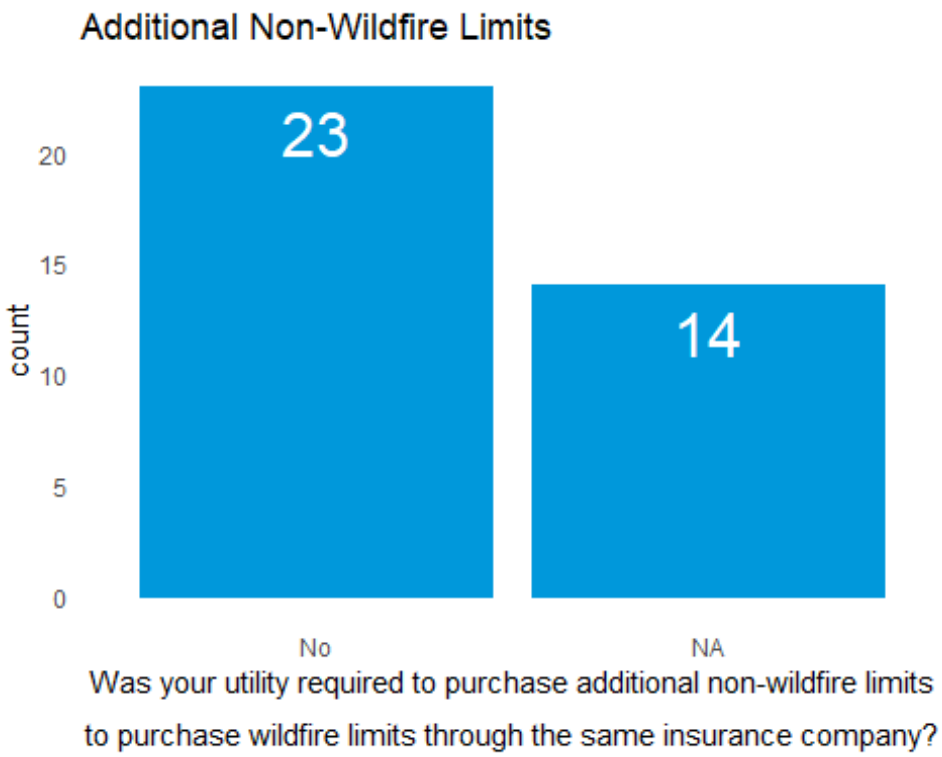
Question 6: Did your liability insurance companies cap your premium to be spread out over multiple years, or was your utility required to absorb the full amount of the premium changes in one policy period?



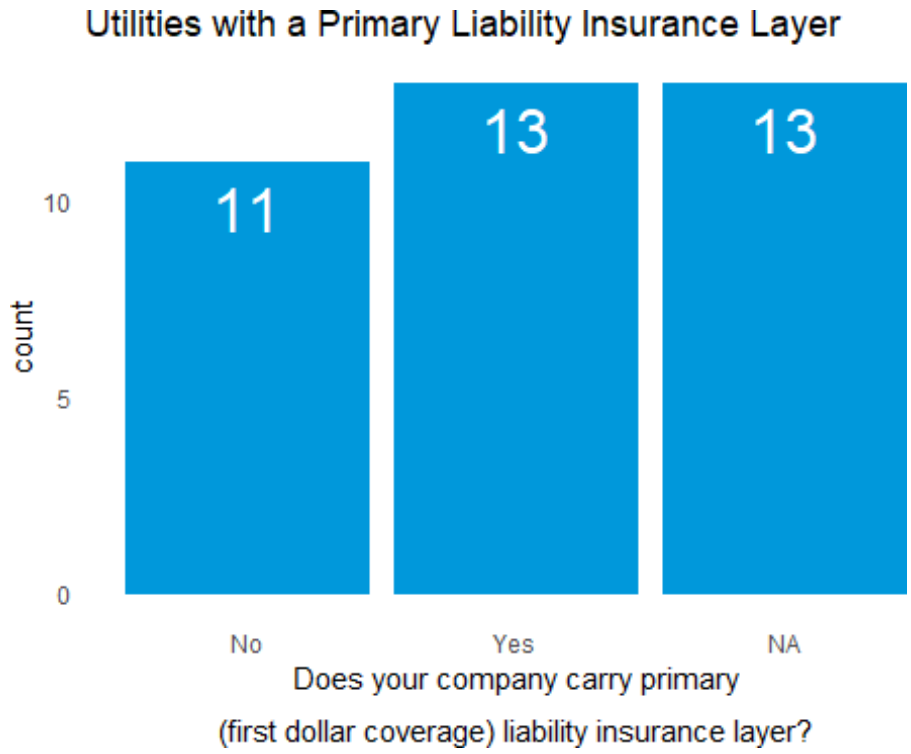
Did insurance companies cap premium increases to be spread out over multiple years?	How many years was your increased premium capped?	What portion of the premium was capped?
Unknown	NR	NR
Unknown	NR	NR
Unknown	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR

Did insurance companies cap premium increases to be spread out over multiple years?	How many years was your increased premium capped?	What portion of the premium was capped?
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
Yes, spread out over years	Our primary carrier, AEGIS ($35 million limit), spread out a wildfire surcharge over 3 years. Our other carriers did not spread out increases over time to our knowledge.	Wildfire
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
Yes, spread out over years	three	Wildfire
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR
No, premium increase incurred in one year	NR	NR

Question 7: Was your utility required to purchase additional non-wildfire limits to purchase wildfire limits through the same insurance company?



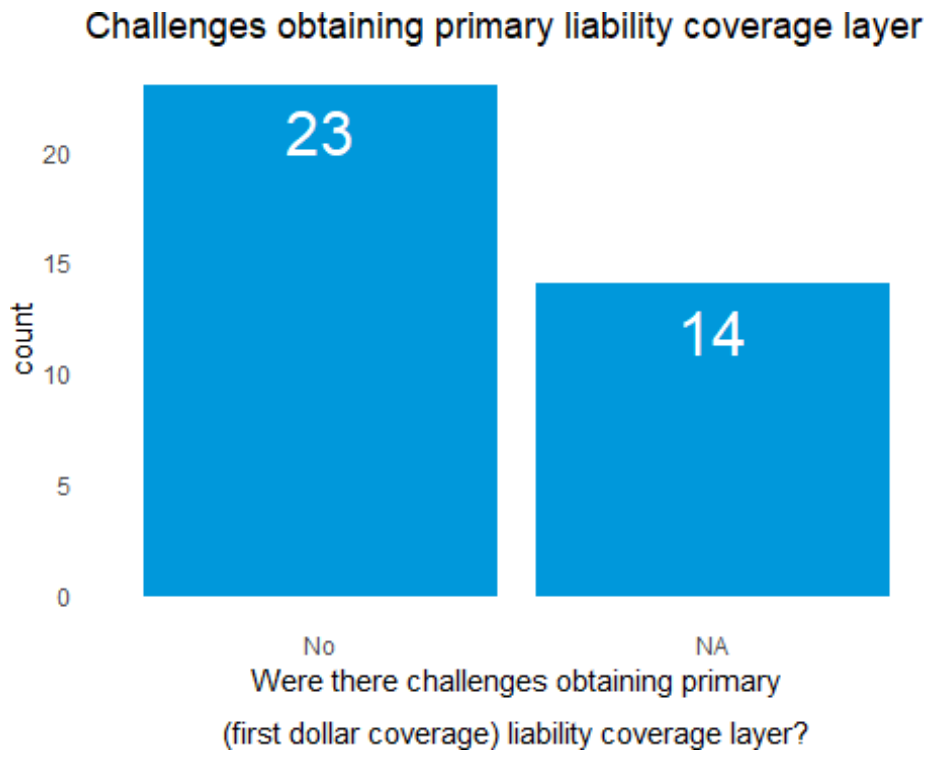
Question 8: Does your company carry primary (first dollar coverage) liability insurance layer?



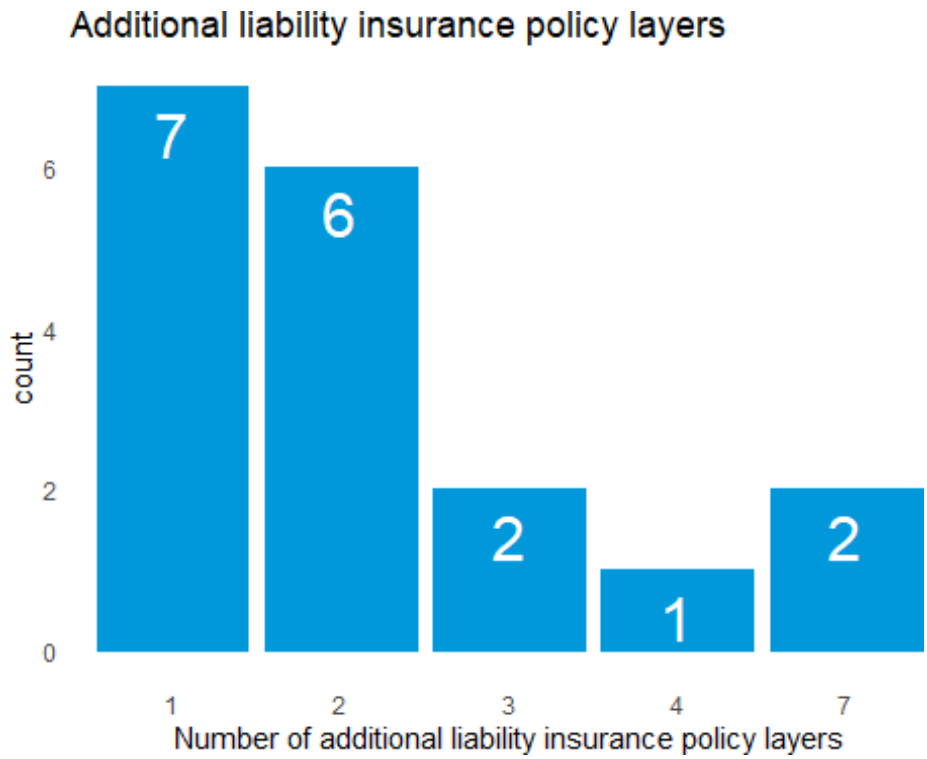
What are the limits and which insurance company?

Insurance company name	Liability limit ($)
Aegis	35,000,000
Federated Rural Electric	27,000,000
Federated Rural Electric	2,000,000
EVEREST	1,000,000
Federated Rural Ins Coop	17,000,000
PURMS	1,000,000
PURMS	1,000,000
PURMS	1,000,000
PURMS	1,000,000
Federated Rural Electric	22,000,000
PURMS	1,000,000
Federated Rural Insurance Exchange	12,000,000

Question 9: Did you have any challenges obtaining your primary (first dollar coverage) liability coverage layer?



Question 10: Do you have any additional liability insurance policies in addition to your primary liability coverage?

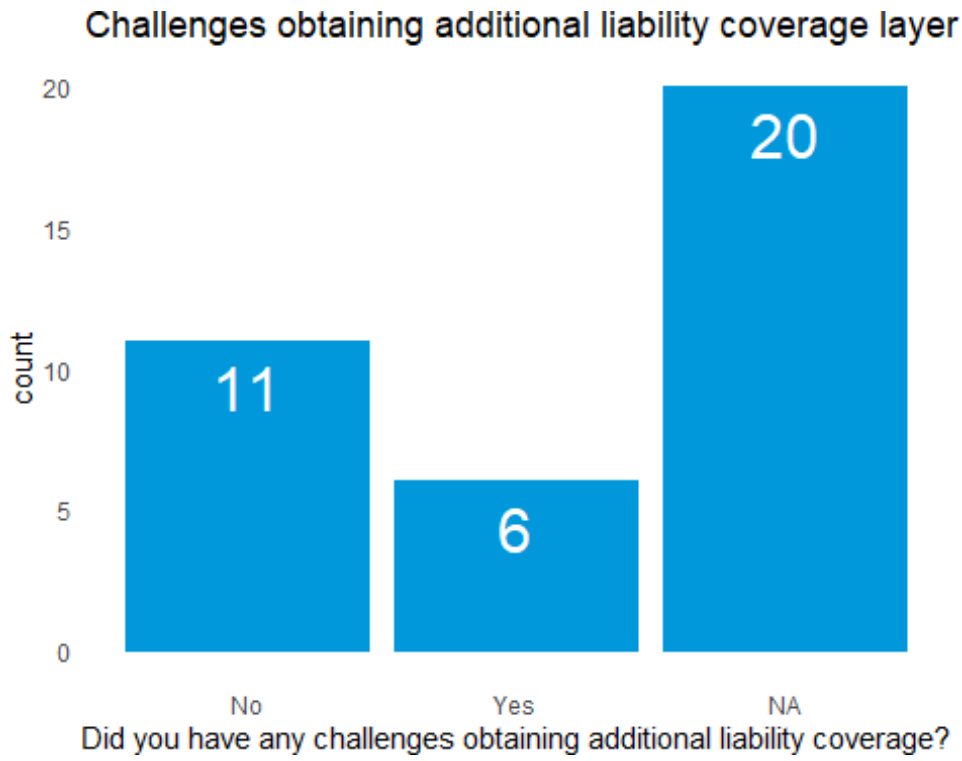


Additional liability insurance

Insurance company	Liability limit ($)
Gem	2,000,000
GEM	5,000,000
Multiple	4,000,000
Allied World Assurance Company	5,000,000
EIM	25,000,000
Federated	20,000,000
Federated	30,000,000
Federated Rural Electric	10,000,000
Federated Rural Electric	5,000,000
AEGIS	35,000,000
EIM	25,000,000
AEGIS	35,000,000
EIM	60,000,000
AWAC	15,000,000

Insurance company	Liability limit ($)
OCIL/MAP	20,000,000
Lloyds - Scor	10,000,000
Argo	10,000,000
Star Stone Specialty Ins Co	5,000,000
Federated	15,000,000
Ohio Causality	15,000,000
AEGIS	70,000,000
EIM	15,000,000
Federated Rural Electric Insurance Exchange	25,000,000
EIM	65,000,000
EIM	65,000,000
AEGIS	35,000,000
EIM	65,000,000
EIM	65,000,000
Starstone	5,000,000
Everest	15,000,000
Ohio Casualty	5,000,000
EIM	65,000,000
AEGIS	35,000,000
EIM	100,000,000
Helix	10,000,000
MAP	5,000,000
OCIL	10,000,000
Sompo	15,000,000
OCIL	15,000,000

Question 11: Did you have any challenges obtaining additional liability coverage beyond your primary liability?



Challenges
Reinsurers are very concerned about coverage for municipalities in general
In 2021 our utility obtained 50% co-participation insurance due to significant increase in premium cost
OCIL lowered their limit by $10M from what they offered in 2021. We narrowly avoided paying 3x last year's premium to replace that layer.
Challenge to find a provider as previously mentioned.
Excess coverage has wildfire exclusion our biggest risk

Challenges

If you answered yes to the above question, please explain: Yes, challenges obtaining additional liability coverage has been tied to wildfire liability coverage. Wildfire coverage in the traditional commercial marketplace is part of the overall general liability coverage offered. If an insurance company is concerned about wildfire exposure, it will not offer general liability coverage. Over the last couple of years, we've seen fewer insurance companies willing to offer general liability/wildfire coverage due to the increased wildfire exposure, and for the remaining companies willing to offer the coverage, they are charging significantly more premium. Also, we encountered a challenge in that RCW 48.02.200 and 41.15.150 requires unauthorized insurer policies contain a provision designating the Insurance Commissioner as the person upon whom service of process must be made in the event of a claim. Bermuda insurers, which constitute the bulk of excess insurance carriers above our two mutual layers, will not include this language in their contracts. We do not have any other options to pursue at this point for wildfire coverage in these layers offered through the traditional commercial market. Use of these Bermuda domiciled insurance companies was initially challenged by the WA Surplus Lines Association due to statute requirement and omission of this wording from the Bermuda policies. However, after consulting with the Office of the Insurance Commissioner, this challenge was not continued. However, legislative language still contains this requirement which creates uncertainty for utilities based in this state on whether this requirement be enforced in any given year. We are ultimately seeking change to the legislative language (e.g. utility industry exception, etc) that provides utilities in this state relief from this requirement, so that utilities have assurances from year to year, regardless of who is staffing the Insurance Commissioner's Office and/or WA Surplus Lines Association, allowing utilities to pursue the option of obtaining coverage from Bermuda insurers.

Question 12: What are your thoughts on how to make liability insurance more widely available to electric utilities?

How to increase availability
Better assistance from the state and federal government to mitigate the risks to public power such as effective forest management to lower the likelihood of wildfires.
Liability insurance for wildfires needs to eventually cease as the risk is no longer insurable. The longer that insurers sell this cover as a high-risk, high-premium offering the longer it will be a burden for utilities. This risk needs to have regulatory backed recovery based on a prudent operator standard.
Group coverage
Fix the laws, especially in California, on who's liable.
Exclude liability insurance requirements for electric utilities
A Self insurance pool program for Washington State Utilities that could mitigate premium costs for excess insurance.
The legislature could reduce the regulatory burden to access Bermuda markets. A more challenging but effective solution could be to establish a statewide wildfire mitigation standard that grants liability immunity to utilities in compliance.
Need laws setting standards for claim liability. There should have to be negligence proven on the part of a Utility in order for a claim to be made. There also needs to be unbiased fire inspectors determining the cause of the fires and not state, DNR, employees.
The state needs to adopt wildfire mitigation standards for utilities so if the utility abides by the standards the utility is not held liable for wildfires which are primarily beyond their control.
Private insurers need to learn and understand more about electric utilities so that there is a more robust market for us
The availability of general liability insurance is challenged by the fact that it is linked to wildfire coverage, and that climate forecasts point to hotter, longer wildfire seasons and increased wildfire-related losses. At this point in time, general liability insurance is still available, but it's availability, when combined with wildfire coverage, is becoming exceedingly limited and significantly more expensive, as noted in our case where premiums have increased 200% in three years. General liability may continue to be made available into the future; however, this is contingent on two factors. First, the ability to strip wildfire coverage out of the general liability policy and construct a separate wildfire liability tower if insurers can be found to insure wildfire on a stand-alone basis. Second, the ability to recover the significantly higher wildfire premium (approx. double or triple current premium levels) costs associate with constructing a stand-alone wildfire tower. Ultimately, our concern is that wildfire coverage will be an uninsurable peril due to increasing adverse climate change factors and increases in wildfire frequency and severity. In the future, we expect that general liability will only be available with wildfire coverage excluded from the policy.

Question 13: What are your thoughts on how to make liability insurance more affordable to electric utilities?

How to increase affordability
Additional grants and funding to insure our infrastructure and grid are maintained in a way that mitigates the potential for loss.
These are answers that are somewhat uncontrollable but true. The west coast drought must end since the environment is too conducive to fires. Tort reform must take place to stop the escalation of claims values paid.
Group coverage
Exclude liability insurance requirements for electric utilities
National and State wide support for wildfire mitigation plans and studies that could deliver benefiting factors to reduce liability insurance costs for Utilities. Our company has looked into wildfire mitigation plans and the creation of one appears to be a costly, and complex task that requires many resources and involvement of multiple government agencies
See Q12 response regarding granting utility immunity in exchange for wildfire mitigation investments.
I believe the above ideas will reduce claims and in turn make liability insurance more affordable.
The state needs to adopt wildfire mitigation standards for utilities so if the utility abides by the standards the utility is not held liable for wildfires which are primarily beyond their control.
Limit rate increases, eliminate nationwide or even state-wide surcharges, establish a new wildfire program to be run by the state with input from electric utilities
Utilities and the public understanding the total liability that can be imposed on Utilities for alleged negligence so that insurers understand and can model and actuarially rate for the exposure.
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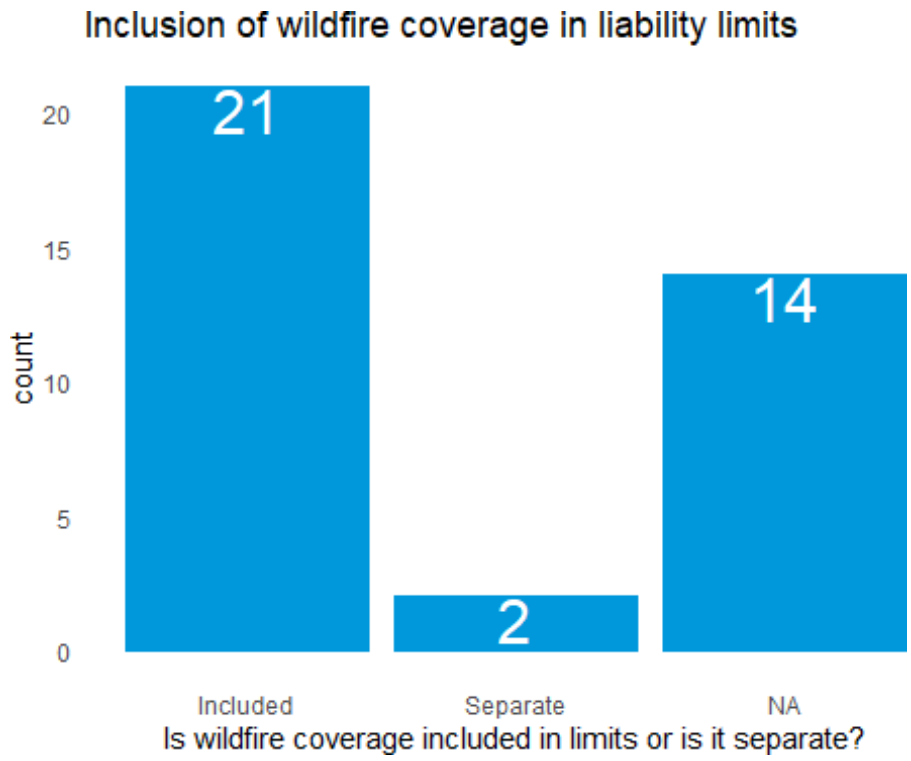
Utilities and the public understanding the total liability that can be imposed on Utilities for alleged negligence so that insurers understand and can model and actuarially rate for the exposure.
Individual companies potentially have some control over general liability premiums (excluding wildfire) through adjustments to self-insured retentions, adoption of copays, or adjustment of policy limits. However, this must be balanced by the increase in financial exposure to utilities and their ratepayers by assuming more risk of loss. Regardless, general liability premiums (excluding wildfire) will continue to rise due to

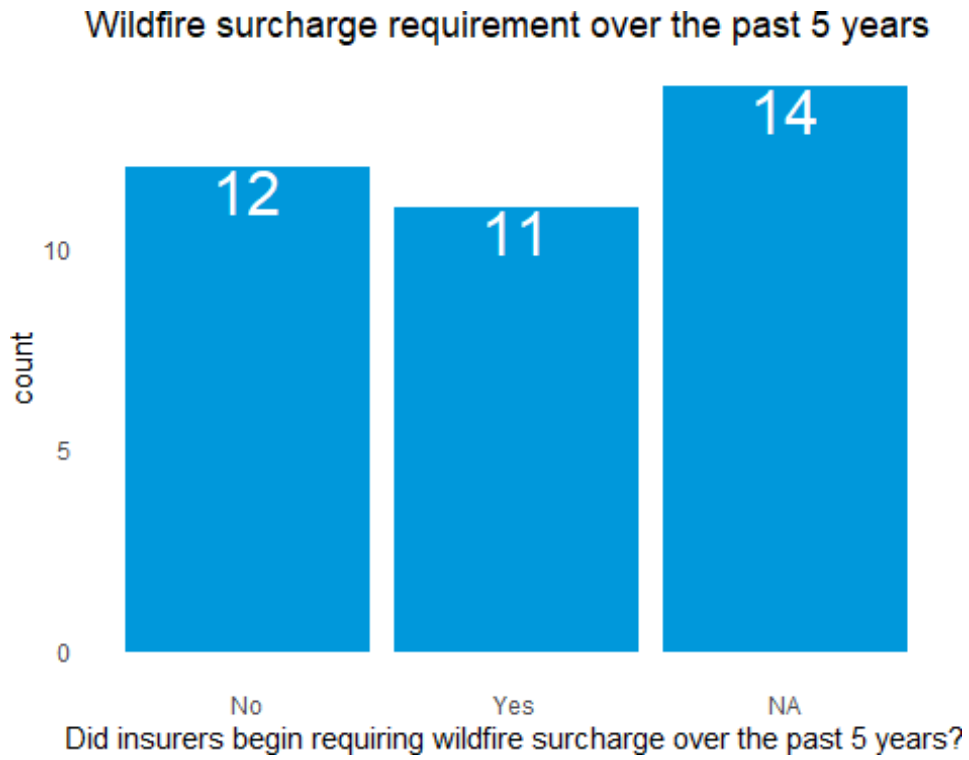
How to increase affordability
escalating social inflation of claims exhibited by large jury awards awarded to plaintiffs and roll backs on tort reforms that overturn statutory limits on non-economic damage. Tackling this issue will need to involve policymakers (legislators, courts, etc.), insurers, and policyholders working together to develop solutions to mitigate social inflation. As noted in response to question 12, the costs of wildfire insurance will continue to increase in parallel with adverse trends in climate change which result in increased wildfire frequency and severity. In the near term, utilities may be able to mitigate their individual insurance costs related to wildfire through such mechanisms as taking higher self-insured retentions, adopting co-pays on losses, and implementing wildfire mitigation plans which may reduce the frequency of utility caused wildfires. However, a wildfire plan is designed to mitigate the occurrence of wildfires, but in no way guarantees that a utility will still not be responsible for the ignition of a wildfire. Also, as noted in the preceding paragraph, the use of increasing retentions and co-pays to help offset premium increases must be balanced with the increased loss exposure that is now being transferred to the Company and rate payers. In the near future, utilities may be faced with potentially using alternatives outside of the traditional commercial market place to secure wildfire coverage. These alternatives may include the creation of captives to access reinsurance markets, pursuing Investment Linked Securities (ILS) in the bond market, or the purchase of parametric products designed to provide payment automatically to holders automatically when established event thresh holds have been met. These are expensive options and will only add to the already escalating costs of securing wildfire coverage. Ultimately, in the not to distant future, because of the increasing frequency and severity of wildfire events, this peril will not be an insurable event, and decisions will need to be made on how to socialize these costs. Utilities alone cannot bear these costs. Again, as in the discussion on social inflation, utilities must collaborate with policymakers to discuss what this cost socialization future looks like.

Wildfire risk questions

Question 14: Is wildfire coverage included in your liability limits or do you maintain separate wildfire tower of coverage?



Question 15: Did any of your liability insurance companies begin requiring a wildfire surcharge over the past 5 years?

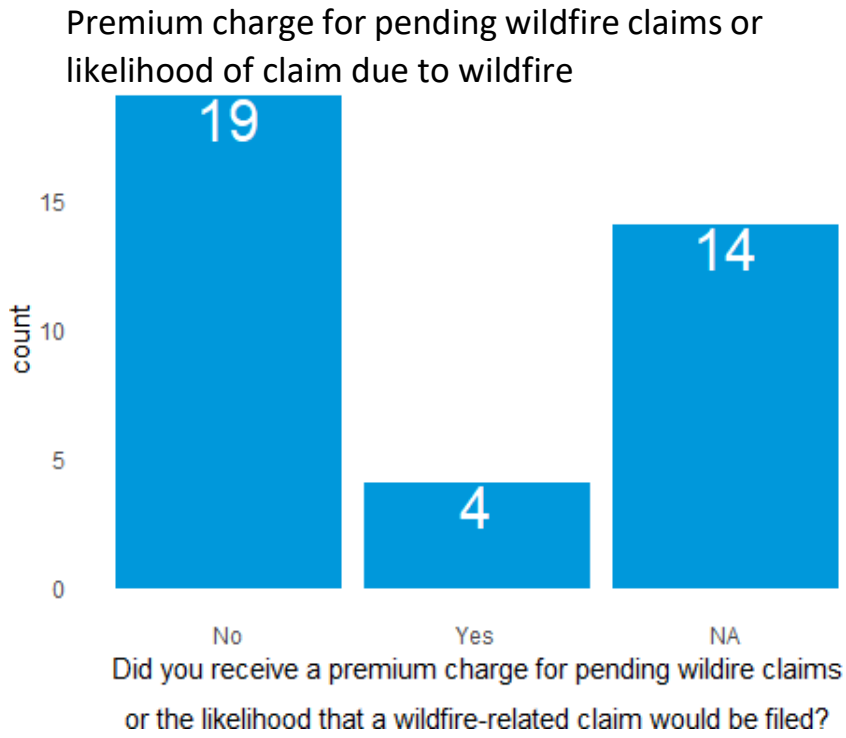


Please explain the wildfire surcharge requirement required within the past 5 years

Wildfire surcharge requirements
In 2021 our utility was presented with a surcharge but because our utility opted into a co-participation for liability coverage the surcharge was eliminated for reconsideration in 2022
AEGIS introduced a wildfire surcharge 2 years ago.
Insurer set a mandatory $1M surcharge for all electric utilities in the West Coast
There is a $1,000,000 wildfire surcharge that was implemented over 3 years (2019 to 2022).
There is a $1,000,000 wildfire surcharge that was implemented over 3 years (2019 to 2022)
There is a $1,000,000 wildfire surcharge that was implemented over 3 years (2019 to 2022)
There is a $1,000,000 wildfire surcharge that was implemented over three years (2019 to 2022).

Wildfire surcharge requirements
There is a $1,000,000 wildfire surcharge that was implemented over 3 years (2019 to 2022)
Both our mutual insurance companies, AEGIS and EIM, required wildfire surcharges. AEGIS began wildfire surcharges with our 2021 policy, and EIM began surcharges with our 2022 policy. Also, our excess liability insurers from Bermuda have incorporated policy language that will trigger surcharges if they make reserves for a fire loss.

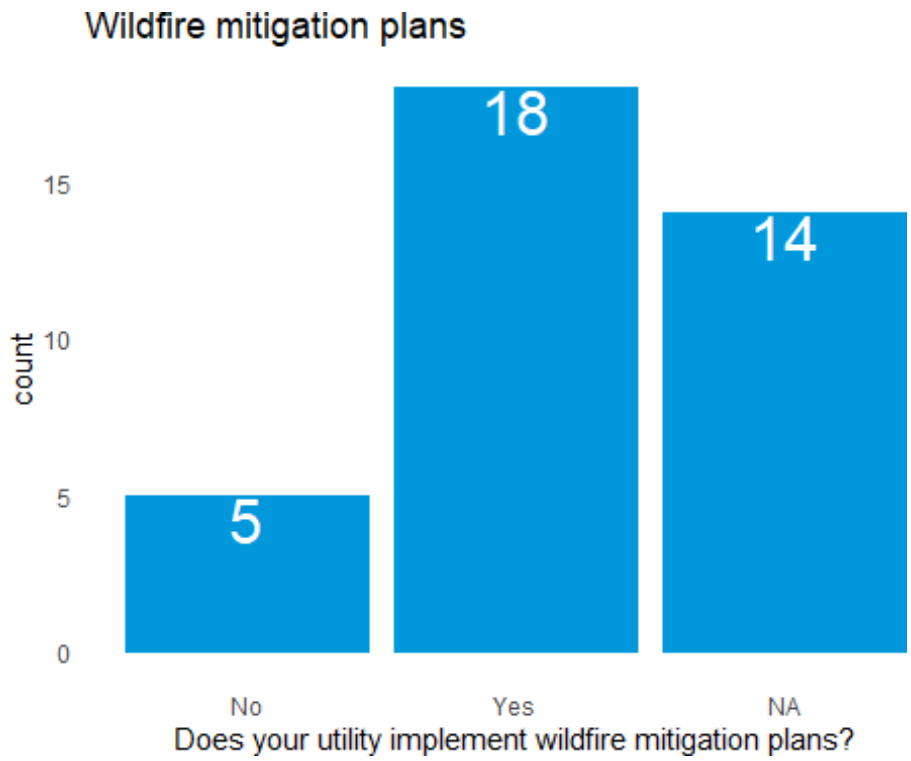
Question 16: Did your electrical utility company receive an additional premium charge for pending wildfire claims or the likelihood that a claim would be filed because of a wildfire event?



What percentage premium increase resulted from the additional premium charge?

Premium increase from additional premium charge
AEGIS - 2021 - 46%
AEGIS -2022 - 44%
EIM 2022 - 25%
In addition, our excess insurance companies have incorporated policy language requiring multi-million dollar additional premium payments if the insurance company initiates a reserve due to a wildfire event.

Question 17: As it applies to the liability insurance market, does your electric utility company implement wildfire mitigation plans?



Please explain the wildfire mitigation plans.

Wildfire mitigation plans
We have a mitigation plan.
Vegetation management
Insurance company has issued notice that it will require the utility to create and implement a wildfire mitigation plan
Right of way clearing, "protection through non-reclose"
The liability coverage through Federated Rural Electric was contingent on a wildfire mitigation plan that the District has in place currently.
our utility began developing a wildfire mitigation plan in 2018 and has greatly improved our vegetation management program, introduced a public safety power shutoff program as well as other wildfire mitigations.
Plan is part of annual safety review
Our insurance carrier required us to develop a wildfire mitigation plan
We hired a consultant to help us establish a wildfire mitigation plan
The PUD with potential exposure works with the insurer on risk mitigation.

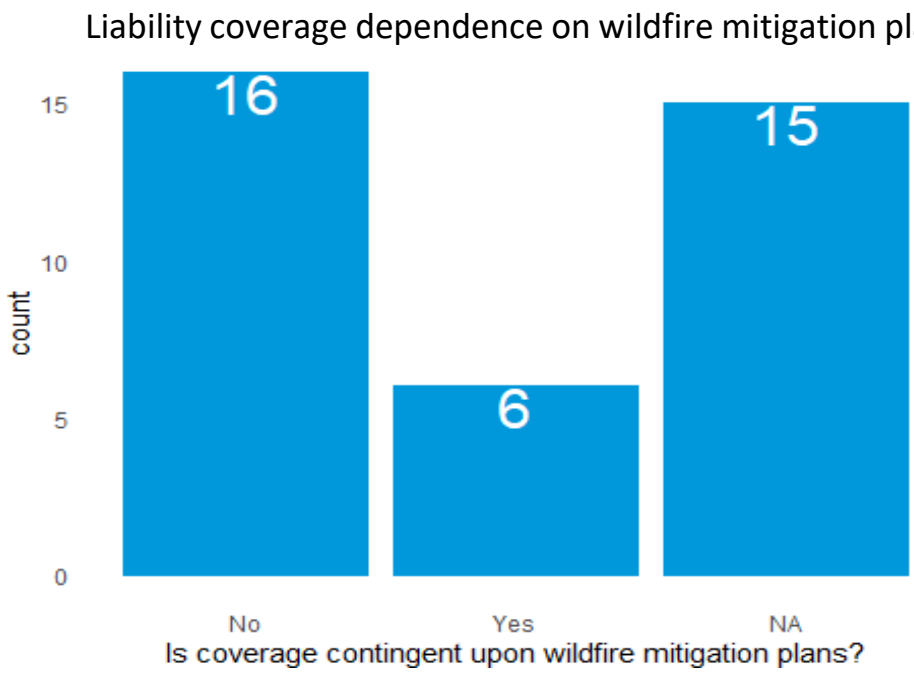
The PUD with potential exposure works with the insurer on risk control and best practices for WF mitigation.
The PUD with potential exposure works with the insurer on risk control and best practices for WF mitigation.
Plan outlines operational practices and policies utilized to help prevent, prepare for and respond to wildfire events. The plan demonstrates our commitment to safety and illustrates our operational practices and risk mitigation activities for underwriters.
The PUD with potential exposure works with the insurer on risk control and best practices for wild fire mitigation.
We implemented a 10 year, $330 million wildfire mitigation plan in the Spring of 2020. The plan focuses on grid hardening, vegetation management, situational awareness and operations and emergency response.

Please explain the challenges of implementing a wildfire mitigation plan.

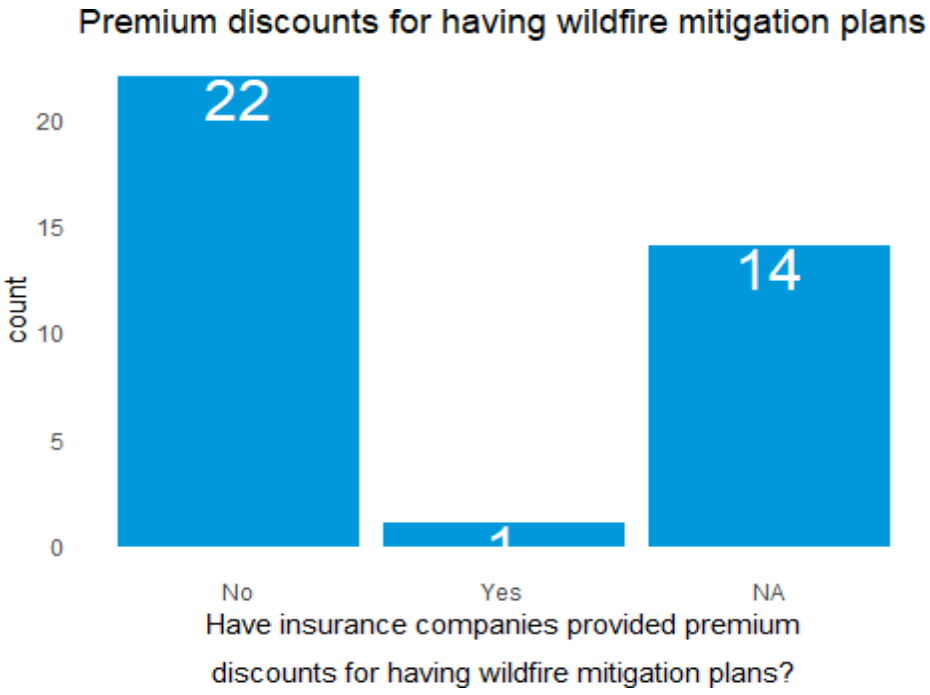
Wildfire mitigation plan implementation challenges
Costs
Cost, land owners cooperation
Biggest challenge is miles of powerlines located in densely forested areas–high exposure to possibility of wildfires.
Dynamics of “red flag” areas from USFS Wildland Fire Assessment System
1. Identifying mitigations that are effective for our individual circumstances. 2. Educating the public on the necessity of public safety power shutoffs. 3. Resources to implement costly mitigations.
High standards for system construction and inspection along with vegetation management have alway been part of the Utility core values. Expanding to wildfire mitigation plan requires additional staff time and resources which is a strain on a small rural utility.
Because the state does not have wildfire mitigation standards, each utility is on their own and plans can be scrutinized by creative attorneys. It becomes not only if you followed the plan but was it good enough.
Finding a consultant who understands our territory and specific needs, overall cost of plan, including implementation
Cost. Resources.
Many of the mitigation strategies were already in place, just not formalized. This plan has brought more visibility and has helped to identify areas needing improvement.

For example, as seen beginning in 2020 it was difficult to tackle the Company's Wildfire Plan's aggressive risk tree inspection schedule due to the limited number of contractor resources in this area. Grid hardening and vegetation management work can also be delayed by weather. The COVID pandemic also initially delayed our plans to conduct training both internally and externally for elements of the program as we were not able to meet face to face with these intended training recipients. These challenges have, in part, caused an increase in these expenditures in the current year, increases which are expected to remain over the
next number of years.

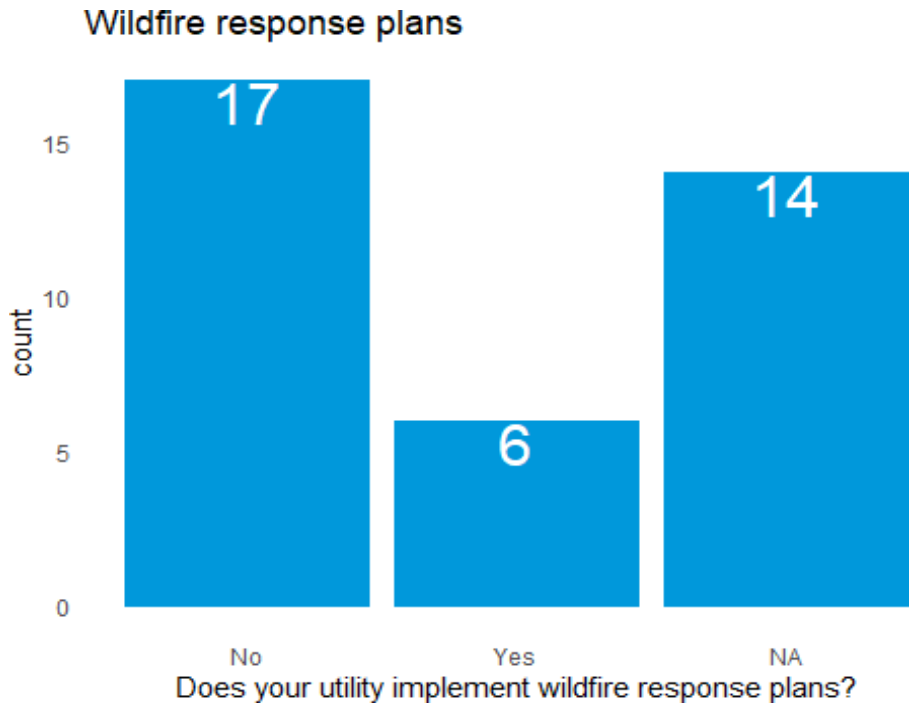
Question 18: Has your liability insurance company made their coverage contingent upon wildfire mitigation plans?



Question 19: Have any of your liability insurance companies provided premium discounts for having wildfire mitigation plans?



Question 20: As it applies to the liability insurance market, does your electric utility company implement wildfire response plans?



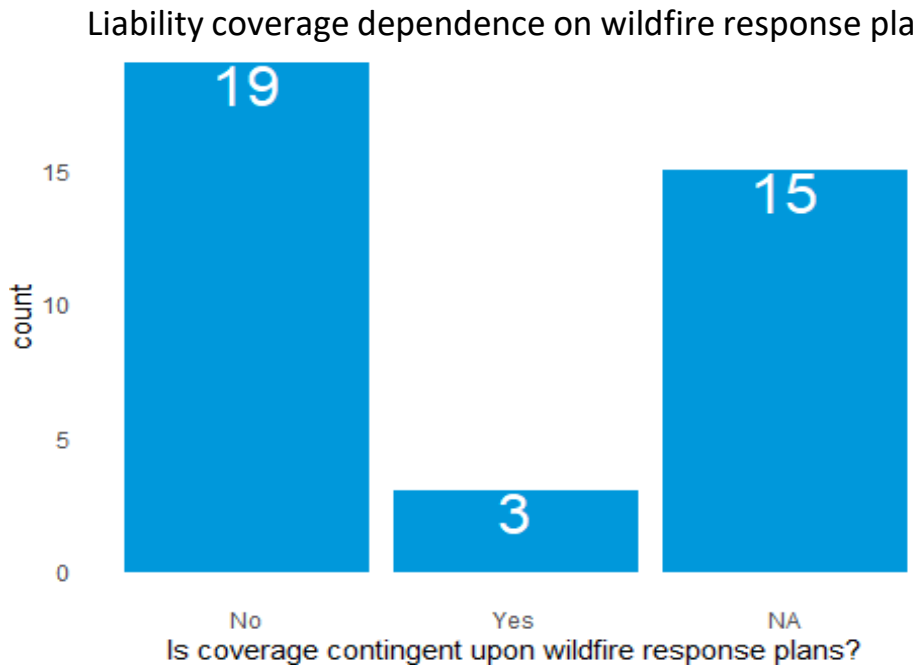
Please explain the wildfire response plans.

Wildfire response plans
Special protection scheme during high risk times
As part of out wildfire mitigation plan, their is a response component.
duplicate question - see previous answer
We implemented a 10 year, $330 million wildfire mitigation plan in the Spring of 2020. The plan focuses on grid hardening, vegetation management, situational awareness and operations and emergency response.

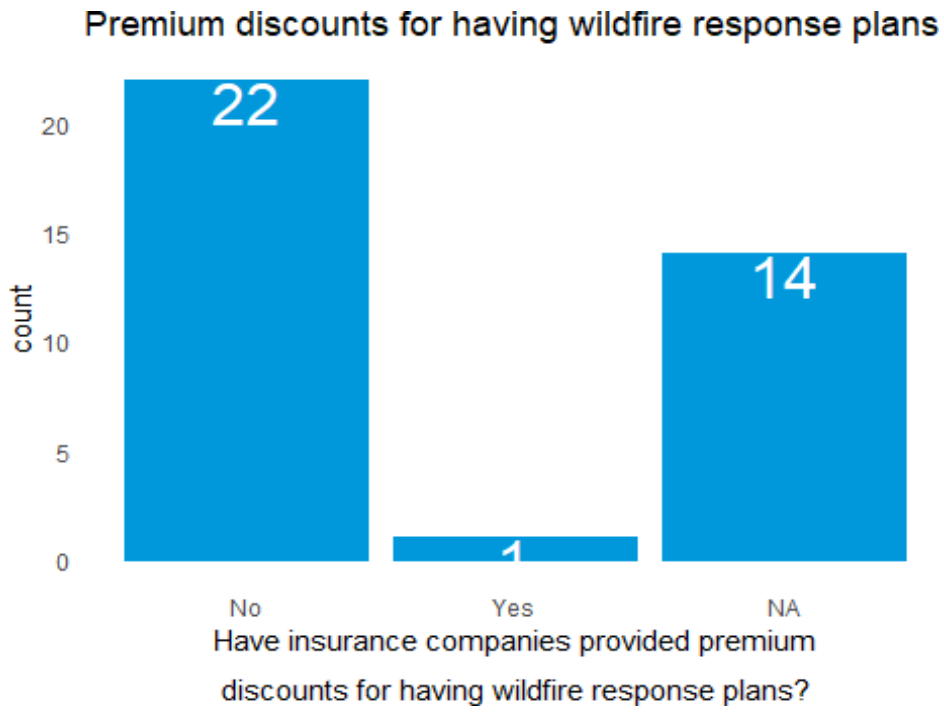
Please explain the challenges of implementing a wildfire response plan.

Wildfire response plan implementation challenges
Clear understanding of high risk times.
Again, we need the state to develop standards so we have something to measure our response to.
duplicate questions - see previous answer

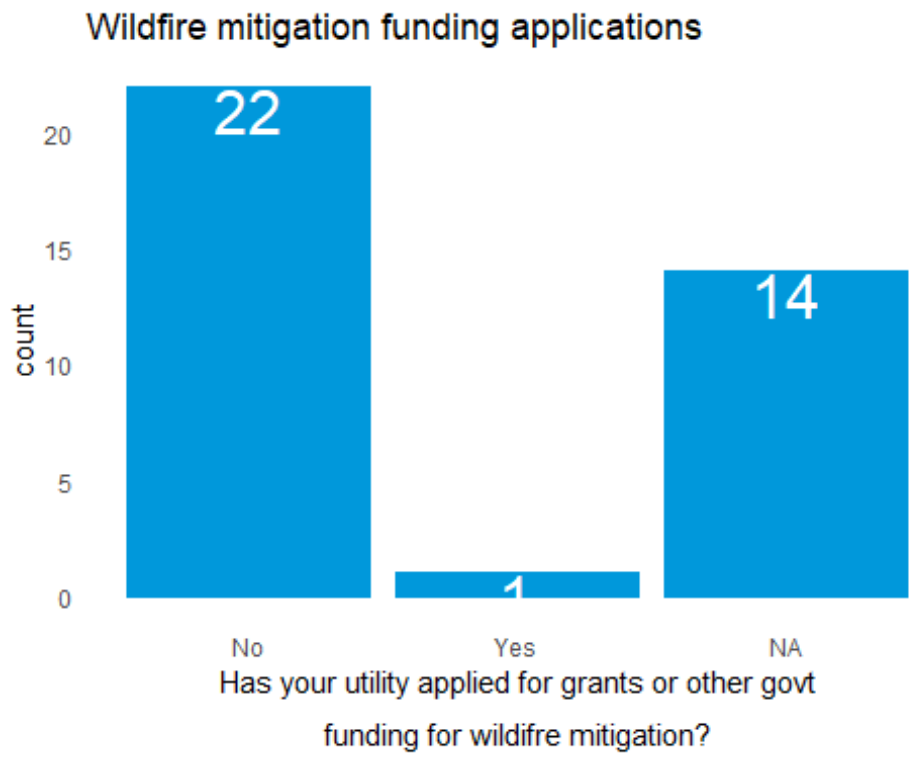
Question 21: Has your liability insurance company made their coverage contingent upon wildfire response plans?



Question 22: Have any of your liability insurance companies provided premium discounts for having wildfire response plans?

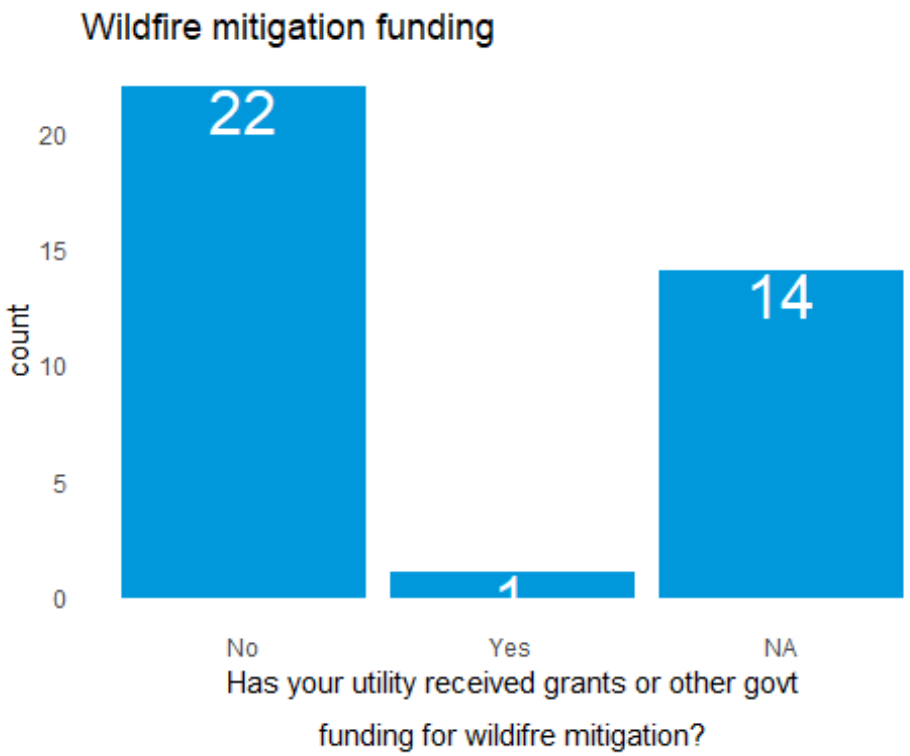


Question 23: Has your utility company applied for grants or any other government funding for wildfire mitigation?



Funding source
Federal
Through FEMA we have recovered costs associated to wildfire responses to specific incidents. We also are assisting a local conservation district in applying for grants to reduce fuels.

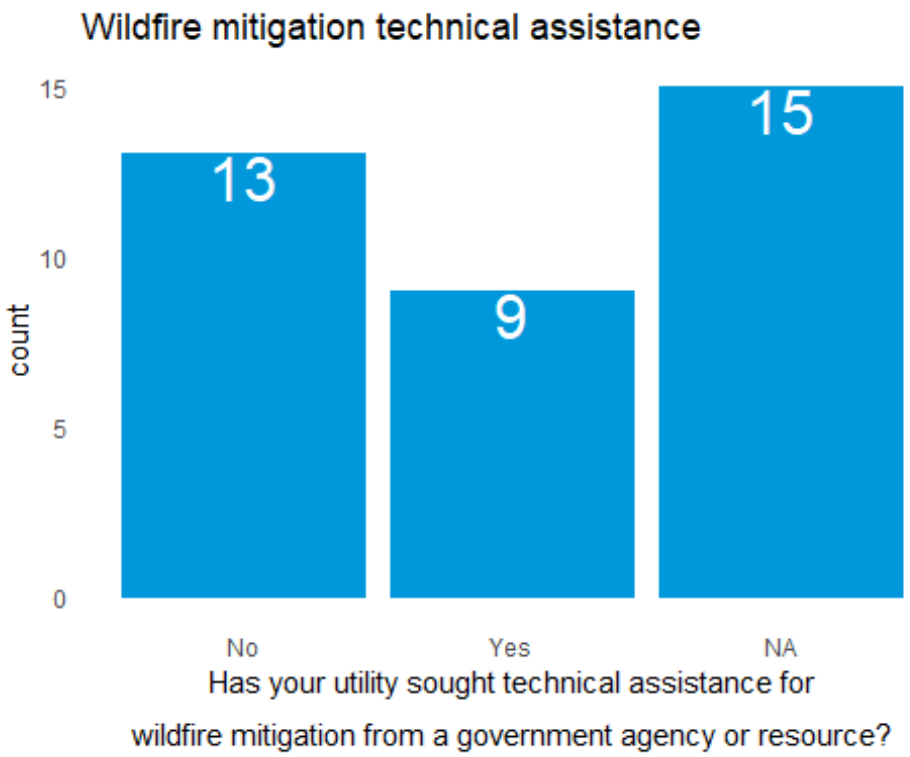
Question 24: Has your utility company received grants or any other government funding for wildfire mitigation?



Question 25: Please explain any challenges, if any, your electric utility company has experienced when trying to obtain government funding for wildfire mitigation efforts.

Challenges when obtaining government funding
Not explored
Ease of the application process
our utility has not attempted to obtain funding for wildfire efforts
The federal grant process is very cumbersome and we have to decide on a case by case basis if the cost to apply exceeds the benefit.
Not available yet from new infrastructure bill.
We weren't aware such funding was available

Question 26: Has your utility company sought technical assistance for wildfire mitigation from a government agency or resource?

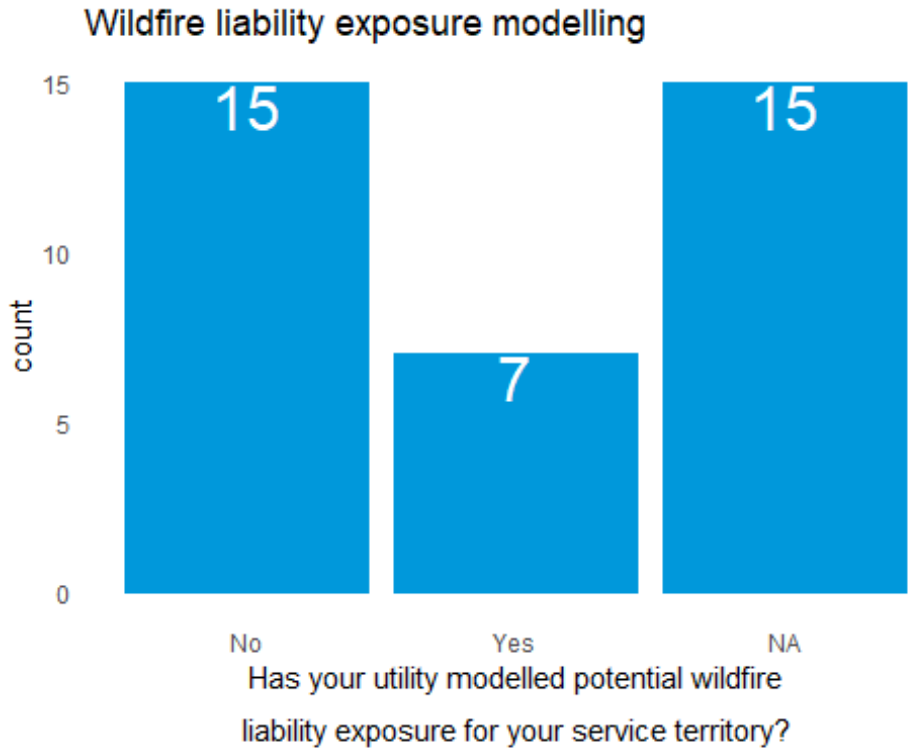


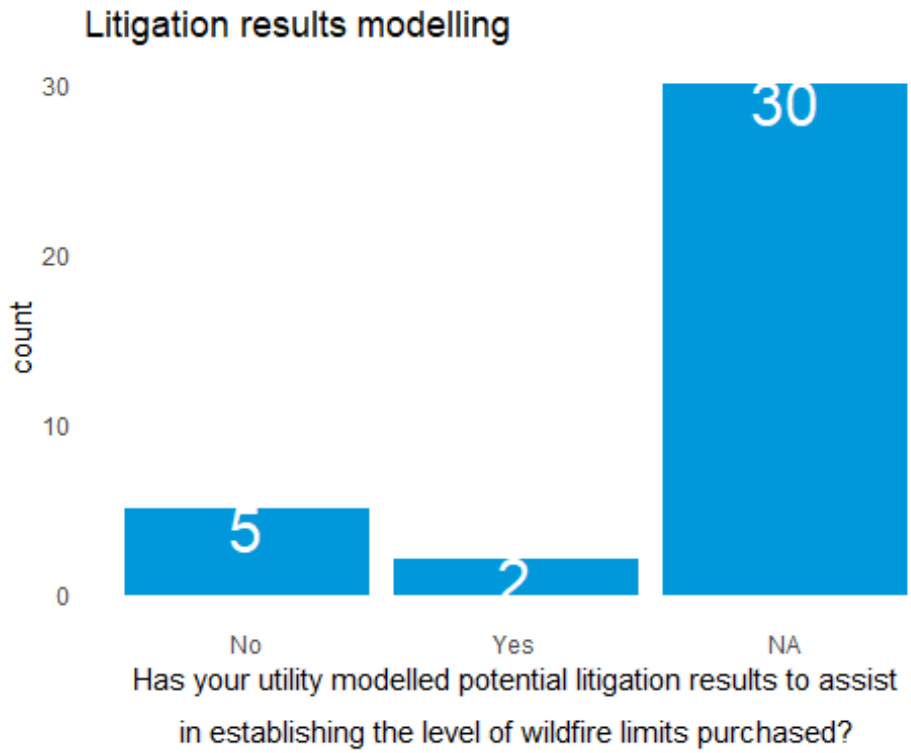
Technical assistance source
Local
State
Federal
State
Other: We are working with our liability insurer.
Other: Working with our liability insurer.
Other: Working with our liability insurer.
Other: Working with our liability insurer.
Other: In 2020 contracted with third party recommended by our liability carrier to help create and implement a wildfire mitigation plan.
Other: Working with our liability insurer.

Question 27: Please explain any challenges, if any, your electric utility company has experienced when trying to obtain technical assistance for wildfire mitigation from a government agency or resource.

Challenges obtaining technical assistance
not aware of resources

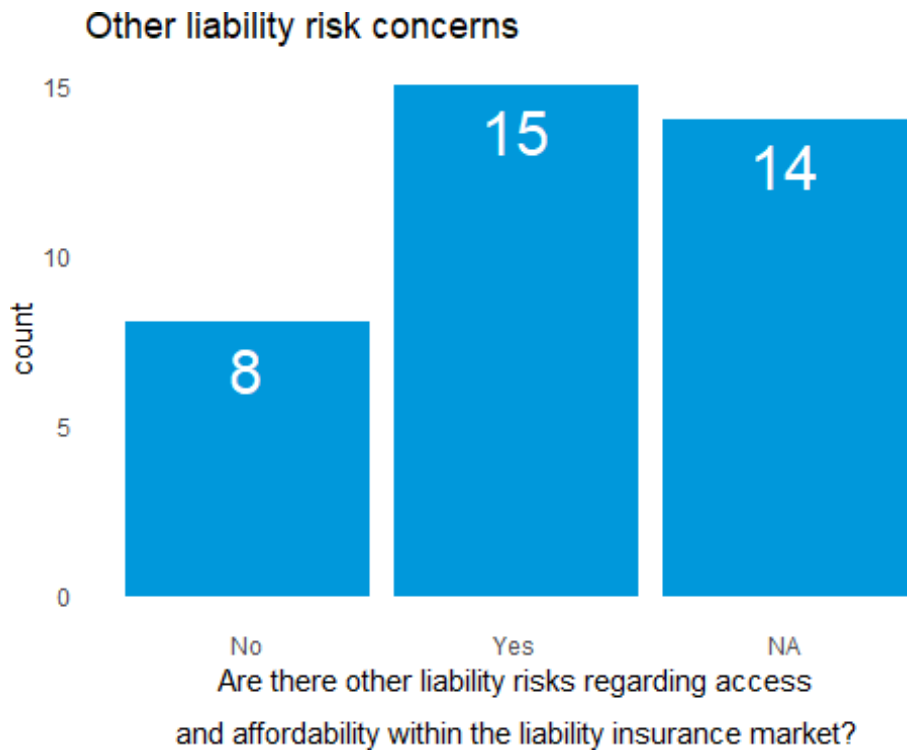
Question 28: Has your utility modelled potential wildfire liability exposure for your service territory?





Other risk

Question 29: Does your electric utility have any other liability risks that you are concerned with access and affordability within the liability insurance market?



Risks and reasons you are concerned with access and affordability within the liability insurance market.

Risk	Reason
Cyber	NR
Cybersecurity	Coverage is difficult to obtain and costly
cyber	increasing
fire mitigation expense	currently unavailable
cyber insurance	increased costs
Cyber Attacks	Usually with increased claims/damages industry wide, it means reduced access and affordability to coverage.
Cybersecurity	fewer insurers are willing to insure municipalities, lower limits, higher costs
Cyber	Costly coverage, sublimits
Cyber	Costly, sublimits to coverage for required risk controls as a driver for cost and coverage.

Cyber	Substantial cost increases
Cyber	Costly, sublimits to coverage for required risk controls as a driver for cost and coverage.
Cyber	limited coverage and limits, high premium
Cyber	Costly, sublimits to coverage for required risks as a driver for cost and coverage.
CyberLiability	Tighter Requirements and cost increases
Cyber	Significant hardening of the cyber market in the last couple of years due to increasing frequency and severity of loss trends across industries.