



August 4, 2022

The Honorable Henry Stern  
1021 O Street, Suite 7710  
Sacramento, CA 95814

The Honorable Ben Hueso  
1021 O Street, Suite 7340  
Sacramento, CA 95814

**Re: SB 396 (Bradford) Forestry: electrical transmission or distribution lines: clearances: notice and opportunity to be heard. - OPPOSE**

Dear Chairs Stern and Hueso:

The undersigned organizations oppose SB 396 (Bradford), which would negatively impact California's forest ecosystems and communities by making large allowances for Investor Owned Utilities (IOUs) to fell, cut and trim trees on private lands without sufficient safeguards to protect landowners and the environment.

Existing law allows electrical corporations to traverse private property to *prune* trees to maintain clearances consistent with the Public Resources Code. This bill would expand this authority to allow electrical corporations to "fell, cut, or trim" trees to maintain these clearances. This is a significant expansion of authority, and this bill does not include sufficient environmental and landowner protections to limit damage associated with this new authority. Without significant protections, utilities are incentivized to protect their own interests and minimize costs at the expense of the public and the environment.

SB 396 includes intent language that only appears to protect landowners. The bill states that it is the intent of the legislature that this bill does not exempt IOUs from liability for property damage or personal injury and that trees that are felled, cut, or trimmed by IOUs should be removed from property at no cost to the landowner. However, intent language does not guarantee these important protections and the legislature should not pass a bill that does not provide these protections in statute.

Similarly, SB 396 includes noticing and hearing requirements that also do not go far enough to meaningfully protect landowners. The bill does not specify how IOUs must notify landowners that they will be removing trees on their property. The bill requires IOUs to give landowners an opportunity to be heard, but leaves this “hearing” process up to the utility. Utilities will likely provide an opportunity to be heard that is favorable to their interests at the expense of the landowner and the environment. Worse, the bill limits the California Public Utilities Commission’s influence over the notification and hearing process to door hanger design.

SB 396 also requires IOUs to remove or treat trees in a manner that is “cost effective” unless material is not “safely accessible.” This provision would allow utilities to choose how they would like to treat wood regardless of what is best for the landowner, the environment or wildfire safety. Further, if a tree is not safely accessible for a utility contractor, it will certainly not be accessibly for a landowner. This provision would allow for a large amount of flammable material to remain in high fire severity zones without any “safe” means of removing or treating it.

These issues are not only about protecting private property, but also trees and forest ecosystems themselves. If a large tree could be pruned but it is cheaper for the utility to cut it down entirely, this bill does not provide the landowner with a meaningful opportunity to save the tree. When this same scenario is repeated across California, a great deal of trees and habitat will be lost in contradiction to the state’s carbon sequestration and 30x30 goals.

Amendments to SB 396 do clarify that utilities must comply with the California Coastal Act and the forest practice rules. While this is a step in the right direction, Pacific Gas and Electric (PG&E) has stated publicly that it does not believe that the forest practice rules apply to its vegetation removal operations. If PG&E continues to hold this view, anything its contractors do would “comply” with the forest practice rules that PG&E does not believe apply.

In sum, SB 396 gives electrical corporations and their contractors unprecedented authority to ignore environmental considerations, the rights of private landowners and homeowners, and the public interest, to minimize the electrical corporation’s costs of operation, even when doing so increases the fire risk for landowners and communities. For these reasons, we must oppose SB 396.

Sincerely,

Daniel Barad  
Senior Policy Advocate  
Sierra Club California

Brian Nowicki  
California Climate Policy Director  
Center for Biological Diversity

Ralph Dennis  
Clean Energy Team Lead and Legislative Analyst  
350 Bay Area Action

Michael Wellborn  
President  
Friends of Harbors, Beaches and Parks

Howard Penn  
Executive Director  
Planning & Conservation League

CC: Members and Staff of the Senate Committee on Natural Resources and Water  
Members and Staff of the Senate Committee on Energy, Utilities and Communications