

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 1100 (Aguiar-Curry) – As Introduced February 18, 2021

**SUBJECT:** Communications service: emergencies and disasters: reports

**SUMMARY:** Requires the California Public Utilities Commission (CPUC) to collect specified information related to the damage, repair, restoration, and backup generation of telecommunications infrastructure as a result of a fire or other disaster. Specifically, **this bill:**

- 1) After a fire or disaster-related state of emergency, declared by the Governor or a local government, requires the CPUC to collect from telecommunications services providers (providers): the extent and type of damage caused by the fire or disaster; types of infrastructure used to restore service or to repair or replace damaged infrastructure; backup electric supply used to maintain services during repair or replacement; and the obstacles encountered in repairing or replacing the infrastructure;
- 2) The information must be categorized by fire or disaster, submitted to the Legislature, posted on the CPUC's website, and a summary presented by the President during the CPUC's annual report to the Legislature; and,
- 3) Modifies confidentially authorizing the CPUC to require a provider to request any other relevant information and make the information public unless the CPUC determines disclosure would present specified threats to security or safety.

**EXISTING LAW:**

- 1) Defines "telecommunications service" to mean voice communication provided by a telephone corporation as specified, voice communication provided by a provider of wireline, wireless, satellite, Voice over Internet Protocol (VoIP) or any successor protocol, as specified. (Public Utilities Code § 2892.1)
- 2) Prohibits information furnished to the CPUC by a utility or business, except those matters specifically required to be open to public inspection, as specified, from being open to public inspection or made public except on order of the CPUC. Any present or former officer or employee of the CPUC who divulges any such information is guilty of a misdemeanor. (Public Utilities Code § 583)
- 3) Specifies that whenever the CPUC, after a hearing, finds that additions, extensions, repairs, or improvements to, or changes in, the existing plant, equipment, apparatus, facilities, or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that new structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the CPUC shall make and serve an order directing that such additions, extensions, repairs, improvements, or changes be made or such structures be erected in the manner and within the time specified in the order. (Public Utilities Code § 762)

- 4) Requires wireless providers to establish notification and communication protocols with electric utilities to be prepared to communicate relevant situational information relative to communications capabilities during public power safety shutoffs. (Public Utilities Code § 776.5)
- 5) Requires all providers of access to 9-1-1 service to notify the Office of Emergency Services (OES) whenever a community isolation outage occurs that limits their customers' ability to make 9-1-1 calls or receive emergency notifications and requires those providers to provide the estimated time to repair the outage and when achieved, restoration of service. (Government Code § 53122)
- 6) Requires the CPUC to identify the need and best practices for backup electricity systems in telecommunication service networks and whether public safety services can be reached via telephone during electrical outages. (Public Utilities Code § 2892.1)

**FISCAL EFFECT:** Unknown. This bill has been keyed fiscal by the Legislative Counsel

**BACKGROUND:**

*Communications Resiliency Plans* – The CPUC has ordered providers to file communications resiliency plans with the CPUC that detail the ability to maintain a minimum level of service and coverage during a disaster or power outage. The plans will detail the use of an array of strategies, including backup power, redundancy, network hardening, temporary facilities, preparedness planning, and communication and coordination with other utilities, emergency responders, and the public.

The providers are required to maintain a minimum level of service and coverage including 9-1-1 service, 2-1-1 service, the ability to receive emergency alerts and warnings, and to access evacuation and de-energization websites.

A minimum of 72-hours backup power is required for facilities-based wireless and wireline providers to ensure that a minimum level of service and coverage is maintained during disasters or power outages in Tier 2 and Tier 3 high fire threat areas.

*Emergency Preparedness* – Providers are also required to submit annual emergency operations plans which detail their protocols for responding to a disaster, to the CPUC, OES, and local emergency response agencies. It also requires wireless providers to provide emergency points of contact, verification of annual emergency preparedness exercises, plans for communicating with the public during disasters and outages impacting networks, as well as public posting of outage maps on websites.

**COMMENTS:**

- 1) Author's Statement. The wildfires of 2017 and 2018 caused massive devastation, from private property loss to telecommunications network damage. Many people reported their mobile phones went dark, and Internet service went out, as cell towers were damaged and underground fiber lines burned. In 2017 an online survey found that 64 percent of respondents in Sonoma County's wildfire affected areas lost landline phone service. Just last year in 2020, the Glass Fire reportedly damaged telecommunications infrastructure, causing disruptions in phone service in the affected area.

Without information regarding the methods and technology used to rebuild, there is no way to ensure that residents have the same or improved access to a reliable network. For most Californians, reliable voice telephone service is necessary to reach 911. Without it, the ability to contact emergency services is limited or nonexistent. AB 1100 is needed to ensure that state regulators and public officials are informed of telecommunications service failures and network damage after a natural disaster

- 2) Resiliency. As noted in the background, the CPUC has taken several actions to enforce resiliency on wireline and wireless providers in the event of fires and other disasters. In contrast to those actions, this bill addresses issues after the disaster occurs and requires the providers to report specified information regarding affected infrastructure impacts, restoration, replacement, and back-up generation.

The use and import of the information is not clear. The sponsor states that the CPUC will be required “to produce a report that considers long-term, permanent rebuilding efforts and challenges for permitting.” That mandate is not apparent in the provisions of this bill which delineates information to be provided, collected and reported more like an inventory. Moreover, if the CPUC were directed to do such a report, it is not clear that they have the personnel or engineering experience to do so.

- 3) Telecommunications Outages. In many cases, providers attempt to restore service from outages caused by disasters as quickly as possible. But there are many factors that can inhibit their ability to restore service, including safety concerns, resource availability, geography, and requirements to prioritize services for emergency management purposes. Some disasters can cause damage to the degree that facilities need to be completely replaced. The Federal Communications Commission (FCC) requires all providers to report information through the federal Network Outages Reporting System, about significant disruptions or outages to their communications systems that meet certain thresholds. The CPUC largely adheres to the FCC outage notification and reporting requirements, however, information about these outages are not as comprehensive or readily available to the public.

Starting in 2019 providers that provides access to “9-1-1” to notify OES whenever a community isolation outage occurs that limits their customers’ ability to make 9-1-1 calls or receive emergency notifications and requires those providers to provide the estimated time to repair the outage and when achieved, restoration of service.

- 4) Confidentiality of Records. Records submitted to the CPUC are not subject to the California Public Records Act. A separate and controversial provision of the Public Utilities Code governs the release of information to the public filed with the CPUC by the industries it regulates. The law establishes a presumption against public disclosure of any information submitted to the CPUC by an entity unless the CPUC orders the information to be made public. The original intent for the confidentiality was that commercial information is proprietary. Additionally, in recent years, there is growing concern the disclosure of utility and telecommunications infrastructure details could leave the system vulnerable to security threats.

From 2014 to 2020 the CPUC had an open proceeding to review confidentiality practices and issued several decisions in an attempt to increase “public access to records furnished to the Commission by the regulated entities, while ensuring that information truly deserving of

confidential status retains that protection enhance transparency and access to public records.”<sup>1</sup> In 2020 a decision was issued specifically on critical infrastructure which they stated establishes:

...a baseline showing that an information submitter must make in order to enable consideration of confidential treatment of critical infrastructure information. This new approach will ensure that confidentiality claims regarding critical infrastructure information are adjudicated more consistently by the CPUC and reduce the time-consuming, difficult discretionary decisions as to the appropriateness of a critical infrastructure information privilege claim.<sup>2</sup>

This bill significantly modifies that decision. No information has been provided to the committee as to why the CPUC’s action does not strike the right balance between safety, competition, and transparency.

- 5) Double-referral. This bill will be referred to the Assembly Committee on Emergency Management should it pass out of this committee.
- 6) Prior Legislation. This issue has been addressed in two prior bills:
  - AB 183 (Wood, 2019) was held in the Assembly Appropriations Committee; and
  - AB 2910 (Wood, 2020) was held in the Senate Energy, Utilities and Communications Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Communications Workers of America, District 9  
The Utility Reform Network (TURN)

### **Opposition**

California Cable & Telecommunications Association (CCTA)

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<sup>1</sup> See *Phase 2B Decision Adopting Baseline Showings Necessary to Qualify for Consideration of Confidential Treatment*, D.20-08-031, CPUC, August 27, 2020.

<sup>2</sup> *Id.*