

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 183 (Wood) – As Introduced January 10, 2019

SUBJECT: Telecommunications service: natural disasters: reports

SUMMARY: Requires the California Public Utilities Commission (CPUC) to collect and report to the Legislature information on the efforts by telecommunications service providers to restore telecommunication services caused by an emergency or a natural disaster declared by the Governor. Specifically, **this bill:**

- 1) Requires the CPUC to collect all of the following information from telecommunications service providers relating to the provider's efforts and resources used to restore telecommunications service outages caused by, and to repair or replace related network infrastructure or facilities that were damaged as a result of, an emergency or a natural disaster declared by the Governor to be an emergency:
 - a) The extent of any damage to telecommunications network infrastructure or facilities caused by the emergency or natural disaster, including the type of facility and infrastructure damaged;
 - b) The number of people in California who experienced a telecommunications service outage caused by the emergency or natural disaster;
 - c) The duration of each telecommunications service outage caused by the emergency or natural disaster;
 - d) Any specific data on 911 emergency system outages caused by the emergency or natural disaster; and,
 - e) The types of infrastructure or facilities used to restore telecommunications service outages caused by, or to repair or replace related network infrastructure or facilities damaged by, the emergency or natural disaster.
- 2) Exempts voice communication provided by a provider of satellite telephone services from the definition of a "telecommunications service," for purposes of this bill.
- 3) Requires the CPUC to collect the specified information at a time it determines to be prudent to avoid interfering with recovery efforts that may be occurring before the containment of the emergency or natural disaster.
- 4) Requires the CPUC to annually prepare a report that summarizes the specified information collected and service providers' plans for fully restoring any telecommunication service outages caused by, or repairing or replacing any related network infrastructure or facilities as necessitated by, the emergency or natural disaster, including specifically identifying areas where wireless facilities would replace wireline facilities. Specifies that the report shall be broken down by each emergency or natural disaster and, shall be submitted to the appropriate

policy committees of the Legislature and posted in a conspicuous area of the CPUC's internet website, as specified.

- 5) Requires the president of the CPUC to annually present to the appropriate policy committees of the Legislature a summary of the specified information collected. Specifies that the summary may be presented at the same time that the president presents the annual report, as specified.
- 6) Authorizes the CPUC, for purposes of this bill, to require a telecommunications service provider to collect and forward to the CPUC any relevant information and, pursuant to existing authority, and may make this information public, except specified information generated or obtained that the CPUC deems would pose a security threat to the public if disclosed.

EXISTING LAW:

- 1) Authorizes the CPUC to supervise and regulate every public utility in the State and may do all things necessary and convenient in the exercise of such power and jurisdiction. (Public Utilities Code (PUC) Section 701)
- 2) Defines a "public utility" to include every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof. (PUC Section 216)
- 3) Requires the CPUC to develop, publish, and annually update a report that contains specified information. The CPUC shall submit the specified report to the Governor and the Legislature, no later than February 1 of each year. (PUC Section 910)
- 4) Requires every public utility to furnish to the CPUC in such form and detail as the CPUC prescribes all tabulations, computations, and all other information required by it to carry into effect any of the provisions, and shall make specific answers to all questions submitted by the CPUC, as specified. (PUC Section 581)
- 5) Requires every public utility, whenever required by the CPUC, to deliver to the CPUC copies of any or all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers, and records in its possession or in any way relating to its property or affecting its business, and also a complete inventory of all its property in such form as the CPUC may direct. (PUC Section 582)
- 6) Prohibits information furnished to the CPUC by a public utility, or any business which is a subsidiary or affiliate of a public utility, or a corporation which holds a controlling interest in a public utility, 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, or by the CPUC or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges any such information is guilty of a misdemeanor. (PUC Section 583)

- 7) Requires every public utility to furnish specified reports to the CPUC at such time and in such form as the CPUC may require in which the utility shall specifically answer all questions propounded by the CPUC. The CPUC may require any public utility to file monthly reports of earnings and expenses, and to file periodical or special reports, or both, concerning any matter about which the CPUC is authorized by any law to inquire or to keep itself informed, or which it is required to enforce. All reports shall be under oath when required by the CPUC. (PUC Section 584)
- 8) Specifies that the Governor is empowered to proclaim a state of emergency in an area affected or likely to be affected thereby when:
 - a) He finds that specified circumstances exist;
 - b) He is requested to do so in the case of a city by the mayor or chief executive, in the case of a county by the chairman of the board of supervisors or the county administrative officer; or,
 - c) He finds that local authority is inadequate to cope with the emergency. (Government Code (GOV) Section 8625)
- 9) Defines a “State of emergency” to mean the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a “state of war emergency,” which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the CPUC. (GOV Section 8558 (b))
- 10) Specifies that a local emergency may be proclaimed only by the governing body of a city, county, or city and county, or by an official designated by ordinance adopted by that governing body. (GOV Section 8630)
- 11) Defines a “Local emergency” to mean the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the CPUC. (GOV Section 8558 (c))

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

COMMENTS:

- 1) **Authors Statement:** According to the author, “In the aftermath of the devastating fires that ravaged through California in 2017 and 2018, the state and the CPUC have focused heavily on the utilities response to the massive destruction. However, little is known about the impact these natural disasters had on telecommunications networks and how telecommunications companies have responded [...] Without this information, there is no way to ensure that residents have the same or improved access to a reliable network [...] AB 183 would require the CPUC to report to the legislature, the impact of a natural disaster on the state’s telecommunication network and the response of telecommunication companies. This reporting trigger is narrowed to apply only after a natural disaster is officially declared a “state of emergency” or “local emergency.”
- 2) **Background:** The CPUC has certain regulatory authority over public utilities, which includes common carriers, telephone corporations, and telegraph corporations. Current law requires every public utility, at the request of the CPUC, to furnish any report or information in the course of its duties. Telecommunications has dramatically evolved over the past decade. Today, customers can receive services through a number of avenues, including landlines, wireless, cable, VoIP and broadband. With this evolution comes uncertainty over the CPUC regulatory authority over such services. The CPUC has authority to impose regulations and requirements on landline, and has some limited authority over wireless services, however, there are prohibitions on the CPUCs ability to regulate cable and broadband/VoIP services.
- 3) **Emergency Declarations:** Governors are tasked with ensuring that their state is adequately prepared for emergencies and disasters. While most day to day emergency situations such as fires, power outages, hazardous material spills, are handled at the local level, some raise to the level of requiring a response beyond the capacity of local governments or even the state. Current law empowers the Governor to proclaim a state of emergency in an area affected by certain circumstances such as fires, floods, earthquakes, epidemics, riots, and drought. Governors may also declare a state of emergency if they are requested to do so by local executives such as a mayor or the chair of the county board of supervisors, or if they find that the local authority is inadequate to cope with the emergency. Local governments can declare local emergencies if a disaster or emergency affects the territorial limits of its jurisdiction, but may not rise to the state level.
- 4) **California Wildfires:** California’s fire season normally peaks in October, but due to the combination of strong winds, low humidity, and climate change, 2017 and 2018 saw a series of wildfires that broke previous wildfire records across the State. In December 2017, the Thomas Fire became the largest wildfire in California history. But by July 2018, that record had been eclipsed by the Mendocino Complex Fires, which burned more than 459,000 acres across four counties. A month after the Mendocino Complex Fire, the Camp Fire broke out in the foothills of Butte County. By the time the Camp Fire was fully contained over 19,000 properties had been destroyed, 85 residents were killed with hundreds more homeless and unaccounted for, and the town of Paradise was completely destroyed.

Although California is no stranger to such disasters, the scale and frequency of these wildfires has made them the new normal in years to come. These wildfires have a dramatically impact on communities and pose a continuous threat to public health and safety.

In addition to destroying homes and business, such fires can also cause damage to utility infrastructures including telecommunications service facilities making it more difficult for these communities to rebuild and recover in its aftermath.

- 5) **Telecommunications Outages:** In many cases, telecommunications providers attempt to restore service from outages caused by natural disaster 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 natural disaster can cause damage to the degree in which facilities need to be completely replaced. The Federal Communications Commission (FCC) requires all telecommunications service 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.

This bill requires the CPUC to collect and report to the Legislature specific information related to a telecommunications service provider's efforts to restore service outages caused by an emergency or a natural disaster. The bill requires the CPUC to collect the specified information at a time it determines to be prudent to avoid interfering with recovery efforts that may be occurring before the containment of the emergency or natural disaster.

- 6) **Arguments in Support:** According to The Utility Reform Network, the sponsor of the bill, "Functional and reliable telecommunications services are essential for the public safety and welfare of our communities. In many natural disasters, communications networks are damaged, cutting off critical service to many customers. It is the will of the Legislature that telecommunications services are reliable, safe, adequate, and sufficient to 'promote the safety, health and comfort' of customers, employees and the public. In order to do so, the Legislature (and the CPUC) must fully understand the impact of natural disasters, including the extent and duration of telecommunications outages, the impacts on 911 access, and the plans for fully repairing or replacing damaged facilities."
- 7) **Arguments in Opposition:** According to a coalition of industry groups, "While there's understandable interest in restoration efforts after emergencies, unfortunately, we disagree that AB 183 will lead to any public safety benefits for California communities [...] The communications industry is fully engaged in working with the CPUC and the Legislature on many initiatives related to fires and natural disasters to ensure public safety (i.e. stricter priority levels, shorter time periods for repairs, and increased inspect intervals). Considerable resources have been devoted to implementing these CPUC's new infrastructure inspection requirements. The CPUC should report to the Legislature on the outcome of these and other initiatives already underway."
- 8) **Prior Legislation:** AB 2910 (Wood) of 2018 requires the CPUC to annually submit a report to the Legislature on telecommunications service providers' efforts to restore telecommunications service outages caused by a natural disaster for which the Governor declared either a state of emergency or a local emergency in that reporting year. *Status: Died in the Senate Committee on Energy, Utilities and Communications.*

REGISTERED SUPPORT / OPPOSITION:

Support

The Utility Reform Network (sponsor)
Communications Workers of America, 9th District
Media Alliance
Public Advocates Office

Oppose

AT&T
California Association of Competitive Telecommunications Companies
California Cable & Telecommunications Association
Consolidated Communications
CTIA - The Wireless Association
Frontier Communications Corporation
Verizon Communications

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