

Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 2910 (Wood) – As Amended April 2, 2018

SUBJECT: Public Utilities Commission: telecommunications service: natural disasters: reports

SUMMARY: Requires the California Public Utilities Commission (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. Specifically, **this bill:**

- 1) Requires the CPUC to annually submit a report to the Legislature on telecommunications service providers' efforts, and resources used, to restore telecommunications service outages caused by, and to repair or replace related network infrastructure or facilities that were damaged by, a natural disaster for which the Governor declared either a state of emergency or a local emergency, as specified, in that reporting year.
- 2) Requires the specified report to include all of the following:
 - a) The extent of any damage to telecommunications network infrastructure or facilities caused by a 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 a natural disaster;
 - c) The duration of each telecommunications service outage caused by a natural disaster;
 - d) Any specific data on 911 emergency system outages caused by a natural disaster;
 - 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, a natural disaster; and,
 - f) The long-term plans for fully restoring any telecommunications service outages or repairing or replacing any related network infrastructure or facilities necessitated by a natural disaster, including specifically identifying areas where wireless facilities would replace wireline facilities.
- 3) Requires the CPUC to provide the specified report as part of its specified annual report and by posting it in a conspicuous area of its Internet Web site.
- 4) Specifies that the CPUC may require a telecommunications service provider to collect and forward to the CPUC any relevant information, as specified.

EXISTING LAW:

- 1) Establishes the CPUC with regulatory authority over public utilities, including 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. (Public Utilities Code (PUC) Section 216)
- 2) 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)
- 3) 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)
- 4) 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)
- 5) Specifies that whenever a local emergency is proclaimed by an official designated by ordinance, the local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the governing body. (GOV Section 8630)
- 6) 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))
- 7) Defines “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 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, 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))

- 8) 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)
- 9) 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)
- 10) 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)
- 11) Prohibits the CPUC from exercising regulatory jurisdiction or control over Voice over Internet Protocol (VoIP) and Internet Protocol enabled services except as required or expressly delegated, as specified. (PUC Section 710)
- 12) 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)

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 late 2017, 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. We have been left in the dark when it comes to understanding the technology that may be used to rebuild infrastructure in the North Bay and whether companies have put temporary ”fixes” in place or, instead invested in permanent upgrades.

Without this information, 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 emergency services and stay in touch with family and employers. Without reliable service, the ability to contact emergency services is limited or nonexistent. AB 2910 would require the CPUC to report to the legislature, the impact of a natural disaster on the state's telecommunications network and the response of telecommunications 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, including every common carrier, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation. As such, current law requires every public utility, at the request of the CPUC, to furnish any report or information in the course of its duties. Current law also prohibits information furnished to the CPUC by a public utility from being made public except on order by the CPUC.

Telecommunications has dramatically evolved the past decade. From the days of telephone service only being offered through landlines; today, customers can receive service through a number of avenues, including wireless, cable, VoIP and broadband. With this evolution comes uncertainty over the CPUC regulatory authority over such service especially since telecommunications service providers now offer multiple services. The CPUC has authority to impose regulations and requirements on landline, and has some limited authority over wireless services, such as the citing of cell towers. However, cable service providers are regulated through state franchises pursuant to the Digital Infrastructure and Video Competition Act. Furthermore, current law prohibits the CPUC and any other state agency from regulating 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. A Governor may also declare a state of emergency if he or she is requested to do so by local executives such as a mayor or the chair of the county board of supervisors, or if he finds that 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. In 2017, Governor Brown declared a number of state of emergencies in response to severe winter storms and multiple wildfires, including those affecting Northern California in October 2017, and Southern California in December 2017.

- 4) **2017 Northern California Fires:** In early October 2017, the combination of strong winds, low humidity, and climate change created multiple large-scale wildfires throughout the State, including in Napa, Lake, Sonoma, Mendocino, Butte and Solano counties. The following include just some of the wildfire that broke out in October 2017:

- Atlas Fire – Napa County, 51,624 ac
 - Buffalo Fire – San Diego County, 1,088 ac
 - Cascade Fire – Yuba County, 10,000 ac
 - Detwiler Fire – Mariposa County, 81,826 ac
 - Helena Fire – Trinity County, 12,846 ac
 - Holcomb Fire – San Bernardino County, 1,500 ac
 - La Tuna Fire – Los Angeles County, 7,100 ac
 - Long Valley Fire – Lassen County, 83,733 ac
- Manzanita Fire – Riverside County, 6,300 ac
 - Nuns Fire – Sonoma and Napa County, 56,000 ac
 - Pocket Fire – Sonoma County, 17,357 ac
 - Railroad Fire – Madera County, 12,407 ac
 - Redwood Valley Fire – Mendocino County, 36,523 ac
 - Sulphur Fire – Lake County, 2,200 ac
 - Tubbs Fire – Sonoma County, 36,000 ac
 - Whittier Fire – Santa Barbara County, 18,430 ac

Governor Brown declared a state of emergency in Napa, Sonoma and Yuba counties on October 9, 2017. This was followed by Humboldt County declaring a local emergency on October 10, 2017, citing “immediate danger to critical public service resulting from widespread communication failure resulting from ongoing wildfire events in the State.” The 2017 wildfire season has been named one of the most devastating in the history of California. Over 250 wildfires erupted in October 2017, dramatically impacting a number of California regions and their residents at unprecedented levels. The fires resulted in 44 deaths, 8,900 structures destroyed, 245,000 acres burned, and damages that could exceed over \$3 billion.

- 5) **Telecommunications Outages:** Telecommunications outages could have an adverse impact on the public health and safety of a community. In areas, such as the North Coast of California, telecommunications outages can take longer to resolve due the difficulties in terrain and the economic cost of repairs. 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. According to the author, little is known about what impacts natural disasters have had on telecommunications networks and how companies have responded. The author argues that, communities have been left in the dark when it comes to understanding the technology that may be used to rebuild infrastructure and whether companies that have put temporary fixes in place will invest in permanent upgrades, and with what technology.

This bill requires the CPUC to annually submit a report to the Legislature on telecommunications service providers’ efforts, and resources used, to restore telecommunications service outages caused by, and to repair or replace related network infrastructure or facilities that were damaged by, a natural disaster for which the Governor declared either a state of emergency or a local emergency in that reporting year.

The author may wish to consider an amendment clarifying that the specified report should be separate and submitted to the appropriate policy committees of the Legislature.

Whereas wildfires would be considered a natural disaster, the Governor has powers to declare a state of emergency for situations that might not be considered a natural disaster, such as air pollution, epidemics, and riots. For example, in 2017 Governor Brown proclaimed a state of emergency to allow the state to increase its supply of hepatitis A vaccines to control an outbreak. In addition, not all natural disaster state of emergencies result in substantial damage or outages to telecommunications services, such as in 2014, when Governor Brown proclaimed a state of emergency due to the drought.

Under this bill, the CPUC would be required to submit a report to the Legislature regarding telecommunications outages on all natural disasters in which a state of emergency or local emergency was declared, regardless if it impacts telecommunications services. In such situations, it is unclear if producing such a report would be necessary or even productive given limited resources. Furthermore, this bill requires the specified report to be submitted for a natural disaster for which the Governor declared either a state of emergency or a local emergency. As mentioned previously, whereas the Governor may declare state of emergencies, local emergencies are declared by governing body of a city, county, or city and county, or by an official designated by ordinance adopted by that governing body.

- 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. 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 and adequate, sufficient to promote the safety, health and comfort of customers, employees and the public. In order to do so, the Legislature (and [CPUC]) must fully understand the impact of natural disasters on the extent and duration of telecommunications outages, the impacts on 911 access and the plans for fully repairing or replacing damaged facilities. It is appropriate for the CPUC to prepare the report because the CPUC is charged with ensuring service reliability and has the expert staff to collect the necessary data and prepare the report.”
- 7) **Arguments in Opposition:** According to a coalition of telecommunications service providers, “The bill is not needed to grant the CPUC authority to seek information it deems necessary to investigate outages, or even issues of network performance generally. The [CPUC] and its staff already have broad authority to require public utilities to answer questions, provide information, and submit reports on virtually any matter [...] Importantly, information related to network infrastructure and performance is highly confidential, or public safety security reasons [...] Moreover, the level of infrastructure details this bill would require providers to report would be highly burdensome and divert resources from actual restoration of service.”

8) **Suggested Amendment:**

910.8 (d) The commission shall provide this report ~~as part of its annual report published pursuant to Section 910~~ to the appropriate policy committees of the Legislature and by posting it the report in a conspicuous area of its Internet Web site.

REGISTERED SUPPORT / OPPOSITION:

Support

The Utility Reform Network (sponsor)
 Access Humboldt
 Communications Workers of America, District 9
 Consumer Federation of California
 Media Alliance
 Office of Ratepayer Advocates – CPUC
 One individual

Opposition

AT&T
California Cable & Telecommunications Association
CTIA
Frontier Communications
Sprint
T-Mobile
Verizon

Analysis Prepared by: Edmond Cheung / C. & C. / (916) 319-2637