
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

Senator Ben Hueso, Chair

2021 - 2022 Regular

Bill No:	AB 1100	Hearing Date:	6/28/2021
Author:	Aguiar-Curry		
Version:	2/18/2021 Introduced		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Smith		

SUBJECT: Communications service: emergencies and disasters: reports

DIGEST: This bill requires telecommunications service providers to report specified information to the California Public Utilities Commission (CPUC) regarding the impact of disasters on telecommunications infrastructure.

ANALYSIS:

Existing federal law:

- 1) Defines “Advanced telecommunications capability” as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology. (Title 47 United States Code §1302)
- 2) Prohibits a telecommunications provider from discontinuing, reducing, or impairing service to a community, or part of a community, unless the provider obtains a certificate from the Federal Communications Commission (FCC) demonstrating that neither the present nor future public convenience and necessity will be adversely affected. (Title 47 United States Code §214)

Existing state law:

- 1) Defines “telecommunications service” as voice communication provided by a telephone corporation, voice communication provided by a provider of satellite telephone services, voice communication provided by a provider of mobile telephony service, and voice communication provided by a commercially available facilities-based provider of voice communication services utilizing Voice over Internet Protocol (VoIP) or any successor protocol. (Public Utilities Code §2892.1)
- 2) Requires the CPUC to annually submit a report to the Legislature that discusses the CPUC’s work plan, performance measures, activities to lower ratepayer

costs, efforts to effectively solicit input from stakeholders in diverse areas of the state, and a list of public meetings held and to be held outside of San Francisco. (Public Utilities Code §910)

- 3) Requires the CPUC to annually appear before the relevant policy committees in the Legislature to present the annual report required under Public Utilities Code §910. (Public Utilities Code §321.6)
- 4) Gives the CPUC broad data collection authority while also restricting public access to information submitted to the CPUC by a public utility, subsidiaries or affiliates of a public utility, or a corporation, which holds a controlling interest in a public utility, except information specifically required to be open to public inspection. Existing law specifies that utility information submitted to the CPUC can be made public through an order of the CPUC through a proceeding or hearing. Any present or former officer or employee of the CPUC who divulges confidential information is guilty of a misdemeanor. (Public Utilities Code §§583-584)
- 5) Requires the CPUC to identify backup power systems needed for telecommunications facilities not on customers' premises. Existing law authorizes the CPUC to set performance reliability standards for telecommunications backup power, subject to best practices and feasibility. (Public Utilities Code §2892.1(b-e))
- 6) Defines a "state of emergency" as disaster or of peril to safety of individuals and property from air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, earthquakes or volcanic activity, or other conditions. A local emergency exists when these conditions occur within the boundaries of a local jurisdiction. A local emergency and state of emergency do not include conditions resulting from a labor controversy, a state of war emergency, or a sudden and severe energy shortage. (Government Code §8558)
- 7) Authorizes the governor to declare a state of emergency when the governor finds that emergency conditions exist and an emergency declaration is requested by a local government official or the governor finds that the local authority is inadequate to cope with the emergency. (Government Code §8625)

This bill:

- 1) Defines telecommunications service as voice communication provided by a telephone corporation, voice communication provided by a provider of satellite

telephone services, voice communication provided by a provider of mobile telephony service, and voice communication provided by a commercially available facilities-based provider of voice communication services utilizing VoIP or any successor protocol.

- 2) Defines advanced telecommunications capability as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.
- 3) Defines communications infrastructure as the conduits, ducts, wires, lines, cables, poles, towers, instruments, appliances, fixtures, personal property, and any other equipment and facilities used to provide telecommunications service and advanced telecommunications capability.
- 4) Requires the CPUC to collect the following information from telecommunications service providers after a fire or disaster related state of emergency or a local emergency declared by the governor:
 - a) The extent of any damage to communications infrastructure caused by the emergency or disaster, including the type of infrastructure damaged.
 - b) The types of infrastructure used to restore telecommunications service and advanced telecommunications capability following an outage caused by, or to repair or replace related communications infrastructure damaged by the emergency or disaster.
 - c) The backup electrical supply, if any, used to support communication network services as part of the communications infrastructure repair or replacement.
 - d) The obstacles encountered by the telecommunications service provider in repairing or replacing communications infrastructure.
- 5) Requires the CPUC to report data collected from providers under this bill to the Legislature and publicly posted on the CPUC's website.
- 6) Requires the President of the CPUC to annually present a summary of the data collected under this bill to the relevant policy committees of the Legislature.
- 7) Exempts public reporting of data collected under this bill from existing confidentiality requirements and instead allows the CPUC to make this information public unless the CPUC determines that disclosing the information would present a security threat to the public, a threat to the property of the telecommunications service provider, or a threat to the employees of the

telecommunications service provider. Service providers must identify which information should remain confidential for safety purposes.

Background

First come the COWs and GOATs, and then restoration. In recent years, California has experienced multiple disasters, including catastrophic wildfires. In addition to damaging structures and threatening lives, these disasters and emergencies have also damaged telecommunications infrastructure. This damage frequently impacts the ability to use telecommunications within areas impacted by disasters and emergencies. Recent CPUC decisions have established certain steps that telecommunications providers must take to prepare for emergencies and established requirements for consumer assistance that providers must offer to Californians impacted by disasters and emergencies. While damaged telecommunications facilities may not be safely assessed and repaired until after a disaster is contained, telecommunications providers may also provide emergency support to first responders through mobile emergency facilities such as a Cell on Wheels (COW) or a Generator on a Truck (GOAT).

Particularly destructive disasters and emergencies may damage telecommunications facilities beyond repair. In these circumstances, telecommunications providers must replace the damaged components. Generally, telecommunications providers works to restore service as quickly as possible; however, multiple factors can impact the speed of restoration, including the replacement of electric infrastructure on which phone, cable, fiber, and wireless facilities are attached. Existing federal law prohibits telecommunications providers from degrading or ceasing service when replacing telecommunications facilities. When retiring or replacing certain facilities, providers must obtain permission from the FCC prior to discontinuing services or replacing infrastructure.

CPUC disaster proceedings and OES outage notifications. The CPUC, Legislature and Office of Emergency Services (OES) have taken a number of steps to address the need for greater emergency preparedness and response regarding telecommunications services. In response to the 2017 wildfires, the CPUC adopted emergency utility customer relief measures; however, these measures were temporary, and the CPUC subsequently opened a rulemaking (R.18-030-011) to establish more permanent, standardized emergency preparedness and relief measures. Since January 2020, the CPUC has adopted two decisions that create certain emergency preparedness and resiliency requirements for telecommunications providers:

- D.20-07-011 requires facility-based wireless telecommunications providers to file communications resiliency plans, which must identify certain steps providers will take to maintain service during outages and restore service after outages. The decision also required wireless providers to ensure that their facilities have sufficient backup power in the Tier 2 and Tier 3 fire threat areas to operate for 72 hours in the event of a power outage.
- D.21-02-029 requires wireline telecommunications providers, including VoIP providers, to file communications resiliency plans detailing the steps providers will take to maintain service during emergencies and restore service from outages. The decision also adopted a 72 hour standard for certain wireline telecommunications facilities in Tier 2 and Tier 3 fire threat areas.

In addition to the CPUC's actions, the Legislature passed SB 670 (McGuire, Chapter 412, Statutes of 2019), which required telecommunications providers to submit a notice to OES within 60 minutes when an outage impacting 911 calls and emergency notifications occurs. These notifications are intended to ensure that emergency responders have sufficient real time information for situational awareness. OES has adopted regulations to implement this outage reporting.

What data is needed to track service restoration? While this bill does not require the CPUC to report restoration data in real-time, this bill would likely require telecommunications providers to compile a list of damaged facilities during and immediately after each declared state and local disaster and emergency. This bill requires telecommunications providers to report information regarding backup power and the types of telecommunications facilities damaged during a disaster or emergency; however, this bill does not require the CPUC to report this information in a manner timely enough to inform emergency response. Additionally, the CPUC already requires telecommunications providers to provide detailed information about backup power resources. This bill requires the CPUC to collect data regarding the types of infrastructure that is used repair or restore telecommunications service following an outage caused by damage from a disaster or emergency. However, this bill does not specify whether telecommunications providers must report information regarding the temporary facilities that they use to provide emergency response service or the types of facilities used to repair and replace permanent infrastructure. While existing law prohibits telecommunications providers from replacing damaged infrastructure with facilities that have the effect of degrading service, collecting information about the types of permanent facilities used to replace damaged infrastructure may help the CPUC track long-term restoration efforts.

Confidential Communications. Existing law prohibits the CPUC from disclosing confidential utility information, including information provided by telecommunications providers. To the extent that the CPUC determines that certain data is not confidential and should be publicly disclosed, existing law requires the CPUC to conduct a hearing or proceeding to demonstrate that certain information should be made public. This bill requires the CPUC to report telecommunications information to the Legislature and the public that may otherwise be considered confidential by providers. Data collected by the CPUC under this bill is exempt from the confidentiality requirements in existing law, except that this bill gives the CPUC the discretion refrain from disclosing data that could present a security threat to the public, a threat to the property of the telecommunications service provider, or a threat to the employees of the telecommunications service provider. In 2020, there were multiple attacks on telecommunications facilities, including the bombing of a major AT&T facility in Nashville, Tennessee. While some telecommunications facilities are publicly visible, identifying the exact location and capabilities of certain critical facilities could pose a security risk to the public and telecommunications workers.

Need for Amendments. As currently drafted, this bill's definitions of telecommunications service and communications infrastructure may be overly broad. For example, this bill includes satellite telecommunications providers and does not specify that the data reporting requirements apply only to providers that own and operate infrastructure. This bill also includes any personal property, appliances, and fixtures as infrastructure a telecommunications provider must include in reports to the CPUC. However, it is not clear how these terms would be defined for the purposes of all telecommunications facilities. Some of the data reporting required by this bill is already covered by the CPUC's emergency response requirements, but it is not clear whether this bill would require the CPUC to separately require this information as part of a new proceeding. This bill also authorizes, but does not require, the CPUC to refrain from disclosing data that could impact public and telecommunications worker safety. *As a result, the author and committee may wish to amend this bill to do the following:*

- *Narrow the definition of telecommunications providers to facility-based providers that are required to file emergency plans with the CPUC.*
- *Narrow the definition of communications infrastructure to include only the conduits, ducts, wires, lines, cables, poles, and towers.*
- *Remove duplicative data reporting regarding backup power and specify that where possible, the CPUC should seek to limit duplicative data requests.*
- *Prohibit the disclosure of data that poses a safety risk.*
- *Clarify that that the CPUC's data collection and reporting shall occur on an annual basis.*

- *Specify that this bill does not require the CPUC to modify its existing decisions on telecommunications resiliency and emergency response.*

Prior/Related Legislation

SB 341 (McGuire, 2021) establishes certain emergency response requirements for telecommunications providers, including requiring the CPUC to create 72-hour backup power requirements for certain telecommunications facilities. The bill also requires OES to provide the CPUC with certain telecommunications outage and service restoration data. The bill is currently pending in the Assembly.

AB 183 (Wood, 2019) would have established data reporting requirements for telecommunications providers following a disaster or emergency. These reporting requirements included requiring telecommunications providers to report the number of consumers impacted by an outage, impacts to the 911 system, the extent of infrastructure damage from a disaster, and the types of infrastructure used to restore telecommunications service impacted by a disaster or emergency. The bill died in the Assembly Committee on Appropriations.

AB 2693 (Wood, 2018) contained some provisions substantially similar to this bill regarding the CPUC collecting data on the scope of damage to telecommunications facilities impacted by emergencies and disasters and the infrastructure used to restore service. The bill would have required the CPUC to report specified information to the Legislature regarding the impact of natural disasters and emergencies on telecommunications facilities. The bill was held in the Senate Committee on Appropriations.

AB 2910 (Wood, 2018) would have required the CPUC to collect certain information from telecommunications providers regarding efforts and infrastructure used to restore service from outages following an emergency or natural disaster. The bill also required the CPUC to report findings from this data to the Legislature and the public. The bill died in the Senate Committee on Energy, Utilities and Communications.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

Communications Workers of America, District 9 (Co-sponsor)
The Utility Reform Network (Co-sponsor)
California Labor Federation

OPPOSITION:

AT&T, unless amended

California Cable and Telecommunications Association

Frontier Communications, unless amended

ARGUMENTS IN SUPPORT: According to the author:

In the aftermath of the 2017 and 2018 devastating fires, the state and PUC have focused heavily on the utilities' response to the massive destruction. Even today, little is known about the full impact these natural disasters have had on telecommunications networks and how telecommunication companies have responded. Concrete recovery plans are not shared with the PUC or the Legislature, whose job it is to oversee these companies and represent the public interest. We need this information to make sure governments are helping in this repair effort and not impeding the restoration. Many people reported that 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. AB 1100 requires the PUC to collect information on telecommunication service providers' efforts to repair and replace network infrastructure after emergencies or disasters.

ARGUMENTS IN OPPOSITION: Opponents argue that this bill would create unnecessary data collection duties during emergency response operations. AT&T is opposed to the bill unless it is amended to limit duplicative data collection, clarify certain reporting requirements, and more clearly restrict the CPUC's ability to disclose information that may pose a safety risk if made public. In opposition, the California Cable and Telecommunications Association (CCTA) states:

AB 1100 would merely delay service restoration, interfere with ensuring backup power, and increase public safety risk by layering another complex, duplicative and unnecessary reporting obligation during an emergency -- with no benefit. Even if submission of data to the CPUC is not real-time during the emergency, the provider still would need to collect it during the emergency. Moreover, these obligations would be triggered by any emergency declared by either the Governor or a local agency, which would create great uncertainty and complexity given that disasters frequently result in multiple declarations of emergency with inconsistent geographic scope and duration.

-- END --