SENATE COMMITTEE ON ENERGY, UTILITIES AND COMMUNICATIONS
Senator Ben Hueso, Chair
2019 - 2020 Regular

Bill No:	SB 167	**Hearing Date:**	3/27/2019
Author:	Dodd		
Version:	1/28/2019 As Introduced		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Nidia Bautista		

SUBJECT: Electrical corporations: wildfire mitigation plans

DIGEST: This bill requires electrical corporations to include impacts on customers enrolled in specified programs as part of the protocols for deenergizing portions of their distribution system within their wildfire mitigation plans filed at the California Public Utilities Commission (CPUC).

ANALYSIS:

Existing law:

1) Provides that the CPUC has regulatory authority over public utilities, including electric corporations. (California Constitution, Article 3 and 4)

2) Requires the CPUC to develop formal procedures to incorporate safety in a rate case application by an electrical corporation or gas corporations. (Public Utilities Code §750)

3) Requires each electrical corporation to construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment. Requires each electrical corporation to annually prepare and submit a wildfire mitigation plan to the CPUC for review and approval. Requires those wildfire mitigation plans to include specified information, including protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure. (Public Utilities Code §8386)

4) Establishes the California Alternate Rates for Energy (CARE) program for assistance to low-income electric and gas customers with annual household incomes that are no greater than 200 percent of the federal poverty guideline

levels to ensure low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures. Requires the CARE discount for electrical corporations with 100,000 or more customer accounts in California is not less than 30 percent or more than 35 percent of the revenues that would have been produced for the same billed usage by non-CARE customers and requires the entire discount to be provided in the form of a reduction in the overall bill for the eligible CARE customer. (Public Utilities Code §§382 and 739.1)

5) Requires the CPUC to establish a standard limited allowance in addition to the baseline quantity and higher energy allocation of gas and electricity for residential customers dependent on life-support equipment and patients being treated for a life-threatening illness or who have a compromised immune system, if a licensed physician and surgeon or a person licensed pursuant to the Osteopathic Initiative Act certifies in writing to the utility that the additional heating or cooling allowance is medically necessary to sustain life or prevent deterioration of the person's medical condition. (Public Utilities Code §739 (2)(c))

This bill:

1) Requires electrical corporations to include additional information as part of the protocols for deenergizing portions of their distribution system within their wildfire mitigation plans filed at the CPUC.

2) Specifically, this bill requires electric corporations to include impacts on customers enrolled in the California Alternative Rates for Energy (CARE) program, receiving medical baseline allowances of electricity or gas, and who the electrical corporation has identified as critical care customers relying on life-support equipment.

Background

California wildfire and electric utility infrastructure. Electrical equipment, including downed power lines, arcing, and conductor contact with trees and grass, can act as an ignition source. Although electric systems do not routinely cause catastrophic fires, they are known to cause hundreds of small fires every year. Risks for wildfires also increased with the extended drought and bark beetle infestation that has increased tree mortalities and, as a result, increased the fuel, and risk for wildfires. According to California Department of Forestry and Fire Protection (CAL FIRE), power lines were the second-leading cause of wildfires in 2013. In recent years, California has experienced a number of catastrophic wildfires, including several that were ignited by electrical utility infrastructure, including the 2007 Witch Fire in San Diego County, the 2015 Butte Fire, several of the 2017 fires that ravaged the state.

CPUC efforts to address wildfires. The CPUC's rulemaking efforts to address wildfires and electric systems have been active since 2008, with several phases, in two separate proceedings. These efforts have resulted in the adoption of over 70 proposed rule changes with often prescriptive standards – such as dictating clearances between power lines and trees. Additionally, the CPUC has embarked on incorporating wildfire mitigation analysis into the Risk Assessment and Mitigation Phase (RAMP) filings of the utilities. The RAMP filing is meant to incorporate a risk-informed approach to the electrical utility's general rate case.

SB 1028 (Hill, Chapter 598, Statutes of 2016). In 2016, SB 1028 (Hill) was signed into law. The bill requires electric utilities regulated by the CPUC to submit wildfire mitigation plans for review and comment by the CPUC and for publicly owned utilities (POU) to have their governing board adopt wildfire mitigation plans, if the utility believes they operate in an area where there is a threat of wildfires. SB 1028 is an effort to establish more performance or risk-based safety rules that focus on identification of hazards and goal setting, while providing utilities flexibility in achieving the goals. The intent is to have performance-based goals compliment the prescriptive rules related to wildfire prevention.

Deenergizing electric lines and deactivating reclosers. Generally, electric utilities attempt to maintain power and ensure continued reliability of the flow of power. However, the risk of fire caused by electric utility infrastructure can pose a greater risk than to shutoff the power to certain circuits. Utilities have the ability to deenergize electric lines in order to prevent harm or threats of harm. However, deenergizing electric lines can result in the loss of power to households, businesses, traffic signals, communication systems, critical facilities, water treatment facilities, emergency services and others. Therefore, efforts to deenergize electric lines must be done in a manner that balances the potential harm of the energized lines causing a wildfire against the safety hazards associated with eliminating electricity to the areas that are served by the line(s). Utilities use automatic reclosers which are similar to circuit breakers. These devices are set to shoot pulses of electricity through electric lines that may have tripped off. The automatic reclosers would automatically restart power if conditions on the line seemed normal. However, the use of automatic reclosers can also pose a fire threat if the lines are in contact with branches or brush, since the pulses of electricity can ignite a fire. By deactivating the reclosers, a utility can reduce the risk of fire.

Use of power shutoffs. In 2007, San Diego Gas & Electric (SDG&E)'s electric infrastructure ignited three destructive fires. In response to that experience, SDG&E requested approval from the CPUC for a number of mitigation efforts, including roughly a billion dollars of ratepayer funds to invest in a state-of-the-art weather center and monitoring network, as well as, the authority to deenergize power lines during high wildfire risk days. After the 2017 fires ravaged several parts of the state, in July 2018, the CPUC expanded the requirements on the power shutoffs it has for SDG&E, including requirements related to specified notifications and reasonableness review, to the state's other investor-owned electric utilities (IOUs), including Southern California Edison (SCE) and Pacific Gas & Electric (PG&E). Known as the Public Safety Power Shutoff (PSPS) program, after a power shutoff event, per the CPUC requirements, the utility must inspect the lines of the circuits that were shutoff before it can restore power. As such, the power shutoff event may last several days, leaving the affected customers without power during the full time of the event. In the fall of 2018, both SCE and PG&E exercised their authority for power shutoffs, under the new CPUC requirements, to various communities in their service territory during high wildfire risk days. In Northern California, community response to the extended power shutoffs (they lasted multiple days) were generally not receptive to the new policy as stores, businesses, schools and others had to close during the event. The passage of SB 901 (Dodd, Chapter 626, Statutes of 2018) further expanded the requirements of the protocols related to the power shutoffs as part of the electric utility's wildfire mitigation plans currently under review.

Power shutoffs effects on vulnerable populations. On December 13, 2018, the CPUC opened a new rulemaking (R.18-12-005) to examine utilities' de-energization processes and practices, the impacts on communities and vulnerable populations, efforts to reduce the need for de-energization, and mitigate measures to reduce the impacts when implemented. The rulemaking will also review and improve existing reporting requirements. Further, the CPUC has directed the utilities to contact people with medical conditions when there are outages, regardless of cause.

Medical baseline allowance. The medical baseline allowance provides residential customers who have qualifying medical conditions with additional energy allowance at the lowest tiered rate. Per statute, IOUs) are required to provide additional baseline allowance of gas or electric service for customers facing specified medical conditions, including life-threatening conditions or who are on life-support. Additionally, the medical baseline allowance provides these households with advance notice of power outages since members of the households may be dependent on power to survive. All utilities currently administer medical baseline, and, as such, have existing processes for identifying these customers, including requiring physicians and other medical personnel to certify as to the medical condition. Customers on medical baseline are also provided the opportunity to amortize their bill payments, for a period up to 12 months, in order to avoid disconnection of service. Per SB 598 (Hueso, Chapter 362, Statutes of 2017), utilities are prohibited from disconnecting service to customers with life-threatening conditions, on life support or hospice care, and who can not pay and are willing to enter into a payment schedule. SB 1338 (Hueso, Chapter 518, Statutes of 2018) requires the CPUC to develop rules requiring each of the four largest energy utilities to demonstrate that they are working with the medical community to increase outreach to persons eligible for the medical baseline allowance.

CARE. Existing law requires the CPUC to establish the CARE program, which provides assistance to low-income electric and gas customers with annual household incomes less than 200 percent of federal poverty guideline levels. The cost of this program is spread across multiple classes of customers. AB 327 (Perea, Chapter 611, Statutes of 2013) restructured the rate design for residential electric customers, including directing the CPUC to establish rates for the CARE program customers of the large IOUs. The set rates must effectively give a discount between 30 percent and 35 percent to eligible customers of electrical corporations with 100,000 or more customer accounts. Electrical corporations with fewer than 100,000 customer accounts offer a 20 percent discount. Utility customers may also be eligible for the CARE discount if they are enrolled in public assistance programs, such as: Medicaid/Medi-Cal, Women, Infant, Children Program (WIC), Healthy Families A&B, National School Lunch's Free Lunch Program, Food Stamps/SNAP, Low Income Home Energy Assistance Program, Head Start Income Eligible, Supplemental Security Income, Bureau of Indian Affairs General Assistance, and Temporary Assistance for Needy Families (TANF).

Preparing for the loss of power. Power shutoffs are intended as a utility's last resort to mitigate the risk of fire. However, the growing threats of catastrophic wildfires and recent experience of the devastation and liability posed by the wildfires means the utility's voluntary use of power shutoffs is likely to increase. California residents face a number of other causes for power shutoffs, especially the very real threat of a large earthquake. Additionally, communities in the Sierras also have weather events, such as heavy snowstorms, that can wreak havoc on the electrical infrastructure and cause involuntary power shutoffs for extended days. As a result, Californians must generally be better prepared to live without power without much advance notice. Nonetheless, most residents are not likely to be prepared for such events, particularly if they endure for multiple days. However, in the case of critical care and medically vulnerable customers, the need to be well-prepared for the loss of power, due to any cause, may be vital to sustain life. While hospitals maintain back-up power systems, often in the form of diesel generators, many customers may not have their own source of back-up power at home.

Impacts to ratepayers. This bill would require utilities to develop protocols to mitigate the loss of power to critical care customers, CARE customers and medical baseline customers potentially including the purchase of back-up power for these customers. Currently, none of these programs authorize the use of ratepayer funds to pay for back-up power for any of these populations. As such, depending on the number of eligible customers and the type of back-up power purchased, the impacts to ratepayers could be significant.

Technical amendments needed. As currently drafted, this bill would encompass a much wider universe of customers than intended by the author. In order to limit the potential costs to ratepayers and to better prioritize the most vulnerable populations, *the author and committee may wish to amend this bill with the attached draft amendments that narrow the universe of customers to the most vulnerable who require specified protocols which may include temporary deployment of back-up power*. The amendments also require the utility to consider whether other funding or resources are available to the customer, including through their medical insurance or services.

Prior/Related Legislation

SB 1338 (Hueso, Chapter 518, Statutes of 2018) authorized a physician assistant to certify to the electric or gas utility that disconnecting service is medically necessary to sustain the life of the customer. The bill also required the CPUC to develop rules requiring each of the four largest energy utilities to demonstrate that they are working with the medical community to increase outreach to persons eligible for the medical baseline allowance.

SB 901 (Dodd, Chapter 626, Statutes of 2018) addressed numerous issues concerning wildfire prevention, response and recovery, including funding for mutual aid, fuel reduction and forestry policies, wildfire mitigation plans by electric utilities, and cost recovery by electric corporations of wildfire-related damages.

SB 1028 (Hill, Chapter 598, Statutes of 2016) required electric CPUC-regulated utilities to file annual wildfire mitigation plans and requires the CPUC to review and comment on those plans.

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

SUPPORT:

MCE Clean Energy
National Association of Social Workers, California Chapter
Rural County Representatives of California

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the author:

> "Deenergization of electrical transmission and distribution equipment creates certain risks of its own. Among those risks is the interruption of power needed to operate life support equipment, including, but not limited to artificial means to sustain, restore, or supplant a vital bodily function. California's three largest investor owned utilities serve in excess of 150,000 critical care, medical baseline customers who rely on life support equipment. Many of these critical care customers are low-income with household incomes below 200 percent of the federal poverty level, and who receive discounts under the California Alternative Rate Energy (CARE) program. As the likelihood of deenergizing electrical transmission and distribution equipment grows, it is a matter of health and safety to assist low-income, critical care medical baseline customers purchase and install sources of emergency backup power that can operate life support equipment for the duration of a power outage."

-- END --

Attached Amendments

SECTION 1.

Section 8386 of the Public Utilities Code is amended to read:

8386.

(a) Each electrical corporation shall construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment.
(b) Each electrical corporation shall annually prepare and submit a wildfire mitigation plan to the commission for review and approval, according to a schedule established by the commission, which may allow for the staggering of compliance periods for each electrical corporation. The Department of Forestry and Fire Protection shall consult with the commission on the review of each wildfire mitigation plan. Prior to approval, the commission may require modifications of the plans. Following approval, the commission shall oversee compliance with the plans pursuant to subdivision (h).
(c) The wildfire mitigation plan shall include:
(1) An accounting of the responsibilities of persons responsible for executing the plan.
(2) The objectives of the plan.
(3) A description of the preventive strategies and programs to be adopted by the electrical corporation to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.
(4) A description of the metrics the electrical corporation plans to use to evaluate the plan's performance and the assumptions that underlie the use of those metrics.
(5) A discussion of how the application of previously identified metrics to previous plan performances has informed the plan.
(6) Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety. ***As part of the protocols, each electrical corporation shall include protocols related to mitigating the public safety impacts of disabling reclosers and deenergizing portions of the electrical distribution system that consider the impacts on:***

(A) Critical first responders

(B) Health and communication infrastructure

(C) Customers who are identified through the electrical corporation's medical baseline program pursuant to Section 739.1 as critical care customers. The electrical corporation may temporarily deploy back-up power to critical care customers who meet all the following criteria:

(i) rely on life-support equipment to sustain life

(ii) demonstrate financial need, including enrollment in the California Alternative Rates for Energy (CARE) program created pursuant to Section 739.1 and

(iii) are not eligible for back-up power resources provided through medical services, medical insurance, or community resources. ~~as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on~~ ~~*responders, on customers enrolled in the California Alternative Rates for Energy (CARE) program created*~~

~~*pursuant to Section 739.1, receiving medical baseline allowances pursuant to Section 739, and who the electrical corporation has identified as critical care customers relying on life-support equipment, and on*~~ ~~health and communication infrastructure.~~ ~~*and on customers enrolled in the California Alternative Rates for Energy (CARE) program created pursuant to Section 739.1, receiving medical baseline allowances pursuant to Section 739, and who the electrical corporation has identified as critical care customers relying on life-support equipment, and on*~~

(7) Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines***, including specified procedures for the critical care customers identified above***. The procedures shall consider ~~th~~ *the* need ~~the~~ *to* notify, as a priority, critical first responders, health care facilities, and operators of telecommunications infrastructure.
(8) Plans for vegetation management.
(9) Plans for inspections of the electrical corporation's electrical infrastructure.
(10) A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the electrical corporation's service territory, including all relevant wildfire risk and risk mitigation information that is part of *the* Safety Model Assessment Proceeding and *the* Risk Assessment Mitigation Phase filings. The list shall include, but not be limited to, both of the following:
(A) Risks and risk drivers associated with design, construction, operations, and maintenance of the electrical corporation's equipment and facilities.
(B) Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the electrical corporation's service territory.
(11) A description of how the plan accounts for the wildfire risk identified in the electrical corporation's Risk Assessment Mitigation Phase filing.
(12) A description of the actions the electrical corporation will take to ensure its system will achieve the highest level of safety, reliability, and resiliency, and to ensure that its system is prepared for a major event, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, such as undergrounding, insulation of distribution wires, and pole replacement.
(13) A showing that the utility has an adequate sized and trained workforce to promptly restore service after a major event, taking into account employees of other utilities pursuant to mutual aid agreements and employees of entities that have entered into contracts with the utility.
(14) Identification of any geographic area in the electrical corporation's service territory that is a higher wildfire threat than is currently identified in a commission fire threat map, and where the commission should consider expanding the high fire threat district based on new information or changes in the environment.
(15) A methodology for identifying and presenting enterprise-wide safety risk and wildfire-related risk that is consistent with the methodology used by other electrical corporations unless the commission determines otherwise.
(16) A description of how the plan is consistent with the electrical corporation's disaster and emergency preparedness plan prepared pursuant to Section 768.6, including both of the following:
(A) Plans to prepare for, and to restore service after, a wildfire, including workforce mobilization and prepositioning equipment and employees.
(B) Plans for community outreach and public awareness before, during, and after a wildfire, including language notification in English, Spanish, and the top three primary languages used in the state other than English or Spanish, as determined by the commission based on the United States Census data.

(17) A statement of how the electrical corporation will restore service after a wildfire.
(18) Protocols for compliance with requirements adopted by the commission regarding activities to support customers during and after a wildfire, outage reporting, support for low-income customers, billing adjustments, deposit waivers, extended payment plans, suspension of disconnection and nonpayment fees, repair processing and timing, access to utility representatives, and emergency communications.
(19) A description of the processes and procedures the electrical corporation will use to do all of the following:
(A) Monitor and audit the implementation of the plan.
(B) Identify any deficiencies in the plan or the plan's implementation and correct those deficiencies.
(C) Monitor and audit the effectiveness of electrical line and equipment inspections, including inspections performed by contractors, carried out under the plan and other applicable statutes and commission rules.
(20) Any other information that the commission may require.
(d) The commission shall accept comments on each plan from the public, other local and state agencies, and interested parties, and verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.
(e) The commission shall approve each plan within three months of its submission, unless the commission makes a written determination, including reasons supporting the determination, that the three-month deadline cannot be met and issues an order extending the deadline. Each electrical corporation's approved plan shall remain in effect until the commission approves the electrical corporation's subsequent plan. At the time it approves each plan, the commission shall authorize the utility to establish a memorandum account to track costs incurred to implement the plan.
(f) The commission's approval of a plan does not establish a defense to any enforcement action for a violation of a commission decision, order, or rule.
(g) The commission shall consider whether the cost of implementing each electrical corporation's plan is just and reasonable in its general rate case application. Nothing in this section shall be interpreted as a restriction or limitation on Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.
(h) The commission shall conduct an annual review of each electrical corporation's compliance with its plan as follows:
(1) Three months after the end of an electrical corporation's initial compliance period as established by the commission pursuant to subdivision (b), and annually thereafter, each electrical corporation shall file with the commission a report addressing its compliance with the plan during the prior calendar year.
(2) (A) Before March 1, 2021, and before each March 1 thereafter, the commission, in consultation with the Department of Forestry and Fire Protection, shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure.
(B) (i) Each electrical corporation shall engage an independent evaluator listed pursuant to subparagraph (A) to review and assess the electrical corporation's compliance with its plan. The engaged independent evaluator shall consult with, and operate under the direction of, the Safety and Enforcement Division of the commission. The independent evaluator shall issue a report on July 1 of each year in which a report required by paragraph (1) is filed. As a part of the independent evaluator's report, the independent evaluator shall determine whether the electrical corporation failed to fund any activities included in its plan.

(ii) The commission shall consider the independent evaluator’s findings, but the independent evaluator’s findings are not binding on the commission, except as otherwise specified.
(iii) The independent evaluator’s findings shall be used by the commission to carry out its obligations under Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.
(iv) The independent evaluator’s findings shall not apply to events that occurred before the initial plan is approved for the electrical corporation.
(3) The commission shall authorize the electrical corporation to recover in rates the costs of the independent evaluator.
(4) The commission shall complete its compliance review within 18 months after the submission of the electrical corporation’s compliance report.
(i) An electrical corporation shall not divert revenues authorized to implement the plan to any activities or investments outside of the plan.
(j) Each electrical corporation shall establish a memorandum account to track costs incurred for fire risk mitigation that are not otherwise covered in the electrical corporation’s revenue requirements. The commission shall review the costs in the memorandum accounts and disallow recovery of those costs the commission deems unreasonable.

SEC. 2.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.