
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**
Senator Ben Hueso, Chair
2021 - 2022 Regular

Bill No: SB 341 **Hearing Date:** 3/15/2021
Author: McGuire
Version: 2/9/2021 As Introduced
Urgency: No **Fiscal:** Yes
Consultant: Sarah Smith

SUBJECT: Telecommunications service: outages

DIGEST: This bill requires the California Public Utilities Commission (CPUC) to establish backup power requirements for certain telecommunications providers to ensure that service can be maintained for at least 72 hours during an electrical outage. This bill also requires certain telecommunications providers to establish and maintain public outage maps on their websites, and it requires the Office of Emergency Services (OES) to adopt requirements for public outage maps established and maintained by telecommunications providers.

ANALYSIS:

Existing law:

- 1) Defines a telecommunications service as voice communication provided by a telephone corporation, satellite telephone, mobile telephone service, or facilities-based Voice over Internet Protocol (VoIP) provider. (Public Utilities Code §2892.1(a))
- 2) 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))
- 3) Requires OES to adopt regulations by July 1, 2020, to set thresholds for determining whether a telecommunications outage creates a community isolation outage based on risks to public health and safety. Upon adoption of these regulations, every telecommunication service provider offering 911 service must submit a notice to OES within 60 minutes of identifying a community isolation outage. OES must keep community isolation information confidential, except and specified, and OES is responsible for notifying the affected local emergency response offices. (Government Code §53122)

- 4) Establishes annual legislative reporting requirements for the CPUC, including requiring the CPUC to submit specified information to the relevant policy committees of the Legislature. (Public Utilities Code §910 et. seq.)

This bill:

- 1) Defines “telecommunications service” for the purposes of this bill as voice communication provided by a telephone corporation, mobile telephone service, or facilities-based VoIP provider.
- 2) Requires OES, in consultation with the CPUC, to adopt regulation by July 1, 2022, to establish requirements for public maps of community isolation outages to be created and maintained by telecommunications service providers. OES’s requirements must include the formatting, updating, and detail level that must be included with the maps.
- 3) Requires OES to provide the CPUC with the community isolation outage information that OES receives from telecommunications providers.
- 4) Requires OES to post aggregated community isolation outage data on its website. This publicly posted information may not identify individual telecommunications providers.
- 5) Requires each telecommunications provider that offers access to 911 services to maintain a public outage map on its website showing the provider’s outages.
- 6) Requires the CPUC, in consultation with OES, to establish backup power rules to ensure that telecommunication providers maintain telecommunications service for at least 72 hours in the event of a power outage. The CPUC must consider best practices and feasibility of backup power requirements when developing these rules. The CPUC may waive the backup power requirements in appropriate circumstances.
- 7) Requires the CPUC to annually report to the Legislature on the actions it has taken based on information it receives from OES regarding community isolation outages.

Background

Wildfires raised awareness about the importance of telecommunications service during emergencies. In recent years, wildfires and extended power outages have

led to significant telecommunications outages in California. After the 2017 North Bay Firestorm, individuals evacuating the affected areas indicated that they received little notification about the rapidly moving fires. The CPUC issued a report indicating that the fires resulted in approximately 160,000 wireline and 85,000 wireless telecommunications consumers losing service. These outages may have limited the ability to send and receive emergency notifications during the fires and impacted residents' ability to call 911. While local emergency response personnel in the North Bay undertook updates to improve emergency notifications, subsequent wildfires, including the Woolsey (2018), Camp (2018), and Kincade (2019) fires, underscored the vulnerability of telecommunications service during emergencies.

Electric power outages have illustrated the need for greater resiliency planning across utilities, including telecommunications. In October 2019, the state's three large electric investor-owned utilities (IOUs) shut off power to a large portion of the state to limit the risk of wildfire ignitions during historically high fire threats. These public safety power shutoff (PSPS) events also resulted in widespread telecommunications outages. Some telecommunications outages occurred outside the PSPS footprint and persisted longer than the power shutoffs. According to FCC data, up to 27 percent of Sonoma County's wireless cell sites were out of service during the Kincade Fire, and 57 percent of Marin County's cell towers were out on October 27, 2019.

On January 8, 2020, the Senate Committee on Energy, Utilities and Communications held an oversight hearing to discuss the causes of, impacts from, and opportunities to address telecommunications outages. During this hearing, testimony provided by OES and local emergency response offices indicated that emergency responders received insufficient information about the physical scope and estimated duration of outages to enable more targeted emergency notifications in the event of an emergency. Additionally, many telecommunications facilities did not maintain sufficient power to enable local emergency response offices to use or update emergency alerts.

Since January 2020, a number of events, including widespread wildfires, heat waves, and winter storms with high winds and ice have continued to highlight the extent to which utility infrastructure is likely to face significant challenges from extreme weather, creating outages that can impact public health and safety. During Winter Storm Uri, FCC data shows that over 300,000 wireless customers, over 9,000 wireline customers, and over 30,000 VoIP customers were without service in portions of Texas and Oklahoma on February 17, 2021.

This bill's impact on the CPUC's existing backup power rules is unclear. This bill requires the CPUC to develop rules requiring telecommunications providers to maintain backup power for their facilities to ensure that those facilities can maintain service for at least 72 hours in the event of a power outage. This bill gives the CPUC the flexibility to establish more flexible backup power requirements where appropriate, and it requires the CPUC to consider best practices and feasibility when developing backup power requirements.

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. Existing law provides the CPUC with the authority to establish backup power requirements for telecommunications providers; however, in the past, this law has conflicted with prohibitions against the regulation of IP-enabled communications. These prohibitions sunset on January 1, 2020. As a result, the CPUC had more clear statutory authority to establish backup power requirements as of 2020. 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.

The flexibility given to the CPUC when adopting backup power requirements may enable the CPUC to meet this bill's requirements through administrative actions already undertaken at the CPUC. However, this bill's requirement to consider "best practices and feasibility" may require the CPUC to open a proceeding to consider more concerns from telecommunications providers about meeting the existing 72-hour backup power requirement for the Tier 2 and Tier 3 fire threat areas.

This bill expands OES's regulatory authority for outage notifications. In 2019, the Legislature passed SB 670 (McGuire, Chapter 412, Statutes of 2019), which required OES to establish regulations regarding community isolation outages that impact a community's ability to call 911 and receive emergency notifications. This bill required telecommunications providers to submit a specified notice to OES within 60 minutes of identifying a community isolation outage and made OES responsible for notifying local affected emergency responders. OES issued emergency regulations to implement SB 670 in June 2020. The emergency rulemaking authority for those regulations will expire on April 12, 2021, unless it is made permanent with additional regulatory action. In February 2021, OES issued a notice of its intent to make the community isolation outage regulations permanent. Comments on the regulations proposed for adoption are due by March 30, 2021.

This bill requires OES to establish requirements for telecommunications providers' public outage maps by July 1, 2022. This bill requires telecommunications providers that provide access to 911 to provide public outage maps on their respective websites following the adoption of OES's mapping requirements. This bill also require OES to provide the CPUC with the community isolation outage information it receives from telecommunications providers. OES must also post aggregated community isolation outage data on its website, which may not identify individual telecommunications providers.

OES's authority to establish outage notification requirements largely pertains to its authority over the 911 system pursuant to the *Warren 911 Emergency Assistance Act*. However, OES has generally relied on the CPUC to enforce regulatory requirements for telecommunications providers because the CPUC has regulatory authority over telecommunications utilities. Under existing law, little public information exists regarding telecommunications providers' facilities. In its Decisions establishing requirements for backup power and emergency planning, the CPUC requires telecommunications providers to create public communications plans that include public maps of outages and specified information about outages and restoration times for customers. OES may require significant coordination with the CPUC to establish standardized public outage map requirements for telecommunications providers to ensure that OES requirements are not duplicative or in conflict with the requirements established through the CPUC's decisions. OES will also likely rely on the CPUC for information about telecommunications providers and their facilities because providers operate in different service territories, use different technologies, and do not serve every household or community within their territories.

Need for amendments. As currently drafted, this bill requires the CPUC to establish “backup electrical supply” rules for telecommunications facilities; however, the term “backup electrical supply” is not defined or used elsewhere in existing law. Additionally, this bill does not specify that the CPUC may adopt these requirements as part of an existing proceeding 6. *As a result, the committee may wish to amend this bill to do the following:*

- *Replace the reference to “backup electrical supply” with the term “backup electricity” used in existing law (Public Utilities Code §2892.1.)*
- *Clarify that that the CPUC can adopt backup power requirements as part an ongoing proceeding.*

Prior/Related Legislation

SB 431 (McGuire, 2020) would have required the CPUC to establish backup power requirements for mobile telecommunications providers to ensure that service can be maintained for at least 72 hours during a power outage. The bill would have required the CPUC to establish backup power requirements for non-mobile telecommunications providers to ensure that certain essential service facilities maintain telecommunications service for at least 72 hours during a power outage. The bill died in the Assembly.

SB 925 (Glazer, 2020) would have required the CPUC to performance and reliability standards for certain mobile telecommunications facilities to ensure that these facilities include at least 72 hours of battery backup power. The bill died in the Senate.

SB 670 (McGuire, Chapter 412, Statutes of 2019) required certain telecommunications providers to submit a notice to OES within 60 minutes when a community isolation outage occurs, impacting the community’s ability to make 911 calls or receive emergency notifications. The bill also required OES to establish regulations for community isolation notices and made OES responsible for notifying affected local emergency response offices.

SB 833 (McGuire, Chapter 617, Statutes of 2018) required OES, in consultation with stakeholders, to develop voluntary guidelines for alerting and warning the public of an emergency. The bill required OES to develop an alert and warning training that includes information about the operation of the Wireless Emergency Alert system and the Emergency Alert System.

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

SUPPORT:

California Chapter National Emergency Number Association
California Fire Chiefs Association
California State Sheriffs' Association
County of Marin
County of Napa
Fire Districts Association of California
League of California Cities
The Utility Reform Network

OPPOSITION:

AT&T
California Communications Association
California Cable & Telecommunications Association
Consolidated Communications Inc.
CTIA

ARGUMENTS IN SUPPORT: According to the author:

SB 341 will strengthen our telecommunications networks by creating stronger oversight and accountability when it comes to telecommunication outages. SB 341 will require the Office of Emergency Services to share outage information with the CPUC and requires the CPUC to report to the Legislature on action taken using the community Isolation outage information. It will additionally requires OES to share aggregated data regarding community isolation outage information on their website without naming specific providers much like the current federal aggregated reports during major events like PSPS events such as the one in 2019 that showed 57% of cell towers out in Marin County. SB 341 takes important steps to make our communications more resilient and our communities safer.

ARGUMENTS IN OPPOSITION: Opponents argue that this bill is unnecessary because the CPUC has already adopted backup power requirements and that provisions of the bill are duplicative of steps already taken by the CPUC. They also argue that the bill would require the CPUC to expand its existing backup power requirements. In opposition, the California Cable and Telecommunications Association (CCTA) states:

This bill would require duplicate outage reporting to the CPUC, require CalOES to conduct a new separate rulemaking to require maps of outages,

and require each provider to maintain a map of all outages on its web site. CCTA opposes these provisions for several reasons... CCTA opposes these provisions because they are not necessary given the recent CPUC decision adopting resiliency requirements and would undermine current industry efforts to comply with these mandates.

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