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

Bill No: SB 520 **Hearing Date:** 4/24/2019
Author: Hertzberg
Version: 4/11/2019 As Amended
Urgency: No **Fiscal:** Yes
Consultant: Nidia Bautista

SUBJECT: Electrical service: provider of last resort

DIGEST: This bill would establish a provider of last resort as an electric load-serving entity (LSE) that meets specified requirements, including those determined by the California Public Utilities Commission (CPUC), to ensure electric service for customers not otherwise served by another LSE.

ANALYSIS:

Existing law:

- 1) Establishes the CPUC has regulatory authority over public utilities, including electrical corporations. (California Constitution, Article XII)
- 2) Establishes that a public utility has a duty to serve, including furnishing and maintaining adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons and the public. (Public Utilities Code §451)
- 3) Requires the LSE to pay reentry fees associated with their customers involuntarily being returned to the service of the incumbent investor-owned utility (IOU), except in the case of default due to nonpayment. Requires the LSE to post a bond or demonstrate sufficiency insurance to cover reentry fees. Requires that where a LSE becomes insolvent, the obligation to pay reentry fees is allocated to the returning customers. (Public Utilities Code §394.25 (e))

This bill:

- 1) Provides that an incumbent electrical IOU is the provider of last resort (POLR), as defined, unless provided otherwise in a service territory boundary agreement approved by the CPUC pursuant to existing law or as designated by the CPUC pursuant to this bill.

- 2) Authorizes the CPUC to designate a LSE other than the incumbent IOU to become the POLR for all or a portion of the service territory of the IOU by approving an application jointly filed by the incumbent IOU and the LSE that proposes to become the POLR.
- 3) Establishes requirements for the application and for a LSE other than the incumbent IOU to serve as the POLR.
- 4) Requires the CPUC to supervise and regulate each POLR to ensure the provision of electrical service to customers without disruption.

Background

Provider of last resort (POLR). Currently, incumbent regulated utilities act as a POLR for customers of all LSEs within the service territory of the IOU. This is true whether the LSE is a community choice aggregator (CCA), electric service provider (ESP), or the IOU, itself. As an example, a CCA or ESP customer who is disconnected from service due to nonpayment is no longer a customer of the CCA or ESP and is defaulted back to the incumbent IOU. Additionally, in some instances, CCAs are not automatically defaulting all customers in their geographic area to the CCA. This is true with some CCAs and their treatment of legacy net-energy metering (NEM) customers who have more generous compensation of their NEM tariffs. These customers do not have the option to be a CCA customer and the incumbent IOU must continue to serve their load (and their generous NEM tariff). During the energy crisis, some ESPs went under and the incumbent IOU had to absorb those customers without much notice. These are all examples where the incumbent IOU who has the obligation to serve must absorb customers without much notice.

Reentry fees. Under the current statute, Public Utilities Code §394.25, the CPUC is authorized to require financial bond or insurance of CCAs and ESPs to cover the costs associated with customers involuntarily returned to the service of the incumbent IOU. Last year, the CPUC established reentry fees and financial security requirements to address the costs of a potential mass involuntary return of CCA customers. This was consistent with previous reentry requirements established for ESPs.

CPUC Consumer Choice Project. As part of their investigation into the changing electricity landscape, *California Customer Choice Project*, the CPUC noted that statute does not currently define the POLR. Instead, statute, rules, and practice assume the incumbent IOU has an obligation to serve. In the subsequent *Action Plan and Gap Analysis*, the CPUC recommended the Legislature define the POLR.

As part of that consideration, the CPUC noted the importance of establishing protocols to ensure that electric service is available for all customers at all times, adequate compensation is authorized for those services, and there is no cost-shifting to other customers. The CPUC's report stated: "with the growth in LSE options, designated entities must be ready to provide electricity if the market does not meet customer demand due to a sudden exit or failure of LSE." The report further stated the need to ensure these entities have the financial wherewithal to absorb an uncertain number of customers, and the administrative capacity to serve these customers. The CPUC also noted the continued need for more analysis about how POLR service obligations could be affected in a changing landscape with new LSEs and IOUs who may no longer desire to serve in the energy procurement space.

Many questions left to be answered; a need to continue conversations. SB 520 is an effort to begin delving into the elements, functions and structure necessary for POLR obligations to meet customer needs. As the discussions on the need for POLR framework are still relatively nascent, this bill is understood as a continued work in progress. As some of the supporters have noted, the need to value and establish the framework for POLR is necessary. However, there are still many unknowns in this landscape, including whether a separate type of LSE may be developed, perhaps including a state entity or nonprofit, as some have proposed, as a central buyer. While such an entity does not currently exist, the author may want to adjust the language of this bill to address the potential reality for such an effort. Additionally, the POLR entity will need to be subject to all CPUC laws and rules associated with its full regulation, including ensuring just and reasonable rates, filing of integrated resources plan, satisfy requirements for resources adequacy, renewable portfolio standard, and others. As these conversations progress and evolve, and the landscape continues to change, this committee may wish to pull this bill back to further refine it to better reflect those realities and the policy priorities of the state.

Prior/Related Legislation

AB 56 (E. Garcia, 2019) would authorize the CPUC to authorize the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) to undertake procurement of electricity to meet the state's climate, clean energy, and reliability goals if the CPUC makes specified findings. The bill is currently pending consideration in the Assembly Committee on Natural Resources.

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

SUPPORT:

San Diego Gas & Electric Company, if amended

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the author:

“Retail electricity choice in California has expanded, rapidly giving consumers a wide range of options for meeting residential and commercial energy needs apart from a regulated electric utility company. Senate Bill 520 establishes a safety net for electricity customers, ensuring service continues without disruption or extreme price shocks in the event that an electricity provider exits the market for any reason. This safety net entity is known as a provider of last resort.”

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