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

Senator Ben Hueso, Chair

2019 - 2020 Regular

Bill No:	SB 670	Hearing Date:	4/2/2019
Author:	McGuire		
Version:	2/22/2019 As Introduced		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Smith		

SUBJECT: Telecommunications: outages affecting public safety

DIGEST: This bill requires telecommunications service providers to submit a specified outage notification to the Office of Emergency Services (OES) when a telecommunications outage impacting 911 service and emergency notifications occurs. This bill makes OES responsible for notifying the appropriate county offices of emergency services and sheriffs for areas affected by an outage.

ANALYSIS:

Existing law:

- 1) Establishes California's 911 telecommunications service, requires every local public agency operating firefighting, police, ambulance, medical, or other emergency services to establish and operate a 911 service, and requires OES to coordinate the implementation of 911 systems and support local agencies in the operation and improvement of 911 systems. (Government Code §53100 et. seq./ *Warren 911 Emergency Assistance Act*)
- 2) Requires OES to develop a plan and timeline for the testing, implementation and operation of a Next Generation 911 emergency communication system, including text to 911 service, throughout California. (Government Code §53121)
- 3) Authorizes the California Public Utilities Commission (CPUC) to fix rates, establish rules, examine records, issue subpoenas, administer oaths, take testimony, punish for contempt, and prescribe a uniform system of accounts for all public utilities subject to its jurisdiction. (California Constitution, Article XII, §6)
- 4) Defines the term "public utility" and includes common carriers in the definition of a public utility. (Public Utilities Code §216)

- 5) Gives the CPUC the authority to supervise and regulate every public utility in the state and do all things necessary and convenient in the exercise of such power and jurisdiction. (Public Utilities Code §701)
- 6) Prohibits the CPUC from publicly disclosing information submitted to the CPUC by a public utility unless that information must be disclosed pursuant to an express statutory requirement or an order of the CPUC or a CPUC commissioner in the course of a hearing or proceeding. (Public Utilities Code §583)
- 7) Restricts the CPUC and other entities from exercising regulatory authority over Voice over Internet Protocol (VoIP) unless expressly authorized or delegated to do so in law and strictly limits the scope of the authorization or delegation. This prohibition does not affect or supersede the *Warren 911 Emergency Assistance Act*. (Public Utilities Code §710)
- 8) Defines “telecommunications service” as offering telecommunications for a fee directly to the public, or to classes of users as to be effectively available directly to the public, regardless of the facilities used. (Title 47 United States Code §153(53))

This bill:

- 1) Requires telecommunications service providers to notify the OES when a telecommunications outage impacting 911 calls or emergency notifications occurs. The telecommunications provider must send this notification to OES within 60 minutes of discovering the outage, and OES is responsible for notifying an applicable county office of emergency services and county sheriff.
- 2) Specifies that the outage notification required by this bill must be submitted by electronic mail and must include the following information:
 - The telecommunications provider’s contact name
 - The provider’s calling number
 - A description of the estimated area affected by the outage
 - The approximate number of telecommunications customers affected by the outage.
- 3) Requires telecommunications services providers to provide OES with the following information by electronic mail:
 - The estimated time to repair the outage
 - A notification of service restoration when service has been restored.

- 4) Requires telecommunications providers to ensure that the calling number provided to OES is staffed by the indicated contact person or the contact person's designee in the event that the contact person is unavailable. The contact person or designee must respond to inquiries about the outage at all times until the provider notifies OES that service has been restored.
- 5) Requires OES to keep responder outage notifications confidential, except that OES is authorized to notify applicable county offices of emergency services and county sheriffs.

Background

FCC outage reporting. The FCC requires communications providers to report significant service disruptions and outages electronically through the Network Outage Reporting System (NORS). The FCC also sets thresholds at which communications providers must submit reports to NORS. The CPUC has also adopted outage-reporting requirements, which are similar to those required by the FCC.

Despite the reporting requirements, a number of significant outages do not meet the threshold for reporting. Only outages affecting certain priority facilities, including nuclear power plants, air traffic control centers, and major military installations, trigger immediate reporting. While communications providers are urged to immediately contact impacted 911 facility managers when outages impact those facilities, providers are not required to report outages impacting 911 facilities to the FCC until 72 hours has passed. Other outage reporting is generally required when the outage lasts at least 30 minutes and impacts at least 900,000 user telephone minutes. The user minutes threshold limits the degree to which outages impacting rural and semi-rural areas meet FCC reporting thresholds. Outages in rural areas will persist for longer durations before they meet the thresholds.

The telecommunications sector is considered a critical infrastructure sector like the energy sector; however, unlike electric utilities, telecommunications providers do not have state-level requirements for major outage reporting that facilitates notification to affected local public safety and county emergency offices. The CPUC's General Order (GO) 166 defines a major outage for an electric utility and establishes initial reporting requirements. These requirements require an electric utility to notify the CPUC and OES of the location, possible cause, and expected duration of an outage within one hour of the outage or any newsworthy event. The Warning Center at the OES is expected to notify other state and local agencies of the outage. This bill establishes an initial reporting requirement for

telecommunications providers that is similar to the one for electric utilities in GO 166. However, this bill does not require reporting to the CPUC.

Outages are an ongoing issue, but disasters have raised awareness about their impact. Between 2014 and 2015, California's North Bay and North Coast region experienced significant telecommunications outages. These outages impacted health facilities' ability to process patient registration, prevented businesses from using electronic payments (including CalFresh benefits), and impacted 911 service.

The impact to 911 service led local emergency responders to take special steps to protect public safety, including positioning ambulances at highway intersections and ensuring that local fire stations could provide 911 back-up support during the outages. The affected county offices of emergency services and sheriffs' offices expressed frustration at the lack of information about the outages, including the lack of information about the occurrence of the outages and their estimated duration. A 2015 report by the federal Government Accountability Office said the following about a 2014 outage impacting Mendocino County:

According to a local incident report, telephone, Internet, cellular, and 911 services went down for thousands of residents, and Internet service was out almost completely along a 40-mile corridor for approximately 45 hours. According to local officials we contacted, 911 services were unavailable, and the county sheriff estimated that 20 percent of county residents lost vital services. Alert notifications through phone calls were unavailable for residents waiting to receive evacuation notices just as a nearby wildfire was growing.

Despite these impacts, it is not clear that these outages were reported to NORS. Confidentiality restrictions on NORS reporting prevents access to information contained in communication provider reports. Subsequent surveys and reports indicated that residents and local officials did not have sufficient information about the outages.

CPUC call completion proceeding. The CPUC has been exploring rural call completion and outage issues since 2014; however, despite requirements in existing law regarding timelines for quasi-legislative proceedings, the CPUC has delayed and re-scoped its investigation several times and has not reached a conclusion regarding outage notification requirements. It is not clear when or whether the CPUC will reach a conclusion that will address outage reporting that will facilitate notification to affected public safety and emergency response offices.

In response to concerns about major telecommunications outages impacting western states, the CPUC initiated an investigation to address intrastate rural call

completion issues (I.14-05-012) in May 2014. In July 2016, the CPUC held a public participation hearing for the investigation in Ukiah. At the hearing, residents and local officials expressed frustration with the outages impacting the North Coast and urged the CPUC to require telecommunications providers to notify local authorities when an outage occurs.

In December 2016, the CPUC issued a decision regarding rural call completion issues. The decision (D.16-12-066) included a number of ordering paragraphs directing CPUC to research and make recommendations on specific issues, including whether lowering the CPUC's telecommunications notification threshold would improve outage reporting for rural areas. The decision also directed the CPUC to consider options for informing impacted emergency responders and public safety of outages. In 2017, the CPUC re-assigned the proceeding to a new commissioner and delayed responses to the orders set forth in its 2016 decision. In July 2018, the CPUC issued a decision modifying the ordering paragraphs in the 2016 decision, including deleting the provisions about establishing a mechanism to notify affected local public safety and emergency responders of outages through OES's State Warning Center. According to the CPUC, these provisions were removed because existing law prohibits the CPUC from disclosing certain information designated as confidential to a third party, including OES and law enforcement.

In October 2018, the CPUC issued a new ruling in the proceeding summarizing the CPUC's work on the amended ordering paragraphs; however, these summaries do not fully address some of the ordering paragraphs from the 2016 decision related to outage notifications.

California's 2017 and 2018 catastrophic wildfires. While the CPUC investigated rural call completion issues, California experienced the largest and most devastating wildfires in its history. These disasters underscored both the importance of telecommunications in sending emergency warnings and the degree to which redundant and diverse telecommunication networks would not necessarily prevent significant outages.

Telecommunications providers can build and lease infrastructure to limit outages; but catastrophic wildfires like the North Bay Firestorm, Thomas Fire, Mendocino Complex Fire, and Camp Fire were too large and too intense to completely prevent outages. In addition to destroying structures and leading to a number of deaths, these fires also destroyed utility infrastructure. Following the 2017 North Bay Firestorms, the CPUC issued a report on the fires' impact on telecommunications services. According to this report, fires resulted in outages to approximately 160,000 wireline customers and 85,000 wireless customers. A number of factors,

including these outages, may have limited residents' ability to receive warning messages about the fires. While recent legislation (SB 833, McGuire, Chapter 617, Statutes of 2018) requires OES to work with stakeholders to develop training to help counties use the Wireless Emergency Alert (WEA) System and Emergency Alert System (EAS), counties may not be able to effectively use these systems if they are not aware of outages affecting infrastructure over which they would send these alerts. This bill would require telecommunications providers to report to OES outages that would impact 911 services or emergency notifications, and OES would be responsible for notifying the affected county officials.

Prior/Related Legislation

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 WEA system and the EAS.

SB 566 (McGuire, 2017) was substantively similar to SB 1250 (McGuire, 2016) and would have required certain telecommunications providers to submit notifications of major rural outages to OES and would have made OES responsible for notifying appropriate county offices of emergency services and the sheriff of any county affected by an outage. The bill died in the Senate.

SB 1250 (McGuire, 2016) would have required certain telecommunications providers to submit notifications of major rural outages to OES and would have made OES responsible for notifying appropriate county offices of emergency services and the sheriff of any county affected by an outage. The bill died in the Assembly.

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

SUPPORT:

AT&T, if amended
California Ambulance Association
California Cable & Telecommunications Association, if amended
California Fire Chiefs Association
California State Association of Counties
California State Sheriffs' Association
Fire Districts Association of California
Marin County Board of Supervisors

Napa County Board of Supervisors
North Bay/North Coast Broadband Consortium
Public Advocates Office
Rural County Representatives of California
Sonoma County Board of Supervisors

OPPOSITION:

California Association of Competitive Telecommunications Companies

ARGUMENTS IN SUPPORT: According to the author:

“Imagine being in an emergency situation, it's happened in the recent fire storms, picking up your phone to call 911 and having no service or dial tone. Unfortunately, millions of Californians are faced with that reality several times a year. In a catastrophic situation, lack of access to emergency services or emergency alerts and warnings puts lives at risk.

SB 670 is a simple step to mitigate risk during this dangerous situation by requiring telecommunication provider to report 911 service outages or other outages affecting emergency warning capabilities to the California Office of Emergency Services (CalOES), creating stronger and more resilient coordination between state and local services so that emergency officials have the crucial information they need. There is no current system currently in place now - here in the Golden State.”

ARGUMENTS IN OPPOSITION: Opponents believe the reporting threshold in this bill would result in burdensome notification requirements. In opposition, the California Association of Competitive Telecommunications Companies (CALTEL) states:

...As currently written, SB 670 contains no outage reporting thresholds and appears to require email notifications whenever *a single customer* is out-of-service. The result of this non-sensical requirement would be millions of emails, and cannot be what either the author intended or what Cal OES would find helpful.

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