SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

SB 378 (Wiener) - Electrical corporations: deenergization events: procedures: allocation of costs: reports

Version: January 6, 2020
Urgency: No
Hearing Date: January 21, 2020
Policy Vote: E., U., & C. 10 - 1
Mandate: Yes
Consultant: Ashley Ames

Bill Summary: This bill would place several requirements on electrical investor-owned utilities (IOUs) that decide to shut off power to reduce wildfire risk, including requiring IOUs to reimburse specified costs, creating penalties for shutting off power, and requiring IOUs to report specified information to the California Public Utilities Commission (CPUC) and local governments, among others.

Fiscal Impact:
- The CPUC estimates costs of $2.373 million annually (special fund) and ten positions to (1) establish a procedure for recovery of costs due to de-energization events, (2) conduct enforcement proceedings to penalize electric corporations, (3) perform audits, (4) ensure that IOUs follow new code of conduct rules, and (5) produce a biannual report on the economic, environmental, and public health and safety impacts of de-energization events.
- Unknown but potentially significant fee revenue, possibly in the billions of dollars, for penalties levied on IOUs by the CPUC due to de-energization events (see staff comments).

Background:

Proactive power shutoffs. Proactive power shutoffs are efforts by electric utilities to de-energize an electrical line or circuit in order to prevent the line from igniting a fire during certain conditions, especially high wind forecasts in areas that experience a high wildfire threat. Recently coined "Public Safety Power Shutoffs (PSPS)," these shutoffs are intended to be temporary but potentially endure for up to a few days, as the power is not restored until the conditions that triggered the shutoff have subsided and the electric lines are visually inspected to ensure there is no damage to the line that can spark a fire. In some instances, customers are served by circuits that do not pose a fire risk, but they are fed by lines upstream that do pose a fire risk. These customers may also lose power. While the lines are de-energized, customers on the affected circuits will not have electricity from the grid. Although there is some history with these types of proactive power shutoffs, their use as a tool to prevent sparking fires is a more recent development that has expanded and grown in use due to California's recent experience with catastrophic wildfires.

September/October 2019. With high-speed offshore warm Santa Ana winds in the southern part of the state and Diablo winds in the north, PG&E sent PSPS notifications at the end of September to a widespread region of its service territory and ultimately shutdown power in roughly two events to 76,000 customers in the North Bay and Sierra

Foothill areas. This was the first back-to-back power shutoff event for PG&E in the same geographic area. These power shutoffs seemed to set the stage for continued PSPS activity throughout the month of October. There were multiple proactive power shutoff events in October within the service territories of each of the three large electric IOUs. In some cases, especially in the PG&E territory, these events bled into each other with customers experiencing extended days with loss of power, as the utility did not have enough time to complete inspections of the de-energized electric lines before the next PSPS event was triggered.

In total, over two million California residents endured the loss of power in communities located in about 40 of the state's 58 counties. These incidents became even more challenging as wildfires in both northern California (including the Kincade Fire) and southern California (including Saddleridge and Maria Fires) also meant some evacuations needed to be executed with a lack of reliable communication services, traffic signal outages, schools closed, and hospitals struggling to keep the lights on even with their existing backup generators. Additionally, customer efforts to understand what infrastructure and which locations lost power were hampered as electric IOU websites were down – including those of PG&E and SCE. The increased attention and widespread nature of the outages meant significantly increased traffic to each of the utilities' websites, which they were not prepared to manage. There were also reports about unreliable maps and confusing information regarding geographic areas that would be affected. This confusion was especially acute in the PG&E territory.

Customers who rely on electricity for medical devices struggled to find alternative sources of power or transportation to get to any of the limited community resource centers available to them, or to make contact with anyone who could help. The state agencies, including the California Health and Human Services Agency, attempted to provide additional support. Local agencies, including counties, cities and special districts (including first responders to water utilities), struggled to provide support for their residents. Numerous K-12 schools, colleges, and universities across PG&E's service territory closed.

Proposed Law: This bill would:

1. Require an IOU to annually report to the CPUC, the Office of Emergency Services, the Department of Forestry and Fire Protection, the California Independent System Operator, and county governments within its service territory on the age, useful life, and condition of the electrical corporation's equipment, including an assessment of the current and future fire and safety risk posed by the equipment, as well as of the economic, environmental, and public safety impacts of de-energization events, as defined.

2. Require the CPUC to institute a rulemaking for the purpose of considering and adopting a code of conduct and enforcement procedures, as specified, to govern the conduct of an electrical corporation relative to the consideration, formation, and implementation of community choice aggregation programs, new or expanded local publicly owned electric utilities, microgrid or distributed resource programs and policies, or other efforts to expand electrical service options available to consumers.

3. Require, on or before June 1, 2020, the CPUC, in consultation with the Department of Consumer Affairs, to establish a procedure for customers, local governments, and others affected by a de-energization event to recover costs accrued during the de-energization event from an electrical corporation within two weeks of the end of the event. The bill would require an electrical corporation to create a fund, of an amount to be determined by the CPUC, for the recovery of costs accrued by customers, local governments, and others during a de-energization event. This bill would require that money be paid into the fund exclusively by the electrical corporation's shareholders. This bill would prohibit an electrical corporation from billing customers for any non-fixed costs during a de-energization event or from charging customers increased amounts after a de-energization event in order to offset losses accrued during a de-energization event. This bill would require that any profit accrued by an electrical corporation due to a de-energization event be remitted or credited to ratepayers, while any loss be borne by the electrical corporation's shareholders.

4. Require the Public Advocate's Office to produce an annual report on the economic, environmental, and public safety impacts of de-energization events, using information provided by electrical corporations as well as independent analysis.

5. Provide that an electrical corporation is subject to an unspecified civil penalty for every hour that a de-energization event is in place.

Related Legislation:

SB 790 (Leno, Chapter 599, Statutes of 2011) revised and expanded the definition of Community Choice Aggregation (CCA) and required the California Public Utilities Commission (PUC) to initiate a Code of Conduct rulemaking

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, which included a requirement for protocols for power shutoffs, and cost recovery by electric corporations of wildfire-related damages.

AB 1054 (Holden, Chapter 79, Statutes of 2019) creates additional safety oversight and processes for utility infrastructure, recast recovery of costs from wildfire damages to third-parties, and authorize an electrical corporation and ratepayer jointly funded Wildfire Fund to address future related wildfire liabilities.

Staff Comments: The January 6 version of the bill calls for hourly fees during planned de-energization events and sets the fees at $500,000 per 50,000 customers affected per hour. If this penalty structure had been in place during September and October of 2019, penalty revenue would have been easily in the billions of dollars. Even under the penalty structure suggested in the Energy, Utilities and Communications analysis that would halve the penalty amount per hour, penalty revenue would have likely been over $1 billion.

Proposed Author Amendments: The author agreed to several amendments during the policy committee hearing. These amendments will be considered by this committee as Suspense amendments. The amendments would:

- Remove provisions concerning establishing Code of Conduct Rules associated with marketing against the formation of local public owned utilities, microgrids, and distributed energy resources.
- Recast the section of the bill concerning compensation for affected customers and local governments. Some of the elements included in the legislation in Section 4 can better align with cost recovery processes at the CPUC, while ensuring legislative direction.
- Adjust the penalty amounts and make penalties dependent on the CPUC finding that de-energization events are not reasonable.
- Apply provisions to all electric IOUs or all electric utilities regulated by the CPUC.
- Additional minor changes. Consistent with recent legislative efforts to establish a Wildfire Safety Division, the bill should require reporting to the new division responsible for oversight of electric IOU wildfire mitigation plans.

These amendments would likely reduce the costs of implementing this bill by $100,000 to $200,000 (special fund) because the CPUC would no longer have to ensure that IOUs follow new code of conduct rules and the compensation elements would be better aligned with existing cost recovery processes at the CPUC.

These amendments would reduce potential fee revenue by at least half, resulting in possible fee revenue in the hundreds of millions of dollars.

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