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

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|--------------------|----------------|------------|---------------|-----------|
| Author: | Dodd | | | |
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| Urgency: | No | | Fiscal: | Yes |
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SUBJECT: Planned power outage: public safety

DIGEST: This bill (1) adds planned deenergization events, as defined, within the conditions that constitute a state of emergency; and (2) recast and add new requirements of electrical corporations regarding protocols for these events. Among the recast and new requirements on electrical corporations are protocols to deal with individuals with access and functional needs, and requirements regarding coordination with local governments on the location and operation of community resource centers during deenergization events.

ANALYSIS:

Existing law:

- 1) Establishes the California Emergency Services Act, authorizes the governor to proclaim a state of emergency, and local officials and local governments to proclaim a local emergency, when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the governor or the appropriate local government to exercise certain powers in response to that emergency. (Government Code §8550 et seq.)
- 2) Defines the terms "state of emergency" and "local emergency" to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by, among other things, fire, storm, or riot. (Government Code §8558)
- 3) Requires each electrical corporation to annually prepare a wildfire mitigation plan and to submit its plan to the commission for review and approval, as specified. Following approval, the California Public Utilities Commission (CPUC) is required to oversee compliance with the plan. Requires a wildfire mitigation plan of an electrical corporation to include, among other things, protocols for deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, and protocols related to

mitigating the public safety impacts of those protocols, including impacts on customers who receive medical baseline allowances. (Public Utilities Code §8386)

4) Authorizes an electrical corporation to deploy backup electrical resources or provide financial assistance for backup electrical resources to a customer receiving a medical baseline allowance who meets specified requirements, including that the customer is not eligible for backup electrical resources provided through medical services, medical insurance, on community resources. (Public Utilities Code §8386(c)(6)(C))

This bill:

- 1) Adds a planned deenergization event, as defined, within the definition of "sudden and severe energy shortage" conditions that constitute a state of emergency and a local emergency.
- 2) Requires an electrical corporation, as part of its public safety mitigation protocols, to include protocols that deal specifically with access and functional need individuals, as defined, including those individuals who are enrolled in the California Alternative Rates for Energy (CARE) program, as specified.
- 3) Requires an electrical corporation to coordinate with local governments in its service territory to identify sites within those jurisdictions where community resource centers can be established and operated during a deenergization event and the level of services that will be available at those centers, as those terms are defined. Requires the electrical corporation to perform additional duties in coordination with local governments, including performing any necessary electrical upgrades to ensure that a mobile backup generator can be located at, and provide the necessary electricity for, the community resource center during a deenergization event.
- 4) Recasts those provisions to authorize the electrical corporation to deploy backup resources to a customer, including an individual with an access of functional need, as defined, and would delete the requirement that the customer not be eligible for backup electrical resources from the other providers.

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. 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 the 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 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, and the brutally deadly Camp Fire in 2018.

Deenergizing electric lines. Generally, electric utilities attempt to maintain power and ensure continued reliability of the flow of power. However, as recent catastrophic fires have demonstrated, the risk of fire caused by electric utility infrastructure can pose a great risk, perhaps greater than the risks of turning off the power to certain circuits. As a safety consideration, electric utilities have the ability and authority 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 consider the potential harm of the energized lines causing a wildfire against the safety hazards associated with eliminating electricity to the areas served by the line(s).

Recent history with power shutoffs. Although there is some history with 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 ignited by utility infrastructure. The practice began by San Diego Gas & Electric (SDG&E) after several electric utility infrastructure ignited catastrophic fires in 2007. Proactive power shutoffs were one of the many measures SDG&E implemented to reduce the risk of fire ignited by its infrastructure (other measures included installing steel poles and expanding ground and aerial inspections). Although the use of proactive power shutoffs were met with opposition and concerns about its use, ultimately the CPUC acknowledged SDG&E's authority to deenergize lines in order to protect public safety, noting this authority in Public Utilities Code §451 and §399.2. In April 2012, the CPUC adopted a decision (D. 12-04-024) that required SDG&E to provide notice and mitigation, to the extent feasible and appropriate, whenever the utility deenergized electric lines. Additionally, the CPUC required SDG&E to provide specified reporting after a proactive power shutoff event and noted the CPUC may conduct a post-event review to determine whether the utility was reasonable.

CPUC extends proactive power shutoffs protocol requirements to other utilities. Following the catastrophic fires in 2017 (including Thomas and North Bay Fires), in July 2018, the CPUC adopted a staff resolution (ESRB-8) to extend the reasonableness, public notification, mitigation and reporting requirements in the SDG&E decision to all electric investor-owned utilities (IOUs), including Pacific Gas and Electric (PG&E) and Southern California Edison (SCE). Per the CPUC requirements, after a Public Safety Power Shutoff (PSPS) event, the utility must inspect the lines of the circuits that were shutoff before it can restore power. As such, the duration of a power shutoff event may last several days. Under Resolution ESRB-8, the CPUC also requires utilities to meet with local communities before employing the power shutoff practice in a particular area, requires feasible and appropriate customer notifications prior to a deenergization event, and requires notification to the Safety and Enforcement Division of the CPUC after a decision to deenergize facilities. In adopting the resolution, CPUC commissioners expressed a desire that the power shutoffs would only be used as a "last resort" by the utilities.

September/October 2019. At the end of September 2019, under high-speed Diablo wind conditions, PG&E sent PSPS notifications 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-toback power shutoff event for PG&E in the same geographic area. These power shutoffs set the stage for continued PSPS activity throughout the month of October, as there were additional multiple proactive power shutoff events throughout the month 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. As a result, customers experienced extended days with loss of power, as the utility did not have enough time to complete inspections of the deenergized electric lines before the initiation of the next PSPS event. 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 and southern California 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 – due to the increased traffic to each of the utilities' websites. There were also reports about unreliable maps and confusing information regarding the affected geographic areas. This confusion was especially acute in the PG&E territory.

SB 901 requires power shutoff protocols. SB 901 (Dodd, Chapter 626, Statutes of 2018) included a requirement to adopt protocols for deenergization events. In

SB 862 (Dodd)

December 2018, the CPUC opened a rulemaking proceeding (R. 18-12-005) to delve more deeply into the use of proactive power shutoffs as a wildfire prevention tool, including further examining de-energization policies and guidelines. In May 2019, the CPUC made its decision on Phase 1 of the proceeding (D. 19-05-042), adopting communication and notification guidelines for the electric IOUs to expand on those required in the July 2018 resolution. In August 2019, the CPUC opened a second phase of the proceeding to address identification and communication with access and functional needs populations, communication with customers while the power is turned off, communication during deenergization, mitigation measures, coordination with relevant agencies (including first responders), and transmission-level deenergization.

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 the 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 energy to survive. All three of the large IOUs 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 cannot pay and are willing to enter into a payment schedule. SB 1338 (Hueso, Chapter 518, Statutes of 2018) 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.

California Alternate Rates for Energy (CARE) program. 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.

Vulnerable populations, legislature passes SB 167 (Dodd). During the recent PSPS events, 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. During the fall 2019 events, state agencies and local agencies, including the California Health and Human Services Agency, county offices of emergency services, cities, and special districts (including first responders and water utilities) all struggled to respond to challenges created by the power shutoffs. In fall of 2019, Governor Newsom signed SB 167 (Dodd, Chapter 403, Statutes of 2019) which authorizes electric utilities to provide backup power sources to qualifying residents with medical conditions, who are low-income, and do not have another source of backup power. Currently, all three of the state's largest electric IOUs are piloting programs that deploy backup power to some of these customers. In some instances, the utilities are working with organizations that serve the access and functional needs population to better connect with eligible customers. Electric utilities are also incorporating grid-hardening and other strategies to reduce wildfire risks and detailed in their wildfire mitigation plans. Moreover, there are additional programs to target provide financial incentives or help deploy backup power to customers who are the most vulnerable to power shutoffs. These programs include the Self Generation Incentive Program (SGIP). Recent CPUC decisions (D. 19-09-027 and D. 20-02-021) will help deploy one hundred million dollars in the equity resilience category to support energy storage systems that provide electricity when there is an outage – including a proactive shutoff. This SGIP allocation will target the highest fire threat districts and support vulnerable customers, including those with medical needs. The CPUC also has an active proceeding on microgrids and resiliency with the goal of deploying microgrids in areas that are prone to outages and wildfires. On April 27th, CPUC President Batjer issued a proposed decision in Phase 2 of the proceeding on PSPS. The decision requires the utilities to collaborate with relevant stakeholders, including organizations representing the access and functional needs community and local governments to better locate and support the access and functional needs and medically vulnerable populations.

Declaring a State of Emergency. The California Emergency Services Act (CESA) was enacted in 1970 and established the Governor's Office Emergency Services (OES) with a director reporting to the governor. The office was given responsibility to coordinate statewide emergency preparedness, post emergency recovery and mitigation efforts, and the development, review, approval, and integration of emergency plans. CESA provides the governor the authority to

proclaim a state of emergency in an area affected or likely to be affected when: a) conditions of disaster or extreme peril exist; b) he or she is requested to do so upon request from a designated local government official; or c) he or she finds that local authority is inadequate to cope with the emergency. Local governments may also issue local emergency proclamations, which is a prerequisite for requesting Governor's Proclamation of a State of Emergency. CESA:

- Authorizes the undertaking of extraordinary police powers.
- Provides limited immunity for emergency actions of public employees and governing bodies.
- Authorizes the issuance of orders and regulations to protect life and property (e.g., curfews).
- Activates pre-established local emergency provisions such as special purchasing and contracting.
- Prerequisite for requesting a Governor's Proclamation of a State of Emergency and/or a Presidential Declaration of an Emergency or Major Disaster.

Community Resource Centers (CRCs). During the power shutoff events in the fall of 2019 there were numerous complaints and concerns from residents and local governments about the location and operations of community resources centers established by the electric utilities, especially those operated by PG&E. Local governments were upset to learn that many CRCs were temporary tents in areas unfamiliar to the local residents or located far from the affected population. The recently released CPUC proposed decision in phase 2 of the PSPS proceeding proposes numerous requirements regarding CRCs, including the need to work with local governments on their locations, maintaining operations during specified hours (8am to 10pm) during a power shutoff and requiring specified support and services.

Comments

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 the events endure for multiple days. The access and functional needs population can be particularly vulnerable to the loss of power as it can detrimental to their safety and mobility. This bill would authorize electric utilities to explicitly consider the needs of the access and functional needs population in preparation and during power shutoffs.

Declaring an emergency. This bill would provide that a proactive power shutoff by an electric IOU would be considered a qualifying condition to declare a local or state emergency. The power shutoff events in the fall of 2019 proved to be an extraordinary burden on local and state governments who were forced to scramble with their own resources to respond to the events. By allowing proactive power shutoffs to be an eligible condition to declare an emergency, local governments could benefit local governments by allowing them to recoup costs that they might bear during these events. These costs could be substantial. However, there is hope that the events of last fall would not be repeated. Nonetheless, local governments are valid in their concerns that local and state government resources could be impacted, once again, in future events.

Amendments needed. In order to curb the impacts to ratepayers while maintaining the spirit of this bill, *the author and committee may wish to amend this bill to:*

- only require backup power at a community resource center if deenergization is expected to affect the community resource center
- require the resource center meets the needs as identified in the commission's final decision
- provide the local emergency officer the ability to reduce the hours of the resource center, if it is necessary
- maintain the language as in SB 167 (Dodd, 2019) to authorize electric IOUs to provide backup power for specified customers, but add a paragraph to address the access and functional needs population.

(B) The electrical corporation shall perform any necessary electrical upgrades to ensure that a mobile backup generator can be located at, and provide the necessary electricity for, the site during a deenergization event. The electrical corporation shall provide a mobile backup generator at the beginning of a deenergization event if (1) the community resource center is not otherwise equipped with a backup generator, and (2) the electrical corporation determines that a deenergization event is expected to result in loss of electricity at the community resource center.

(2) An electrical corporation shall site community resource centers, to the maximum extent practicable, at existing facilities that have adequate capacity to meet the community needs identified by the applicable local government, within

the guidelines as adopted by the commission. A community resource center shall be located within a reasonable distance of the communities it is intended to serve. (3) An electrical corporation shall enter into agreements with the owners of those facilities identified as community resource centers to ensure that community resource centers can be opened upon initiation of a deenergization event in that jurisdiction.

(4) A community resource center shall be open and accessible 24 hours per day, if the county emergency services officer determines those hours are necessary. The community resource center shall remain in operation on a daily basis from the

time a deenergization event is initiated until service restoration is completed in the jurisdiction, or at such time as a county emergency services officer determines there is no further need for the community resource center to remain in operation.

SEC. 2. *SEC. 3*.

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 Wildfire Safety Division for review and approval. In calendar year 2020, and thereafter, the plan shall cover at least a three-year period. The division shall establish a schedule for the submission of subsequent comprehensive wildfire mitigation plans, which may allow for the staggering of compliance periods for each electrical corporation. In its discretion, the division may allow the annual submissions to be updates to the last approved comprehensive wildfire mitigation plan; provided, that each electrical corporation shall submit a comprehensive wildfire mitigation plan at least once every three years.

(c) The wildfire mitigation plan shall include all of the following:

(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 these 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 all of the following:

(A) Critical first responders.

(B) Health and communication infrastructure.

(C) <mark>Customers-Access and functional needs individuals as defined in subdivision</mark> (b) of Section 8593.3 of the Government Code, and customers-<mark>Customers</mark> who

receive medical baseline allowances pursuant to subdivision (c) of Section 739. The electrical corporation may deploy backup electrical resources or provide financial assistance for backup electrical resources to *an access and functional needs individual and* a customer receiving a medical baseline allowance for a customer who meets all *when the individual or customer demonstrates financial need, including, but not limited to, enrollment in the California Alternative Rates for Energy program created pursuant to Section 739.1 and meets either* <u>for a</u>

customer who meets all of the following requirements:

(i) The *individual or* customer relies on life-support <u>life support</u> equipment that operates on electricity to sustain life.

(ii) The customer demonstrates financial need, including through enrollment in the California Alternate Rates for Energy program created pursuant to Section 739.1. *individual or customer is a person with a disability or an access and functional need*. *customer demonstrates financial need*, *including through enrollment in the California Alternate Rates for Energy program created pursuant to Section 739.1*.

(iii) The customer is not eligible for backup electrical resources provided through medical services, medical insurance, or community resources.

(iii) The customer is not eligible for backup electrical resources provided through medical services, medical insurance, or community resources.

(D) Access and functional needs individuals as defined in subdivision (b) of Section 8893.3 of Government Code. The electrical corporation shall work with stakeholders and local government to develop protocols which shall include, but not be limited to, improved outreach to individuals with access and functional needs in order to prepare for deenergization events, including information about available resources that may provide backup power or financial assistance for back up power, and information pertaining to the location, access to and services provided at community resource centers as defined in Section 768.9(a)(1).

SB 862 (Dodd)

(D) (E) Subparagraph (C) shall not be construed as preventing an electrical corporation from deploying backup electrical resources or providing financial assistance for backup electrical resources under any other authority. (7) Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines, including procedures for *access and functional needs individuals and customers and* those customers receiving a medical baseline allowance as described in paragraph (6). The procedures shall direct notification to all public safety offices, critical first responders, health care facilities, and operators of telecommunications infrastructure with premises within the footprint of potential deenergization for a given event.

Prior/Related Legislation

SB 801 (Glazer, 2020) establishes new requirements on electrical corporations regarding deployment of backup electrical resources to customers receiving medical baseline allowance, if the customer meets specified conditions, and require an electrical corporation to develop its program to provide backup electrical resources in consultation with community disability rights groups or other local disability rights advocates. The bill is scheduled to be heard in this committee on May 14, 2020.

SB 378 (Weiner, 2019) requires numerous provisions related to an electrical IOU decision to proactively shut off power, including requiring reimbursements of specified costs, specified penalties for shutting off power, and other reporting. The bill is currently awaiting to be referred to policy committee in the Assembly.

SB 167 (Dodd, Chapter 403, Statutes of 2019) required electrical corporations to include impacts on customers enrolled in specified programs as part of the protocols for deenergizing portions of their electric distribution system within their wildfire mitigation plans.

SB 532 (Dodd, Chapter 557, Statutes of 2018) added "cyberattacks" to the list of conditions that are named in the Emergency Services Act that may be cited to support the proclamation of a state of emergency or local emergency.

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 862 (Dodd)

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:

California Association of Public Authorities for IHSS (Co-sponsor) Disability rights California (Co-sponsor) Association of Regional Center Agencies California Community Choice Association California State Sheriffs' Association California State Association of Counties City of San Jose Coalition of California Welfare Rights Organizations County Welfare Directors Association of California Elsinore Valley Municipal Water District Health Officers Association of California Marin Clean Energy Marin County Board of Supervisors Napa County Board of Supervisors National Association of Social Workers-California Chapter Rural County Representatives of California Solano County Board of Supervisors The Utility Reform Network Western Manufactured Housing Communities Association

OPPOSITION:

San Diego Gas & Electric

ARGUMENTS IN SUPPORT: According to the author:

Deenergization of electrical equipment creates certain risks of its own. Among those risks is the interruption of power needed to operate life support equipment, as well as to support the needs of individuals with physical or intellectual disabilities. Last year, the Legislature enacted SB 167 (Dodd) which required IOUs to include protocols for addressing the needs of customers who rely on electrically powered life-support equipment (medical baseline customers), during a deenergization of power lines. However, there is no requirement that deenergization protocols address other customers who have critical needs during a deenergization, such as individuals with intellectual and physical disabilities. SB 862 would require IOU deenergization protocols to address those needs as well.

Deenergization triggers many activities needed to protect public health and safety for the duration of the event. Those activities are often coordinated through and by county emergency operation centers (EOCs). EOCs are activated as soon as an IOU issues a notice of possible deenergization, and remains active until power is restored and/or the notice is rescinded. EOCs are expensive to run. Counties would like to recover some of those costs through the California Disaster assistance Act (CDAA). In order to recover costs under the CDAA an event has to be covered under the state Emergency Assistance Act (ESA). It is unclear whether a pre-planned deenergization is covered by the ESA. SB 862 makes clear that the ESA includes deenergizations.

ARGUMENTS IN OPPOSITION: In opposition to this bill, SDG&E expresses agreement with the spirit of this bill to mitigate the impact of power shutoffs, but raises concerns that this bill is too rigid in its requirements and conflicts with ongoing regulatory proceedings seeking to address the same issues. SDG&E states this bill requirements could have several unintended consequences. Moreover, SDG&E cites many of its efforts to work collaboratively with stakeholders, including local governments and organizations serving access and functional needs in their service territory to address the issues of siting of community resource centers, providing backup power, and others.

-- END --