
THIRD READING

Bill No: SB 862
Author: Dodd (D)
Amended: 5/20/20
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-0, 5/14/20

AYES: Hueso, Moorlach, Bradford, Chang, Dahle, Dodd, Hertzberg, Hill,
McGuire, Rubio, Stern, Wiener

NO VOTE RECORDED: Skinner

SENATE APPROPRIATIONS COMMITTEE: 7-0, 6/18/20

AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

SUBJECT: Planned power outage: public safety

SOURCE: California Association of Public Authorities for IHSS
Disability Rights California

DIGEST: This bill (1) adds planned deenergization events, as defined, within the conditions that constitute a state of emergency; and (2) adds new requirements of electrical corporations regarding protocols for these events. Among the new requirements on electrical corporations are protocols to address the needs of 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, or 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.
- 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.

Background

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 its own safety risks, as households, businesses, traffic signals, communication systems, critical facilities, water treatment facilities, emergency services and others lose electricity. 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 electric line(s).

Recent history with proactive power shutoffs. Although there is some history with proactive power shutoffs, their use as a tool to prevent electric utility equipment from sparking fires is a more recent development that has expanded and grown in-use due to recent catastrophic wildfires ignited by utility infrastructure. The practice to proactively shut off power began with San Diego Gas & Electric (SDG&E) after several electric utility infrastructure-ignited catastrophic fires in 2007. 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. Following 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 deenergization event, now coined a Public Safety Power Shutoff (PSPS) event, the utility must inspect the lines of the circuits that were turned off before it can restore power. 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 CPUC after a decision to deenergize facilities has been made.

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

September/October 2019. At the end of September 2019 and throughout October 2019, low-humidity and gusty wind conditions, resulted in unprecedented and widespread use of proactive power shutoffs across the state by three largest electric utilities. 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 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. 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. Customers who rely on electricity for medical devices struggled to find alternative sources of power or transportation to get to any of the limited electric IOU established community resource centers available to them, or to make contact with anyone who could help. The access and functional needs population, including those who rely on the use of wheelchairs or other electricity-dependent devices were largely left to fend for themselves. Additionally, 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.

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 a Governor's Proclamation of a State of Emergency. CESA provides numerous powers and responsibilities, including authorizing extraordinary police powers, limited immunity for emergency actions of public employees, and authorizes the issuance of order and regulation to protect life and property, among others. CESA also provides for the opportunity for local governments to seek reimbursement from the state for actions taken to address the emergency.

Vulnerable populations, legislature passes SB 167 (Dodd). 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 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 PSPS. 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. The CPUC also recently adopted Phase 2 of the proceeding on PSPS, which 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.

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. Most residents are not likely to be prepared for a power outage, 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 be 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. This bill would also prescribe operational requirements for electric IOU-initiated community resource centers during deenergization events. The electric IOUs oppose these requirements arguing they are circumventing the recently adopted CPUC requirements for deploying and operating community resource centers.

Declaring an emergency. This bill provides 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.

Related/Prior 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 pending consideration before the full Senate.

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 pending in the Assembly Committee on Utilities and Energy.

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 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

According to the Senate Committee on Appropriations:

- Unknown but significant ongoing costs to the state as an energy utility ratepayer, likely in the tens or hundreds of thousands of dollars annually

(General Fund and special funds) due to potential increases in electricity rates as a result of this bill.

- Unknown but significant cost pressure for the state to reimburse local governments for certain expenses incurred during states of emergency related to Public Safety Power Shutoff (PSPS) events.

SUPPORT: (Verified 6/18/20)

California Association of Public Authorities for IHSS (co-source)

Disability Rights California (co-source)

Association of Regional Center Agencies

California Alliance for Retired Americans

California Community Choice Association

California Hospital Association

California In-Home Supportive Services Consumer Alliance

California State Association of Counties

California State Sheriffs' Association

City of Orinda

City of San Jose

City of Thousand Oaks

Coalition of California Welfare Rights Organizations

County Welfare Directors Association of California

East Bay Municipal Utility District

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

UDW/AFSCME, Local 3930

Western Manufactured Housing Communities Association

OPPOSITION: (Verified 6/18/20)

San Diego Gas & Electric

Southern California Edison

ARGUMENTS IN SUPPORT: According to the author:

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 and SCE express 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.

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