

Date of Hearing: April 20, 2022

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Eduardo Garcia, Chair

AB 2070 (Bauer-Kahan) – As Amended March 31, 2022

SUBJECT: Electrical corporations: wildfire mitigation: notice requirements

SUMMARY: Requires electrical corporations (IOUs) to notify any local fire protection district of specified pending actions of an IOU. Specifically, **this bill:**

- 1) Requires an IOU to provide 24 hour-notice, or as soon as possible in the case of an emergency or unforeseen circumstances, by phone and email, to a fire protection district, of its intent to perform:
 - a. Nonemergency hot work in a high fire threat area;
 - b. The deployment of a safety and infrastructure protection team in a high fire threat area;
 - c. Initiation of a deenergization event; and
 - d. The performance of prescribed or controlled burns.
- 2) Establishes a civil penalty of \$500 for failure to notify a fire district and restates current law that the penalty is not eligible for rate recovery.
- 3) Defines deenergization event, fire protection district, high fire risk area, hot work, prescribed or controlled burn, and safety and infrastructure protection team.

EXISTING LAW:

- 1) Requires IOUs to 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. (Public Utilities Code § 8386 [a])
- 2) Defines a deenergization event as the proactive interruption of electrical service for the purpose of mitigating or avoiding the risk of causing a wildfire. (Public Utilities Code § 8385 [a][1])
- 3) Requires each IOU to develop a wildfire mitigation plan which must include, among the specified elements, if deenergizing is used, protocols related to mitigating the public safety impacts of deenergizing portions of the electrical distribution system, that consider the impacts on critical first responders, health and communication infrastructure, and medical baseline customers, and include procedures for notifying impacted customers who may be impacted by deenergizing. (Public Utilities Code § 8386 [c][6])
- 4) Establishes guidelines, rules, and regulations an IOU must follow when using deenergization including specified timelines for advance notification to customers, public safety partners, local governmental and nongovernmental personnel, and agencies and

authorities. (CPUC Resolution ESRB-8 (July 12, 2018) and Decisions 19-05-042, 20-05-051 and 21-06-034)

- 5) Prohibits rate recovery by an electrical or gas corporation of fines and penalties. (Public Utilities Code § 748.1)

FISCAL EFFECT: Unknown. This bill is keyed fiscal and will be referred to the Appropriations Committee for its review of the fiscal effect of this bill.

BACKGROUND:

Public Safety Power Shutoffs(PSPS) aka Deenergization – Over the last decade, California has experienced increased, intense, and record-breaking wildfires throughout the state. These fires have resulted in devastating loss of life and billions of dollars in damage to property and infrastructure. Electric utility infrastructure has historically been responsible for less than ten percent of reported wildfires; however, fires attributed to power lines comprise a significant portion of the most destructive fires in California history. With the continuing threat of wildfire, utilities have been authorized to proactively cut power to electrical lines that may fail in certain weather conditions to reduce the likelihood that the infrastructure could cause or contribute to a wildfire. This effort to reduce the risk of fires caused by electric infrastructure by temporarily turning off power to specific areas is called a Public Safety Power Shutoff (PSPS) by the CPUC or more commonly, deenergization. A PSPS can leave communities and essential facilities without power, which brings its own risks and hardships, particularly for vulnerable communities and individuals.

Over several years the CPUC has developed an extensive set of protocols, rules, and regulations to proscribe the process for initiating PSPS events, safe management of the events by the IOUs, and the care of customers and others who are impacted by the events.

COMMENTS:

- 1) *Author’s Statement.* According to the author, “Climate change has made our fire season much less predictable, and has contributed to both the intensity and duration of wildfires that our state faces. California had its worst fire season in modern history in 2020, with over 10,000 wildfires burning over 4.2 million acres of land. It is past time for our state to take action in the face of these fires and natural calamities. AB 2070 will increase accountability and transparency by requiring all electrical utilities to notify local fire districts at least 24 hours before conducting mitigation or planned burns in a high fire risk area during fire season. This will ensure that local fire districts are aware and prepared when utility companies conduct “hot work” or controlled burns within their jurisdiction. When fire districts know in advance that there is risky work being conducted in their area, they can be prepared by having fire personnel and equipment poised and ready. Without this critical notification from utilities, districts can be caught off guard and lose precious moments to stop the flames should a fire break out. It is essential we give fire districts all the tools they need, especially during fire season.”
- 2) *“Hot Work” & Fire Safety.* The definition of hot work in this bill is intended to target work by electric utilities which could generate a spark or arc and create a fire ignition. Crews working on utility lines are designated as qualified electrical workers (QEWs or linemen). In

the industry, the work is also referred to as “working hot” and is a constant for any electric utility.

The CPUC requires that Wildfire Mitigation Plans address crew-accompanying ignition prevention and suppression resources and services, and personnel work procedures and training in conditions of elevated fire risk. When utilities do this work, personnel and resources, which could be contracted for or be a safety team of utility employees, are deployed who are trained to perform fire prevention duties when at-risk work is performed.

The bill refers to these workers as “safety and infrastructure protection teams” which is the same designation used by PG&E for its safety team. The description of these personnel is described as follows by PG&E:

PG&E’s Safety and Infrastructure Protection Team (SIPT) consists of 40 two-person International Brotherhood of Electrical Workers (IBEW) crews who are trained and certified in safety and infrastructure protection. SIPTs are highly trained in fire suppression and prevention and can provide detailed insights to reduce fire hazards at work sites. During elevated fire risk conditions and based on priority and availability, SIPTs accompany PG&E personnel during high-risk work activities and perform critical fuel reduction work around PG&E assets to prevent damage from wildfires.

The committee’s research did not find any data on fire ignitions caused by “hot work.” The most common causes of utility-related ignitions are vegetation contact, contact with foreign objects, and equipment failure. We also found that the IOUs have contracted or directly employed safety personnel on “hot work” jobs to prep areas around which hot work will be performed to prevent fire and to provide immediate response in the event of sparking and ignition which is required by the CPUC as part of the utility wildfire mitigation plans.

The author provided a 2020 grand jury report from Contra Costa County recommending that certain county fire district boards and cities consider ordinances that enable the fire district or fire department to recover labor and equipment costs from PG&E for overseeing electrical utility work that presents a high fire risk. The Moraga-Orinda and San Ramon fire districts are known to have adopted such ordinances. However, there was no data in the grand jury report of fire ignitions caused by utility hot work. There was no reference to the existence and use of safety teams by utilities when doing this work. As a result of these ordinances, ratepayers are being charged by the fire districts for services already provided by the utility. *Consequently, the committee may wish to consider striking the hot work notice requirements and limiting the notice requirement of the bill to controlled and prescribed burns.*

- 3) *Deenergization Event Notice.* The Contra Costa grand jury report also expressed concern that the fire districts were not receiving adequate notice on PSPS events from PG&E. The timing of the report likely considered PG&E deenergization events in the fall of 2019 which were, without question, a debacle and a major disruption and safety risk for millions of customers. Since that time, however, demonstrable improvements to the consequence of these events have been made through technologies limiting the covered areas and through CPUC decisions, addressing the very issue raised by this bill, and enforcement and utility management practices.

Through at least three different decisions, extensive public comment, and myriad workshops, the CPUC has developed a comprehensive set of protocols, rules and regulations that the IOUs are to follow for deenergization events. These protocols include notice to all levels of public safety officials and governmental and non-governmental agencies, customers, telecommunication companies, and publicly owned utilities. The protocols direct the content and timing of communications with all parties.

Specifically, the IOUs are required to provide notice to specified public safety partners using specified protocols 72, 48, and 24 hours before a deenergization event. The limited notice provisions of this measure conflict with the CPUC mandates and could be interpreted as weakening those mandates. *To ensure that there is one comprehensive notification system in place for the IOUs for deenergization events, the committee may wish to consider striking the conflicting notice requirement to fire districts in this bill.*

- 4) *Safety in POU Jurisdictions.* This bill only applies to IOUs and does not apply to publicly owned utilities establishing different safety standards for different utilities based on governance. *The committee may wish to consider extending the bill's notice provisions to publicly owned utilities as well.*
- 5) *Prior Legislation.* AB 529 (Bauer Kahan) Electrical utilities: fire safety, prevention, or mitigation services: notice. Status: Held – Assembly Committee on Utilities and Energy.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
350 Contra Costa Action
California Fire Chiefs Association
Democrats of Rossmore
Fire Districts Association of California
Marin Clean Energy (MCE)

Opposition

Pacific Gas and Electric Company
San Diego Gas & Electric
Sempra Energy Utilities
Southern California Edison