

Date of Hearing: April 7, 2021

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Chris Holden, Chair

AB 242 (Holden) – As Amended March 22, 2021

SUBJECT: Public utilities

SUMMARY: Makes various technical changes to the Public Utilities Code. Specifically, **this bill:**

- 1) Consolidates overlapping reports that the California Public Utilities Commission (CPUC) provides to the Legislature.
- 2) Adjusts the disclosure deadline for retail electricity suppliers in the Power Source Disclosure Program.
- 3) Clarifies court-approved settlements or judicial decisions are eligible under the Wildfire Fund. Additionally, clarifies the number of contributions required of investor-owned utilities (IOUs) pay into the fund, but does not change the overall annual amount.

EXISTING LAW:

- 1) Establishes the CPUC with jurisdiction over all public utilities and grants the CPUC certain general powers over all public utilities and common carriers, subject to control by the Legislature. (California Constitution, Article 12)
- 2) Describes and authorizes the various reports required of the CPUC. (Public Utilities Code § 910-920)
- 3) Requires the CPUC to report every three years on the energy efficiency and conservation programs it oversees. (Public Utilities Code § 913.5)
- 4) Requires the CPUC to report every four years on progress towards achieving electricity savings and efficiency targets, including specific strategies for maximizing savings for disadvantaged communities. (Public Utilities Code § 913.10)
- 5) Requires the CPUC to report every four years on progress towards achieving natural gas savings and efficiency targets, including specific strategies for maximizing savings for disadvantaged communities. (Public Utilities Code § 913.11)
- 6) Requires the CPUC to report every year on recommendations for a smart grid, deployment of smart grid technologies by IOUs, and costs and benefits to ratepayers. (Public Utilities Code § 913.2)
- 7) Defines provisions for implementation of smart grid systems, and includes the development and incorporation of cost-effective demand response, demand-side resources, and energy-efficient resources. (Public Utilities Code § 8360-8369)
- 8) Requires the CPUC to report every 2 years, in consultation with the Independent System Operator (ISO) and the California Energy Commission (CEC), on the impacts of

distributed energy generation on the state's distribution and transmission grid. (Public Utilities Code § 913.6)

- 9) Implements the Power Source Disclosure Program (PSD) under CEC oversight. Among its provisions, it requires retail electricity suppliers to disclose their electricity sources and the associated greenhouse gas emissions by the end of the first complete billing cycle for the third quarter of the year, and authorizes the CEC to require verification of this information. (Public Utilities Code § 398.4)
- 10) Establishes the Wildfire Fund, which provides 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. (Public Utilities Code § 3284)
- 11) Defines terms of eligibility for use of the Wildfire Fund. Among its provisions, it requires that an IOU is deemed at fault for a wildfire in order for the wildfire to be covered under the Fund. (Public Utilities Code § 1701.8)
- 12) Implements the Energy Savings Assistance Program (ESAP) and references an outdated section in the Public Utilities Code to define the program's income eligibility. (Public Utilities Code § 2790)

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

BACKGROUND:

Report Consolidation – There are several reports required of the CPUC by the Legislature. Many of these reports were formerly scattered throughout the code until SB 697 (Hertzberg, Chapter 612, Statutes of 2015) and SB 1222 (Hertzberg, Chapter 842, Statutes of 2016) organized these reports into a single code section and consolidated overlapping reports, many of which had staggered or expired deadlines. This bill builds off the efforts of prior legislation. There are a few related reports remaining that the CPUC submits on staggered timelines, including three on the state's energy efficiency programs outlined above.

The CPUC first submitted their annual report on the progress towards achieving the state's smart grid goals in 2006. Since then, distributed energy technologies and the accompanying terminology have evolved beyond the initial scope of the smart grid report. The report now offers a broad update on distributed energy resources, smart grid, and grid modernization, which is reflected in the updated title, *California's Grid Modernization Report*. The most recent version released in February 2021 states that, "Given that the bulk of this report submitted in compliance with Section 913.2 centers on distributed energy resources and the grid, the report requirements could be refined and merged with the requirements of related Section 913.6, which focus on 'the impacts of distributed energy generation on the state's distribution and transmission grid.'"¹

PSD Program deadline for electric retailers – The PSD program was established in an effort to provide retail electricity consumers accurate and reliable information on the sources of energy

¹ *California's Grid Modernization Report to the Governor and Legislature*, February 2021, CPUC, p.3.

used to provide electric services. The program requires electric retailers to annually disclose to customers their electricity sources and associated greenhouse gas emissions. Currently, disclosures must be made at the end of the third quarter of each year, *e.g.* as early as August 1 for a 30-day billing cycle starting July 1, with data reported for the preceding year. Existing law also authorizes the CEC to verify claims filed by retail suppliers to ensure that data disclosed to customers are accurate. In this process, the CEC reviews and aggregates verified data from the retailers submitted by June 1 of each year, and provides each utility with the calculated greenhouse gas emissions intensity associated with statewide retail electricity sales. Following this, each utility must either engage a third-party in auditing and verifying its data or commence a process to secure an attestation to the veracity of the data from its local governing body, and submit this verification to the CEC by October 1.²

Wildfire Fund – The Wildfire Fund was established by AB 1054 (Holden, Chapter 79, Statutes of 2019) as a new process for IOUs to recover costs related to catastrophic wildfires, and ensures ratepayers are protected from wildfire cost recovery in the event that their utility causes a catastrophic or destructive fire. To be eligible for cost recovery, an IOU must be found at fault for the wildfire by a state agency. However, determination of causation and damage claims can occur through other avenues not specified in the code, *e.g.* court-imposed judgments. IOUs are currently restricted from utilizing the Wildfire Fund to cover court-approved settlements or judicial judgments in the instance that an agency fails to determine fault.

COMMENTS:

- 1) *Author's Statement.* “AB 242 is the annual code clean-up bill to make minor and technical changes to the Public Utilities Code. This bill seeks to minimize duplicative efforts at the CPUC by consolidating multiple, related reports on energy efficiency. In doing so, AB 242 maintains necessary and important reporting requirements while streamlining and improving efficiency at the CPUC. This bill additionally adjusts the deadline which retail electricity suppliers file information at the CEC so that it matches long standing practice. Lastly, this bill adds clarifications on eligibility to access the Wildfire Fund, which will increase protections for ratepayers.”
- 2) *Streamlining implementation of Power Source Disclosure Program.* Current implementation of the PSD program has retail electricity suppliers providing verified data to customers and the CEC by the end of the first complete billing cycle for the third quarter of each calendar year. This presents challenges for suppliers in disclosing the most accurate information as the disclosure date can be as early as August 1 for a 30-day billing cycle starting in July, but verification of their data is not due to the CEC until October 1st. The bill addresses this issue by changing the disclosure deadline to October 1st, which aligns with the deadline for data verification by electric retail suppliers.
- 3) *Clarification around the Wildfire Fund.* There are many avenues for an IOU to be found at fault for catastrophic wildfires. Existing law currently only covers wildfires qualified by a state agency as those permitted to access the Wildfire Fund, even though fault can

² California Code of Regulations Title 20, Division 2, Chapter 3, Article 5. Electricity Generation Source Disclosure; § 1391-4

also be determined through court. This bill clarifies the intent of AB 1054 (Holden, Chapter 79, Statutes of 2019) to protect ratepayers from wildfire cost recovery by further clarifying that wildfires found to be caused by IOUs in court are also eligible for coverage through the Wildfire Fund.

This bill also clarifies that IOUs contribute funds in 10 annual installments, which was erroneously left out of the language for AB 1054 (Holden, Chapter 79, Statutes of 2019).

- 4) *Technical Amendments.* A drafting error was overlooked in the initial writing of this bill, where “court-approved dismissal resulting from the settlement of third-party damage claims” should replace “court-approved settlement of third-party damage claims”. The committee should consider amendments to address this minor change.
- 5) *Prior Legislation.*

SB 697 (Hertzberg) moved several CPUC reports into one, unified section of code. Status: Chapter 612, Statutes of 2015

SB 1222 (Hertzberg) combined several repetitive CPUC reports and augmented CPUC efficiency. Status: Chapter 842, Statutes of 2016

AB 1054 (Holden) established numerous provisions related to addressing wildfires caused by electric utility infrastructure, including: bolstering safety oversight and processes, recasting recovery of costs from damages to third-parties, including the authorization for an electrical corporation and ratepayer jointly funded Wildfire Fund to address future damages, and changes to provisions concerning the workforce of a change of ownership of a full or portion of an electrical or gas corporation. Status: Chapter 79, Statutes of 2019.

REGISTERED SUPPORT / OPPOSITION:

Support

Edison International and Affiliates, Including Southern California Edison
Northern California Power Agency
Pacific Gas and Electric Company
Sempra Energy Utilities

Opposition

None on file.

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