

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1250

Introduced by Senator McGuire
(Coauthors: Senators Hill, Nielsen, and Wolk)
(Coauthor: Assembly Member Cooley)

February 18, 2016

An act to amend Section 710 of, to amend and renumber Section 2889.8 of, and to add Sections 911.5 and 2882.5 to, the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as amended, McGuire. Telecommunications: major rural outages: notifications and reporting.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to periodically assess the reliability of the public telecommunications network and, if necessary, to develop recommendations for improvement. The assessment is required to include (1) an analysis of those factors that pose a risk to network reliability, including the adequacy of independent sources of reserve power, (2) consideration as to whether development of reliability standards is appropriate, and (3) consideration as to whether procedures should be developed to notify customers about accessing other telecommunications companies in the event of a service disruption.

This bill would impose, on a facilities-based provider of telecommunications services that the Federal Communications Commission requires to provide access to 911 service, certain notification and reporting requirements for a major rural outage of telecommunications services, with the requirements to be adopted by

the commission in consultation with the Office of Emergency Services. The bill would make these requirements enforceable through the Public Utilities Act. The bill would require the commission to annually report to the Legislature on certain information from reports filed with the commission and to include recommendations to improve the reporting of major rural outages and remedial actions that can be undertaken to avoid or minimize outages. Because a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime, and the requirements added by the bill would be a part of, or enforceable pursuant to, the act and require actions by the commission for their implementation, the bill would impose a state-mandated local program by creating a new crime.

Existing law, until January 1, 2020, prohibits the commission from regulating Voice over Internet Protocol (VoIP) and Internet Protocol enabled service (IP enabled service), as defined, except as required or delegated by federal law or expressly provided otherwise in statute.

This bill would expressly authorize the commission to implement the notification and reporting requirements for major rural outages with respect to *facilities-based* VoIP and IP enabled service providers of telecommunications services that the Federal Communications Commission requires to provide access to 911-service, ~~as determined by the commission.~~ *service.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) This act shall be known, and may be cited,
- 2 as the 911 Emergency Reliability and Public Safety Act.
- 3 (b) The Legislature finds and declares all of the following:
- 4 (1) The Public Utilities Commission currently has no specific
- 5 requirements with respect to the reporting of major service
- 6 interruptions that impair the ability of persons to call and connect
- 7 to the local emergency telephone system by dialing 911, other than
- 8 requiring facilities-based certificated and registered public utility

1 telephone corporations to report major service interruptions as
2 required by the Federal Communications Commission's Network
3 Outage Reporting System adopted by the Public Utilities
4 Commission in the Rules Governing Telecommunications Services
5 (General Order 133-C (effective July 9, 2009), page 9).

6 (2) The duty to report outages pursuant to the Network Outage
7 Reporting System requirements is triggered upon surpassing either
8 a duration or a user-minutes-affected threshold. That
9 user-minutes-affected threshold is appropriate for urban areas.
10 However, the user-minutes-affected threshold results in the
11 nonreporting of major service interruptions in rural areas of
12 California.

13 (3) The Federal Communications Commission has
14 acknowledged that providing access to the 911 emergency call
15 system includes maintaining the function of the communications
16 networks required to initiate 911 calls and to deliver those calls
17 and that there is a shared authority of the federal government and
18 states to collectively oversee all components of 911 service.

19 (4) In order to protect the health and safety of persons living in
20 rural areas of the state requiring reliable access to the 911
21 emergency call system, it is necessary for the Public Utilities
22 Commission to adopt more stringent requirements for the reporting
23 of major service interruptions in rural areas of the state.

24 (5) It is the intent of the Legislature that the commission utilize
25 its existing authority under the Public Utilities Act, including the
26 authority to impose fines and penalties for violations, to enforce
27 the requirements of this act, and that any moneys collected through
28 fines or penalties will be used first to offset the costs of
29 implementing the requirements of the act, and if any moneys
30 remain, toward eliminating the digital divide.

31 SEC. 2. Section 710 of the Public Utilities Code is amended
32 to read:

33 710. (a) The commission shall not exercise regulatory
34 jurisdiction or control over Voice over Internet Protocol and
35 Internet Protocol enabled services except as required or expressly
36 delegated by federal law or expressly directed to do so by statute
37 or as set forth in subdivision (c). In the event of a requirement or
38 a delegation referred to above, this section does not expand the
39 commission's jurisdiction beyond the scope of that requirement
40 or delegation.

(b) No department, agency, commission, or political subdivision of the state shall enact, adopt, or enforce any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law, that regulates VoIP or other IP enabled service, unless required or expressly delegated by federal law or expressly authorized by statute or pursuant to subdivision (c). In the event of a requirement or a delegation referred to above, this section does not expand the commission's jurisdiction beyond the scope of that requirement or delegation.

(c) This section does not affect or supersede any of the following:

(1) The Emergency Telephone Users Surcharge Law (Part 20 (commencing with Section 41001) of Division 2 of the Revenue and Taxation Code) and the state's universal service programs (Section 285).

(2) The Digital Infrastructure and Video Competition Act of 2006 (Division 2.5 (commencing with Section 5800)) or a franchise granted by a local franchising entity, as those terms are defined in Section 5830.

(3) The commission's authority to implement and enforce Sections 251 and 252 of the federal Communications Act of 1934, as amended (47 U.S.C. Secs. 251 and 252).

(4) The commission's authority to require data and other information pursuant to Section 716.

(5) The commission's authority to address or affect the resolution of disputes regarding intercarrier compensation, including for the exchange of traffic that originated, terminated, or was translated at any point into Internet Protocol format.

(6) The commission's authority to enforce existing requirements regarding backup power systems established in Decision 10-01-026, adopted pursuant to Section 2892.1, *and* rural outage notification and reporting requirements adopted pursuant to Section 2882.5, ~~or other outage notification and reporting requirements determined by the commission to be necessary to ensure public safety.~~ 2882.5.

(7) The commission's authority relative to access to support structures, including pole attachments, or to the construction and maintenance of facilities pursuant to commission General Order 95 and General Order 128.

1 (8) The Warren-911-Emergency Assistance Act (Article 6
2 (commencing with Section 53100) of Chapter 1.5 of Part 1 of
3 Division 2 of Title 5 of the Government Code).

4 (d) This section does not affect the enforcement of any state or
5 federal criminal or civil law or any local ordinances of general
6 applicability, including, but not limited to, consumer protection
7 and unfair or deceptive trade practice laws or ordinances, that
8 apply to the conduct of business, the California Environmental
9 Quality Act (Division 13 (commencing with Section 21000) of
10 the Public Resources Code), local utility user taxes, and state and
11 local authority governing the use and management of the public
12 rights-of-way.

13 (e) This section does not affect any existing regulation of,
14 proceedings governing, or existing commission authority over,
15 non-VoIP and other non-IP enabled wireline or wireless service,
16 including regulations governing universal service and the offering
17 of basic service and lifeline service, and any obligations to offer
18 basic service.

19 (f) This section does not limit the commission's ability to
20 continue to monitor and discuss VoIP services, to track and report
21 to the Federal Communications Commission and the Legislature,
22 within its annual report to the Legislature, the number and type of
23 complaints received by the commission from customers, and to
24 respond informally to customer complaints, including providing
25 VoIP customers who contact the commission information regarding
26 available options under state and federal law for addressing
27 complaints.

28 (g) This section does not affect the establishment or enforcement
29 of standards, requirements, or procedures, including procurement
30 policies, applicable to any department, agency, commission, or
31 political subdivision of the state, or to the employees, agents, or
32 contractors of a department, agency, commission, or political
33 subdivision of the state, relating to the protection of intellectual
34 property.

35 (h) This section shall remain in effect only until January 1, 2020,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before January 1, 2020, deletes or extends that date.

38 SEC. 3. Section 911.5 is added to the Public Utilities Code, to
39 read:

911.5. By ~~January 31, February 1, 2018, and each January 31~~
~~February 1~~ thereafter, the commission shall report to the
Legislature summarizing major rural outage information as reported
to the commission pursuant to Section 2882.5, including the
number and duration of major rural outages and the number of
customers affected by those outages. The report shall include any
rules adopted by the commission pursuant to subdivision (g) of
Section 2882.5, any recommendations to the Legislature as to
changes that can be made to further refine the requirements for
reporting of major rural outages, recommendations for remedial
actions that can be undertaken to avoid or minimize outages, any
failures to comply with the major rural outages reporting
requirements, and any fines imposed or other enforcement actions
undertaken to enforce Section 2882.5.

SEC. 4. Section 2882.5 is added to the Public Utilities Code,
to read:

2882.5. (a) For purposes of this section, the following terms
have the following meanings:

(1) “Access to 911 service” means the ability of a person to call
and connect to the local emergency telephone systems described
in the Warren-911-Emergency Assistance Act (Article 6
(commencing with Section 53100) of Chapter 1 of Part 1 of
Division 2 of Title 5 of the Government Code).

(2) “Major rural outage” means an outage of telecommunications
service in a rural area, experienced by a facilities-based provider
of telecommunications services that the Federal Communications
Commission requires to provide access to 911 service, that is both
of the following: (A) is of 30 or more ~~minutes~~ *minutes*’ duration,
and (B) potentially affects 75,000 or more user-minutes. The
number of user-minutes is the mathematical result of multiplying
the outage’s duration expressed in minutes and the number of users
potentially affected by the outage.

(3) “Outage” has the same meaning as defined by the Federal
Communications Commission in Section 4.5 of Part 4 of
Subchapter A of Chapter 1 of Title 47 of the Code of Federal
Regulations.

(4) “Rural area” means those areas of the state that the
~~commission, utilizing United States Census Bureau measurements~~
~~and data, determines~~ *has determined* are not within urbanized areas
or urban clusters.

1 (5) “Telecommunications service” has the same meaning as
2 defined in subdivision (a) of Section 2892.1.

3 (b) The enhanced notification and reporting requirements of
4 this section do not apply to those areas of the state that the
5 commission, utilizing United States Census Bureau ~~measurements~~
6 ~~and data, determines are not rural areas.~~ *determinations, identifies*
7 *as not being rural areas.* Nothing in this section affects the
8 notification and reporting requirements adopted by the Federal
9 Communications Commission (Part 4 of Subchapter A of Chapter
10 1 of Title 47 of the Code of Federal Regulations) and the
11 commission’s Rules Governing Telecommunications Services
12 (General Order 133-C (effective July 9, 2009), pages 9-10, or any
13 successor rules adopted by the commission) as to those areas of
14 the state that the commission determines are not rural areas.

15 (c) The commission, in consultation with the Office of
16 Emergency Services, shall require all facilities-based providers of
17 telecommunications services that the Federal Communications
18 Commission requires to provide access to 911 service to provide
19 responder outage notification whenever there is a major rural
20 outage. Responder outage notification shall be provided within 30
21 minutes of the outage to the Office of Emergency ~~Services and to~~
22 ~~the Services, which shall be responsible for notifying any~~
23 *applicable* county office of emergency services and sheriff of any
24 county affected by the outage. The notification shall include the
25 telecommunications provider’s contact name and calling number,
26 an assigned unique report code that will be used to identify the
27 outage for reporting purposes, a description of the nature of the
28 outage, a description of the estimated area affected by the outage,
29 and other information that the telecommunications provider feels
30 may be of assistance to emergency first responders. The provider
31 of telecommunications services shall notify the commission upon
32 its completion of providing responder outage notification.

33 (d) The commission, in consultation with the Office of
34 Emergency Services, shall require all facilities-based providers of
35 telecommunications services that the Federal Communications
36 Commission requires to provide access to 911 service to provide
37 public outage notification whenever there is a major rural outage.
38 The commission shall adopt rules for the most effective and
39 efficient means for dissemination of information to the public
40 relative to outages. The rules shall require that a

1 telecommunications provider that maintains an Internet Web site
2 timely post information relative to an outage on its Internet Web
3 site, including the area of the outage and, when available,
4 alternative means to contact a public safety answering point in the
5 event of an emergency arising during the outage. The commission
6 may adopt additional requirements for outreach to be provided to
7 customers during or following an outage and what information
8 relative to public outage notification is to be provided to the
9 commission.

10 (e) The commission, in consultation with the Office of
11 Emergency Services, shall require all facilities-based providers of
12 telecommunications services that the Federal Communications
13 Commission requires to provide access to 911 service to provide
14 initial outage reporting whenever there is a major rural outage.
15 Initial outage reporting shall be provided within 120 minutes of
16 the outage to the Office of Emergency Services ~~and to the Services,~~
17 *which shall be responsible for notifying any applicable county*
18 *office of emergency services and sheriff of any county affected*
19 *by the outage.* The initial outage report shall, at a minimum, include
20 a description of the direct cause or general nature of the outage
21 and identify the date and time of the incident causing the outage,
22 the unique report code provided pursuant to subdivision (c), the
23 location of the incident or cause, the geographic range and number
24 of potentially affected customers, and, if the outage has not been
25 rectified, the expected duration of the outage. The provider of
26 telecommunications services shall notify the commission upon its
27 completion of providing initial outage reporting. The commission,
28 in consultation with the Office of Emergency Services, shall
29 determine what information, if any, that is required to be contained
30 in the initial outage report is, or may be made, public consistent
31 with Section 583 and the confidentiality requirements adopted by
32 the Federal Communications Commission in order to protect
33 homeland security (Section 4.2 of Part 4 of Subchapter A of
34 Chapter 1 of Title 47 of the Code of Federal Regulations).

35 (f) The commission, in consultation with the Office of
36 Emergency Services, shall require all facilities-based providers of
37 telecommunications services that the Federal Communications
38 Commission requires to provide access to 911 service to provide
39 final outage reporting whenever there is a major rural outage. Final
40 outage reporting shall be provided within 20 days to the

1 commission and the Office of Emergency Services. The final
2 outage report shall, at a minimum, include the unique report code
3 provided pursuant to subdivision (c), a detailed description of the
4 direct cause and any root cause of the outage, ~~the estimated damage~~
5 ~~caused by the outage, including any casualties that resulted from~~
6 ~~the outage and any known financial impacts to the area affected~~
7 ~~by the outage~~, the provider's actions to restore service, and any
8 measures undertaken to prevent the occurrence of a similar outage
9 in the future. The commission, in consultation with the Office of
10 Emergency Services, shall determine what information, if any,
11 that is required to be contained in the final outage report is, or may
12 be made, public consistent with Section 583 and the confidentiality
13 requirements adopted by the Federal Communications Commission
14 in order to protect homeland security (Section 4.2 of Part 4 of
15 Subchapter A of Chapter 1 of Title 47 of the Code of Federal
16 Regulations). A written summary of the outage report, containing
17 that information the commission determines may be safely
18 disclosed, shall be supplied to the board of supervisors of each
19 county affected by the outage within 30 days of the major rural
20 outage.

21 (g) The commission, in consultation with the Office of
22 Emergency Services and, to the extent feasible, with rural
23 emergency responders, may adopt rules to implement and refine
24 the notification and reporting requirements of this section.

25 (h) The requirements of this section are enforceable pursuant
26 to Chapter 11 (commencing with Section 2100) of Part 1.

27 SEC. 5. Section 2889.8 of the Public Utilities Code is amended
28 and renumbered to read:

29 2882. The commission periodically shall assess the reliability
30 of the public telecommunications network and, if necessary,
31 develop recommendations for improvement. The assessment shall
32 include, but not be limited to, all of the following:

33 (a) An analysis of those factors that pose a risk to network
34 reliability, including the adequacy of independent sources of
35 reserve power.

36 (b) Consideration as to whether development of reliability
37 standards is appropriate.

38 (c) Consideration as to whether procedures should be developed
39 to notify customers about accessing other telecommunications
40 companies in the event of a service disruption.

1 SEC. 6. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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