

AMENDED IN SENATE APRIL 9, 2018

AMENDED IN SENATE MARCH 15, 2018

SENATE BILL

No. 1088

Introduced by Senator Dodd

February 12, 2018

An act to add Section 8587.13 to the Government Code, and to *amend Section 454 of, and to add Chapter 11 (commencing with Section 2899) to Part 2 of Division 1 of, the Public Utilities Code*, relating to disaster preparedness.

LEGISLATIVE COUNSEL'S DIGEST

SB 1088, as amended, Dodd. Safety, reliability, and resiliency planning.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. Existing law authorizes the commission, after a hearing, to require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in a manner so as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. Existing law requires electrical corporations to annually prepare and submit a wildfire mitigation plan to the commission for review. Existing law requires the commission to establish standards for disaster and emergency preparedness plans, as specified, and requires an electrical corporation to develop, adopt, and update an emergency and disaster preparedness plan, as specified.

The California Emergency Services Act, among other things, establishes the Office of Emergency Services for the purpose of mitigating the effects of natural, manmade, or war-caused emergencies

and makes findings and declarations relating to ensuring that preparation within the state will be adequate to deal with those emergencies.

This bill would require the office, in consultation with specified public entities, by September 30, 2019, to adopt standards for reducing risks from a major event, as defined. The bill would require that those standards include model policies for implementation by local governments regarding, among other things, defensible space, and actions to be undertaken by an electrical or gas corporation, a local publicly owned electric or gas utility, or a water utility to reduce the risk of fire occurring during a major event. The bill would require the office to update the standards at least once every 2 years.

The bill would require each electrical corporation or gas corporation, beginning January 15, 2019, and by January 15 every 2 years thereafter, to prepare and submit a safety, reliability, and resiliency plan, containing specified elements, to the commission for review and approval. The bill would require the commission to approve, or approve with modifications, the submitted plan by December 31 of the year in which the plan is submitted. The bill would require the commission to authorize recovery of the costs ~~in~~ of implementing the plan through rates, as provided. The bill would require the commission to conduct an annual proceeding to review each electrical corporation's and gas corporation's compliance with its plan, as provided. The bill would require, if, after completing the compliance review, the commission determines that an electrical corporation or gas corporation is in substantial compliance with its plan, that the commission deem the performance, operations, management, and investment addressed in the plan to be reasonable and prudent. The bill would require the commission to assess a penalty on an electrical corporation or gas corporation for noncompliance with its plan. The bill would, except as provided, prohibit an electrical corporation from delegating, transferring, or contracting out any of its distribution safety or reliability performance obligations, as defined, and would prohibit the commission from authorizing an electrical corporation to do so.

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

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

1 SECTION 1. The Legislature finds and declares as follows:

- 1 (a) The effects of climate change are happening now and will
2 continue to increase both around the world and in California.
- 3 (b) There will be more frequent and increasingly severe storms,
4 floods, mudslides, and wildfires.
- 5 (c) Eight of the 20 most destructive fires in California’s history
6 have occurred since 2015, with five occurring in 2017 alone.
- 7 (d) Greenhouse gas emissions from wildfires undermine
8 California’s plans to reduce emissions. The emissions from the
9 2017 wildfires were estimated to be nearly as much as the total
10 2017 emissions from electric generation.
- 11 (e) The electric and gas transmission and distribution systems
12 can be the cause of ~~fires~~ *fires*, which, because of climate change,
13 can be much more severe.
- 14 (f) Catastrophic storms, floods, mudslides, ~~fires, earthquakes~~
15 *earthquakes*, and other major events cause loss of life, tremendous
16 property damage, public health impacts, environmental
17 degradation, and damage to local economies. These events can
18 also adversely impact ~~electric~~ *electrical* and gas transmission and
19 distribution systems.
- 20 (g) California is overdue for a major earthquake.
- 21 (h) Natural disasters can cause vast economic damage. The
22 North Bay and Southern California suffered major economic
23 impacts to businesses and many jobs were lost as a result of the
24 2017 wildfires.
- 25 (i) Failure to prepare for the effects of climate change would
26 adversely affect the credit rating of California and local
27 jurisdictions.
- 28 (j) Executive Order B-30-15 addresses the need for climate
29 adaptation by incorporating climate change impacts into the state’s
30 Five-Year Infrastructure Plan, updating the state’s climate
31 adaptation strategy by identifying how climate change will affect
32 infrastructure and industry and what actions can be taken to reduce
33 the risks posed by climate change, factoring climate change into
34 state agencies’ planning and investment decisions, and
35 implementing measures under existing agency and departmental
36 authority to reduce greenhouse gas emissions.
- 37 (k) Chapter 608 of the Statutes of 2015 requires that cities and
38 counties address climate adaptation and resilience strategies in
39 local planning.

1 (l) Chapter 606 of the Statutes of 2015 establishes the Integrated
2 Climate Adaptation and Resiliency Program to be administered
3 by the Office of Planning and Research to coordinate regional and
4 local efforts with state climate adaptation strategies to adapt to the
5 impacts of climate change.

6 (m) Chapter 603 of the Statutes of 2015 requires the Natural
7 Resources Agency to update the state's climate adaptation strategy
8 every three years to address vulnerabilities to climate change by
9 sector, including the energy sector, and requires state agencies to
10 maximize promoting the use of the climate adaptation strategy to
11 inform planning decisions and ensure that state investments
12 consider climate change impacts.

13 (n) Chapter 580 of the Statutes of 2016 requires state agencies
14 to take into account the impacts of climate change when planning,
15 designing, building, operating, maintaining, and investing in state
16 infrastructure.

17 (o) Preventing or mitigating property and infrastructure damage
18 and injury from catastrophic storms, floods, mudslides, fires,
19 earthquakes, and other major events is much safer, better for local
20 economies, and far less expensive than emergency repair and
21 reconstruction.

22 (p) Responding to catastrophic storms, floods, mudslides, fires,
23 earthquakes, and other major events requires a substantial,
24 well-trained local utility workforce. After the 2017 North Bay
25 wildfires, the Pacific Gas and Electric Company utilized 4,300
26 employees to quickly repair and restore utility service to its
27 customers. The Public Utilities Commission should require each
28 electrical and gas corporation to have a sufficiently sized and
29 trained workforce available, including employees of other utilities
30 pursuant to mutual aid agreements and employees of entities that
31 have entered into contracts with utilities, to quickly respond to
32 major events.

33 (q) Investment in reducing the risk of wildfires has a proven
34 cost savings ratio of at least three to one, but the Public Utilities
35 Commission has failed to establish adequate standards to reduce
36 the risk of wildfires caused by utility equipment and to make
37 electrical and gas corporation equipment more resilient and
38 resistant to damage.

39 (r) The Public Utilities Commission should establish fire risk
40 reduction and mitigation standards, including protocols for

1 disabling reclosers and deenergizing lines. All protocols should
2 meet or exceed industry best practices. Disabling reclosers and
3 deenergizing lines can cause impacts to fire and police response,
4 the availability of water, hospitals, schools, evacuation centers,
5 and other critical facilities.

6 (s) Electric and gas reliability is a critical component of public
7 safety.

8 (t) The Public Utilities Commission should require electrical
9 and gas corporations to harden their systems to reduce damage
10 from catastrophic storms, floods, mudslides, fires, earthquakes,
11 and other major events.

12 (u) The Public Utilities Commission should require electrical
13 corporations to evaluate, construct, operate, and maintain
14 technological solutions, including microgrids, so that critical
15 facilities maintain electrical service during and after catastrophic
16 storms, floods, mudslides, fires, earthquakes, and other major
17 events.

18 (v) The Public Utilities Commission should not rely on
19 unregulated entities in lieu of public utilities to provide electric
20 safety or reliability.

21 (w) Electrical corporations and gas corporations should file with
22 the Public Utilities Commission safety, reliability, and resiliency
23 plans, which should address all relevant rules, regulations,
24 standards, and practices to prevent and mitigate risk from
25 catastrophic storms, floods, mudslides, fires, earthquakes, and
26 other major events that affect the safety and reliability of the
27 ~~electric~~ *electrical* and gas system. Safety and reliability should be
28 the highest priority in all commission decisions.

29 (x) The Public Utilities Commission should impose penalties
30 on an electrical corporation or gas corporation that fails to comply
31 with an approved plan. The amount of the penalty should be
32 correlated with the nature and severity of the failure to comply
33 with the approved plan. Any penalties should be paid exclusively
34 by shareholders of the electrical corporation or gas corporation.

35 (y) The Office of the Safety Advocate should participate in all
36 proceedings authorized by Chapter 11 (commencing with Section
37 2899) of Part 2 of Division 1 of the Public Utilities Code.

38 (z) *Electrical corporations and gas corporations should notify*
39 *their customers, including local governments and agencies, of*
40 *proceedings authorized by the Utility Infrastructure, Safety,*

1 *Reliability, and Accountability Act (Chapter 11 (commencing with*
 2 *Section 2899) of Part 2 of Division 1 of the Public Utilities Code).*

3 *(aa) The commission should encourage public comment at*
 4 *hearings for proceedings authorized by the Utility Infrastructure,*
 5 *Safety, Reliability, and Accountability Act (Chapter 11*
 6 *(commencing with Section 2899) of Part 2 of Division 1 of the*
 7 *Public Utilities Code).*

8 SEC. 2. Section 8587.13 is added to the Government Code, to
 9 read:

10 8587.13. (a) For purposes of this section, “major event” means
 11 a large storm, flood, mudslide, fire, earthquake, or other occurrence
 12 that significantly affects the safety and reliability of the electrical
 13 or gas distribution system.

14 (b) On or before September 30, 2019, and on *or before*
 15 ~~September 30th~~ 30 of every 2 years thereafter, the office, in
 16 consultation with the Department of Forestry and Fire Protection,
 17 the Public Utilities Commission, and other appropriate state and
 18 local agencies, shall adopt or update standards for reducing risk
 19 from a major event.

20 (c) The standards shall include both of the following:

21 (1) Model policies to be undertaken by local governments
 22 regarding zoning, defensible space, fire-resistant building materials,
 23 and other measures applicable to properties at risk during a major
 24 event.

25 (2) Actions to be undertaken by electrical corporations, gas
 26 corporations, local publicly owned electric utilities, local publicly
 27 owned gas utilities, and water utilities to reduce the risk of fire
 28 during a major event.

29 SEC. 3. *Section 454 of the Public Utilities Code is amended*
 30 *to read:*

31 454. (a) (1) Except as provided in Section 455, a public utility
 32 shall not change any rate or so alter any classification, contract,
 33 practice, or rule as to result in any new rate, except upon a showing
 34 before the commission and a finding by the commission that the
 35 new rate is justified. Whenever any electrical, gas, heat, telephone,
 36 water, or sewer system corporation files an application to change
 37 any rate, other than a change reflecting and passing through to
 38 customers only new costs to the corporation ~~which~~ *that* do not
 39 result in changes in revenue allocation, for the services or
 40 commodities furnished by it, the corporation shall furnish to its

1 customers affected by the proposed rate change notice of its
2 application to the commission for approval of the new rate. This
3 notice requirement does not apply to any rate change proposed by
4 a corporation pursuant to an advice letter submitted to the
5 commission in accordance with commission procedures for this
6 means of submission. The procedures for advice letters may include
7 provision for notice to customers or subscribers on a case-by-case
8 basis, as determined by the commission. The corporation may
9 include the notice with the regular bill for charges transmitted to
10 the customers within 45 days if the corporation operates on a
11 30-day billing cycle, or within 75 days if the corporation operates
12 on a 60-day billing cycle. If more than one application to change
13 any rate is filed within a single billing cycle, the corporation may
14 combine the notices into a single notice if the applications are
15 separately identified. The notice shall state the amount of the
16 proposed rate change expressed in both dollar and percentage terms
17 for the entire rate change as well as for each customer
18 classification, a brief statement of the reasons the change is required
19 or sought, and the ~~mailing~~, and *mailing* and, if available, the email
20 address of the commission to which any customer inquiries may
21 be directed regarding how to participate in, or receive further
22 notices regarding the date, time, or place of, any hearing on the
23 application, and the mailing address of the corporation to which
24 any customer inquiries relative to the proposed rate change may
25 be directed.

26 (2) *For a safety, reliability, and resiliency plan submitted by*
27 *an electrical or gas corporation pursuant to Section 2899.2, the*
28 *corporation shall furnish to its customers written notice with the*
29 *regular bill for charges for the two billing cycles before it submits*
30 *the plan. The written notice shall include a link to the Internet Web*
31 *site where the plan will be available electronically upon its*
32 *submission.*

33 (b) For a water corporation with more than 2,000 service
34 connections, the notice required in subdivision (a) shall include
35 estimated rate impacts on the various customer classes of the
36 corporation. The commission may require the corporation to inform
37 customers in a separate letter or through a bill insert, at the
38 corporation's discretion, of the outcome of the general rate case,
39 within 60 days if the corporation operates on a 30-day billing cycle,
40 or within 90 days if the corporation operates on a 60-day billing

1 cycle, of the commission's final decision, including the approved
 2 rates and the approved capital projects that will subsequently be
 3 executed by way of an advice letter.

4 (c) The commission may adopt rules it considers reasonable
 5 and proper for each class of public utility providing for the nature
 6 of the showing required to be made in support of proposed rate
 7 changes, the form and manner of the presentation of the showing,
 8 with or without a hearing, and the procedure to be followed in the
 9 consideration thereof. Rules applicable to common carriers may
 10 provide for the publication and filing of any proposed rate change
 11 together with a written showing in support thereof, giving notice
 12 of the filing and showing in support thereof to the public, granting
 13 an opportunity for protests thereto, and to the consideration of,
 14 and action on, the showing and any protests filed thereto by the
 15 commission, with or without hearing. However, the proposed rate
 16 change does not become effective until it has been approved by
 17 the commission.

18 (d) (1) The commission shall permit individual public utility
 19 customers and subscribers affected by a proposed rate change, and
 20 organizations formed to represent their interests, to testify at any
 21 hearing on the proposed rate change, except that the presiding
 22 officer need not allow repetitive or irrelevant testimony and may
 23 conduct the hearing in an efficient manner.

24 (2) *The commission shall permit any member of the public to*
 25 *testify at any hearing or proceeding authorized under the Utility*
 26 *Infrastructure, Safety, Reliability, and Accountability Act (Chapter*
 27 *11 (commencing with Section 2899) of Part 2 of Division 1 of the*
 28 *Public Utilities Code), except that the presiding officer need not*
 29 *allow repetitive or irrelevant testimony and may conduct the*
 30 *hearing in an efficient manner.*

31 ~~SEC. 3.~~

32 SEC. 4. Chapter 11 (commencing with Section 2899) is added
 33 to Part 2 of Division 1 of the Public Utilities Code, to read:

34

35 CHAPTER 11. UTILITY INFRASTRUCTURE, SAFETY, RELIABILITY,
 36 AND ACCOUNTABILITY

37

38 2899. This chapter shall be known, and may be cited, as the
 39 Utility Infrastructure, Safety, Reliability, and Accountability Act.

1 2899.1. For purposes of this chapter, the following definitions
2 apply:

3 (a) “Major event” means a large storm, flood, mudslide, fire,
4 earthquake, or other occurrence that significantly affects the safety
5 and reliability of the electrical or gas distribution system.

6 (b) “Plan” means the safety, reliability, and resiliency plan filed
7 by an electrical or gas corporation pursuant to Section ~~2899.1,~~
8 2899.2, including measures addressing both routine operations
9 and major events.

10 (c) “Utility” means an electrical corporation or gas corporation.

11 2899.2. (a) On or before January 15, 2019, and on or before
12 January 15 every two years thereafter, each utility shall prepare
13 and submit to the commission for review and approval a safety,
14 reliability, and resiliency plan. The plan submitted on or before
15 January 15, 2019, shall be limited to addressing fire risks, with
16 subsequent plans addressing risks associated with routine operation
17 and all major events.

18 (b) The plan shall include all of the following elements:

19 (1) All relevant safety rules, regulations, standards, and practices
20 adopted by the commission and, after January 1, 2021, all
21 applicable standards adopted or updated by the Office of
22 Emergency Services pursuant to Section 8587.13 of the
23 Government Code.

24 (2) A program to comply with applicable safety rules,
25 regulations, standards, and practices adopted by the commission
26 and, after January 1, 2021, a program to comply with standards
27 adopted or updated by the Office of Emergency Services pursuant
28 to Section 8587.13 of the Government Code.

29 (3) A program to manage compliance, including, but not limited
30 to, plans for assigning personnel, training, and monitoring and
31 checking that the personnel have carried out their assignments,
32 and a system of quality assurance and quality control.

33 (4) The wildfire mitigation plan submitted pursuant of Section
34 ~~8286,~~ 8386, including protocols for disabling reclosers and
35 deenergizing portions of the electrical distribution system, as well
36 as protocols related to mitigating the impacts of those protocols.

37 (5) Actions the utility will take to ensure that its system will
38 achieve the highest level of safety, reliability, and ~~resiliency,~~
39 *resiliency*, and to ensure that its system is not vulnerable to
40 widespread failure during a major event, including hardening and

- 1 modernizing its infrastructure with improved engineering, system
2 design, standards, equipment, and facilities.
- 3 (6) Plans for vegetation management.
- 4 (7) For gas corporations, both of the following:
- 5 (A) A program to preemptively replace pipe and other equipment
6 that is aging, brittle, or otherwise vulnerable to damage from a
7 major event, or that could endanger public or employee safety.
- 8 (B) A program to locate, mark and repair leaks, relight pilot
9 lights, and all other activity needed to restore service following a
10 major event.
- 11 (8) For electrical corporations, a program to evaluate, construct,
12 operate, and maintain technological solutions, including microgrids
13 that can be islanded from the distribution grid for critical
14 customers, such as schools, hospitals, critical care patients, water
15 pumping and treatment facilities, and government and other
16 facilities that provide public safety or other critical functions.
- 17 (9) The disaster and emergency preparedness plan prepared
18 pursuant to Section 768.6, including both of the following:
- 19 (A) Plans to prepare for, and to restore service after, a major
20 event, including workforce mobilization, and prepositioning
21 equipment and employees.
- 22 (B) Plans for community outreach and public awareness before,
23 during, and after a major event.
- 24 (10) Plans for distribution grid operation during a major event,
25 including an incident command system.
- 26 (11) Clear evidence that the utility has an adequately sized and
27 trained workforce to promptly restore service after a major event,
28 taking into account employees of other utilities pursuant to mutual
29 aid agreements and employees of entities that have entered into
30 contracts with the utility.
- 31 (12) Activities to support customers during and after a major
32 event, including outage reporting, billing, repair processing and
33 timing, access to utility representatives, emergency
34 communications, and restoration plans.
- 35 (13) Forecasted costs of every element of the plan.
- 36 (14) Any other element pertaining to electric and gas safety,
37 reliability, or resiliency deemed appropriate by the commission.
- 38 (c) (1) The commission shall review the plans of the utilities
39 in a single consolidated proceeding. The commission shall verify
40 that the plans comply with all applicable rules, regulations, and

1 standards, including those adopted by the Office of Emergency
2 Services pursuant to *the State Assistance for Fire Equipment Act*
3 *(Article 5.5 (commencing with Section ~~8589.8~~ 8589.8) of Chapter*
4 *7 of Division 1 of Title 2 of the Government-Code, Code)*, as
5 appropriate. The commission shall evaluate the reasonableness of
6 the elements of the plans considering the risks involved and the
7 costs to implement the plan.

8 (2) In reviewing the plans, the commission shall make safety
9 and reliability of electric or gas services the highest priority.

10 (3) Notwithstanding Section 1701.5, on or before December
11 31, 2019, and on or before December 31 of each year in which the
12 utilities have submitted plans pursuant to subdivision (a), the
13 commission shall approve, or approve with modification, the
14 submitted plans. If the commission fails to issue a decision on a
15 plan on or before December 31, the utility shall implement its
16 submitted plan until the time the commission approves the plan,
17 at which time the utility shall implement the plan as approved by
18 the commission. The commission shall authorize the recovery in
19 rates of the costs incurred by the utility in implementing its
20 submitted plan prior to the approval by the commission without a
21 reasonable review.

22 (4) (A) The commission shall authorize rate recovery of the
23 reasonable revenue requirements to implement plans approved by
24 the commission in the proceeding reviewing the plans pursuant to
25 paragraph (1). Except as provided in subparagraph (B), authorized
26 revenue shall not be reviewed, adjusted, or authorized in a utility's
27 general rate case.

28 (B) Forecasted costs deemed outside the scope of the plan by
29 the commission may be requested and considered in a utility's
30 general rate case or other appropriate proceeding.

31 (5) The utilities shall not divert revenues authorized to
32 implement the plan to any activities or investments outside their
33 plans.

34 (6) Each utility shall establish a memorandum account to track
35 costs incurred for fire risk mitigation from January 1, 2019, until
36 the commission's approval of the utility's plan submitted on or
37 before January 15, 2019, that are not otherwise covered in the
38 utility's revenue requirements. The commission shall review the
39 costs in the memorandum accounts and disallow recovery of those
40 costs the commission deems unreasonable.

1 (d) On or after January 1, 2019, each utility’s Risk Assessment
2 Mitigation Phase filing shall exclude risks addressed in the plan
3 required pursuant to subdivision (b).

4 2899.3. (a) For purposes of this section, “distribution safety
5 or reliability *performance* obligations” of an electrical corporation
6 include, but are not limited to, owning, controlling, operating,
7 managing, maintaining, planning, engineering, designing, investing
8 in, and constructing the distribution system in its service territory,
9 system reliability, emergency response and restoration, vegetation
10 management, service connections, service turnons and turnoffs,
11 and service inquiries relating to the operation of the distribution
12 system.

13 (b) An electrical corporation shall not delegate, transfer, or
14 contract out any distribution safety or reliability performance
15 obligation.

16 (c) The commission shall not permit, authorize, or direct an
17 electrical corporation to delegate, transfer, or contract out, or
18 authorize any other entity to perform, a utility distribution safety
19 or reliability performance obligation.

20 (d) This section does not prohibit contracting out line clearance
21 tree trimming under the supervision of the electrical corporation,
22 the purchase of materials or equipment, contracting for construction
23 of infrastructure owned by the electrical corporation, contracting
24 for pole test and treat services, contracting for bulk electricity
25 capacity, energy, or storage that is not for purposes of distribution
26 safety and reliability, or contracting for information technology
27 services.

28 2899.4. The commission shall conduct an annual proceeding
29 to review each utility’s compliance with its plan, including a factual
30 analysis of any major events that occurred, as follows:

31 (a) Beginning March 1, 2020, and each March 1 thereafter, each
32 utility shall file with the commission a report addressing
33 compliance with the plan during the prior calendar year.

34 (b) (1) Prior to March 1, 2020, and prior to each March 1
35 thereafter, the commission shall make available a list of qualified
36 independent evaluators with experience in assessing electric and
37 gas operations.

38 (2) Each utility shall engage an independent evaluator listed
39 pursuant to paragraph (1) to review and assess the utility’s
40 compliance with its plan. The independent evaluator shall consult

1 with, and operate under the direction of, the Safety and
2 Enforcement Division of the commission. The independent
3 evaluator shall issue a report on July 1 of each year in which a
4 report required by subdivision (a) is filed. As a part of the
5 independent evaluator's report, the independent evaluator shall
6 determine whether any revenue authorized to implement the plan
7 was diverted to any activities or investments outside the plan.

8 (3) The commission shall authorize the utility to recover in rates
9 the costs of the independent evaluation.

10 (4) The commission shall have exclusive jurisdiction over
11 compliance by a utility with the standards adopted pursuant to
12 Section 8587.13 of the Government Code.

13 2899.5. The commission shall assess penalties if a utility fails
14 to substantially comply with its plan. In determining an appropriate
15 amount of the penalty, the commission shall consider all of the
16 following:

17 (a) The nature and severity of any noncompliance with the plan,
18 including whether the noncompliance resulted in harm.

19 (b) The extent to which the commission has found that the utility
20 complied with its plans in prior years.

21 (c) Whether the utility self-reported the circumstances
22 constituting noncompliance.

23 (d) Whether the utility implemented corrective actions with
24 respect to the noncompliance.

25 (e) Whether the utility had advance notice of the circumstances
26 constituting noncompliance.

27 (f) Whether the utility had previously engaged in conduct of a
28 similar nature that caused significant property damage or injury.

29 (g) Any other factors established by the commission in a
30 rulemaking proceeding, consistent with purposes of this section.

31 2899.6. After completing the review pursuant to Section 2899.4,
32 if the commission determines that a utility was in substantial
33 compliance with its plan, the utility's performance, operations,
34 management, and investments addressed in the plan shall be
35 deemed reasonable and prudent for all purposes.

O