

AMENDED IN SENATE MAY 2, 2018
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 to include model policies for implementation that may be undertaken~~ by local governments regarding, among other things, defensible space, and actions ~~to be that may 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, no more than 18 months after the submission of the plan, to approve, or approve the plan with modifications, the submitted plan by December 31 of the year in which the plan is submitted. or without modification.~~ The bill would require the commission to authorize recovery of the costs 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, 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 bill would require the commission deem to find~~ 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 system safety or reliability performance obligations, ~~except as defined, and would prohibit the commission from authorizing an electrical corporation to do so. specified.~~

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:
2 (a) The effects of climate change are happening now and will
3 continue to increase both around the world and in California.
4 (b) There will be more frequent and increasingly severe storms,
5 floods, mudslides, and wildfires.
6 (c) Eight of the 20 most destructive fires in California’s history
7 have occurred since 2015, with five occurring in 2017 alone.
8 (d) Greenhouse gas emissions from wildfires undermine
9 California’s plans to reduce emissions. The emissions from the
10 2017 wildfires were estimated to be nearly as much as the total
11 2017 emissions from electric generation.
12 (e) The electric and gas transmission and distribution systems
13 can be the cause of fires, which, because of climate change, can
14 be much more severe.
15 (f) Catastrophic storms, floods, mudslides, fires, earthquakes,
16 and other major events cause loss of life, tremendous property
17 damage, public health impacts, environmental degradation, and
18 damage to local economies. These events can also adversely impact
19 electrical and gas transmission and 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

1 implementing measures under existing agency and departmental
2 authority to reduce greenhouse gas emissions.

3 (k) Chapter 608 of the Statutes of 2015 requires that cities and
4 counties address climate adaptation and resilience strategies in
5 local planning.

6 (l) Chapter 606 of the Statutes of 2015 establishes the Integrated
7 Climate Adaptation and Resiliency Program to be administered
8 by the Office of Planning and Research to coordinate regional and
9 local efforts with state climate adaptation strategies to adapt to the
10 impacts of climate change.

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

18 (n) Chapter 580 of the Statutes of 2016 requires state agencies
19 to take into account the impacts of climate change when planning,
20 designing, building, operating, maintaining, and investing in state
21 infrastructure.

22 (o) Preventing or mitigating property and infrastructure damage
23 and injury from catastrophic storms, floods, mudslides, fires,
24 earthquakes, and other major events is much safer, better for local
25 economies, and far less expensive than emergency repair and
26 reconstruction.

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

38 (q) Investment in reducing the risk of wildfires has a proven
39 cost savings ratio of at least three to one, but the Public Utilities
40 Commission has failed to establish adequate standards to reduce

1 the risk of wildfires caused by utility equipment and to make
2 electrical and gas corporation equipment more resilient and
3 resistant to damage.

4 (r) The Public Utilities Commission should establish fire risk
5 reduction and mitigation standards, including protocols for
6 disabling reclosers and deenergizing lines. All protocols should
7 meet or exceed industry best practices. Disabling reclosers and
8 deenergizing lines can cause impacts to fire and police response,
9 the availability of water, hospitals, schools, evacuation centers,
10 and other critical facilities.

11 (s) Electric and gas reliability is a critical component of public
12 safety.

13 (t) The Public Utilities Commission should require electrical
14 and gas corporations to harden their systems to reduce damage
15 from catastrophic storms, floods, mudslides, fires, earthquakes,
16 and other major events.

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

23 ~~(v) The Public Utilities Commission should not rely on~~
24 ~~unregulated entities in lieu of public utilities to provide electric~~
25 ~~safety or reliability.~~

26 (v) *Electrical corporations should be allowed to contract with*
27 *providers of distributed energy resources so long as the providers*
28 *can ensure that they have the financial capacity to pay for damages*
29 *caused by a failure of distributed energy resources equipment,*
30 *such as a spreading lithium ion battery fire, that puts the safety*
31 *and property of members of the public at risk.*

32 (w) Electrical corporations and gas corporations should file with
33 the Public Utilities Commission safety, reliability, and resiliency
34 plans, which should address all relevant rules, regulations,
35 standards, and practices to prevent and mitigate risk from
36 catastrophic storms, floods, mudslides, fires, earthquakes, and
37 other major events that affect the safety and reliability of the
38 electrical and gas system. Safety and reliability should be the
39 highest priority in all commission decisions.

1 (x) The Public Utilities Commission should impose penalties
 2 on an electrical corporation or gas corporation that fails to comply
 3 with an approved plan. The amount of the penalty should be
 4 correlated with the nature and severity of the failure to comply
 5 with the approved plan. Any penalties should be paid exclusively
 6 by shareholders of the electrical corporation or gas corporation.

7 (y) The Office of the Safety Advocate should participate in all
 8 proceedings authorized by Chapter 11 (commencing with Section
 9 2899) of Part 2 of Division 1 of the Public Utilities Code.

10 (z) Electrical corporations and gas corporations should notify
 11 their customers, including local governments and agencies, of
 12 proceedings authorized by the Utility Infrastructure, Safety,
 13 Reliability, and Accountability Act (Chapter 11 (commencing with
 14 Section 2899) of Part 2 of Division 1 of the Public Utilities Code).

15 (aa) The commission should encourage public comment at
 16 hearings for proceedings authorized by the Utility Infrastructure,
 17 Safety, Reliability, and Accountability Act (Chapter 11
 18 (commencing with Section 2899) of Part 2 of Division 1 of the
 19 Public Utilities Code).

20 SEC. 2. Section 8587.13 is added to the Government Code, to
 21 read:

22 8587.13. (a) For purposes of this section, “major event” means
 23 a large storm, flood, mudslide, fire, earthquake, or other occurrence
 24 that significantly affects the safety and reliability of the electrical
 25 or gas distribution system.

26 (b) On or before September 30, 2019, and on or before
 27 September 30 of every 2 years thereafter, the office, in consultation
 28 with the Department of Forestry and Fire Protection, the Public
 29 Utilities Commission, and other appropriate state and local
 30 agencies, shall adopt or update standards for reducing risk from a
 31 major event.

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

33 (1) Model policies ~~to~~ *that may* be undertaken by local
 34 governments regarding zoning, defensible space, fire-resistant
 35 building materials, and other measures applicable to properties at
 36 risk during a major event.

37 (2) Actions ~~to~~ *that may* be undertaken by electrical corporations,
 38 gas corporations, local publicly owned electric utilities, local
 39 publicly owned gas utilities, and water utilities to reduce the risk
 40 of fire during a major event.

1 SEC. 3. Section 454 of the Public Utilities Code is amended
2 to read:

3 454. (a) (1) Except as provided in Section 455, a public utility
4 shall not change any rate or so alter any classification, contract,
5 practice, or rule as to result in any new rate, except upon a showing
6 before the commission and a finding by the commission that the
7 new rate is justified. Whenever any electrical, gas, heat, telephone,
8 water, or sewer system corporation files an application to change
9 any rate, other than a change reflecting and passing through to
10 customers only new costs to the corporation that do not result in
11 changes in revenue allocation, for the services or commodities
12 furnished by it, the corporation shall furnish to its customers
13 affected by the proposed rate change notice of its application to
14 the commission for approval of the new rate. This notice
15 requirement does not apply to any rate change proposed by a
16 corporation pursuant to an advice letter submitted to the
17 commission in accordance with commission procedures for this
18 means of submission. The procedures for advice letters may include
19 provision for notice to customers or subscribers on a case-by-case
20 basis, as determined by the commission. The corporation may
21 include the notice with the regular bill for charges transmitted to
22 the customers within 45 days if the corporation operates on a
23 30-day billing cycle, or within 75 days if the corporation operates
24 on a 60-day billing cycle. If more than one application to change
25 any rate is filed within a single billing cycle, the corporation may
26 combine the notices into a single notice if the applications are
27 separately identified. The notice shall state the amount of the
28 proposed rate change expressed in both dollar and percentage terms
29 for the entire rate change as well as for each customer
30 classification, a brief statement of the reasons the change is required
31 or sought, and the mailing and, if available, email address of the
32 commission to which any customer inquiries may be directed
33 regarding how to participate in, or receive further notices regarding
34 the date, time, or place of, any hearing on the application, and the
35 mailing address of the corporation to which any customer inquiries
36 relative to the proposed rate change may be directed.

37 (2) For a safety, reliability, and resiliency plan submitted by an
38 electrical or gas corporation pursuant to Section 2899.2, the
39 corporation shall furnish to its customers written notice with the
40 regular bill for charges for the two billing cycles before it submits

1 the plan. The written notice shall include a link to the Internet Web
2 site where the plan will be available electronically upon its
3 submission.

4 (b) For a water corporation with more than 2,000 service
5 connections, the notice required in subdivision (a) shall include
6 estimated rate impacts on the various customer classes of the
7 corporation. The commission may require the corporation to inform
8 customers in a separate letter or through a bill insert, at the
9 corporation's discretion, of the outcome of the general rate case,
10 within 60 days if the corporation operates on a 30-day billing cycle,
11 or within 90 days if the corporation operates on a 60-day billing
12 cycle, of the commission's final decision, including the approved
13 rates and the approved capital projects that will subsequently be
14 executed by way of an advice letter.

15 (c) The commission may adopt rules it considers reasonable
16 and proper for each class of public utility providing for the nature
17 of the showing required to be made in support of proposed rate
18 changes, the form and manner of the presentation of the showing,
19 with or without a hearing, and the procedure to be followed in the
20 consideration thereof. Rules applicable to common carriers may
21 provide for the publication and filing of any proposed rate change
22 together with a written showing in support thereof, giving notice
23 of the filing and showing in support thereof to the public, granting
24 an opportunity for protests thereto, and to the consideration of,
25 and action on, the showing and any protests filed thereto by the
26 commission, with or without hearing. However, the proposed rate
27 change does not become effective until it has been approved by
28 the commission.

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

35 (2) The commission shall permit any member of the public to
36 testify at any hearing or proceeding authorized under the Utility
37 Infrastructure, Safety, Reliability, and Accountability Act (Chapter
38 11 (commencing with Section 2899) of Part 2 of Division 1 of the
39 ~~Public Utilities Code~~), 2), except that the presiding officer need

1 not allow repetitive or irrelevant testimony and may conduct the
2 hearing in an efficient manner.

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

5
6 CHAPTER 11. UTILITY INFRASTRUCTURE, SAFETY, RELIABILITY,
7 AND ACCOUNTABILITY

8
9 2899. This chapter shall be known, and may be cited, as the
10 Utility Infrastructure, Safety, Reliability, and Accountability Act.

11 2899.1. For purposes of this chapter, the following definitions
12 apply:

13 (a) *“Distribution system” means the portion of the electric*
14 *system beginning with equipment that operates at voltages lower*
15 *than that controlled by the Independent System Operator up to*
16 *and including the customer’s meter, and that is used to transmit,*
17 *deliver, store, or furnish electricity, light, heat, or power.*

18 (a)

19 (b) *“Major event” means a large storm, flood, mudslide, fire,*
20 *earthquake, or other occurrence that significantly affects the safety*
21 *and reliability of the electrical or gas distribution system.*

22 (b)

23 (c) *“Plan” means the safety, reliability, and resiliency plan filed*
24 *by an electrical or gas corporation pursuant to Section 2899.2,*
25 *including measures addressing both routine operations and major*
26 *events.*

27 (c)

28 (d) *“Utility” means an electrical corporation or gas corporation.*

29 2899.2. (a) On or before January 15, 2019, and on or before
30 January 15 every two years thereafter, each utility shall prepare
31 and submit to the commission for review and approval a safety,
32 reliability, and resiliency plan. The plan submitted on or before
33 January 15, 2019, shall be limited to addressing fire risks, with
34 subsequent plans addressing risks associated with routine operation
35 and all major events.

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

37 (1) All relevant safety rules, regulations, standards, and practices
38 adopted by the commission and, after January 1, 2021, all
39 applicable standards adopted or updated by the Office of

1 Emergency Services pursuant to Section 8587.13 of the
2 Government Code.

3 (2) A program to comply with applicable safety rules,
4 regulations, standards, and practices adopted by the commission
5 and, after January 1, 2021, a program to comply with standards
6 adopted or updated by the Office of Emergency Services pursuant
7 to Section 8587.13 of the Government Code.

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

12 (4) The wildfire mitigation plan submitted pursuant ~~of~~ to Section
13 8386, including protocols for disabling reclosers and deenergizing
14 portions of the electrical distribution system, as well as protocols
15 related to mitigating the impacts of those protocols.

16 (5) Actions the utility will take to ensure that its system will
17 achieve the highest level of safety, reliability, and resiliency, and
18 to ensure that its system is not vulnerable to widespread failure
19 during a major event, including hardening and modernizing its
20 infrastructure with improved engineering, system design, standards,
21 equipment, and facilities.

22 (6) Plans for vegetation management.

23 (7) For gas corporations, both of the following:

24 (A) A program to preemptively replace pipe and other equipment
25 that is aging, brittle, or otherwise vulnerable to damage from a
26 major event, or that could endanger public or employee safety.

27 (B) A program to locate, mark and repair leaks, relight pilot
28 lights, and all other activity needed to restore service following a
29 major event.

30 (8) For electrical corporations, a program to evaluate, construct,
31 operate, and maintain technological solutions, ~~including~~ *such as*
32 *distributed energy resources and* microgrids that can be islanded
33 from the distribution grid for critical customers, such as schools,
34 hospitals, critical care patients, water pumping and treatment
35 facilities, and government and other facilities that provide public
36 safety or other critical functions.

37 (9) The disaster and emergency preparedness plan prepared
38 pursuant to Section 768.6, including both of the following:

1 (A) Plans to prepare for, and to restore service after, a major
2 event, including workforce mobilization, and repositioning
3 equipment and employees.

4 (B) Plans for community outreach and public awareness before,
5 during, and after a major event.

6 (10) Plans for distribution grid operation during a major event,
7 including an incident command system.

8 (11) Clear evidence that the utility has an adequately sized and
9 trained workforce to promptly restore service after a major event,
10 taking into account employees of other utilities pursuant to mutual
11 aid agreements and employees of entities that have entered into
12 contracts with the utility.

13 (12) Activities to support customers during and after a major
14 event, including outage reporting, billing, repair processing and
15 timing, access to utility representatives, emergency
16 communications, and restoration plans.

17 (13) Forecasted costs of every element of the plan.

18 (14) Any other element pertaining to electric and gas safety,
19 reliability, or resiliency deemed appropriate by the commission.

20 (c) (1) The commission shall review the plans of the utilities
21 in a single consolidated proceeding. The commission shall verify
22 that the plans comply with all applicable rules, regulations, and
23 standards, including those adopted by the Office of Emergency
24 Services pursuant to the State Assistance for Fire Equipment Act
25 (Article 5.5 (commencing with Section 8589.8) of Chapter 7 of
26 Division 1 of Title 2 of the Government Code), as appropriate.
27 The commission shall evaluate the reasonableness of the elements
28 of the plans considering the risks involved and the costs to
29 implement the plan.

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

32 (3) Notwithstanding Section 1701.5, ~~on or before December~~
33 ~~31, 2019, and on or before December 31 of each year in which the~~
34 ~~utilities have submitted plans pursuant to subdivision (a), the~~
35 ~~commission shall approve, or approve with modification, the~~
36 ~~submitted plans. If the commission fails to issue a decision on a~~
37 ~~plan on or before December 31, the utility shall implement its~~
38 ~~submitted plan until the time the commission approves the plan,~~
39 ~~at which time the utility shall implement the plan as approved by~~
40 ~~the commission. The commission shall authorize the recovery in~~

1 ~~rates of the costs incurred by the utility in implementing its~~
2 ~~submitted plan prior to the approval by the commission without a~~
3 ~~reasonable review. with or without modification, the commission~~
4 ~~shall strive to approve the plans within 12 months of, but in no~~
5 ~~case shall approve the plans more than 18 months after, their~~
6 ~~submission.~~

7 (4) (A) The commission shall authorize rate recovery of the
8 reasonable revenue requirements to implement plans approved by
9 the commission in the proceeding reviewing the plans pursuant to
10 paragraph (1). Except as provided in subparagraph (B), authorized
11 revenue shall not be reviewed, adjusted, or authorized in a utility's
12 general rate case.

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

16 (5) The utilities shall not divert revenues authorized to
17 implement the plan to any activities or investments outside their
18 plans.

19 (6) Each utility shall establish a memorandum account to track
20 costs incurred for fire risk mitigation from January 1, 2019, until
21 the commission's approval of the utility's plan submitted on or
22 before January 15, 2019, that are not otherwise covered in the
23 utility's revenue requirements. The commission shall review the
24 costs in the memorandum accounts and disallow recovery of those
25 costs the commission deems unreasonable.

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

29 2899.3. (a) For purposes of this section, "distribution *system*
30 safety or reliability performance obligations" of an electrical
31 corporation include, but are not limited to, owning, controlling,
32 operating, managing, maintaining, planning, engineering,
33 designing, investing in, and constructing the distribution system
34 in its service territory, *distribution* system reliability, emergency
35 response and restoration, vegetation management, service
36 connections, service turnons and turnoffs, and service inquiries
37 relating to the operation of the distribution system.

38 (b) (1) An electrical corporation shall not delegate, transfer,
39 or contract out any distribution *system* safety or reliability
40 performance obligation.

1 ~~(e) The commission shall not permit, authorize, or direct an~~
2 ~~electrical corporation to delegate, transfer, or contract out, or~~
3 ~~authorize any other entity to perform, a utility distribution safety~~
4 ~~or reliability performance obligation.~~

5 ~~(d) This section does not prohibit contracting out~~

6 *(2) Notwithstanding paragraph (1), an electrical corporation*
7 *may contract with the owner or operator of a distributed energy*
8 *resource if the contract is approved by the commission and requires*
9 *the owner or operator of that resource to do both of the following:*

10 *(A) Indemnify the electrical corporation for direct damages to*
11 *the electrical corporation, and direct, indirect, and consequential*
12 *loss or damages to a person or other entity that is not a party to*
13 *the contract, caused by the distributed energy resource equipment*
14 *or the failure of that equipment to operate as required by the*
15 *contract.*

16 *(B) Maintain the financial capacity to pay the damages specified*
17 *in subparagraph (A).*

18 *(c) The prohibition specified in paragraph (1) of subdivision*
19 *(b) does not apply to line clearance tree trimming under the*
20 *supervision of the electrical corporation, the purchase of materials*
21 *or equipment, contracting for construction of infrastructure owned*
22 *by the electrical corporation, contracting for pole test and treat*
23 *services, contracting for bulk electricity capacity, energy, or storage*
24 *that is not for purposes of distribution system safety and reliability,*
25 *or contracting for information technology services.*

26 *(d) Paragraph (1) of subdivision (b) does not prohibit a cable*
27 *television corporation or telephone corporation from contracting*
28 *for make-ready work or performing work on its equipment attached*
29 *to poles that also support equipment owned by an electrical*
30 *corporation.*

31 2899.4. The commission shall conduct an annual proceeding
32 to review each utility's compliance with its plan, including a factual
33 analysis of any major events that occurred, as follows:

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

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

1 (2) Each utility shall engage an independent evaluator listed
2 pursuant to paragraph (1) to review and assess the utility's
3 compliance with its plan. The independent evaluator shall consult
4 with, and operate under the direction of, the Safety and
5 Enforcement Division of the commission. The independent
6 evaluator shall issue a report on July 1 of each year in which a
7 report required by subdivision (a) is filed. As a part of the
8 independent evaluator's report, the independent evaluator shall
9 determine whether any revenue authorized to implement the plan
10 was diverted to any activities or investments outside the plan. *The*
11 *commission shall strive to complete its compliance review within*
12 *12 months of, but in no case shall it be completed more than 18*
13 *months after, the submission of a utility's compliance report.*

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

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

19 2899.5. The commission shall assess penalties if a utility fails
20 to substantially comply with its plan. In determining an appropriate
21 amount of the penalty, the commission shall consider all of the
22 following:

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

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

27 (c) Whether the utility self-reported the circumstances
28 constituting noncompliance.

29 (d) Whether the utility implemented corrective actions with
30 respect to the noncompliance.

31 (e) Whether the utility had advance notice of the circumstances
32 constituting noncompliance.

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

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

37 2899.6. (a) After completing the review pursuant to Section
38 2899.4, if the commission determines that a utility was in
39 substantial compliance with its *approved* plan, *the commission*
40 *shall find that* the utility's performance, operations, management,

1 and investments addressed in the plan ~~shall be deemed~~ *are*
2 reasonable and prudent for ~~all purposes.~~ *purposes of any subsequent*
3 *commission proceeding.*

4 (b) Any findings made pursuant to Section 2899.4:

5 (1) *Shall be used by the commission to carry out its obligations*
6 *under Section 451.*

7 (2) *Shall not apply to performance, operations, management,*
8 *or investment not addressed or outside the scope of the approved*
9 *plan.*

10 (3) *Shall not affect any civil action. Nothing in this paragraph*
11 *shall impact the admissibility of evidence otherwise permitted by*
12 *law or rule of court.*

13 (4) *Shall not apply to events that occurred before the first plan*
14 *is approved for a particular utility.*