an international body like the International Telecommunication Union or from international trade agreements and treaties—and there have been many threats to the Internet that have been included in our international treaties or even sometimes from our own government—we need to stand up and protect the Internet and the freedom that it embodies.

We know that the multistakeholder approach is critical to the continued robust growth of the Internet. We also know that the transparent, multistakeholder model has made the Internet such a hugely successful global platform for economic growth, human rights, and the free flow of information.

□ 1900

I'm proud to stand with my colleagues on both sides of the aisle to say that America is going to stand up for freedom, we're going to stand up for technology, and we're not going to allow anyone, whatever their intentions may be, to threaten the freedom of the Internet to succeed.

I appreciate Mrs. BONO MACK's efforts in this regard, along with Ms. ESHOO's, and the entire committee. I'm proud to be a cosponsor of the measure. I look forward to its resounding success in a vote tomorrow.

Mr. WALDEN. Mr. Speaker, I continue to reserve the balance of my time.

Ms. ESHOO. Mr. Speaker, how much time do I have?

The SPEAKER pro tempore. The gentlewoman from California has 8 minutes remaining.

Ms. ESHOO. I'll just make some closing comments because I don't have anyone else who is here to speak to this.

Mr. Speaker, I think that everyone who has spoken has really spoken beautifully about this issue, about what the Internet represents not only to individuals, businesses, students, how it has changed how we live, how we work, how we learn, and the jobs that it has produced, what it has done for our national economy, but also what it has done relative to exporting democracy. Of course, the United States is front and center in this.

It's a very interesting thing to me to examine those countries that are thinking another way and want to impose that thinking on the Internet. There are far more closed societies where freedom of thought, freedom of expression is not valued the way we do and other democracies do. So we need to form partnerships with other countries around the world to make sure that the democratizing effect that the Internet actually holds will continue.

I'm proud to join again with my colleagues, with Mr. WALDEN, the distinguished chairman of our subcommittee, and Representative BONO MACK, who led the effort with this resolution. I'm proud that we're all together. And I always want to thank our staff, both on the majority and the minority side of the aisle, for the work that they do on the committee. I thank you all, and I salute you. I look forward to a unanimous vote of the United States House of Representatives in support of a free and open Internet.

With that, I yield back the balance of my time.

Mr. WALDEN. Mr. Chairman, I yield myself as much time as I may consume.

Tonight, the U.S. House of Representatives will send a clear and distinct message not only to our negotiators but to the world that we stand for liberty and we stand for freedom. When it comes to the Internet, both of those are incredibly important.

The Internet has brought us economic prosperity not here alone but all over the globe. The Internet has allowed for political discourse as never imagined by the great scholars of Greece and Rome. It's brought us intellectual capabilities. If you think about what you can do on the Internet today to research something, to evaluate something, there are an unlimited number of sources of data. It's improved our lives. It's improved our lives through our political systems. It's allowed people who thought they had no opportunity to effect change to have an overwhelming effect by communicating together. This really is a vote for liberty. It's a vote for freedom. It's a vote for free speech. It's a vote for the things that our Founders believed in when they gave us the Constitution and the Bill of Rights. It's our version of that.

We know that there are forces out there in the world that are opposed to all of those things, because they want command and control of their people, and that's not right. We have an opportunity tonight to send a clear and convincing message that we stand in America for freedom of the Internet, for no government anywhere in the globe taking charge of it and shutting it down and denying that great human spirit that we believe in so much here in America.

Mr. Speaker, I ask my colleagues to join us in a unanimous show of support. I thank my staff and the staff of Representative ESHOO and Ranking Member WAXMAN for their good work on this, and especially to my colleague from California, MARY BONO MACK, who raised this with us early on and worked closely to write a piece of legislation, that, as you can see in a sometimes otherwise controversial House, has brought us all together. That's a real tribute to Congresswoman BONO MACK's work.

With that, Mr. Speaker, I call on my colleagues to support this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WALDEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 127.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. WALDEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## RESOLVING ENVIRONMENTAL AND GRID RELIABILITY CONFLICTS ACT OF 2012

Mr. OLSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4273) to clarify that compliance with an emergency order under section 202(c) of the Federal Power Act may not be considered a violation of any Federal, State, or local environmental law or regulation, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4273

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Resolving Environmental and Grid Reliability Conflicts Act of 2012''.*

***SEC. 2. AMENDMENTS TO THE FEDERAL POWER ACT.***

*(a) COMPLIANCE WITH OR VIOLATION OF ENVIRONMENTAL LAWS WHILE UNDER EMERGENCY ORDER.—Section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) is amended—*

*(1) by inserting ''(1)'' after ''(c)''; and*

*(2) by adding at the end the following:*

*''(2) With respect to an order issued under this subsection that may result in a conflict with a requirement of any Federal, State, or local environmental law or regulation, the Commission shall ensure that such order requires generation, delivery, interchange, or transmission of electric energy only during hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable, is consistent with any applicable Federal, State, or local environmental law or regulation and minimizes any adverse environmental impacts.*

*''(3) To the extent any omission or action taken by a party, that is necessary to comply with an order issued under this subsection, including any omission or action taken to voluntarily comply with such order, results in noncompliance with, or causes such party to not comply with, any Federal, State, or local environmental law or regulation, such omission or action shall not be considered a violation of such environmental law or regulation, or subject such party to any requirement, civil or criminal liability, or a citizen suit under such environmental law or regulation.*

*''(4)(A) An order issued under this subsection that may result in a conflict with a requirement of any Federal, State, or local environmental law or regulation shall expire not later than 90 days after it is issued. The Commission may renew or reissue such order pursuant to paragraphs (1) and (2) for subsequent periods, not to exceed 90 days for each period, as the Commission determines necessary to meet the emergency and serve the public interest.*

*''(B) In renewing or reissuing an order under subparagraph (A), the Commission shall consult with the primary Federal agency with expertise in the environmental interest protected by such law or regulation, and shall include in any such*

*renewed or reissued order such conditions as such Federal agency determines necessary to minimize any adverse environmental impacts to the maximum extent practicable. The conditions, if any, submitted by such Federal agency shall be made available to the public. The Commission may exclude such a condition from the renewed or reissued order if it determines that such condition would prevent the order from adequately addressing the emergency necessitating such order and provides in the order, or otherwise makes publicly available, an explanation of such determination.''.*

*(b) TEMPORARY CONNECTION OR CONSTRUCTION BY MUNICIPALITIES.—Section 202(d) of the Federal Power Act (16 U.S.C. 824a(d)) is amended by inserting ''or municipality'' before ''engaged in the transmission or sale of electric energy''.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. OLSON) and the gentleman from Pennsylvania (Mr. DOYLE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. OLSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous materials in the RECORD on H.R. 4273.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. OLSON. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4273, Resolving Environmental and Grid Reliability Conflicts Act of 2012.

My colleagues and I carefully drafted this bill to resolve a conflict between the Federal Power Act and environmental laws and regulations that, if left unresolved, could create serious problems for the reliability of our Nation's electric grid.

Every year, as the heat of summer settles in across our country and demand surges for electricity, the potential for dangerous power outages grows. Some States, such as California, and my home State of Texas, are being warned by electricity regulators that reserve margins could dip dangerously low.

Texas is expected to have a 2,500 megawatt shortfall in generating capacity—equivalent to five large power plants—as early as 2014. This shortfall could cause rolling blackouts across Texas that have the potential to impact more than 25 million people.

□ 1910

As we've seen happen before in our country, and as we are watching it unfold in India this week, an unexpected loss of power can result in significant harm to human health and the environment.

Prior experience shows that in rare and limited circumstances, emergency actions are needed to ensure the reliable delivery of electricity. In these circumstances, the Department of Energy has a tool of last resort to address the emergency. That tool is an emergency order issued under section 202(c) of the Federal Power Act. DOE can order a power plant to generate electricity when outages occur due to weather events, equipment failures, or when the electricity supply is too low and could cause a blackout. As they should, DOE can force a company to comply with a 202(c) order even if it means a technical violation of environmental law. Unfortunately, under current law, a company or individual can be held liable for this technical violation even when they are acting under a Federal order to avoid a blackout.

In recent years, these conflicting Federal laws have resulted in lawsuits and heavy fines for electricity providers who were complying with DOE orders. A power generator in San Francisco had to pay a significant sum as a settlement after they were ordered by DOE to exceed their emissions limits to avoid a blackout. Unless Congress passes legislation to resolve the potential conflict of laws, the effectiveness of this tool is in jeopardy.

As testimony this year before the House Energy and Commerce Committee confirms, the next time DOE invokes 202(c), the power generator may choose to fight the order in court if it conflicts with an environmental law. Conflicting Federal laws put a power generator in a no-win situation—either sue DOE to comply with environmental laws or be sued by third parties for compliance with DOE orders.

H.R. 4273 eliminates the legal conflict facing power generators and their customers by providing a needed safety valve, which clarifies that compliance with an emergency order under section 202(c) of the Federal Power Act may not be considered a violation of any Federal, State, or local environmental law or regulation.

Emergency orders are not issued lightly and only under extreme power reliability scenarios. In the last 30 years, this authority has only been used six times. But when the need arises, my legislation will ensure that DOE works to minimize any adverse environmental impacts, meaning they must balance environmental interests with reliability needs.

While I believe DOE may need to use its emergency authority more often in the future given the strain EPA's new power sector rules will put on the electric grid, I still expect DOE emergency authority orders to be the exception, not the rule.

In those rare instances when the authority is invoked, we should not punish generators that are simply following orders from the Federal Government. That's why we must amend the Federal Power Act so that generators are not forced to choose between compliance with an emergency order and environmental regulations.

This conflict is why I introduced this bipartisan legislation to allow America's power companies to comply with Federal orders to maintain grid reliability during a power emergency without facing lawsuits or penalties.

I am extremely pleased with the bipartisan support this bill has received. This is proof that we can find common ground when working to address a critical glitch in Federal law and provide reliable energy supply to all Americans.

I want to thank committee Chairman FRED UPTON, Ranking Member HENRY WAXMAN, and Subcommittee Chairman ED WHITFIELD and Ranking Member BOBBY RUSH for their support and assistance in moving this bill forward. I also want to thank my colleagues on the committee, GENE GREEN and MIKE DOYLE, for working with me to fix this problem and to keep power running for all Americans in an emergency.

Mr. Speaker, I urge my colleagues to support this commonsense, bipartisan legislation that protects energy consumers, the environment, and those who provide the power.

I reserve the balance of my time.

Mr. DOYLE. Mr. Speaker, I yield myself as much time as I may consume.

The bill before us today is the result of efforts from both sides of the aisle to find a solution that really works for industry, government, and our environment.

Currently, the Department of Energy has the authority to issue a ''must-run'' order to a power provider in emergency cases to protect grid reliability. At the same time, environmental laws and regulations could prohibit a company from complying with a DOE must-run order. So a company is left in the position of choosing which law it violates—environmental rules or an emergency order from the Department of Energy.

In fact, Mr. Speaker, this has happened in the past. During the California energy crisis, and as recently as 2005 in Virginia, a company was issued emergency orders by the Department of Energy. To comply with those orders, the company was temporarily in noncompliance with environmental law. Therefore, after complying with an emergency must-run order, the company was both fined and forced to settle a citizen lawsuit. If it happens once, twice, or 50 times, it will never be proper for the Federal Government to put a company in the position of choosing which law to violate.

Reliability concerns for our electric grid are real, and power plant retirements are being announced nearly every week. In June, the North American Electric Reliability Corporation issued their summer reliability assessment. They told us that reserves in Texas are coming up short to meet peak demand and that the California reserve margin will be extremely tight.

So this bill will fix a clear conflict in Federal laws with a narrow, targeted approach. This bill will ensure that the Department of Energy will have the ability to keep the lights on while still protecting the environment.

The bill before us simply clarifies that if an emergency order issued pursuant to section 202(c) of the Federal Power Act may result in such a conflict with an environmental law or regulation, it shall expire not later than 90 days after issuance. This is to ensure that DOE continues to have the necessary authority to ''keep the lights on'' in true emergencies.

It then gives DOE the opportunity to renew or reissue such an order for an additional 90-day period after consulting with the appropriate Federal agencies and including conditions submitted by such agencies to mitigate adverse environmental impacts. DOE may exclude a recommended condition from the order if it determines the condition would prevent the order from adequately addressing the emergency.

Mr. Speaker, this bill is the result of many months of work with members on both sides of the Energy and Commerce Committee. It is supported by both the chairman and the ranking member of the committee. And I ask my colleagues to support it also.

I want to thank the gentleman from Texas (Mr. OLSON). It has been a pleasure to work with him on this piece of legislation. It is my hope that all our colleagues also support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OLSON. I thank my colleague from Pennsylvania for his kind words.

Mr. Speaker, at this time, I see no colleagues on my side of the aisle looking to speak, so I will reserve the balance of my time.

Mr. DOYLE. Mr. Speaker, it is a pleasure for me to now yield such time as he may consume to the gentleman from Texas (Mr. GENE GREEN), a valuable member of our Energy and Commerce Committee.

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to thank both my colleague from Pennsylvania and also my neighbor in Texas, Congressman OLSON, for making sure we get this bill to the floor today.

I rise in strong support of H.R. 4273, the Resolving Environmental and Grid Reliability Conflicts Act of 2012. This bipartisan legislation addresses a longstanding conflict in Federal law where a company or individual can be held liable for violating environmental laws when complying with a Federal order to generate power to avoid blackouts.

Section 202(c) of the Federal Power Act gives the Department of Energy the authority to order an electric-generating facility to operate to avoid a reliability emergency. At the same time, environmental laws and regulations may restrict the operation of power plants or transmission lines.

So if a company or publicly owned utility is ordered by the DOE to operate under section 202(c) and at the same time is prohibited from operating in accordance with the DOE order due to environmental limitations, the operator must choose which legal mandate to follow. These conflicting legal mandates should not complicate an electric reliability crisis.

As a long-time member of the Energy and Commerce Committee and someone who has worked on both reliability and environmental legislation during that time, I can honestly say it was never our intention to put electric-generating facilities in the position of having to choose between compliance with one law over another.

And while there have only been a couple of instances to date where a generator has been in this situation, the potential for conflict will only grow as several coal-fired plants are scheduled to be taken offline in the coming years.

And as my Pennsylvania colleague noted, we have potential reliability issues in my and Mr. OLSON's home State of Texas. Even though we are under a separate grid—ERCOT—it's important that we have this distinction corrected.

□ 1920

That's why Congress needs to address this issue, right here, right now or else we risk threatening our electrical reliability. H.R. 4273 clarifies that if an emergency order issued pursuant to section 202(c) of the Federal Power Act may result in a conflict with an environmental law or regulation, the order shall expire no later than 90 days after issuance. This is to ensure that DOE continues to have the necessary authority to ''keep the lights on'' in true emergencies.

However, it then gives DOE the opportunity to renew or reissue the order for an additional 90-day period only after consulting with the appropriate Federal agencies and including conditions submitted by these agencies to mitigate the adverse environmental impacts.

This is not a messaging bill. This is not an anti-EPA bill or an anti air toxic standards bill. Instead, it's a commonsense bill that would address a very worrisome deficiency in current law that is only going to become more prominent in the coming years.

This is one of a handful of bills that actually was supported by both Democrats and Republicans in the Energy and Commerce Committee. It also has support from the utility industry. That's why I encourage my colleagues on both sides of the aisle to support the bill.

Mr. OLSON. Mr. Speaker, I reserve the balance of my time to close.

Mr. DOYLE. Mr. Speaker, we have no further speakers, and at this time I yield back the balance of my time.

Mr. OLSON. Mr. Speaker, in closing, H.R. 4273 is a bipartisan, commonsense piece of legislation that ensures that during a power crisis, the lights will come on when it's dark, the heat will come on when it's cold, and the air conditioning will come on when it's hot. And lives will be saved.

I urge my colleagues to vote for H.R. 4273, and I yield back the balance of my time.

Mr. WAXMAN. I would like to make a few comments on the committee process for H.R. 4273.

As introduced, I had substantial concerns about H.R. 4273. The introduced bill gave the Department of Energy unprecedented and unchecked new authority to waive any federal, state or local environmental law if DOE determines there is an emergency with respect to electric power, and the only references to environmental safeguards in the bill were hortatory. This approach was unacceptable. I also believed that the bill was unnecessary, as federal agencies already have the tools necessary to resolve any conflicts between environmental requirements and emergency orders.

However, the bill's sponsors, the committee Chairman, and the affected industry were willing to engage in serious, substantive negotiations to improve the bill, which produced significant improvements. The version of the bill reported from Committee is narrower in scope and effect, and provides some environmental safeguards.

I would like to extend my thanks to all of the participants in the negotiations for a good-faith and productive process. In particular, I would like to thank Mr. DOYLE and Mr. GREEN for their leadership and hard work on making improvements and producing a bill that can be supported on a broad bipartisan basis. I also want to thank Chairman UPTON and Subcommittee Chairman WHITFIELD and Representative OLSON for working with us. The language of this bill represents a delicate compromise that was very carefully negotiated, and changes to the bill before us could well jeopardize that broad support.

H.R. 4273, as it is before us today, requires any emergency order that may result in a conflict with environmental requirements to require generation only during the hours necessary to meet the emergency and to minimize any adverse environmental impacts to the maximum extent practicable. The reported bill also limits the length of such an order to 90 days, and requires any renewed order to include any conditions identified by the relevant federal environmental agency as necessary to minimize any environmental impacts.

In discussions and testimony on the bill, DOE officials informed the Committee that in any situation where time permits, they always consult with and rely on the relevant expert environmental agency with respect to minimizing environmental impacts of an emergency order, and they assured the Committee that they would continue this practice. This assurance is important to my support for the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. OLSON) that the House suspend the rules and pass the bill, H.R. 4273, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## RESIDENTIAL AND COMMUTER TOLL FAIRNESS ACT OF 2011

Mr. CRAWFORD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 897) to provide authority and