

the members of our Armed Forces today.

As we do this, however, we must not forget that we are now creating a new generation of veterans. We must acknowledge our obligation to this generation of heroes who deserve what has been promised them, particularly in the areas of health care, disability compensation and educational opportunities.

Supporting our troops means, among other things, providing them with the resources to get the job done in the dangerous situations in which we have put them; but it also means ensuring that we know and understand our troops' needs when they return home and how to best meet those needs.

Over the next week, as we celebrate the anniversary of our independence, I will be traveling across South Dakota, meeting with the family members of troops whose National Guard and Reserve units have been deployed. I will listen to their stories and concerns, and I will share my commitment to them to respect and honor the sacrifices their loved ones are making. It is in this spirit that I commit to working with my colleagues to adequately acknowledge what is owed to our veterans and to provide it to them both today and in the decades to come.

HONORING ROLLAND B. "BOB" LYONS

(Mr. McCOTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOTTER. Mr. Speaker, on June 17 a friend to our community, Mr. Rolland B. "Bob" Lyons passed away following a courageous fight with cancer in which his courage never faltered or failed. Enduring and self-effacing, this entrepreneurial genius and civic leader, who used to like to call himself "just a ditch digger from Ann Arbor," was a truly unique character.

He had a massive toy collection. He created a reproduction of a 19th century hardware store in his office. And most of all, he liked to wear some of the most outrageous seersucker suits and bow ties that you would ever see, at least back home in Michigan.

Bob was probably one of the people in life that you would meet that you could not but befriend. I would like to extend my condolences to his family and to all who, in knowing Bob Lyons, could not but love him.

MEDICARE LOTTERY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, yesterday it was reported that the pharmaceutical industries and HMO industries spent \$141 million with the prescription drug bill. With the Medicare bill, taxpayers will give HMOs an additional \$46

billion and they will give the pharmaceutical industry an additional \$139 billion.

Where else in America can you invest \$141 and get a \$185 billion return on your money? The GOP Congress, but of course.

By overpaying private insurance companies, denying the Secretary of Health and Human Services the ability to negotiate for lower prices and blocking the free market from working and allowing Americans to get safe, affordable drugs from Canada and Europe, the Medicare bill is everything the HMOs and pharmaceutical companies paid for and requested.

We are doing everything we can in this bill except the things that will actually lower prescription drug prices.

Yesterday the Bush administration announced that they will provide drug coverage to patients with some serious diseases, less than 10 percent of them though. They will decide which seriously ill individuals will get their Medicare coverage now by the lottery. There are 600,000 people eligible for medical coverage, but we are denying this coverage to 90 percent of them, cancer patients, people with multiple sclerosis, and arthritis. We can do better in lowering the prices of drugs than by lottery.

PROVIDING FOR CONSIDERATION OF H.R. 4614, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2005

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 694 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 694

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4614) making appropriations for energy and water development for the fiscal year ending September 30, 2005, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with "Provided" on page 2, line 23, through page 3, line 5; sections 105, 106, 107, 108, 109, 110, and 311; beginning with "Provided" on page 39, line 23, through page 40, line 4; and section 502. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member of-

fering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

The resolution before the House today provides for consideration of the 2005 Energy and Water Development Appropriations bill under an open rule that provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking member of the Committee on Appropriations.

It waives all points of order against consideration of the bill, and under the rules of the House, the bill shall be considered for amendment by paragraph. The rule waives points of order against provisions in the bill as amended for failure to comply with clause 2 of rule XXI except as specified in the resolution.

It authorizes the chairman to accord priority in recognition to Members who have been preprinted their amendments in the CONGRESSIONAL RECORD, and finally it provides one motion to recommit with or without instructions.

Mr. Speaker, I rise today to introduce the rule for H.R. 4614, the Energy and Water Development Appropriations Act of 2005. This legislation provides for a total of \$28 billion in new discretionary spending authority for the civil U.S. Army Corps of Engineers, the Department of Interior, the Department of Energy and several associated Independent Agencies.

I would like to thank my friend, the chairman, the gentleman from Ohio (Mr. HOBSON), for his leadership and vision in crafting this legislation and for striking a good balance between existing prudent fiscal restraint and funding our Nation's energy and water development priorities.

This bill increases funding for our Nation's energy and water priorities at \$734.5 million above 2004 levels, and \$49.6 million above the President's budget request, while ensuring that this money is spent wisely on programs that also reflect the needs and the core missions that its agencies find within their mission statements.

This legislation adequately funds the Corps of Engineers and concentrates its resources on helping to fulfill its traditional missions such as flood control, shoreline protection, navigation and

safety on our Nation's waterways. Over the last few years, the Corps has been given an increased workload to complete with an inadequate budget. This bill focuses on protecting our critical infrastructure and completing outstanding projects while prioritizing our Nation's infrastructure needs in a thoughtful and efficient way.

It provides funding needed to maintain, operate, and rehabilitate the Bureau of Reclamation projects throughout the western United States and protects the Federal investment in western water infrastructure. It also ensures that renewable energy programs are funded at \$343 million, \$1 million above the fiscal year 2004 amounts.

Under this legislation, the Department of Energy receives a total of \$22.48 billion, an increase of \$511 million over fiscal year 2004. As with the Corps, this legislation tasks the Department of Energy with beginning to prepare its 5-year budget plans, first for individual programs and then an integrated plan for the entire Department. This plan must include business plans for each of the DOE laboratories, so that Congress and the Department can understand the mission and resource needs of each laboratory to ensure that they can use their funding that is provided more efficiently.

Funding for the National Nuclear Security Administration is \$9 billion, an increase of \$372 million over fiscal year 2004 and a decrease of \$22 million from the budget request. The United States has in place a strategic plan to realign and modernize our nuclear arsenal, however, much of the DOE weapons complex is still sized to support a Cold War stockpile. The funding included in this bill will help NNSA to review its weapons complex in relation to the security needs, budget constraints and this new stockpiling plan while still providing adequate funding for its ongoing operations and needs.

Finally, this bill provides \$202 million for several independent agencies, including the Defense Nuclear Facilities Board, the Delta Regional Authority, the Nuclear Regulatory Commission and its Inspector General, the Nuclear Waste Technical Review Board, and the Office of Inspector General for the Tennessee Valley Authority.

Mr. Speaker, I am very proud of this legislative product, created by our Committee on Appropriations with input from many Members. It will help to fund our Nation's energy and water development needs.

I would also like to personally commend the gentleman from Ohio (Mr. HOBSON) for his hard work and vision in crafting this legislation. And I would also like to thank the chairman for his inclusion of level funding, that was important to this Member, for the Dallas Floodway Extension Project which is a cornerstone in Dallas, Texas, for our Trinity River Corridor Project.

This project will help Dallas to mitigate flood risks in over 12,500 structures in Dallas' central business dis-

trict and includes some 792 acres of land that are currently in a 100-year flood plain.

I support this project and this bill, and I urge my colleagues to do the same by supporting the rule and the underlying legislation.

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

□ 0915

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, I am pleased to support the Energy and Water Appropriations bill, and I congratulate the chairman and the ranking member and the subcommittee Chair and the ranking member for their hard work and diligence in bringing this appropriations bill to the floor in a timely fashion.

Specifically, this bill provides a total of \$27.9 billion for the Department of the Army Corps of Engineers, the Interior Department's Bureau of Reclamation, the Department of Energy and a handful of independent agencies including the Nuclear Regulatory Commission.

I am especially pleased that this bill soundly rejects the administration's continuing efforts to dramatically reduce funding for the Civil Works program of the U.S. Army Corps of Engineers. The administration's fiscal year 2005 budget request for the Army Corps of Engineers was actually \$460 million less than the Corps received in fiscal year 2004 and \$578 million below what it received in fiscal year 2003. This is tantamount to a systematic attempt to cripple the Civil Works program.

As a Member with mainly inland waterways in my district, I value and appreciate the extraordinary work the Corps performs on behalf of the cities and towns we represent. In this bill, the committee has wisely given both the specific guidance and the sufficient resources the Corps needs to address the projects it is presently charged with completing.

Mr. Speaker, I also want to applaud the committee for plainly exposing the administration's funding scheme for the proposed nuclear waste repository at Yucca Mountain in Nevada. This project is riddled with scientific uncertainty and threatens millions of Americans, both in Nevada and in communities along the transportation routes. Notwithstanding the many health and safety concerns that should stop the Yucca Mountain project from going forward, OMB's attempt to use a budget gimmick to leverage \$749 million of the administration's \$880 million request is a cynical and shameless attempt to cook the books on the total budget deficit. By refusing to loosen the purse strings on funding for the

Yucca Mountain project, this appropriation bill rightly tells the administration to go sell stupid somewhere else.

I also want to commend the chairman and the committee for its actions on nuclear weapons development. The bill strips out funding for the Robust Nuclear Earth Penetrator weapons, also known as "bunker busters." I share the chairman's frustration that the Energy Department seems to be totally ignoring the restrictions Congress has placed on this research.

The bill also eliminates funding for the Advanced Concepts program to develop a new generation of nuclear weapons and zeros out the funding for siting a new Modern Pit Facility to manufacture new triggers for nuclear weapons.

In addition, the bill does not provide funds to move test readiness at the Nevada test facility up from 24 months to 18 months. Mr. Speaker, instead, the bill has placed emphasis on the consolidation of bomb material for greater safety and security and on the disassembly of surplus nuclear weapons.

On these matters, I believe the bill reflects realistic national security and budget priorities, and I commend the chairman and ranking member for their leadership.

Mr. Speaker, while I support this bill on the whole, I feel compelled to express my disappointment in the funding levels for renewable energy technologies. Just 2 weeks ago senior officials from the United States and 153 other nations met at a conference in Bonn, Germany, where they unanimously endorsed a communique committing to a substantial increase "with a sense of urgency" in the percentage of renewable sources to meet global energy needs.

Reportedly, the delegates of the conference did not set specific targets or timetables as a concession in order to get President Bush's administration on board. The President has said he favors the invisible hand of the free market over government regulation.

Sadly, this appropriations bill does not reflect the sense of urgency which is needed in increased funding for renewable energy sources. I can tell you that my constituents in Massachusetts, who are paying on average \$2.10 per gallon at the pump, do not have much faith that "the invisible hand" of the free market is going to show up any time soon and drive gas prices down either.

Mr. Speaker, this Nation cannot afford to wait any longer. We cannot afford to continue underfunding renewable energy and efficiency programs while our dependence on foreign sources of oil grows and our natural gas shortage worsens. We need to move with all deliberate speed to significantly increase funding for renewable sources of energy.

I have start-up fuel cell companies and established photovoltaic manufacturers in my district like Mechanology,

Protonex, Cell Tech Power and Evergreen Solar that are doing remarkable things, but they are struggling to compete with other countries who are leaving us behind in the race to a new energy economy because they cannot get the Federal funding support they need to continue research and development. And the invisible hand of the free market economy is not helping them out either.

Meanwhile, we spend our time here passing ill-conceived energy bills for a second time that grant \$23 billion in tax breaks and subsidies to the oil and gas industry. Surely, if we can do that, then we can do better in funding our renewable energy technologies.

Mr. Speaker, the appropriators have done their job, and while I would like to see a more comprehensive bill, I believe that the appropriators have done their job well.

Let me be the first to commend the gentleman from Ohio (Mr. HOBSON) and the ranking member, the gentleman from Indiana (Mr. VISCLOSKY) for their work.

With that being said, my main regret is that the Republican leadership decided not to make in order the amendment offered by the gentlewoman from California (Ms. ESHOO) and the gentleman from California (Ms. LOFGREN).

The Eshoo-Loftgren amendment is simple. It would require that the Federal Emergency Regulatory Commission order refunds whenever sellers of electricity charge rates that are not just and reasonable. This will require FERC to order refunds stemming from the market manipulation that occurred in California and the Pacific Northwest in 2000 and 2001. It would also require FERC to disclose documents and evidence that it has obtained in its investigation of Enron in manipulation of the western energy market; and it would require FERC to allow States to fully participate in FERC proceedings and negotiations on market manipulation.

At the end of this debate, I will offer a motion to defeat the previous question. If the previous question is defeated, the gentlewoman from California (Ms. ESHOO) and the gentleman from California (Ms. LOFGREN) will offer their amendment to the Energy and Water Appropriations bill for fiscal year 2005. This is an important proconsumer amendment, and it deserves to be considered today.

Mr. Speaker, when is enough enough? It is sad that the Republican leadership feels compelled to continue to protect the Enrons of the world. It is time that we hold these companies accountable, and the Eshoo-Loftgren amendment is the right prescription for this ailment.

Mr. Speaker, yesterday we engaged in a colossal waste of time as the leadership of this House forced the Members of this House to spend an entire day to debate a bill and amendments that were defeated by substantial margins; and yet the leadership of this House is unable to allow us to have the

opportunity to debate an amendment that will actually make a real difference in the lives of the people of this country. We can do much better than this, and I will urge my colleagues to vote "no" on the previous question.

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

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do want to quote my colleague who said that this is a good bill. It is a good bill and it does deserve to be passed. It also is a bill that does not need to address what is known as the Eshoo amendment, because it has already been addressed. It has been addressed in the H.R. 6 conference report and H.R. 4503 that was passed last week by the House and is pending in the Senate; and that will provide the authority to FERC to ensure that the proper elements are taken care of as it relates to serious allegations that have been raised, especially in California.

I do thank the gentleman for his support of the bill. I believe he has qualified it appropriately, and I do, too, give thanks to the gentleman from Ohio (Mr. HOBSON) for the work he has done.

Mr. Speaker, I would like to notify the gentleman from Massachusetts (Mr. MCGOVERN) that at this time I do not have any speakers as a result of the adequacy of the bill that has taken care of many requests on this side; and so I would like to inform the gentleman that I would allow him to go ahead and consume the time that is necessary.

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

Mr. MCGOVERN. Mr. Speaker, I yield 4½ minutes to the gentlewoman from California (Ms. ESHOO).

(Ms. ESHOO asked and was given permission to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MCGOVERN), who has been a wonderful supporter of our effort that has been stretched out over 4 years.

Mr. Speaker, I strongly support the underlying bill. It is an excellent one, and I commend the gentleman from Ohio (Mr. HOBSON) and the ranking member, the gentleman from Indiana (Mr. VISCLOSKY) for their bipartisan leadership of the Subcommittee on Energy and Water Development. But I rise to urge the defeat of the previous question on the rule, because the rule does not provide a waiver for the amendments to address market manipulation and require the Federal Energy Regulatory Commission to take action to refund consumers' dollars that were manipulated.

I testified before the Committee on Rules yesterday that this amendment be made in order, but the request was denied.

I think the word "denial" pretty well sums up the response of Congressional Republicans and the FERC to the western energy crimes. In 2000 and 2001, FERC essentially allowed energy pro-

ducers to game and corrupt the western energy market, and consumers were gouged billions of dollars. In March 2001, Congressional Democrats wrote to the President for help and we are still waiting for the reply.

In 2002, Democratic Members of the California delegation asked six times for a Congressional investigation and hearings on market manipulation. It never happened. In 2003, we tried to address the refunds issue with amendments to the Energy Policy Act. Nothing happened.

Over 4 years we have tried everything we could to help consumers in the Pacific Northwest and California. This work is summarized in a five-page document which, Mr. Speaker, I include for the record.

The House must consider this amendment today because we are running out of opportunities to right the wrongs which created the crimes itself. This amendment will first amend the Federal Power Act by changing the rules for refunds effective dates under Section 206. Currently, these rules allow refunds after a complaint has been filed. This amendment will allow refunds for all overcharges regardless of when a complaint has been filed. This change will require FERC to order refunds for the gouging that occurred in the West and elsewhere in the Nation in 2000 and 2001.

Two, it requires FERC to open new investigations, if necessary, to award refunds to western consumers.

Three, it requires the FERC to step in to order refunds whenever manipulation occurs in the future in any State in our country.

Four, it requires the FERC to allow California to participate in heretofore secret negotiations between FERC and power producers who were thought to have engaged in market manipulation. And lastly, it requires the FERC to make public all documents that it is holding related to the manipulation of the western energy market in 2000 and 2001.

□ 0930

And let there be no doubt, there were wrongs. The Enron tapes which CBS broadcast earlier this month make it all too clear that companies were manipulating the market. They bragged about stealing money from "those poor grandmothers in California."

Some of the language was so profane that by congressional action it was deemed it could not be broadcast. The language was shocking and the facts in the transcripts chilling. They are part of a litany of evidence of widespread market manipulation.

There are smoking gun memos in which Enron admitted how they gamed the market. They had names for each one of their undertakings. We have transcripts of employees of Reliant Energy describing how they gamed the market; and with that striking evidence, FERC chose to negotiate a settlement in this case for pennies on the

dollar without allowing California to participate.

We have reams of evidence discovered by the State of California. We have the Justice Department's indictments and plea agreements with many energy traders and producers. Even the FERC found "significant market manipulation." But, despite the evidence, the FERC has been reluctant to order refunds to compensate consumers even though it has the obligation to protect energy consumers of our country.

Mr. Speaker, it has been 4 long years since the crisis began. Consumers have been waiting for relief. We think they deserve it and they should have it. I urge my colleagues to defeat the previous question and allow this amendment to come to the floor.

CONGRESSIONAL ACTIVITY TO ADDRESS THE ENERGY CRISIS—CHRONOLOGY HIGHLIGHTS 2000

June 14, 2000—First blackout of the electricity crisis and first blackout in California since World War II.

August 2, 2000—San Diego Gas & Electric Company (SDG&E) files a complaint under Rule 206 under the Federal Power Act against western power suppliers, alleging that market prices are "unjust and unreasonable." Calls on the Federal Energy Regulatory Commission (FERC) to impose price limits.

November 1, 2000—FERC reports that wholesale electricity prices have been and have the potential to continue to be "unjust and unreasonable." 2001

January 19, 2001—25 members of the California delegation write to FERC to urge it to address the high price of electricity in California.

January 20, 2001—Representatives Duncan Hunter and Anna G. Eshoo introduce H.R. 238 to amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market. A bipartisan group of thirty-two Western Members cosponsor the bill. Senate companion (S. 26) introduced by Senators Dianne Feinstein and Barbara Boxer on January 22, 2001.

January 30, 2001—Representative Bob Filner introduces H.R. 268, the California Electricity Consumers Relief Act, that requires FERC to order refunds retroactive to the beginning of the crisis on June 1, 2000.

March 2, 2001—Representatives Hunter and Eshoo write to House Energy and Commerce Committee Chairman Billy Tauzin and House Energy and Air Quality Subcommittee Chairman Joe Barton to call for a hearing on the Western energy crisis and H.R. 238.

March 6, 2001—House Subcommittee on Energy and Air Quality holds hearing—Congressional Perspectives on Electricity Markets in California and the West and National Energy Policy.

March 20 and 22, 2001—House Subcommittee on Energy and Air Quality holds hearing—"Electricity Markets: California."

March 22, 2001—House Democrats write to President Bush to urge him to fill FERC vacancies, to call on FERC to investigate and mitigate high electricity prices in California, and to replace FERC Chair Curtis Hebert. No reply is received from the President.

March 23, 2001—California Democrats on the House Energy and Commerce Committee respond to the majority's request for com-

ments on proposed legislation to "fix" problems in the Western energy market. Members note the omission of any provision to address the excessively high cost of electricity. No formal reply is received.

March 30, 2001—Democratic Members from California, Washington, and Oregon write to President Bush to urge him to address the high cost of wholesale electricity and "investigate recent allegations of overcharges" in the Western energy market. No substantive reply is received from the President.

April 4, 2001—H.R. 1468 is introduced with the support of 30 California Democrats. The bill requires the Federal Energy Regulatory Commission to impose cost-of-service pricing in the Western electricity market and to order the refund of overcharges.

April 10, 2001—U.S. Secretary of Energy Spencer Abraham writes to Members of Congress to update them on the Administration's efforts to address the energy crisis. The Secretary discounts the crisis as "a supply crisis" and states the Administration's opposition to price mitigation.

April 16, 2001—California Democrats on the House Energy and Commerce Committee write to FERC Commissioner Linda K. Brethitt to urge her to support cost-of-service pricing in the West.

April 26, 2001—FERC issues an order establishing a price mitigation plan during stage 1, 2, and 3 power emergencies. The order sets the mitigated price on the most inefficient, polluting generator in the State. Generators can exceed the mitigated price if they justify their costs.

May 1 and 3, 2001—House Energy and Air Quality Subcommittee holds hearing on H.R. 1647, The Electricity Emergency Act of 2001—a bill with the purported purpose of solving the energy crisis by increasing the supply of electricity. Among other proposals, the bill calls for the suspension of federal environmental laws that might diminish energy production. California Governor Gray Davis and the California Energy Commission and Air Resources Board report that environmental protection laws are not an impediment to energy production. The bill does not address runaway prices.

May 1, 2001—Members of the California Republican Delegation meet with Vice President Dick Cheney on the energy crisis. California Democrats are not invited.

May 3, 2001—California Democratic Congressional Delegation Chair Sam Farr writes Vice President Cheney criticizing him for excluding California Democrats from his May 1, 2001 meeting with California Republicans. Rep. Farr requests a meeting with the Vice President.

May 4, 2001—44 Democratic Members of Congress write to Secretary Abraham to use his authority to address price gouging in the West. Reply reiterating the Administration's opposition to "price caps" mailed July 2, 2001.

May 17, 2001—Vice President Cheney and the National Energy Policy Development Group (NEPDG) submit their recommendations to President Bush. The recommendations do not include anything to address runaway prices in the West. About the Western energy crisis, the NEPDG writes, "Though weather conditions and design flaws in California's electricity restructuring plan contributed, the California electricity crisis is at heart a supply crisis" (National Energy Policy, page 1-3). The report blames California for not building enough generating plants, "there are no short-term solutions to long-term neglect."

May 25, 2001—84 Democratic Members of the House write President Bush to request that he back a price mitigation amendment to H.R. 1647 based on H.R. 1468. No reply is received from the President.

May 25, 2001—Ten respected economists, including Alfred Kahn, architect of deregulation in the airline industry, write to President Bush and the Congressional leadership to express support for cost-of-service based rates for electricity in the western market.

June 2, 2001—Rep. Eshoo delivers the Democratic response to the President's weekly radio address on the energy crisis.

June 7, 2001—21 Western Democrats write to FERC Chairman Curtis Hebert to request the opportunity to testify before the Commission in a public meeting.

June 12, 2001—California Democratic Congressional Delegation meets with Vice President Cheney about the energy crisis. Vice President promises no intervention to alleviate high prices.

June 13, 2001—29 members of the California Democratic Congressional Delegation write to Vice President Cheney following a CNN report that the White House and Congressional Republicans funded an advertising campaign to oppose price mitigation in the West.

June 19, 2001—FERC expands its April 26th order to cover the entire West during all hours of operation, requires all generators to make their power available, and continues to base the mitigated price on the least efficient generator. FERC determines that refunds are owed and orders administrative hearings to determine the amount.

June 19, 2001—Members of the California and Western delegations testify before the House Rules Committee in support of amendments to H.R. 2246, the Fiscal Year 2001 Supplemental Appropriations bill. The amendments would require FERC to impose cost-of-service pricing in the West and order electricity generators to pay refunds of rates that are "unjust and unreasonable." The Rules Committee, chaired by California Republican David Dreier, refuses to allow the consideration of these amendments.

June 20, 2001—Representative NANCY PELOSI attempts to bring a cost-of-service amendment to H.R. 2246 to the floor. Republicans block it on a procedural objection.

June 20, 2001—Governor Gray Davis, with many Members of the California Congressional Delegation in attendance, testifies before the Senate Governmental Affairs Committee about FERC's activities in the Western energy market.

June 30, 2001—California Democratic Congressional Delegation writes to FERC Chairman Curtis Hebert about 32 important California-related cases that were pending before the Commission for an extended period of time. Reply dated August 28, 2001.

July 17 and 18, 2001—House Energy and Commerce Committee holds markup of the Committee Print, Energy Advancement and Conservation Act. Committee defeats two amendments offered by the California Democrats on the Committee to impose cost-of-service pricing and require the refund of overcharges.

August 1, 2001—Floor consideration of H.R. 4, Securing America's Future Energy. House defeats Rep. Waxman's cost-of-service pricing amendment by 157-274. The Rules Committee refuses to make in order an amendment offered by Representatives Eshoo and Harman to require refunds of overcharges.

October 29, 2001—Rep. Eshoo testifies before a FERC technical conference on behalf of the California Democratic Congressional Delegation. Requests that the Commission's price mitigation plan remain in force until the market has stabilized. Asks the Commission to act quickly in ordering refunds.

November 27, 2001—California Democrats on the House Energy and Commerce Committee write to Energy and Air Quality Subcommittee Chairman Barton to urge him to address the problem of market power in energy markets within draft electricity restructuring legislation. No reply is received.

2002

February 14, 2002—Members of the California Delegation write to House Energy and Commerce Committee Chairman Tauzin to urge him to investigate and hold hearings on the business conduct and pricing practices of Enron during the Western energy crisis.

May 8, 2002—The California Democratic Congressional Delegation and 4 Northwestern Democrats write Chairman Tauzin, urging him to open an investigation and to hold hearings on market manipulation in the Western energy market after FERC posts internal Enron memos detailing how the company artificially inflated prices. Memos indicate that other companies adopted the same practices that Enron did.

May 9, 2002—The Securities and Exchange Commission announces investigation into the "round-trip" trades between Dynegy, an energy marketer that sold into the California market, and CMS Energy of Dearborn, Michigan.

May 15–16, 2002—Senate Consumer Affairs, Foreign Commerce, & Tourism Subcommittee holds hearing on Enron memos entitled, "Examining Enron: Developments Regarding Electricity Price Manipulation in California." Rep. Eshoo and Harman attend. The Senate Energy and Natural Resources Committee holds a similar hearing.

June 5, 2002—California Democrats on the House Energy and Commerce Committee lead 75 House Members, including Minority Leader Gephardt, in a letter to House Speaker Hastert and Energy and Commerce Chairman Tauzin to ask for an investigation of energy suppliers.

June 5, 2002—31 California Democrats write to FERC Chairman Patrick Wood to urge him to extend FERC's price mitigation plan for the West beyond September 30, 2002 when it is due to expire.

June 18, 2002—The General Accounting office issues a report that exposes weaknesses in FERC's ability to regulate energy markets. The report says, "FERC is not adequately performing the oversight that is needed to ensure that the price produced by [energy] markets are just and reasonable and therefore, it is not fulfilling its regulatory mandate."

June 19, 2002—California Democrats on the House Energy and Commerce Committee write to Chairman Tauzin again to urge a hearing and investigations, noting that the GAO report indicates that FERC is not up to doing the job on its own.

June 20, 2002—Congress Daily AM reports, "House Republicans agreed [June 19, 2002] to hold a hearing to examine whether trading firms such as Enron Corp., may have illegally manipulated electricity prices in the West." The article continued, "The hearing would serve as a spring board for a broader inquiry into price manipulation and FERC's ability to oversee the Market [Energy and Commerce Committee Chairman] Tauzin said."

July 25, 2002—California Democrats on the House Energy and Commerce Committee write to Chairman Tauzin again to urge a hearing and investigations, noting that he has not fulfilled his public promise a month earlier to hold hearings and investigate energy transactions in the West. The letter notes that this work should be completed before Chairman moves ahead with the consideration of electricity provisions in the House-Senate Conference Committee on H.R. 4, the comprehensive energy bill. Finally, the letter asks for access to documents that Committee obtained from FERC. The documents had been compiled by FERC as a part of an investigation that it initiated following inquiries from U.S. Senators.

July 26, 2002—Chairman Tauzin responds to the Western Representatives May 8, 2002 let-

ter with a recitation of the Committee's previous work on the Western energy crisis in 2001. The Chairman notes that he requested and received the documents he received from the Federal Energy Regulatory Commission (FERC), which were being reviewed by majority and minority staffs. However, he does not explain why the Committee has not held a hearing since the Enron "smoking gun" memos were made public. The Chairman does not respond to the request for access to the FERC documents.

August 21, 2002—California Democrats on the House Energy and Commerce Committee respond to Chairman Tauzin's letter, and again ask for a serious, independent investigation of the Western Energy market. The letter reiterates the request for access to FERC documents obtained by the Committee.

2003

January 9, 2003—The California Democratic Congressional Delegation writes to the Chairman of the Federal Regulatory Energy Commission (FERC) Patrick Wood, III, to reject the findings of Administrative Law Judge Bruce Birchman (Refund Case EL00-95-045) because he recommended that energy generators who supplied power to California during the 2000–2001 energy crisis owe far less than the \$8.9 billion that California is seeking.

March 3, 2003—The California parties (including the Governor and the Attorney General of California, the California Public Utilities Commission, and the state's major independently-owned utilities) present to the Commission more than 1,000 pages of evidence of widespread market power abuse and market manipulation. The California parties had to go to the Ninth Circuit Court of Appeals to force the Commission to allow them to discover and present this evidence.

March 26, 2003—The Federal Energy Regulatory Commission (FERC) released a detailed report on the California Energy crisis, concluding that there was widespread manipulation in the California energy market. However, FERC did not propose increasing refunds substantially to reflect the gaming that took place. In particular, FERC continued to insist that the State of California could not receive refunds on the short-term electricity purchases it made to keep the lights on.

April 2, 2003—During the Energy and Commerce Committee markup of the Energy Policy Act (H.R. 6) Rep. Eshoo offers an amendment to increase the refunds for California consumers by \$5 billion. The amendment simply required the Federal Energy Regulatory Commission (FERC) to refund all "unjust and unreasonable" charges the State of California incurred for the short-term energy purchases it made to keep the lights on during the California energy crisis in 2001. The amendment failed on a vote of 21 to 30 in the Energy and Commerce Committee. Rep. Eshoo, supported by the California Democratic Congressional Delegation, attempts to bring the amendment to the floor for consideration several days later but not one California Republican would support the amendment and it wasn't considered.

September 25, 2003—31 Members of the California Democratic Congressional Delegation write to FERC Chairman Wood reiterating previous concerns that FERC is having a poor record in defending the interests of California consumers, lacks an effective price mitigation plan, refuses to order the renegotiation of unjust and unreasonable long-term contracts, and has thus far short-changed consumers in the refund proceedings.

2004

May 6, 2004—An amicus brief is filed at the 9th Circuit Court regarding FERC and Cali-

fornia energy refunds signed by 37 parties: California's 2 Senators, 33 House California Democrats, State Senate President Pro Tem John Burton, and State Assembly Speaker Fabian Nunez. The brief supports the California parties' lawsuit that FERC follow the Court's order to use the existing Remedy Proceeding—a forum subject to judicial review—to collect evidence of energy market manipulation, rather than non-public investigatory proceedings that shut CA consumers out of the process.

June 2, 2004—CBS News broadcasts tapes unearthed by Snohomish Public Utility District which capture Enron traders bragging in profane terms about their effort to manipulate the Western Energy Market.

June 14, 2004—All 33 California House Democrats write to FERC to request that it address the issues raised by the Enron tapes.

June 15, 2004—The House defeats motion to recommit H.R. 4305, the Energy Policy Act of 2004, 192–230 (Roll Call Vote 240). The motion would have added language to the bill that will enable California consumers to receive equitable refunds.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, the sad tale of our energy rip-off in the western United States is really before us today. We started out reacting in a bipartisan way, but, in reviewing the history, I note that after House Republicans met with the Vice President on May 1, 2001, that bipartisan effort did stall.

We have tried for 4 years to get results. In June, 2001, the California delegation asked for amendments to H.R. 2246; and the Committee on Rules refused to allow those amendments which would provide a refund for unjust and unreasonable rates.

In July, 2001, amendments were offered in the markup in the Committee on Energy and Commerce; and Republicans refused to allow the requirement of refunds in overcharges.

In August of 2001, the Committee on Rules refused to make in order an amendment to require refunds of overcharges.

In June of 2002, the GAO report indicated that the FERC was really not doing the job, but Congress and the administration did nothing about it.

In April, 2003, the effort was made again through H.R. 6 to refund all unjust and unreasonable charges, but, again, we were blocked in that effort.

Finally, in May, 2004, Californians, including the attorney general, the chief law enforcement officer of the State of California, filed a lawsuit to try and get the law followed.

Now, what is the problem here? We had energy manipulation. We had a theft. California was a crime victim. When there was a fire, they were quoted as saying, "burn, baby, burn, that is a beautiful thing," the trader said about the massive fire; and they also said he is just F-ing California, meaning he steals money from California to the tune of about a million.

Mr. Speaker, we need to do something about this. Yesterday, we asked that the Eshoo amendment be made in order so we could get the refunds and relief that citizens in the West are due.

It was mentioned at the time that because this litigation has been filed that somehow it would be improper to proceed with Congress' action. That is simply not the case.

Earlier this week, I was in the Committee on the Judiciary. I have been a member of the Committee on the Judiciary for 9½ years. We were marking up enhanced penalties for terrorism crimes, and the issue was raised, these new penalties are going to be imposed on individuals whose prosecutions are under way. We got a lengthy letter from the Justice Department pointing out that there was no problem in terms of ex post facto issues and that we could proceed.

I am mindful, when the World War II Memorial was threatened because of its time frame because of a lawsuit filed by NEPA, the House of Representatives acted and simply removed the World War II Memorial from NEPA coverage. I voted for that because I wanted to get the memorial approved.

Earlier this year, there was an arcane issue between interns and residents employed by medical schools and hospitals on whether or not that was an employment or an educational issue, and it was in court over an anti-trust case. We voted actually to define that relationship as an educational relationship, ending the litigation. I voted for that because I thought it was appropriate for Congress to step in and protect medical education in America.

It can never be correct that Congress is excused from doing its job because someone filed a lawsuit. If that were the case, all we would need to do to paralyze the House of Representatives and the Senate would be to have people file lawsuits.

I would like to say this, that for those who are refusing to act still, now in our fourth year who are through their actions, whether intended or not, covering up and protecting the wrongdoers at Enron and others, I feel a kinship with that story told to me in law school: It is like the guy who kills his parents and then throws himself on the mercy of the court because he is an orphan.

Let us act on the Eshoo amendment and get relief for California.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. WAMP), the vice chairman of the subcommittee.

(Mr. WAMP asked and was given permission to revise and extend his remarks.)

Mr. WAMP. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) and state what a great Member of Congress the gentleman is.

I want to come this morning, after a long year, and thank the staff. Kevin Cook, the majority staff and the minority staff have worked diligently and have created a very balanced product. There are a few things that are not as high as we would like and are not funded as much as we would like, but overall it is excellent work.

Over the last year and a half, the gentleman from Ohio (Chairman HOBSON) has been all over the country familiarizing himself with our varied missions, both in the Corps of Engineers and the Department of Energy. The gentleman from Indiana (Mr. VISCLOSKEY), the ranking member, is a thoughtful and diligent member who has made enormous contributions; and this is possibly the best bipartisan work we will see through the appropriations process this year.

The things I want to point to during the debate to bring the rule up and pass this bill with tremendous bipartisan support today are, first and foremost, frankly, in the wake of September 11, the enhanced security at our nuclear weapons facilities that is manifested in this bill. This is the result of a chairman who went out and looked at these facilities, many times in a very classified setting, but came back and really dug in to get to the bottom of what needs to be done and accelerate those improvements as much as possible in this bill. I want to thank him because I represent one of those facilities, and we are going to be much more secure in the months and years ahead because of the leadership of the gentleman from Ohio (Mr. HOBSON).

Secondly, I was with the Secretary of Energy yesterday; and we were touting how this bill even ramps up the administration's commitment to science and research, supercomputing, fusion energy, the next breakthroughs that will lead to a productive society in future years in this bill. The Congress is even doing more than the administration. The administration is doing more than last year. We are making great breakthroughs. This is the seed corn of a productive American society, and this Congress is responding through this committee's work.

I am excited. We really do have a team of leadership on the subcommittee that gets it, and we need it. We have nanoscale research now at a level we have never had. This subcommittee is honoring that.

Another great initiative of this administration is we have all of these nuclear weapons facilities from the Cold War legacy. We have been maintaining them at billions and billions of dollars of annual cost. We should clean them up quicker. It is called accelerated cleanup. It is a Bush-Abraham initiative. This Congress is fully funding accelerated cleanup all across the country. Spend more money early so we do not have to spend all that money later.

Accelerated cleanup is honored in this committee's work; and I am very grateful, again representing one of those sites where for a number of years we were just stirring the money around in a pot every year and asking for more. We were spending money to stir it, instead of cleaning it up.

Mr. Speaker, important water projects, infrastructure investment are in this bill. It is very balanced between

energy and water. Sometimes the Senate goes more towards energy investments and takes away water money, sometimes the House has more water, less energy. This committee has balanced the approach from the very start, which is what we need.

For instance, in the Tennessee Valley, we have this river system with a number of dams and locks, but we have one lock with bad concrete growth problems. The Corps of Engineers has said for a number of years it needs to be replaced, but it is a \$300 million ticket. This bill starts the process of replacing the Chickamauga lock on the Tennessee River.

The gentleman from Tennessee (Mr. DUNCAN) from the Subcommittee on Water Resources and the Environment, our chairman, he wrote a bill to replace this lock; and we passed the bill. The President signed the bill into law. This committee puts the money in to start the process. We need to get it rolling and clean it up.

Now, what does this bill not have? This bill does not have everything we need to keep the nuclear energy program in this country robust and growing which has been flat for a number of years because of the long-term waste issue. That is the Yucca Mountain piece. We do not have the money. We are going to keep fighting. We believe that nuclear is a safe, clean alternative to fossil emissions. If Members want clean air, we need nuclear power.

Other countries get it. Other countries which are more environmentally sensitive, from time to time, than America are in the nuclear business because they see it as clean green energy. We need that, but we have to work out this long-term storage issue. That is Yucca Mountain. We fully funded it last year. The chairman knows that we have to have this, but we do not have the money. But we are not giving up. This is the beginning of the process with the Senate, with the budgeteers and all of the people who would have imposed caps on it. This is a great bill with bipartisan support.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me repeat what I said at the beginning. We have no problem with this bill. We congratulate the gentleman from Ohio (Chairman Hobson) and the gentleman from Indiana (Mr. VISCLOSKEY), the ranking member, for a job well done. We are just frustrated the Committee on Rules, when it comes to amendments of substance, continues to shut us out. That is what we are upset about today.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, in the late 1990s, California, whose energy markets dominate the effect up and down the West Coast, adopted a competitive market for electric generation. Under Federal law, if a State adopts that competitive model, it gives up the right to regulate wholesale energy

prices and transfers that responsibility to the Federal Energy Regulatory Commission. In late 2000 and early 2001, the Federal Energy Regulatory Commission, FERC, slept during an artificial crisis during the winter; and over \$9 billion was stolen.

Why do I emphasize winter? Westerners will understand this. We had enough electric generation capacity to power our air conditioners in the summer, but somehow there was not enough electricity for the much lower demand to keep the lights on in the winter. Why? We were told that there was a shortage because plants were "closed for maintenance."

Here is the chart that illustrates what happened. The blue indicates the noncrisis previous year as to the number of plants and the amount of electricity not generated thereby due to maintenance. The yellow shows the crisis, closed for maintenance.

Now the transcripts are out. Not just Enron but Reliant and other Presidentially protected corporate criminals were closing the plants in order to create an artificial shortage.

Now the transcripts that are most famous are obscene. They include the now-famous quote that says, Gramma Millie, she wants her F-ing money back for all the money you jammed up her orifice for \$250 a megawatt hour. That is thought to be the most obscene quote, but truly the most obscene, and there are dozens like this quote, is when an Enron trader turns to the plant manager and says, "just go ahead and shut it down." Closed for maintenance, artificial shortage, \$9 billion stolen.

The responsibility for this, the greatest economic crime in our history, is not just for the thieves but those who protect them.

Whose side are Members on? Reliant and Enron and the others who shut plants down to create an artificial shortage? Or on the side of Gramma Millie and other western consumers? Members define themselves and define their party with their vote on the previous question.

Reliant is relying on the other side to protect them; and the other side may indeed enjoy a hollow victory today as they shut down debate and prevent us from even discussing an amendment to require FERC to let the western States see the documents, to require FERC to look at the fraud that occurred before a complaint was filed. They can win that hollow victory today, but 45 million westerners, including the voters of three swing States, are watching. The other side of the aisle cannot hide from them, and Gramma Millie's revenge is less than 5 months away.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Members should avoid engaging in personality toward the President, even by innuendo.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to this rule but only the rule, because I certainly support the underlying legislation. I do not support the rule because it does nothing to help Californians who have been bilked out of at least a billion dollars by Enron. It is unbelievable to me that the California members on the Committee on Rules would not make this issue that is so important to California part of today's debate.

During the 2001 energy crisis, Californians begged the President for relief, but the President did nothing. Each week, \$50 million was drained from the pockets of Californians by Texas-based energy producers. The President actually called this supply and demand. Californians, however, called it highway robbery. As it turns out, while this was happening, Enron traders were laughing about sticking it to Gramma Millie in California.

It has taken a small utility in Washington State to do what this administration has refused to do: Bring to light the callous manipulation that harmed millions of Californians and West Coasters. Enron fleeced more than \$1.1 billion from consumers while literally laughing all of the way to the bank. And even with the evidence brought out by the Enron tapes, the leadership of this House once again leaves millions of California consumers in the dark. I guess they want to hide what they have done to help Enron behind closed doors, much like the Bush administration has been working in the shadows with its energy plan for the Nation. Maybe they will not be happy until they have turned out the lights on all Americans. This bill does nothing to help California and the other western States get their retribution.

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Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, like those Members who rose before me, I support the underlying bill. It is a vital investment in our country. But I do object to the rule because it is long past time to begin to rectify this massive theft that went on.

Every day, today every Oregonian, every residential ratepayer, every business will pay, on average, 42 percent more for the electrons purchased from the same plants transmitted over the same electric lines as 4 years ago. Just one thing happened in between. That is the Bush administration, the Bush FERC and Kenny Boy Enron Lay, the President's previous largest single contributor until this year.

The Snohomish utility found that on 473 of 537 days, Enron manipulated the market. How can the Bush FERC say that is just and reasonable and not require that those illegal contracts achieved through market manipulation be voided? We do not know because they will not release the documents. They do not want people to know how

involved Enron was in setting the national energy policy.

In the year before the Bush administration released their energy policy, Enron officials met with members of the Federal Energy Regulatory Commission and their staff on 272 occasions during one work year. That means on every day there was an Enron official in the FERC offices. Were they also in Vice President CHENEY's office? We do not know because he is fighting release of those records. We need these illegal contracts to be voided, and we need all of the documentation released about this massive market manipulation.

This is continuing to cast a pall over the economy of the Pacific Northwest. We have some of the worst unemployment in the country over the last few years, and a good part is because billions of dollars have been illegally extracted from our ratepayers by the Texas-based Enron company with the Federal Energy Regulatory Commission appointed by President Bush standing by complicit, compliant and silent.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time to close with one speaker at the very end.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in opposition to this rule on behalf of ratepayers in the West who depended on the Eshoo amendment being made in order.

Time and time again, members of the California, Oregon and Washington delegations have attempted to get this House to focus on the damage caused in the western electricity crisis a few years back. We have been trying to get the House to do something to return the money stolen from my constituents and millions of others. The electricity market manipulation that went on was shameful. It was surpassed, perhaps, only by the actions or rather inaction of the FERC and this Congress.

Literally billions of dollars were stolen from consumers and taxpayers by pirate firms like Enron. Recently, we were all treated to a front-row seat to the carnage demonstrated in tapes of Enron traders figuring out how best to create shortages, to drive up prices, and rip off consumers. It was sickening. But, in reality, there was nothing new in those tapes. It was just more evidence of what I and many in our delegation have been requesting for over 3 years. Enron and other power companies were shutting down power plants, diverting electricity, and engaging in illegal actions in order to drive up electricity prices.

The amendment brought before the Rules Committee by the gentlewoman from California (Ms. ESHOO) would be a great step in bringing some justice here. It would open up all the records at FERC on these cases of price fixing and market manipulation. It would force FERC to let States participate in the settlement negotiations, and it

would make some key changes in the Power Act to enable full refunds to these western States.

The Committee on Rules should have made it in order and the House should have adopted it, but that would be breaking the practice of this House and this administration in doing nothing in response to one of the great hijackings in American history. It is disgraceful. I urge my colleagues to vote against this unfair rule.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Speaker, I, like others, rise in support of the bill. I think the authors of this bill, particularly the gentleman from Ohio (Mr. HOBSON) and the gentleman from Indiana (Mr. VISCLOSKY), have done a great job, but this is the only bill we have before Congress which allows us to have a debate on FERC, the Federal Energy Regulatory Commission.

It would be a better bill if we put an amendment in there, but the Committee on Rules has not allowed that amendment, and that is wrong. It is really wrong because this is the only place where we can address that issue. The administration should address it. They have been silent. They sit by and allow FERC to continue to do nothing.

FERC is a regulatory agency. This is where the consumers can go to get some protection. That is the only agency in the Federal Government that can do anything about it; and when they do not act, we have nowhere to turn.

This is an agency that ought to have money withheld from it until it answers the questions. That is something that we do in the legislative process all the time. And since the administration has failed to hold them accountable, Congress should. We are asleep at the switch. When that switch was asleep at FERC, a regulatory agency, they allowed all of these companies to just screw California.

Mr. Speaker, it took \$9 billion of taxpayer money to pay these bills. This is absolutely absurd. It is more than absurd. It is obscene, it is criminal and it ought to stop now. The Eshoo amendment should be debated. It is a shame on the Committee on Rules that they did not make it in order.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I am going to call for a no vote on the previous question so this body can consider and vote on the Eshoo amendment.

We all remember the horror stories of the energy crisis in California in 2000 and 2001. Virtually overnight, energy prices went through the roof, causing a fiscal crisis and chaos due to energy shortages. Energy became prohibitively expensive. Electricity that had cost under \$50 the previous year was suddenly costing over \$1,000, and some days peaked above that.

Energy disruptions brought enormous disruption to the everyday lives of the people of that State. There were

rolling brownouts that shut down traffic signals and crowded intersections, endangering those stuck in the gridlock. Even some hospitals suffered temporary power loss with little or no notice. To add insult to injury, we found out months later that this so-called energy crisis was a fraud on the part of the companies that sold the energy. They created a fake shortage and jacked up energy prices.

Mr. Speaker, we need to do something to make sure that this never happens again. The Eshoo amendment is a step in that direction. It deserves consideration in this House. A no vote on the previous question will not stop the House from taking up the energy and water appropriations bill, which is a good bill. However, a yes vote will prevent the House from considering the Eshoo amendment.

Mr. Speaker, I am not quite sure what we did yesterday on the House floor, but it was a complete waste of time. Overwhelmingly, the bill considered yesterday and all the amendments were rejected. We have an opportunity today to actually debate something meaningful that will make a difference in people's lives.

I would urge my colleagues on the other side of the aisle to join with us in voting no on the previous question. My colleagues on the other side of the aisle say they are outraged by Enron and Enron-style companies that ripped off the consumers in California. If they are truly outraged, then they should put their action where their rhetoric is: Vote no on the previous question and allow us to have a meaningful debate that will make a real difference in the lives of the people of this country and allow us to vote on the Eshoo amendment. I urge my colleagues to vote no on the previous question.

Mr. Speaker, I ask unanimous consent to insert the text of the Eshoo amendment immediately prior to the vote on the previous question.

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

There was no objection.

Mr. MCGOVERN. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, to close this great debate and this opportunity we have had to talk about energy and water.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him for the management of this rule. Thanks to the manager of the rule, he has allowed me to patiently listen to the statements that have been made by my colleagues on the other side of the aisle about this legislation. And so I sat patiently and listened to my very distinguished California colleagues, all very good friends

of mine, and I would like to say, as we have agreed in a bipartisan way, a very good bill. This is a bill that is focused on the energy and water needs that exist for this country, and they are priorities in many ways, ranging from ensuring the kind of growth that we need to national security issues and research, which are very important.

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So I believe that we are going to, based on the work of the gentleman from Ohio (Chairman HOBSON) and the full committee chairman, the gentleman from Florida (Mr. YOUNG), and the ranking minority member of the subcommittee, the gentleman from Indiana (Mr. VISCLOSKY), and the vice chairman of the subcommittee, the gentleman from Tennessee (Mr. WAMP) who spoke earlier, we are going to be able to move ahead with a very, very good piece of legislation.

But over the last few minutes, Mr. Speaker, we have been listening to a great deal of talk about my State of California. I would like to take just a few moments to talk about exactly where we are and the challenge that we have faced.

We know that we have a horribly, horribly serious situation when it comes to ripping off the energy consumers of California and the West. We all have demonstrated how extraordinarily distraught we have been, when we saw and heard the transcript of those executives who were talking about taking advantage of our constituents, the consumers out there. That is one of the reasons that we joined in wanting to do everything that we possibly can to ensure that we get to the bottom of this issue, address this issue, and resolve it in behalf of the consumers.

Now, Mr. Speaker, this bill is being considered under an open amendment process. It is an open rule, meaning that any Member will have an opportunity to stand up and offer a germane amendment. There was bipartisan agreement among Democrats and Republicans, the gentleman from Ohio (Chairman HOBSON) and the ranking minority member, the gentleman from Indiana (Mr. VISCLOSKY), to move ahead with a rule that would allow for protection of the legislation itself and an open amendment process. That is why the request which has just been made by my colleagues on the other side of the aisle, somehow saying that we are unfair, we are denying an opportunity; we are simply complying with the Rules of the House and the bipartisan request that was made of the Committee on Rules.

I heard a statement, and I am the lone Californian on the Committee on Rules and I happen to have the honor of chairing the committee, but a statement that I somehow denied the opportunity for the consideration of the Eshoo amendment. That is not the case at all, Mr. Speaker. I want to say that, under this open amendment process, we

are going to be able to have a chance to bring about a successful resolution of this.

Now, we all know that a couple of things have happened. In the Ninth Circuit Court in California, this case is under consideration. We have this process under way, and we know that the Federal Energy Regulatory Commission is scrupulously looking through those transcripts and the other concerns are there, and we are on track towards seeing reimbursement for our consumers, which is the right thing to do.

The second thing is, we in the House passed H.R. 6 just this past week. It is pending in the Senate. That legislation goes a long way towards addressing the concerns which we share and are a very high priority to us. They are designed to improve the operation of electricity markets by providing for an electronic system to increase transparency in electricity markets, something that we are all very interested in. It prohibits filings of false information and round trip or wash trading. It dramatically increases criminal and civil penalties, limits and expands penalty provisions to cover all violations of the Federal Power Act. It moves the refund effective date up to the complaint, so the refund effective date will be when the complaint was launched; and it extends the Federal Energy Regulatory Commission's refund authority to cover sales by otherwise nonjurisdictional utilities in certain markets. That is legislation that we passed right here in a bipartisan way.

Now, Mr. Speaker, I would like to close in saying that we do plan to address this issue under the Rules of the House by accepting the Eshoo amendment. The Eshoo amendment is going to be offered under an open amendment process, and I have discussed with the gentleman from Ohio (Mr. HOBSON) the issue of this great, great problem that we have of horrible abuse that has taken place in California and the West.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from California.

Ms. PELOSI. Mr. Speaker, I appreciate the gentleman yielding to me.

Will the gentleman concede that the amendment that is going to be accepted by the gentleman from Ohio (Mr. HOBSON), and we appreciate the great leadership of the gentleman from Ohio (Mr. HOBSON), is not the same amendment that the Committee on Rules did not allow to come to the floor this morning?

Mr. DREIER. Mr. Speaker, if I could simply reclaim my time, and in reclaiming my time, Mr. Speaker, what I will say is that the amendment, of course, is not identical to the one that is, in fact, in violation of the Rules of the House. With the bipartisan request that was made of the Committee on Rules, we are having an open amendment process, and that means, as my friend, the gentlewoman knows very

well, that any amendment that is germane and falls within the Rules of the House will be in order.

The Eshoo amendment gets right at the problem that we are trying to address here, and we all know that we have pending, we have pending the important case that is before the Ninth Circuit Court, as well as the successful passage of H.R. 6. The Eshoo language, which is going to be accepted, gets at the root of the problem and underscores our bipartisan concern for this issue.

So, Mr. Speaker, let me say that I very much want us to bring about a successful conclusion to what has been a very tragic time for our consumers. Contrary to what I have heard from the other side of the aisle, there is, in fact, bipartisan concern, and we will take a back seat to no one when it comes to standing up for our constituents against any powerful interest.

So, with that, Mr. Speaker, I urge strong support of the rule; and I yield back the balance of my time.

The amendment previously referred to by Mr. MCGOVERN is as follows:

PREVIOUS QUESTION FOR H. RES. 694—RULE ON H.R. 4614 THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL FOR FY2005

At the end of the resolution, add the following:

"SEC. 2. Notwithstanding any other provision of this resolution, the amendment printed in section 3 shall be in order without intervention of any point of order and before any other amendment if offered by Representative Eshoo of California or a designee. The amendment is not subject to amendment except for pro forma amendments or to a demand for a division of the question in the committee of the whole or in the House."

SEC. 3. The amendment referred to in section 2 is as follows:

AMENDMENT TO H.R. 4614, AS REPORTED
OFFERED BY MS. ESHOO

Page 29, after line 13, insert the following:
The Congress finds that—

(1) incontrovertible evidence has come to light that certain sellers of wholesale electricity, including Enron, manipulated energy markets in order to overcharge electricity consumers in the Western United States;

(2) these overcharges have adversely affected state economies, families, small business, and other consumers;

(3) the Federal Energy Regulatory Commission has failed to expose this wrongdoing in a timely manner and has failed to take effective action to make consumers whole, and has undercut the ability of States and other parties to pursue relief by withholding critical documents and disaggregating claims into dozens of small proceedings; and

(4) the Federal Energy Regulatory Commission should fully disclose evidence in its possession, fully involve States, and ensure that refunds are ordered for any time period in which market manipulation occurred.

The Federal Energy Regulatory Commission shall publicly disclose all documents and evidence obtained in the following proceedings: Western Energy Markets: Enron Investigation (Docket No. PA02-2), the California Refund case (Docket No. EL00-95), the Anomalous Bidding Investigation (Docket No. IN03-10), the Physical Withholding Investigation, and the Gaming Investigation (Dockets EL03-157 et al, EL03-180 et al).

The Federal Energy Regulatory Commission shall allow States affected by market

manipulation, acting through their public utility commissions, to fully participate in settlement negotiations regarding disgorgement of profits. The Federal Energy Regulatory Commission shall consolidate the various refund and disgorgement matters related to activity in the Western markets since May 2000 into a single proceeding in order to facilitate effective participation by states and other parties. No settlement shall be adopted by the Commission if it is opposed by any state whose public utility customers have an economic interest in the results of the settlement.

Section 206(b) of the Federal Power Act is amended as follows:

(1) By amending the first sentence to read as follows: "In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding, except that in the case of a complaint with regard to market-based rates, the Commission shall establish such earlier refund effective date as is necessary to provide a refund of any rate or charge that is not just and reasonable, as determined by the Commission. To the extent necessary to achieve the purposes of this section, the Commission shall initiate new proceedings, including investigations, and issue appropriate refunds."

(2) By striking the second and third sentences.

(3) By striking out "the refund effective date or by" and "and", whichever is earlier," in the fifth sentence.

(4) In the seventh sentence by striking "through a date fifteen months after such refund effective date" and insert "and prior to the conclusion of the proceeding" and by striking the proviso.

PARLIAMENTARY INQUIRY

Ms. PELOSI. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman will state it.

Ms. PELOSI. Mr. Speaker, I have a parliamentary inquiry to the point of addressing what our distinguished chairman said. Is it not appropriate under the Rules of the House that the Committee on Rules could have made the Eshoo amendment, as submitted to the Committee on Rules last night, in order for debate on this floor today, with waivers?

The SPEAKER pro tempore. The Committee on Rules may propose special orders of business to the House.

Ms. PELOSI. So if I may just clarify, then it would have been possible and not outside the regular order for the Committee on Rules to have put the Eshoo amendment, as presented in the Committee on Rules, with the waiver.

The SPEAKER pro tempore. The Chair will not speculate about actions in the Committee on Rules.

The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 209, nays 182, not voting 42, as follows:

[Roll No. 320]

YEAS—209

Aderholt	Gibbons	Osborne
Akin	Gilchrest	Ose
Bachus	Gillmor	Otter
Baker	Gingrey	Oxley
Ballenger	Goodlatte	Paul
Barrett (SC)	Goss	Pearce
Bartlett (MD)	Granger	Pence
Bass	Graves	Petri
Beauprez	Green (WI)	Pickering
Biggert	Greenwood	Pitts
Bilirakis	Gutknecht	Pombo
Bishop (UT)	Hall	Porter
Blackburn	Harris	Portman
Blunt	Hart	Pryce (OH)
Boehlert	Hayes	Putnam
Boehner	Hayworth	Quinn
Bonilla	Hefley	Radanovich
Bonner	Hensarling	Ramstad
Bono	Herger	Regula
Boozman	Hobson	Rehberg
Bradley (NH)	Hoekstra	Renzi
Brady (TX)	Hostettler	Reynolds
Brown (SC)	Houghton	Rogers (AL)
Brown-Waite,	Hulshof	Rogers (KY)
Ginny	Hunter	Rogers (MI)
Burgess	Hyde	Rohrabacher
Burns	Isakson	Ros-Lehtinen
Burr	Istook	Royce
Burton (IN)	Jenkins	Ryan (WI)
Buyer	Johnson (CT)	Ryan (KS)
Calvert	Johnson (IL)	Saxton
Camp	Jones (NC)	Schrock
Cannon	Keller	Sensenbrenner
Cantor	Kelly	Sessions
Capito	Kennedy (MN)	Shadegg
Carter	King (IA)	Shaw
Castle	King (NY)	Shays
Chabot	Kingston	Sherwood
Chocola	Kirk	Shimkus
Coble	Kline	Shuster
Cole	Knollenberg	Simmons
Crane	Kolbe	Simpson
Crenshaw	LaHood	Smith (MI)
Culberson	Latham	Smith (NJ)
Cunningham	LaTourette	Smith (TX)
Davis, Jo Ann	Leach	Souder
Davis, Tom	Lewis (CA)	Stearns
Deal (GA)	Lewis (KY)	Sullivan
DeLay	Linder	Sweeney
DeMint	LoBiondo	Tancredo
Diaz-Balart, L.	Lucas (OK)	Taylor (NC)
Diaz-Balart, M.	Manzullo	Terry
Doolittle	McCotter	Thomas
Dreier	McCrery	Thornberry
Duncan	McHugh	Tiahrt
Ehlers	McInnis	Tiberi
Emerson	McKeon	Toomey
English	Mica	Turner (OH)
Everett	Miller (FL)	Upton
Feeney	Miller (MI)	Walden (OR)
Ferguson	Miller, Gary	Walsh
Flake	Moran (KS)	Wamp
Foley	Murphy	Weldon (PA)
Forbes	Musgrave	Weller
Fossella	Myrick	Whitfield
Franks (AZ)	Neugebauer	Wicker
Frelinghuysen	Ney	Wilson (NM)
Gallegly	Northup	Wilson (SC)
Garrett (NJ)	Nunes	Wolf
Gerlach	Nussle	Young (FL)

NAYS—182

Abercrombie	Bishop (NY)	Carson (OK)
Alexander	Blumenauer	Case
Allen	Boswell	Chandler
Andrews	Boucher	Clyburn
Baca	Boyd	Conyers
Baird	Brady (PA)	Cooper
Baldwin	Brown (OH)	Costello
Becerra	Brown, Corrine	Cramer
Bell	Capps	Crowley
Berkley	Capuano	Davis (AL)
Berry	Cardin	Davis (CA)
Bishop (GA)	Cardoza	Davis (FL)

Davis (IL)	Lampson	Peterson (MN)
Davis (TN)	Langevin	Pomeroy
DeFazio	Lantos	Price (NC)
DeGette	Larsen (WA)	Rahall
Delahunt	Larson (CT)	Rangel
DeLauro	Lee	Ross
Dicks	Levin	Roybal-Allard
Dingell	Lewis (GA)	Ruppersberger
Doggett	Lofgren	Rush
Dooley (CA)	Lowey	Ryan (OH)
Doyle	Lucas (KY)	Sabo
Edwards	Lynch	Sanchez, Linda T.
Emanuel	Majette	Sanchez, Loretta
Eshoo	Maloney	Sanders
Etheridge	Markey	Sandlin
Evans	Marshall	Schakowsky
Farr	Matheson	Schiff
Fattah	Matsui	Scott (GA)
Finer	McCarthy (MO)	Scott (VA)
Frank (MA)	McCarthy (NY)	Serrano
Frost	McCollum	Sherman
Gonzalez	McDermott	Skelton
Gordon	McGovern	Smith (WA)
Green (TX)	McIntyre	Snyder
Grijalva	McNulty	Solis
Gutierrez	Meehan	Spratt
Harman	Meek (FL)	Stenholm
Herseeth	Meeke (NY)	Strickland
Hill	Menendez	Stupak
Hinchee	Michaud	Tanner
Hoefel	Millender-	Tauscher
Holden	McDonald	Taylor (MS)
Holt	Miller (NC)	Thompson (CA)
Honda	Miller, George	Thompson (MS)
Hoolley (OR)	Moore	Tierney
Hoyer	Moran (VA)	Towns
Inslee	Murtha	Turner (TX)
Israel	Nadler	Udall (CO)
Jackson (IL)	Napolitano	Udall (NM)
Jackson-Lee	Neal (MA)	Van Hollen
(TX)	Nethercutt	Velázquez
Jefferson	Obey	Visclosky
Johnson, E. B.	Olver	Waters
Kanjorski	Ortiz	Watson
Kennedy (RI)	Owens	Watt
Kildee	Pallone	Woolsey
Kilpatrick	Pascrell	Wu
Kind	Pastor	Wynn
Kleczka	Payne	
Kucinich	Pelosi	

NOT VOTING—42

Ackerman	Gephardt	Peterson (PA)
Barton (TX)	Goode	Platts
Bereuter	Hastings (FL)	Reyes
Berman	Hastings (WA)	Rodriguez
Carson (IN)	Hinojosa	Rothman
Clay	Issa	Slaughter
Collins	John	Stark
Cox	Johnson, Sam	Tauzin
Cubin	Jones (OH)	Vitter
Cummings	Kaptur	Waxman
Deutsch	Lipinski	Weiner
Dunn	Mollohan	Weldon (FL)
Engel	Norwood	Wexler
Ford	Oberstar	Young (AK)

□ 1029

Mr. COOPER and Mr. BERRY changed their vote from “yea” to “nay.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. ISSA. Mr. Speaker, if I had been present for rollcall vote No. 320, I would have voted “yea.”

Stated against:

Mr. HINOJOSA. Mr. Speaker, I regret that I was unavoidably detained this morning. Had I been present, I would have voted “no” on rollcall 320.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Pursuant to Section 2 of House Resolution 683, the Chair lays before the House the following privileged Senate concurrent resolution (S. Con. Res. 120) providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 120

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on any day from Thursday, June 24, 2004, through Monday, June 28, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, July 6, 2004, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, June 24, 2004, or Friday, June 25, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Tuesday, July 6, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

□ 1030

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT FRIDAY, JULY 2, 2004, TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

Mr. WOLF. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight Friday, July 2, 2004, to file a privileged report, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2005, and for other purposes.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.