

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 long-standing 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 man-

dates 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.

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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

sanction for the granting and issuance of programs for residential and commuter toll, user fee, and fare discounts by States, municipalities, other localities, and all related agencies and departments, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 897

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 "Residential and Commuter Toll Fairness Act of 2011".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Residents of various localities and political subdivisions throughout the United States are subject to tolls, user fees, and fares to access certain roads, highways, bridges, railroads, busses, ferries, and other transportation systems.

(2) Revenue generated from transportation tolls, user fees, and fares is used to support various infrastructure maintenance and capital improvement projects that directly benefit commuters and indirectly benefit the regional and national economy.

(3) Residents of certain municipalities, counties, and other localities endure significant or disproportionate toll, user fee, or fare burdens compared to others who have a greater number of transportation options because such residents—

(A) live in geographic areas that are not conveniently located to the access points for roads, highways, bridges, rail, busses, ferries, and other transportation systems;

(B) live on islands, peninsulas, or in other places that are only accessible through a means that requires them to pay a toll, user fee, or fare; or

(C) are required to pay much more for transportation access than residents of surrounding jurisdictions, or in other jurisdictions across the country, for similar transportation options.

(4) To address this inequality, and to reduce the financial hardship often imposed on such residents, several State and municipal governments and multi-State transportation authorities have established programs that authorize discounted transportation tolls, user fees, and fares for such residents.

(5) Transportation toll, user fee, and fare discount programs based on residential status—

(A) address actual unequal and undue financial burdens placed on residents who live in areas that are only accessible through a means that requires them to pay a toll, user fee, or fare;

(B) do not disadvantage or discriminate against those individuals ineligible for residential toll, user fee, or fare discount programs;

(C) are not designed to favor the interests or promote the domestic industry or economic development of the State implementing such programs;

(D) do not interfere or impose undue burdens on commerce with foreign nations or interfere or impose any undue burdens on commerce among the several States, or commerce within particular States;

(E) do not interfere or impose undue burdens on the ability of individuals to travel among, or within, the several States;

(F) do not constitute inequitable treatment or deny any person within the jurisdiction of the United States the equal protection of the laws; and

(G) do not abridge the privileges or immunities of citizens of the United States.

(b) PURPOSES.—The purposes of this Act are—

(1) to clarify the existing authority of States, counties, municipalities, and multi-jurisdictional transportation authorities to establish programs that offer discounted transportation tolls, user fees, and fares for residents in specific geographic areas; and

(2) to authorize the establishment of such programs, as necessary.

SEC. 3. AUTHORIZATION OF LOCAL RESIDENTIAL OR COMMUTER TOLL, USER FEE OR FARE DISCOUNT PROGRAMS.

(a) AUTHORITY TO PROVIDE RESIDENTIAL OR COMMUTER TOLL, USER FEE, OR FARE DISCOUNT PROGRAMS.—States, counties, municipalities, and multi-jurisdictional transportation authorities that operate or manage roads, highways, bridges, railroads, busses, ferries, or other transportation systems are authorized to establish programs that offer discounted transportation tolls, user fees, or other fares for residents of specific geographic areas in order to reduce or alleviate toll burdens imposed upon such residents.

(b) RULEMAKING WITH RESPECT TO THE STATE, LOCAL, OR AGENCY PROVISION OF TOLL, USER FEE OR FARE DISCOUNT PROGRAMS TO LOCAL RESIDENTS OR COMMUTERS.—States, counties, municipalities, and multi-jurisdictional transportation authorities that operate or manage roads, highways, bridges, railroads, busses, ferries, or other transportation systems are authorized to enact such rules or regulations that may be necessary to establish the programs authorized under subsection (a).

(c) RULE OF CONSTRUCTION.—Nothing in this Act may be construed to limit or otherwise interfere with the authority, as of the date of the enactment of this Act, of States, counties, municipalities, and multi-jurisdictional transportation authorities that operate or manage roads, highways, bridges, railroads, busses, ferries, or other transportation systems.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. CRAWFORD) and the gentleman from Washington (Mr. LARSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas.

GENERAL LEAVE

Mr. CRAWFORD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on H.R. 897.

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

There was no objection.

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

Because of the geographic area in which they live, many Americans don't have as many transportation options as others. As a result, these people are more directly impacted by highway and bridge tolls than others who live in areas with several transportation options.

This bill simply emphasizes that State and local governments have the authority to establish toll programs that offer discounted rates for residents in specific geographic areas. By exercising such authority, State and local governments can mitigate the impact of tolls on residents who have fewer transportation options.

I urge my colleagues to join me in supporting the legislation, and I reserve the balance of my time.

Mr. LARSEN of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I understand the objective of the legislation before the House today—to clarify the existing authority of public authorities to offer discounts in transportation tolls to residents of communities faced with limited transportation access and heavy toll burdens.

Last Congress, the House passed similar legislation. That legislation, at the time introduced by Mr. McMahon of New York, reaffirmed the authority of States and local governments to provide discounted fare or toll rates to residents faced with undue financial hardships imposed by highway and bridge tolls.

We recognize that the residents of Staten Island are forced to endure some of the highest toll burdens in the country. The legislation passed by the last Congress would have provided a targeted approach to address the unique challenges facing communities like Staten Island.

Unfortunately, unlike Mr. McMahon's bill from last Congress, H.R. 897 as currently drafted is overly broad and raises some potentially serious legal issues.

A number of highway user organizations, including the American Highway Users Alliance, have raised concerns that H.R. 897 could lead to discrimination against interstate commerce, and be used in an attempt to preclude constitutional challenges to an individual toll or fare discount program.

Unfortunately, the Committee on Transportation and Infrastructure has not held any hearings to examine the potential implications of this legislation. The Republican leadership has decided to bring this bill to the floor with no notice, at least not to this side of the aisle, under suspension of the rules prior to the important issues raised by this bill being examined and, if necessary, addressed.

Mr. Speaker, the House should be considering legislation to simply reinforce the existing right of communities to reduce the extreme toll burdens borne by captive toll payers. We should not be considering legislation that could be used to implement programs that impede interstate commerce by encouraging States and public authorities to find ways to shift the burden of tolls to out-of-State residents, or truckers, for that matter, or those making longer through trips.

Not all residential-based toll discounts are fair or necessarily appropriate, but some are. The context and how they are implemented are important to determining if they are appropriate.

Unfortunately, as currently drafted, H.R. 897 could be used to remove any case that could be made against a toll discount program. In that sense, it is overly broad and unreasonable.

I would hope that as we move forward, we can address the concerns of the highway user community and ensure that this legislation is not used to preclude challenges to toll discount programs.

With that, I reserve the balance of my time.

Mr. CRAWFORD. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. GRIMM), the sponsor of this bill.

Mr. GRIMM. Mr. Speaker, I thank the gentleman from Arkansas.

Just to clarify the record, this bill, which I stand in strong support of—but actually before that, let me just say that I want to thank my colleague and friend, GREG MEEKS, for all of his work on this. It was a true bipartisan effort. But this bill, all it does is clarify what is already allowed by law. So to say that it is overly broad, it's almost ridiculous because again, all this does is clarify what is already allowed by law. States and cities already have. There were challenges in court that have failed, and the purpose of this legislation is to make sure that those frivolous challenges do not continue to go forward.

The Residential and Commuter Toll Fairness Act, I feel it is vital to toll discount programs, specifically for my constituents, but for all of New York and throughout this country.

I would like to also thank Chairman MICA, who traveled to my district, to Staten Island, for moving this bill forward and for seeing firsthand in Staten Island the devastating effects and the impacts that tolls can have.

Again, this bill, all it does is continue to clarify and allow the States and municipal governments to offer the discounted toll rates to residents for trips taken on roads, bridges, rail, bus, ferry, and other transportation systems.

I introduced the legislation for one purpose: it was in response to a 2009 case in which the U.S. Court of Appeals for the Second Circuit questioned the constitutionality of discounts for residents of towns bordering the New York Thruway. In New York, we simply can't afford to lose our discounts.

The majority of my district in New York City is an island; it's Staten Island. And the only way to drive on or off the island is to cross a bridge and pay a toll, something many of my constituents do often as part of their daily commute. Without a discount, it costs \$13 to cross the Verrazano Bridge. Yes, I said \$13 without the Staten Island residential EZ-Pass discount. On the other side of Staten Island, going to New Jersey, the cash tolls on three bridges have just gone up to \$12, and that amount is slated to go up in 2015 to \$15. That's without the residential discount.

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On Staten Island, we have fought long and hard to reach an agreement

on residential toll discounts, which is why this legislation is crucial to making sure we protect those new rates.

The Residential Commuter Toll Fairness Act provides clarification only of the existing authority of local governments to issue or grant transportation toll, user fee or fare discount programs based on residential status. It also provides congressional authorization for discount programs. Passage of H.R. 897 is nothing more than clarification of what can already be done, and I ask for the strong support of my colleagues.

Mr. LARSEN of Washington. Mr. Speaker, I yield myself such time as I may consume.

First, I would just like to enter in the RECORD a letter from the American Highway Users Alliance dated August 1 expressing concerns about the legislation.

AMERICAN HIGHWAY USERS ALLIANCE,
August 1, 2012.

DEAR MEMBER OF CONGRESS: This afternoon, under suspension of the rules, the House will consider HR 897, the Residential and Commuter Toll Fairness Act of 2011, sponsored by New York City Representatives Grimm and Meeks. We write to express serious concerns about this bill.

We are on record in support of greater tolling accountability and fairness for commuters. For example, we have endorsed HR 3684, the Commuter Protection Act, also authored by Congressman Grimm. We share particular concerns about the high costs of tolling for New York City residents. However the provisions of HR 897 are not narrowly constructed for New York's specific problems and have unintended consequences for other toll-payers throughout the country.

HR 897 broadly authorizes local tolling discount programs. If this bill were narrowly constructed to apply to places like Staten Island, New York; where residents are only able to access their homes and businesses via tolled bridges, our concerns would be minimal. But HR 897 allows my State or local jurisdiction to charge discriminatory toll rates for non-residents, even on the National Highway System, and regardless of circumstance or impact on interstate commerce.

In effect, this bill could actually encourage more tolls for all and higher tolls for selected users, authorizing locally popular tolling schemes that, in effect, overcharge interstate and long distance travelers who have no vote at the local ballot box.

If States and local governments widely adopt the practice of tolling non-residents to pay higher rates than locals, it could sharply increase the costs of interstate tourism and freight. These are national concerns requiring caution from Congress. The federal government has an obligation to regulate interstate commerce. As such, HR 897 should be revised to ensure that interstate and non-local traffic is not treated unfairly, by State and local tolling authorities.

Sincerely,

GREGORY M. COHEN,
President & CEO.

Second, I think the gentleman from New York makes a compelling case for why the bill should be more narrowly focused.

And third, Mr. Speaker, I may say things on the floor that people disagree with, but I do save my almost ridiculous statements for off the floor and not the floor of the House.

I yield back the balance of my time.

Mr. CRAWFORD. Mr. Speaker, I urge my colleagues to join me in supporting this important legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. CRAWFORD) that the House suspend the rules and pass the bill, H.R. 897.

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

A motion to reconsider was laid on the table.

MILLE LACS LAKE FREEDOM TO FISH ACT OF 2012

Mr. CRAVAACK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5797) to amend title 46, United States Code, with respect to Mille Lacs Lake, Minnesota, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5797

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 "Mille Lacs Lake Freedom To Fish Act of 2012".

SEC. 2. MILLE LACS LAKE, MINNESOTA.

Notwithstanding any other provision of law, the owner or operator of a vessel operating on Mille Lacs Lake, Minnesota, shall not, with respect to such vessel, be subject to any Federal requirement under subtitle II of title 46, United States Code, relating to licensing or vessel inspection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. CRAVAACK) and the gentleman from Washington (Mr. LARSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota.

GENERAL LEAVE

Mr. CRAVAACK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous materials on H.R. 5797.

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

There was no objection.

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

Mr. Speaker, in March 2010, the U.S. Coast Guard ruled that Mille Lacs Lake was a federally navigable body of water based on historical interstate commerce.

Specifically, the Coast Guard justified their actions by using a U.S. Army Corps of Engineers determination from 1981 that said because lumberjacks in the 1800s floated logs on Mille Lacs Lake and down the Rum River, Mille Lacs Lake should now be made a federally navigable water body. Currently, the Rum River is dammed in three places, and the same Corps of Engineers report said that the dams prohibit through navigation. In addition,