

Mr. BURGESS. Number one, it is not germane, and it is more complicated now because the Food and Drug Administration has gotten involved in the process. I wish it were straightforward. It is something I continue to work on.

Mr. POLIS. Mr. Speaker, reclaiming my time, our Rules Committee can waive germaneness. But it would be an appropriate bill to include, as Mr. DEFazio pointed out, ironically, there are some jobs that this bill will create: people selling oxygen on the street, pulmonologists, and, yes, asthma inhalers because more people will suffer from asthma, and kids with asthma won't be able to spend as much quality time outside if this bill were to become law.

Instead of continuing this kind of work that raises healthcare costs, and increases asthma and cancer, we should be focusing on issues that create jobs we want. We don't want the air to be so bad that there is somebody selling oxygen canisters on the street.

□ 1300

We want jobs in renewable energy and making our air cleaner, in new forms of energy efficiency and bringing down people's utility bills because we use less energy. That is what excites people and that is what is good for our air.

Instead of focusing on those kinds of needs or, God forbid, shrinking the deficit or halting the handout of subsidies to special interests, they are talking about ideas here like this, that further diminish our standing as a world leader and further diminish what makes America special and our quality of life.

I hope all Members look in the mirror and think about our health, the health of our children, the health of our elderly relatives, and those most at risk. And we ask: How would this bill affect them?

The answer is obvious. It only serves to hurt them. It only serves to make people sicker. It only serves to increase costs, destroy economic value, and create additional risk for our environment.

Mr. Speaker, I encourage my colleagues to vote "no" on this rule and the underlying bill, and I yield back the balance of my time.

Mr. BURGESS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, today's rule provides for the consideration of an important piece of environmental legislation to protect the lives and health of all Americans while providing smart tools to the States to implement the EPA's standards.

I thank my fellow Texan, PETE OLSON, for his work on this legislation, which I know affects his district in the Houston area as much as it does mine in the Dallas-Fort Worth region.

I encourage my colleagues to vote "yes" on today's rule and to support the underlying bill.

The material previously referred to by Mr. POLIS is as follows:

#### AN AMENDMENT TO H. RES. 451 OFFERED BY MR. POLIS

At the end of the resolution, add the following new sections:

SEC. 2. Immediately upon adoption of this resolution the Speaker shall, 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. 2510) to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, 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 chair and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. 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. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 3. Clause 1(c) of rule XIX shall not apply to the consideration of H.R. 2510.

#### THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the Democratic minority to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives* (VI, 308-311), describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

The Republican majority may say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Rep-

resentatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule. . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

In Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. BURGESS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. 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. POLIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

The House will resume proceedings on postponed questions at a later time.

#### FEDERAL POWER ACT AMENDMENT

Mr. UPTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2786) to amend the Federal Power Act with respect to the criteria and process to qualify as a qualifying conduit hydropower facility, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2786

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

**SECTION 1. QUALIFYING CONDUIT HYDROPOWER FACILITIES.**

Section 30(a) of the Federal Power Act (16 U.S.C. 823a(a)) is amended—

(1) in paragraph (2)(C), by striking “45 days” and inserting “30 days”; and

(2) in paragraph (3)(C)—

(A) in clause (i), by adding “and” after the semicolon;

(B) by striking clause (ii); and

(C) by redesignating clause (iii) as clause (ii).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Illinois (Mr. RUSH) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

**GENERAL LEAVE**

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material in the RECORD on the bill.

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

There was no objection.

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

Mr. Speaker, this bill, H.R. 2786, introduced by my two colleagues, the gentleman from North Carolina (Mr. HUDSON) and the gentlewoman from Colorado (Ms. DEGETTE), has always been a bipartisan bill. It amends the Federal Power Act to promote renewable energy from small conduit hydropower facilities.

The bill would encourage the generation of electricity from existing man-made conduits operated for the distribution of water for agriculture, municipal, or industrial consumption.

I would note that Congress established qualifying conduit exemptions under the Hydropower Regulatory Efficiency Act of 2013. This bill, H.R. 2786, builds on that law to provide benefits to a greater range of conduit hydropower projects. This bill, in fact, will shorten the review period and allow larger conduit projects to be eligible for exemption from certain listing requirements.

I know of no serious objections to the bill. It is bipartisan, as it should be. I urge my colleagues to support it.

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

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

Mr. Speaker, I rise in support of H.R. 2786, the Promoting Small Conduit Hydropower Facilities Act of 2017.

In 2013, our committee moved bipartisan legislation by Representative McMORRIS RODGERS and Representative DEGETTE that created an exemption from hydropower licensing for certain conduit hydropower facilities of 5 megawatts capacity or less.

Under the provision established in the McMorris Rodgers-DeGette bill, the

Federal Energy Regulatory Commission, FERC, must determine within 15 days after receipt of a notice of intent to construct a small conduit project by the developer if the project meets the qualifying criteria for exemption under the law.

If FERC makes an initial determination that the project meets that criteria, current law requires FERC to publish a public notice of that determination and provide the public 45 days for an opportunity to comment on or contest FERC's determination.

That bill went on to be signed into law by President Obama and, as of May of this year, has resulted in qualifying 83 projects being exempted from Federal licensing requirements.

□ 1315

The bill before us now, Mr. Speaker, H.R. 2786, sponsored by Mr. HUDSON and Ms. DEGETTE, will amend the Federal Power Act to lift the 5-megawatt cap on conduit projects that could qualify for exemption. The bill would also reduce from 45 days to 30 days the amount of time the public will have to comment on or contest FERC's determination of whether a project qualifies for exception.

There is clearly strong support on both sides of the aisle for the development of conduit hydroelectric projects and for efforts like the Hudson-DeGette bill, which cuts red tape to ensure that environmentally sound projects can move forward quickly and efficiently.

However, Mr. Speaker, the original version of this bill cut the 45-day timeframe for public comment on a proposed exemption too much, down to 15 days. That, in my view, Mr. Speaker, and that of many of my colleagues, was too short a period of time to allow for meaningful public input into the process.

Fortunately and wisely, Mr. Speaker, Chairman UPTON and Chairman WALDEN accepted an amendment by Ranking Member PALLONE that reduced the amount of time for public notification by a third, from 45 days to 30 days, rather than the 15 days that many of us felt was excessive.

As a result, we now have a bill that is good policy, that cuts down on unnecessary regulation, while properly balancing the interests of hydropower development with that of the public.

The bill was rightfully reported by the committee with the unanimous support of Members on both sides of the aisle, and I hope the full House will do the same today.

Mr. Speaker, I urge my colleagues to support the bill, and I reserve the balance of my time.

Mr. UPTON. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. HUDSON), the original author of the bill.

Mr. HUDSON. Mr. Speaker, I rise today to urge my colleagues to support H.R. 2786, my bipartisan legislation focused on tapping our Nation's immense conduit hydropower potential.

Hydropower remains one of the most efficient and affordable sources of electricity, as well as one of the largest sources of renewable electricity in America. In North Carolina alone, it generates enough electricity to power 350,000 homes each year.

The opportunity is tremendous. Picture a tiny turbine placed in an existing man-made pipe that transports water from a water treatment plant. We can produce clean electric power inside these types of man-made conduits. There are over 1.2 million miles of water supply mains in the United States creating literally thousands of energy-recovery hydropower generation opportunities. This technology is readily available and environmentally friendly, but Federal regulations have discouraged and stifled the development.

That is exactly why I introduced this commonsense bill with my colleague, DIANA DEGETTE, whom I will say, even though her Broncos defeated my Panthers in the Super Bowl a couple years ago, it has really been a pleasure to work with on this.

What we are working on is to streamline the Federal review process for non-controversial conduit hydropower projects and make the projects eligible for streamlined consideration.

Mr. Speaker, I urge my colleagues to support this legislation to expand the development of conduit hydropower projects, create clean energy jobs, increase production of affordable renewable power, reduce consumer electricity costs, and improve energy diversity.

Mr. RUSH. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Ms. DEGETTE), the cosponsor of this bill.

Ms. DEGETTE. Mr. Speaker, in the spirit of bipartisanship, I won't talk exclusively about the Broncos today. Instead, I want to thank Representative HUDSON for working with me on the bill. It has been a pleasure.

I also want to thank Chairman UPTON and Ranking Member RUSH and Energy and Commerce Chairman WALDEN and Ranking Member PALLONE for helping us work on this important bill. It is really an example of what we can accomplish when we put partisanship aside and work to address our country's needs.

Hydropower is a clean, domestic energy source. Over the last 2 years, it has provided almost 6 percent of U.S. electricity and almost half of all renewable electricity. It also supports hundreds of thousands of good jobs across the country.

As a westerner, I know how important water is to our environment and to our communities, and I am committed to advancing hydropower in a way that both respects existing water rights and minimizes environmental disruption.

Hydropower is often associated with large-scale projects like dams, but I have been particularly interested in

smaller-scale projects attached to existing infrastructure, including irrigation canals and municipal water supply systems.

As Mr. RUSH noted, in 2013, I worked with Representative CATHY McMORRIS RODGERS, another westerner, to pass the Hydropower Regulatory Efficiency Act. That bill became law, and it established a process for qualifying conduit hydropower facilities to move forward without requiring a license from FERC.

A lot of people in western Colorado told me that this was one of the most important bills that they had ever seen come out of Congress, only demonstrating that all politics is local. Even though maybe it didn't seem so important to some people here at the time, 83 hydropower projects have been successfully promoted using the new process, including 23 projects in Colorado. This progress is encouraging, but there is even more we can do.

The Colorado government estimates that existing agricultural irrigation conduits in our State could support an additional 30 megawatts of hydropower, and municipal water supply systems could support another 20 to 25 megawatts. But to realize this potential, we need to listen to the advice that the Energy and Commerce Committee has heard on how to make the process as simple and flexible as possible.

We have heard testimony from FERC that the existing comment period is rarely used for comments that have a bearing on determining whether the project qualifies under the statute. In response, the bill we are considering today would shorten the comment period from 45 to 30 days to avoid unnecessary delays.

Second, FERC suggested lifting the megawatt cap on qualifying conduit projects. The amount of energy demonstrated by a hydroelectric project is not a good indication of its environmental impact. In fact, any project built on existing conduit infrastructure will have little to no environmental impact because it is using water that has already been diverted from its natural course.

The bill would not change the requirement in existing law that the project be built on a conduit that is primarily intended for non-power generating uses, further limiting the potential for any environmental impact.

Together, these two changes will open the door to more conduit hydropower projects without compromising important environmental protections.

Mr. Speaker, again, I would like to emphasize that bill shows what Congress can accomplish when we work together in a bipartisan manner to address our country's needs now and in the future. I urge everyone to support it.

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

Mr. UPTON. Mr. Speaker, I just want to comment briefly on the remarks by my two colleagues.

This is an important bill, and for those of us who have always supported all of the above, whether it be renewable or safe nuclear, all those different things, hydro is part of that mix.

I would just note that I had a question yesterday morning. I did a big Farm Bureau breakfast in my district, and the question about hydropower came up. Just like my friend from Colorado talks about the most important bill in Colorado, this is an important bill.

It is also important that we work together to get this bill done so that the Senate can follow suit. I urge my colleagues to vote for this bipartisan legislation.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 2786, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

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

#### EXTENDING DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF A HYDROELECTRIC PROJECT

Mr. UPTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2828) to extend the deadline for commencement of construction of a hydroelectric project.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2828

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

#### SECTION 1. EXTENSION.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12569, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for up to three consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission under that section.

(b) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of the enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Michigan (Mr. UPTON) and the gentleman from Illinois (Mr. RUSH) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

#### GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material.

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

There was no objection.

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

Mr. Speaker, I rise today in support of H.R. 2828, introduced by the gentleman from Washington (Mr. NEWHOUSE). This bill will authorize the Federal Energy Regulatory Commission, FERC, to extend the time period during which a licensee is required to commence construction of a hydroelectric project.

Back on July 9, 2013, FERC issued a license for the Public Utility District Number 1 of Okanogan County, Washington's proposed 9-megawatt Enloe hydroelectric project. This project will be located at the existing Enloe Dam on the Similkameen River near the city of Oroville, Washington.

The license requires the licensee to commence construction of the project within 2 years of the issuance date of the license, or by July 9, 2015. At the licensee's request, FERC has already granted the maximum allowable 2-year extension, thus making the construction deadline July 9, 2017.

Development of the Enloe project has experienced setbacks that have complicated the licensee's ability to meet the deadline. This bill, H.R. 2828, would authorize FERC to reinstate the license and issue up to three consecutive 2-year extensions to commence construction.

This bill is consistent with prior congressional actions and FERC's longstanding policy limiting the maximum allowable extension to 10 years from the issuance date of the license.

Mr. Speaker, I urge my colleagues to support the legislation, and I reserve the balance of my time.

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

Mr. Speaker, the legislation before us sponsored by the gentleman from Washington State (Mr. NEWHOUSE) would authorize the Federal Energy Regulatory Commission to extend, up to 6 years, the date by which the licensee for the Enloe Dam hydropower project, No. 12569, is required to commence construction. This is necessary because the project's licensee is not likely to commence construction by the designated deadline.

Under the Federal Power Act, Mr. Speaker, FERC is unable to further extend that deadline administratively, so action by the Congress is required. In the event the license expires before this legislation is enacted, the bill contains language reinstating the license as of its date of expiration.