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BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

COLUMBIA, SOUTH CAROLINA

#19-11783 **JUNE 12, 2019** **2:05 P.M.**

ND-2019-13-E:
SOUTH CAROLINA SOLAR BUSINESS ALLIANCE, INC. — *Request for an Allowable Ex Parte Briefing to Discuss the South Carolina Energy Freedom Act: An Overview and Next Steps*

ALLOWABLE EX PARTE BRIEFING

COMMISSION MEMBERS PRESENT: Comer H. 'Randy' RANDALL, *Chairman*; Justin T. WILLIAMS, *Vice Chairman*; and COMMISSIONERS John E. 'Butch' HOWARD, Florence P. BELSER, Thomas J. 'Tom' ERVIN, Swain E. WHITFIELD, and G. O'Neal HAMILTON

ADVISOR TO COMMISSION: Joseph Melchers
GENERAL COUNSEL

STAFF: David W. Stark, III, Esq., and Jerisha Dukes, Esq., Legal Advisory Staff; Douglas K. Pratt and William O. Richardson, Technical Advisory Staff; Jackie Thomas, Information Technology Staff; Melissa Purvis, Livestream Technician; Jo Elizabeth M. Wheat, CVR-CM/M-GNSC, Court Reporter; and Hope Adams, Hearing Room Assistant

APPEARANCES:

RICHARD L. WHITT, ESQUIRE, representing **SOUTH CAROLINA SOLAR BUSINESS ALLIANCE**, together with ***BRET SOWERS*** *[Principal & Vice President / Southern Current; Chairman / SC Solar Business Alliance],* ***HAMILTON DAVIS*** *[Director, Regulatory Affairs / Southern Current], and* ***STEVE LEVITAS*** *[Senior Vice President, Government & Regulatory Affairs / Cypress Creek Renewables],* Presenters

JEFFREY M. NELSON, ESQUIRE, Designee of the Executive Director of **THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF**

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P R O C E E D I N G S

CHAIRMAN RANDALL: Please be seated. Okay. We want to welcome everyone to this afternoon's allowable ex parte. I'll ask Mr. Melchers to read the docket.

MR. MELCHERS: Thank you, Mr. Chairman.

We are here pursuant to a request for an allowable ex parte communication briefing, which is scheduled for today, June 12th, here in the Commission's hearing room.

The requestor is Attorney Richard Whitt, representing the South Carolina Solar Business Alliance, Inc., and the topic for the briefing today is "The South Carolina Energy Freedom Act: An Overview and Next Steps."

Thank you, Mr. Chairman.

CHAIRMAN RANDALL: Thank you, Mr. Melchers.

Welcome, Mr. Whitt.

First, I think we need to get to Mr. Nelson to give us his detailed instructions on the allowable ex parte procedure.

MR. NELSON: Thank you, Mr. Chairman.

Good afternoon, everybody. For those of you that don't know me, I'm Jeff Nelson. I'm the Chief Legal Officer for the Office of Regulatory Staff,

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1 and I'm here today as the designee of the Executive
2 Director of the Office of Regulatory Staff.
3 The ex parte this afternoon has been noticed
4 to be presented by the South Carolina Solar
5 Business Alliance, and it needs to be conducted in
6 accordance with the provisions of South Carolina
7 Code Annotated Section 58-3-260.
8 As the ORS representative, it's my duty to
9 certify that the record of this proceeding — I need
10 to certify it to Ms. Boyd, the Chief Clerk over
11 here at the PSC, within the next 72 hours and
12 verify that it was conducted in accordance with the
13 provisions of the statute.
14 The requirements of that statute are, in part,
15 that the allowable ex parte be confined to the
16 subject matter which has been noticed. In this
17 case, the issued-notice topic is "The South
18 Carolina Energy Freedom Act: An Overview and Next
19 Steps." Therefore, I ask the presenters,
20 Commissioners, and the Commission Staff refrain
21 from addressing anything outside the parameters of
22 that. It's a pretty broad parameter, though.
23 Under 58-3-260, participants, Commissioners,
24 and Commission Staff are prohibited from
25 requesting or giving any commitment,

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1 predetermination, or prediction, regarding any
2 action by any Commissioner as to any ultimate or
3 penultimate issue which either is before or is
4 likely to come before the Commission. In short,
5 the presenters cannot ask the Commissioners for an
6 opinion or a decision on anything, and, in the same
7 manner, the Commissioners cannot give any such
8 opinion.
9 We'd ask the presenters, Commissioners, and
10 Commission Staff refrain from referencing any
11 reports, articles, or documents that you haven't
12 included in the slide presentation today, because,
13 if you do, we need to track that down within the
14 next 48 hours so that we can make the filing.
15 The only other thing I have left is everybody
16 that is here is required to sign an attendance
17 roster. You should have signed when you came in,
18 and you should've received a form. Please make
19 sure you actually read the form, sign the form, and
20 turn it back in before you leave today. If you
21 don't, we're going to have to try and track you
22 down, which we've done before and that takes a lot
23 of time, so please make sure you turn it in before
24 you leave today.
25 That's all I have, Mr. Chairman.

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CHAIRMAN RANDALL: Thank you, Mr. Nelson. Okay. Mr. Whitt, welcome.

MR. WHITT: Thank you, Mr. Chairman. Let's see, is this [indicating] on? Yeah.

We want to thank you, Mr. Chairman, and members of the Commission, for allowing us to have this briefing today. The South Carolina Solar Business Alliance appreciates it. It's time for you, it's extra work for your Staff, and we appreciate it. And Jo Wheat, it's extra work for her, so we want to thank Jo Wheat. It's extra work for Jeff Nelson, and we appreciate his participation; we want to thank him for that.

Mr. Chairman, can I have your permission to introduce some of my solar clients in the audience?

CHAIRMAN RANDALL: Sure.

MR. WHITT: Okay. We have Peter Stein here, with Cypress Creek. We've got Alexandria Hernandez, from NCRE. We have James Shaifer, from NCRE. We've got Harry Walling, from NCRE. And we have Paul Esformes, from Ecoplexus. And we have Andrew Berrier, from Pine Gate, and he has several legal interns with him here, also.

CHAIRMAN RANDALL: Welcome, everyone.

MR. WHITT: Mr. Chairman, if I can put on the

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record, as I always must, that we have attorneys participating on the panel here today, that are here as subject-matter experts or officers of their solar-developer companies; they're not appearing as attorneys today. I'm the only one representing the Solar Business Alliance.

Mr. Chairman, if you're ready, I can introduce the panel?

CHAIRMAN RANDALL: Yes, sir.

MR. WHITT: All right. We have Bret Sowers, who will begin the presentation, and he's with Southern Current, as a vice president, but he's also the Chairman of the South Carolina Solar Business Alliance.

In the middle, we have Hamilton Davis, who is head of regulatory affairs for Southern Current.

And we have Steve Levitas, who is a senior vice president and heads up regulatory affairs for Cypress Creek.

All three have appeared in front of you before, and we appreciate this opportunity today.

[Reference: Presentation Slide 1]

CHAIRMAN RANDALL: Thank you.

Welcome. Welcome back. Okay, we'll turn it over to you.

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MR. BRET SOWERS [SOUTHERN CURRENT/SC-SBA]: Mr. Chairman and Commissioners, my name is Bret Sowers. As Richard has said, I am a principal at Southern Current. We're based here in South Carolina, as some of you know, down in Charleston, currently employing over 130 people in the State and operating in around 10 different states now. But today I'm before you as the Chairman of the South Carolina Solar Business Alliance. I've served as chairman for the past two years and have been on the board, I think, for over four.

And so I'm just going to start off with some brief remarks on the solar industry in South Carolina today and, really, leave it to the great minds to my right on some of the — the Act itself and what's within it

[Reference: Presentation Slide 2]

So, the first slide, really wanted to talk about just a reintroduction of who the South Carolina Solar Business Alliance is. As you are aware, we intervene in a lot of different dockets, but I think it's important, as an organization, for you to understand who we're representing.

So, we were founded in 2009. Consecutively over the past years, we've always represented a

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1 little over 30 companies. It varies year-by-year,
2 but 30 different companies that we represent. Our
3 primary focus is on legislative activities, like
4 the Energy Freedom Act, and regulatory activity in
5 front of you all.
6 A diverse group of companies and interests
7 within our organization. And as I've listed here,
8 you know, rooftop solar mainly serving residential
9 customers, commercial and industrial focus for
10 developers, large-scale solar developers as well,
11 like solar farms that you're seeing. We have a
12 host of manufacturers that are making what we call
13 racking, which is steel or aluminum that's
14 supporting the solar panels, or the electrical
15 equipment, wiring — manufacturers, that are really,
16 some, located here in the State and others are
17 national companies that you all would recognize and
18 know very well, that have a footprint across the
19 US — installers, and financiers. So a really
20 diverse group kind of helps form our take on what
21 we're pursuing, regulatory or otherwise.
22 In 2018, three of our members' companies were
23 voted as some of the fastest-growing companies in
24 the State of South Carolina. Southern Current, the
25 company I work for, we were voted as the number one

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1 fastest growing company in the State, for the large
2 business category. Hannah Solar Government
3 Services, also located down in Charleston, was
4 number two in the small business category; and
5 Alder Energy, number seven in the small business
6 category.
7 So the solar industry and the companies are
8 growing and becoming an integral part of the
9 community and the State.
10 [Reference: Presentation Slide 3]
11 One of the things that we keep a keen focus on
12 is the economic benefits of what we do, and we're
13 very integral into economic development at the
14 State and local level with all of the investments
15 that we're making. So, I showed this slide, I
16 believe, Mr. Chairman, last time I was here, and
17 decided not to really update this because the
18 numbers haven't really changed significantly since.
19 But what I laid out was the footprint of our member
20 companies across the US, and took a step further to
21 show you the amount of megawatts at the time that
22 had been executed with the electrical utilities in
23 the State, and the total planned investment. And I
24 believe it was Commissioner Whitfield, who was
25 specific to ask about the $5 billion number and the

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amount of time in which we anticipated that to come to fruition. And I extrapolated out job wages and property tax revenue. And I'll go in a little bit further to the property tax revenue in another slide.

But just really wanted to give the Commission a breadth of understanding mainly to that last bullet point, of those four bullet points on the right, that a lot of our companies that we represent and those here on the panel today, we work in regulated and unregulated markets across all jurisdictions, appear in front of various public service commissions and various different legislatures. And so what we hope to bring to this Commission and to the State is an understanding of how other states are doing it, how other markets are handling some of the complex issues that you all are going to be tasked, certainly, with understanding with this Act.

[Reference: Presentation Slide 4]

Economic development, as I said, is a key aspect of what we do. I ran some numbers recently from the Department of Commerce's website of the announcements that they make. And so, since 2015, nearly $2 billion of new announcements for solar

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1 projects in the State of South Carolina. And that
2 was across 19 different counties with 12 different
3 solar companies or solar-related companies, and
4 that was for about 1500 megawatts of new solar
5 projects. Now, those were announcements; some of
6 those have been built, some of those are under
7 construction now and some of those are still in the
8 process of going through all of the planning and
9 due diligence. But nearly all of those investments
10 were made by Solar Business Alliance members: 1200
11 megawatts of the 1500. So I just wanted to make
12 that note, that from an association and
13 organization standpoint, we really do represent the
14 majority of the solar interests in South Carolina.
15 [Reference: Presentation Slide 5]
16 To give you an idea of what the economic
17 development impacts are, this was a recent
18 announcement in Darlington: $140 million of
19 investment for — multiple projects were bundled in
20 that $140 million, but it kind of gives you an idea
21 of how you get to a $5 billion planned investment
22 for the State.
23 And the fee-in-lieu agreements, which is the
24 property tax agreements that are negotiated with
25 those counties, dictate kind of the property tax

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1 revenue and other benefits that those taxes are
2 going to benefit through the county. And so, just
3 to show you what $140 million looks like, from an
4 annual basis, that's $421,000 a year that's going
5 to be paid to the county for those projects, for
6 the next 10 years. And then it steps down a little
7 bit for years 11 through 30. So you can start kind
8 of doing the math, and every county has the ability
9 to negotiate how they do these agreements. But as
10 you start doing the math, you can start coming up
11 with what does a $5 billion investment in solar
12 facilities across South Carolina look like, from a
13 local level, and what can these counties do with
14 these funds, these discretionary dollars, and where
15 is that next investment going, and coming from.
16 And you see it in a lot of the rural counties in
17 our State that really haven't seen a lot of
18 investment in recent years.
19 [Reference: Presentation Slide 6]
20 I want to spend a little bit of time real
21 briefly on just industry trends that, as an
22 organization, we're working on. And these aren't
23 specific to South Carolina; some of these you're
24 familiar with, but we're talking about them locally
25 and in DC and in other areas.

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1 So, price is a big driver of why the solar
2 industry has become successful in recent years. It
3 depends on the reports you're looking at, but, you
4 know, 80 percent reduction in price over the last
5 10 years. Certainly, aware of the avoided cost
6 rates and how solar has been able to meet or beat
7 those rates in recent years.
8 The growth of the industry and jobs, I think
9 the last jobs report was, you know, well over
10 150,000 workers across the US are employed through
11 the solar industry, and that spans heavily into
12 manufacturing. We have a large manufacturing base
13 to supply what we are doing on the ground.
14 Diversity is a large issue. I would say for
15 not only the solar industry, but I think the
16 electric industry in total, there's a lot to be
17 done on diversity inclusion within multiple
18 industries. And as the solar industry is one of
19 the fastest-growing growth segments in the US
20 economy, a focus on diversity and making sure we're
21 paying attention to a new generation of workforce,
22 as we are a new generation of companies in many
23 ways, as well.
24 Storage, and that comes in various different
25 forms, but a high priority for the industry and a

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1 lot of discussion. The ITC, as many of you know,
2 is the investment tax credit that the federal
3 government supplies to renewable projects. The
4 wind industry has a production tax credit; the
5 solar industry has an investment tax credit.
6 There's a phase-out of those tax credits over the
7 next few years, and so there's an active discussion
8 about how that affects price and how we're meeting
9 those contracts in the future.
10 And then security is a rising concern, I
11 think, across the electric industry, and that
12 certainly affects what we do in the solar industry,
13 as we are heavily interconnected to the utility,
14 and ensuring that we are meeting or exceeding
15 security — cybersecurity — issues that are coming
16 up. So, active conversations that we're engaged
17 with locally and at the State and federal, so
18 really just wanted to bring those to your
19 attention.
20 [Reference: Presentation Slide 7]
21 I believe that's going to conclude what I'm
22 going to talk about. I'm going to hand it over to
23 Hamilton Davis, but before I do, we have done a
24 couple of these ex partes, I believe, in the past,
25 Mr. Chairman, and we're certainly open at any time,

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1 should you want to ask questions. Interrupt, stop
2 us, obviously at your discretion, but we're just
3 going to go with the flow.
4 **CHAIRMAN RANDALL**: Thank you.
5 **MR. BRET SOWERS [SOUTHERN CURRENT/SC-SBA]**:
6 Yeah, thank you.
7 **CHAIRMAN RANDALL**: We'll probably try to hold
8 the questions until the end, if we can.
9 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: Thank
10 you, Mr. Chairman, and members of the Commission.
11 It's good to be back in front of you. A few things
12 have changed since we talked last time: New
13 Commissioner Belser, welcome. It's good to see you
14 here.
15 And, obviously, a very complicated and
16 comprehensive piece of legislation that we're going
17 to do our best to simplify and talk about our ideas
18 for how this legislation gets implemented, what we
19 might see over the coming months, coming years. I
20 know I have to be careful, not make any requests.
21 These are the opinions of the SBA that I'm sharing
22 with you. And, Mr. Chairman, of course it's at
23 your discretion when questions get asked, but, as I
24 watched the briefing from Staff two weeks ago and
25 was here for the briefing today, and I know having

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1 not been there in the room for the last year, as a
2 lot of parties have been thinking about nothing but
3 this — this has consumed a lot of my life for the
4 last 365 days — think of us as a resource today,
5 and please ask us where there's confusion, where
6 there's uncertainty around some of these
7 expectations.
8 And, you know, given how complicated this
9 legislation is, of course, we're not going to be
10 able to get into all those details and all the
11 weeds, but I'm going to hit some high points and
12 things that we see as priorities that are on the
13 near horizon, things like avoided costs, and stick
14 with that level of discussion.
15 I do want to just start by complimenting the
16 stakeholder involvement process that pulled this
17 legislation together. Of course, it wasn't just
18 the solar industry; it was the utilities,
19 commercial and industrial interests, the
20 conservation community, and then ORS played a very
21 important key role in bringing the stakeholders
22 together last summer, and then also being there for
23 the Legislature as a resource, making sure they
24 were making the right decisions and getting a fair
25 third-party perspective on how these policies would

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1 unfold.
2 And what it led to was, again, a unanimous
3 vote by our Legislature — 103 to nothing, in the
4 House; 46 to nothing, in the Senate — and then the
5 signing by our Governor. So, that happened with
6 Act 236, as well. So it's pretty impressive this
7 State has put together two comprehensive pieces of
8 legislation and gotten that level of support, and
9 it's a testament to the folks at the table being
10 committed to making it successful.
11 This legislation is already being viewed as
12 somewhat of a model for the Southeast, and I think
13 it — the proof will be in the pudding. If we
14 implement this in the way it was envisioned, it
15 will indeed be a signpost for others to follow.
16 [Reference: Presentation Slide 8]
17 So, I want to start by just going through some
18 of the themes of this legislation, as we see them.
19 These are — I pulled some quotes directly from the
20 statute that illustrate what we think are the main
21 focal points of Act 62, starting with consumer
22 choice and solar expansion. This legislation is
23 very focused on both of these. The quote I've
24 selected, the language I've selected, is, "It is
25 the intent of the General Assembly to expand the

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1 opportunity to support solar energy and to support
2 access to solar energy options for all South
3 Carolinians..." And I think the breadth and
4 inclusory nature of the legislation speaks to those
5 points.
6 [Reference: Presentation Slide 9]
7 Consumer protection is also front and center,
8 throughout. Every single section you read will
9 have a reference to the public interest and
10 protecting ratepayers. This is just one example of
11 that: "The General Assembly finds that there is a
12 critical need to...protect customers from rising
13 utility costs...[and] provide opportunities for
14 customer measures to reduce or manage electrical
15 consumption from electrical utilities..."
16 [Reference: Presentation Slide 10]
17 Transparency and accountability. Opening up
18 some of those black boxes that have existed in some
19 of the dockets that our industry has been involved
20 in in the past, making sure data and assumptions
21 and information is being made available to all
22 parties, so that we can be confident that the right
23 decisions are being made. This is an example from
24 the — from, actually, the IRP: "Each electrical
25 utility's avoided cost filing must be reasonably

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1 transparent so that underlying assumptions, data,
2 and results can be independently reviewed and
3 verified..."
4 [Reference: Presentation Slide 11]
5 And then finally — or, not finally, but also,
6 competition. This is — with consumer choice comes
7 different options for where power comes from, how
8 it's being produced, and introducing competition in
9 the form of commercial/industrial programs, making
10 sure our avoided costs are accurate, and allowing
11 PURPA to work in this State, creating opportunities
12 for competitive solicitation, and "The Commission
13 shall treat small power producers on a fair and
14 equal footing with electrical utility-owned
15 resources..."
16 [Reference: Presentation Slide 12]
17 And then, I think equally as important for
18 purposes of today is Commission empowerment is also
19 front and center. One of the conversations we had
20 with staff and the Legislature throughout this
21 process was both setting new guidance for the
22 issues that are included here, but also making sure
23 the Commission understood that a lot of these
24 decisions will be at your discretion. This is a
25 different approach, I think, than we've seen in the

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1 past where there's been a heavy expectation that
2 the Legislature is — if they haven't told you to do
3 something, then you shouldn't necessarily do it. I
4 think this opens the door for a different type of
5 engagement on these issues, and you'll see that as
6 you look at the actual language of the statute.
7 This is just one example: "The Commission is
8 authorized to employ, through contract or
9 otherwise, third-party consultants and experts in
10 carrying out its duties...[and] is exempt from
11 complying with the State Procurement Code in the
12 selection and hiring of a third-party-expert..."
13 That's particularly important, I think, with
14 avoided cost, where there's actually a requirement
15 that a third-party expert be used, but the fact
16 that you have streamlined access to expertise to
17 double-check what we tell you and what the
18 utilities tell you, I think, is going to prove
19 useful and valuable.
20 [Reference: Presentation Slide 13]
21 Definitely not going to spend a whole lot of
22 time on this slide, as I know you've heard from
23 Staff and they've been doing an excellent job of
24 updating you on what's included in this
25 legislation, but I do just want to put it on the

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1 table so that we know what topics are relevant that
2 I'll be talking about through the rest of this
3 presentation, this briefing.
4 I do want to say I think that, if you look at
5 the legislation, it really is — it's a reset on
6 these issues in South Carolina. We've had a
7 particular way of doing things that reflected an
8 industry that has — or, that operated one way for a
9 long time, for a century plus. It is infinitely
10 more complex; things have changed in a lot of ways.
11 And then this is the opportunity for South Carolina
12 to rethink how it addresses everything from avoided
13 costs to interconnection issues; taking a closer
14 look at community solar, making sure customers have
15 access to this resource; dealing with some of the
16 interconnection challenges that, you know, we
17 thought we got right in 2015. They worked for a
18 little while, and now we're running into challenges
19 that have to be addressed — and the legislation
20 speaks to that. Dealing with contract terms, how
21 long contracts should be offered for through PURPA
22 or through competitive solicitations. And, you
23 know, we have the lessons learned from Act 236,
24 now, that I think we should rely on. We saw what
25 did work; we saw where there are gaps that have to

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be addressed. And I think this legislation is intended to do that and sets the stage for that to be what comes next.

[Reference: Presentation Slide 14]

So I'll spend a little time getting into more detail on avoided cost and IRP, as those two sections of the legislation are intimately connected. They're also coming up quickly upon us, especially avoided cost, where an updated methodology for calculating avoided cost must be included in the order by this Commission by November 18th. So that's a fairly short timeline for a fairly complicated topic.

There are a number of methodologies that are currently on offer: the differential revenue requirement, DRR, which is currently what Dominion uses; the peaker method, which is currently what Duke Energy uses; and then the proxy unit method, which we're not using in this State today, but is also available to us.

Energy storage, ancillary services are two issues that we have not addressed in avoided-cost proceedings that will be new to this Commission and new to the industry and the utilities in South Carolina. It'll take us a while to get our heads

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1 wrapped around that, I'm sure.
2 South Carolina actually is probably going to
3 be the first state in the country that requires
4 ancillary services to be a part of avoided costs,
5 so those are things like voltage support, frequency
6 regulation, reactive power, sending price signals
7 that you do see in some of the deregulated markets
8 that we'll now have on offer in South Carolina.
9 And then, within that avoided-cost section of the
10 statute, there is a requirement that we address
11 standard offers and form-contract power purchase
12 agreements, commitment-to-sell forms. My
13 colleague, Steve Levitas, is going to be speaking
14 to that in more detail, and giving you some real-
15 world examples from neighboring states, exactly
16 what it looks like when the rubber hits the road on
17 some of those topics.
18 And as I mentioned, contract term lengths.
19 There's a minimum requirement for utilities to
20 offer 10-year terms, up to 20 percent of their peak
21 capacity. The utilities are in different places.
22 SCE&G/Dominion has much more solar on their South
23 Carolina system than Duke Energy does at the
24 moment. And so those — how that will proceed will
25 maybe not be in lockstep with each other, but what

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1 the legislation does direct the Commission to do
2 is — and it's a quote — "The Commission is
3 expressly directed to consider the potential
4 benefits of terms with a longer duration to promote
5 the State's policy of encouraging renewable
6 energy." And so, that will also be in front of you
7 all in the months ahead.
8 [Reference: Presentation Slide 15]
9 Moving to integrated resource planning, as we
10 just heard in the discussion before this briefing,
11 this is very new for the State. Our previous
12 statute had almost no guidance as it relates to
13 integrated resource planning — a handful of things
14 that the Commission was required to take into
15 consideration and do. This is a lengthy part and a
16 complicated part of the new statute. I think it
17 reflects best practices across the country and is
18 going to allow us much more comfort in the
19 investment decisions that our utilities are making.
20 And it's also critical on the avoided-cost front,
21 ensuring that we have avoided costs that are being
22 calculated.
23 Just a couple of examples of what's in here
24 that we haven't seen before: Portfolio scenario
25 modeling, so the utilities will be looking at high

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1 renewable energy scenarios, high energy efficiency
2 scenarios; they'll be doing sensitivity analyses
3 for things like natural gas pricing; transparency,
4 so those assumptions, the data that goes into that,
5 will be available to the parties participating in
6 those proceedings. Of course, as you know, the
7 Commission is now going to open those — will open
8 this up as an actual proceeding, where there will
9 be intervention and there'll be either approval or
10 modification or denial at the end of that
11 proceeding. And then we've got a three-year cycle.
12 Today, we don't have any IRPs filed in the
13 State that are compliant with the new statute, so
14 figuring out the timing on that is going to be one
15 of the tasks in front of you.
16 [Reference: Presentation Slide 16]
17 The reality is all of these things are
18 interconnected. Starting with IRP and solar
19 integration, renewable integration, at the front
20 end, if we're not doing a good job thinking about
21 what resources are available which are economically
22 viable and in the best interest of consumers, are
23 reliable, are safe, then we don't have a foundation
24 to work from. So getting the IRP right is primary.
25 The solar integration component of this

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1 legislation authorizes ORS and the Commission to
2 initiate a study that looks at exactly what
3 consideration should be made as we think about high
4 levels of — or the next level of renewable
5 integration onto the grid, grid modernization,
6 integration cost benefits, considerations related
7 to curtailment, and having a consultant do that
8 work under the direction of the Commission and ORS,
9 I think, is going to provide a product that, again,
10 informs everything that follows.
11 So avoided cost, as we've already discussed,
12 is almost completely reliant on the IRP. You've
13 got to have the IRP — an IRP that you can take
14 comfort in, find credible, to calculate those
15 numbers.
16 How curtailment policies should operate in
17 this State is going to be informed by that solar
18 integration study: What can we actually do? How
19 should the utilities be operating their system in a
20 way that is consistent with federal law related to
21 curtailment, and also the decisions made by this
22 Commission?
23 PURPA, as you know, depends on avoided cost.
24 The C&I programs, the voluntary renewable energy
25 programs that the utilities are required to file

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1 within 120 days rely on avoided cost; that will be
2 the metric for the bill credit. And the net energy
3 metering, which is not going to come up this year,
4 I don't think, but next year will be — the baseline
5 for the value of solar that comes out of those
6 proceedings is going to be set by avoided cost.
7 And then you also have energy efficiency,
8 demand-side management. Whether those programs
9 that are offered up by the utility are cost-
10 effective or not, avoided cost is the metric that
11 determines that.
12 Competition, interconnection. Again, this
13 legislation is driving competition into the market,
14 sending price signals, allowing us to come in and
15 compete on cost and value. But if we can't
16 interconnect to the grid, then we can't deliver
17 that value. So, interconnection is a big piece of
18 this.
19 [Reference: Presentation Slide 17]
20 So, how we get there from here is primarily a
21 procedural question. And I know there's an
22 advisory council meeting on Friday where some of
23 that conversation is going to begin. You all have
24 already been having that discussion with Staff.
25 And I'd like to just offer some of SBA's thoughts

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on, in an ideal world, how we see some of this legislation being implemented.

Think technical conferences, where the Commissioners have the ability to speak directly to the parties, the interested parties, and Staff, with the interested parties, on these various topics of avoided costs, integrated resource planning, understanding from the folks that were at the table negotiating the legislation what was anticipated, and thinking about what best practices are around the country, so that the schedule — the considerations made on the front end lead to a productive docket that produces the results this legislation contemplated.

Docket consolidation. I know you all talked about this in the briefing a couple weeks ago. I think there's ample opportunity to consolidate some of these dockets on the front end, especially as we talk about issues like methodology, to make sure we're not duplicating efforts as we go through for each of the different utilities. And all of this leads to, in the end, judicial economy and efficiency. We're making — I think to the extent that we can make wise use of everyone's resources, it's a benefit to you all and the parties involved.

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[Reference: Presentation Slide 18]

So this is just an example with avoided cost, how we've envisioned what the legislation allows for and what may make sense. As we talk about avoided-cost methodology, there are a handful, as I mentioned, that could be considered. Today we use multiple methodologies in the State. It doesn't necessarily have to stay the same. We can use one methodology for South Carolina, so that we're all operating from the same sheet of music moving forward. And getting the Commission order on an avoided-cost methodology is not the same as getting a Commission order on avoided-cost rates, which is not required by the statute within that timeline.

Of course, the utility compliance filings and then what their rates actually are, it makes sense to, in our minds, continue with a similar process where the utilities have their own dockets and file those rates separately. And the timeline for that, of course, we'd like to see updated rates sooner than later, but there's a little more flexibility built into the legislation.

[Reference: Presentation Slide 19]

COMMISSIONER BELSER: Mr. Chairman, may I ask a question about the previous slide?

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1 **CHAIRMAN RANDALL**: Sure.
2 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**:
3 [Indicating.]
4 [Reference: Presentation Slide 18]
5 **COMMISSIONER BELSER**: There's a date for the
6 order in here. Is that the correct date?
7 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: So, I
8 think 11/16 is what I've heard you all speak to as
9 the deadline for the avoided costs, that are —
10 **COMMISSIONER BELSER**: 11/16?
11 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**:
12 November 16th is what you all, I believe, have —
13 **MR. MELCHERS**: 18th.
14 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: Or the
15 18th —
16 **MR. MELCHERS**: Of November.
17 **COMMISSIONER BELSER**: Okay. I was thinking
18 that was the year.
19 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: Oh,
20 yeah, sorry. November.
21 **COMMISSIONER BELSER**: That's what was throwing
22 me.
23 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: I had
24 my girlfriend proof this presentation last night
25 and she was like, "That's last year."

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1 **COMMISSIONER BELSER**: That's what I was
2 thinking.
3 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**:
4 November 18th.
5 **CHAIRMAN RANDALL**: I'd say we missed that one.
6 **COMMISSIONER BELSER**: I recall now. Thank
7 you.
8 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: Yeah,
9 so we don't have to worry about it; the date is
10 already passed.
11 [Laughter]
12 Sorry for that confusion.
13 [Reference: Presentation Slide 19]
14 Sticking with — so, the alternative to not
15 doing this in a consolidated fashion is that there
16 will be separate utility dockets considering
17 different methodologies in each docket, and then
18 multiple Commission orders on multiple
19 methodologies, and then there's also this kind of
20 bogey that's out there, what will happen with
21 Santee Cooper. I think it's very likely and the
22 political reality is that we're going to have a
23 fourth investor-owned utility in the State sooner
24 rather than later, and that adds to the complexity
25 of implementing this legislation over the longer

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term, or maybe medium term.

[Reference: Presentation Slide 20]

And finally, I'm going to can wrap up and hand this off to Steve Levitas, but I do just want to illustrate, you know, the magnitude of some of the consequences that could flow from updated IRPs and updated avoided costs, et cetera. This was from — we filed this with the Commission. This was from Duke Energy's IRP docket, an analysis that we commissioned last year, 2018, that looked at — that modeled the Duke Energy system and compared a clean energy scenario to the Duke-preferred path on IRP, and revealed that significant — from our analysis — significant savings could accrue to the tune of about $2 billion per year in reduced revenue requirements under an elevated clean energy scenario. So the magnitude of change based on different modeling and different assumptions in a robust process is significant.

CHAIRMAN RANDALL: I just wanted to make sure you know, on our packet of information the "Successful implementation" slide came up like this [indicating].

MR. HAMILTON DAVIS [SOUTHERN CURRENT]: [Indicating.]

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1 **CHAIRMAN RANDALL**: Yeah. We don't have that.
2 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: I'll
3 make sure you guys have the correct chart there.
4 **CHAIRMAN RANDALL**: That'd be cool. Thank you.
5 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: That's
6 what it looks like [indicating].
7 [Reference: Presentation Slide 21]
8 And just — and so following up on our
9 analysis, if you look at other analyses that have
10 been done from different entities around the
11 country, looking at just this coal question, which
12 is primarily where those savings materialize in the
13 analysis we conducted on the Duke IRP, is, are
14 there cheaper alternatives to running the current
15 coal fleet. And here you see a significant amount
16 of what these studies term "at-risk coal," which is
17 essentially looking at the margins at which these
18 plants operate and comparing them to local
19 resources that — or, vetting them against local
20 clean-energy resources, based on pricing that's
21 actually entered the market, and the differential
22 between cost.
23 [Reference: Presentation Slide 22]
24 And, of course, pulling these coal plants off-
25 line isn't as easy as just retiring them. There

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1 would be some plan that would need to precede this.
2 And, again, I think that's exactly what this
3 legislation provides an opportunity to do, is use
4 IRP, use integration analyses, and really deploy a
5 more robust, transparent set of regulatory
6 requirements that allows us to understand what is
7 the path forward if we're going to — are these
8 types of savings achievable, and how do we get from
9 here to there if, in fact, they are.
10 And with that, I'll hand it over to Steve
11 Levitas. Thank you all.
12 [Reference: Presentation Slide 23]
13 **MR. STEVE LEVITAS [CYPRESS CREEK]**: Good
14 afternoon, Mr. Chairman, members of the Commission.
15 It's a pleasure to be back before you today to talk
16 about implementation of Act 62.
17 What I want to do with my time today is to
18 share some lessons with you that we've learned from
19 the implementation of similar programs in my home
20 state of North Carolina, programs that are similar
21 to those that are set out in the legislation. And
22 in doing so, I want to focus on three areas, in
23 particular: PURPA implementation, competitive
24 procurement, and the voluntary renewable energy
25 program.

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1 [Reference: Presentation Slide 24]
2 So with respect to PURPA implementation, there
3 are two things I'm going to talk about:
4 commercially reasonable contract terms and what's
5 known as a legally enforceable obligation, or LEO.
6 [Reference: Presentation Slide 25]
7 Section 58-41-20 of the Code requires South
8 Carolina utilities — as you see in the underlined
9 text here — to have Commission-approved contracts
10 or power purchase agreements not only with respect
11 to the smaller facilities with so-called standard-
12 offer projects, but also with respect to larger
13 QFs. Now, that's a really unusual concept in my
14 experience. In North Carolina and many other
15 states, it's only the smaller QFs that have
16 commission-approved contracts. The theory on that
17 is that these smaller QFs don't have sufficient
18 bargaining power with these large monopoly
19 utilities and, therefore, need a leg up in the form
20 of pre-approvals from the commission, but that, you
21 know, conversely, the idea is that the larger QFs
22 do have that kind of leverage or bargaining power
23 and can fend for themselves. I don't agree with
24 that premise. Working for one of the larger QF
25 developers in the country, I can tell you that a

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1 500-person corporation that happens to be in the QF
2 development business, does not have significantly
3 greater bargaining power than a much smaller, even
4 a two-person operation, in negotiating with these
5 giant monopoly utilities.
6 There's a little bit of negotiation that might
7 occur with respect to these nonstandard-offer PPA
8 terms and conditions, but for the most part the
9 utilities really totally control the process and
10 they are typically only willing to negotiate on a
11 very limited extent. And if you reach an impasse,
12 then you've got to go to litigation, and the
13 litigation expenses get charged to the project, and
14 they mount up quickly and have the potential to
15 make these projects uneconomical, just with small
16 projects, or with large projects.
17 What we've seen in North Carolina, to give you
18 an example, is that the utilities have,
19 essentially, created — again, for these non-
20 commission-approved forms, and I'm sharing this
21 with you by way of contrast, because — to explain
22 why it was important in the legislation that you be
23 given the responsibility for approving both the
24 small-facility contracts and the larger ones. In
25 North Carolina, where there is not that

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1 requirement, the utilities have created essentially
2 their own forms for the larger PPAs. There was
3 originally some negotiation around those terms. I
4 was involved with a good bit of it. But now it's a
5 form, but it's not a commission-approved form; it's
6 the utilities' unilaterally established form. It's
7 presented to QFs on a take-it-or-leave-it basis;
8 there's really no opportunity for negotiation, even
9 though some of the terms we consider to be
10 commercially unreasonable. And that,
11 unfortunately, has created a really problematic
12 precedent because what was originally done as a
13 PURPA contract has now been incorporated by our
14 commission into our competitive solicitation
15 program, which I'll refer to as CPRE, and also into
16 our commercial/industrial program, which in North
17 Carolina is called GSA.
18 [Reference: Presentation Slide 26]
19 Now, not only has the Legislature here, in the
20 Act, directed you to approve forms for both
21 purposes, but they've given you very detailed and
22 complicated direction about how to exercise your
23 decision-making power under Section 58-41-20 of the
24 Act. The Legislature said, in your decisions — and
25 I'm quoting — they said that your decisions "shall

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1 be just and reasonable to the ratepayers of the
2 electrical utility, in the public interest,
3 consistent with PURPA and the Federal Energy
4 Regulatory Commission's implementing regulations
5 and orders, and nondiscriminatory to small power
6 producers; and shall strive to reduce the risk
7 placed on the using and consuming public..." end
8 quote. Well, obviously, that's a mouthful.
9 I would suggest to you, when it comes to
10 approving contracts, which is one of the things
11 that you apply that standard to, I think all of
12 that is really another way of saying that,
13 consistent with the overarching philosophy of
14 PURPA, which is all about balancing ratepayer
15 interests and QF development interests, small power
16 producers, what they're really saying is that you
17 should strike a commercially reasonable balance
18 between the interests of the QFs, on the one hand,
19 and the interests of the utilities and the
20 ratepayers, on the other hand.
21 [Reference: Presentation Slide 27]
22 The North Carolina Utilities Commission
23 explored this issue recently, not just a couple of
24 weeks ago, in a technical conference, regarding the
25 design of the second tranche, the second round of

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1 our competitive solicitation program, CPRE. And in
2 that technical conference, one of the utility
3 lawyers was asked by commission staff, "What does
4 'commercially reasonable' mean," and responded that
5 commercially reasonable terms would be those that
6 are generally used in similar contracts across the
7 industry. I think that's a pretty good definition;
8 you look and you benchmark, and you see what other
9 people are doing, by and large, and that seems to
10 be a good standard.
11 That has not been the test that has been
12 applied in North Carolina where there's not been
13 commission oversight. What we've seen instead is
14 utilities saying, "Well, if there's been some past
15 practice of a QF developer, a seller, being able to
16 get financing for a contract, it must be
17 commercially reasonable." And those of you who are
18 practicing attorneys I'm sure know that just
19 because you can get a deal done doesn't mean it was
20 a reasonable deal, and I can tell you from
21 experience that — because I've been there on the
22 front lines trying to convince financing parties to
23 accept difficult contract terms, and it's an
24 extremely difficult process, and I'm sure there's
25 some people who they see those terms and they just

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1 walk away and don't participate or they drive the
2 cost of the financing up, so, ultimately, not good
3 for anybody.
4 Just to give you a little sense of what I'm
5 talking about here, here's an example. Most — I've
6 worked on power purchase agreements all over the
7 country. And in my experience, they typically
8 offer a suite of rights to lenders who have,
9 typically, debt placed on these facilities. And
10 like any other debt financing, lenders expect to
11 have certain rights. A classic example is that a
12 lender wants to know if there's an event of default
13 by its borrower, so that it can step in and cure
14 it, and not lose its collateral because the deal
15 falls apart. We've seen in North Carolina an
16 unwillingness to include those kind of standard
17 lender-rights provisions.
18 Another one that has kind of stuck in my craw
19 in North Carolina is, the developers have an
20 obligation to achieve commercial operation by a
21 date certain, and we have to work, you know, very
22 hard, and there are significant damages — and even
23 termination and significant damages — if we fail to
24 achieve timely commercial operation. And yet we've
25 seen contracts that don't provide us any relief

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from those severe sanctions where the failure to do so was purely due to an act of God, a hurricane, a tornado, a fire; or even worse, where the delay was due solely to the utility's actions in failing to get our projects interconnected in time. And y'all are familiar with the kinds of delays that we've seen here in South Carolina on interconnection.

So my point is really not to get into the merits of those individual issues, but give you a sense that it's a really important issue that is in front of you to design and approve and carefully scrutinize these contracts that will be put before you to make a determination of commercial reasonableness.

[Reference: Presentation Slide 28]

Now, the next thing about PURPA implementation that I want to talk about requires me to give you a little background on PURPA. I apologize for being — getting into the weeds on this a little bit, but it's an important concept that's going to come before you. And that has to do with the formation of what's called a legally enforceable obligation, or LEO. I think maybe in some prior ex partes, we've talked about this issue. But let me give you a little background.

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1 So, in implementing PURPA, FERC has provided
2 that a QF can sell its output to the utility
3 pursuant to a LEO at a fixed long-term rate, and
4 that's established at the time the LEO is formed.
5 So this becomes a really critical concept, because
6 the rates move around over time, so what a LEO does
7 is fixes the point in time when the QF can lock in
8 the rate.
9 And here's the interesting part: The QF, under
10 FERC law, FERC rules and policy, can establish that
11 LEO by signing a contract — that's what you would
12 expect — but also by unequivocally committing to
13 sell its output to the utility. So it can make an
14 unequivocal commitment — a noncontractual
15 unequivocal commitment — and when it does that, it,
16 under FERC precedent, binds the utility to purchase
17 the output of the QF at the time that that
18 commitment was made. And just by way of
19 background, I consider this a fairly unusual — I
20 call it quasi-contractual. It's not actually a
21 contract, and I've never seen anything quite like
22 it in other areas of the law. But the rationale is
23 FERC was very concerned that these large utilities,
24 not really wanting to do business with QFs, would
25 find ways to delay executing contracts, and this —

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1 the idea was to put within the utility's control
2 the ability to bind — I'm sorry — within the QF's
3 control the ability to bind the utility. And that
4 becomes especially important when the rates to
5 which the QF — the QF is seeking are either
6 declining because market prices are declining, or
7 there's an administrative proceeding where those
8 rates are being changed, and you don't want the
9 utility to be able to game the system in a way that
10 deprives the QF of a rate that it would otherwise
11 be entitled to.
12 Now, PURPA has a general philosophy of what's
13 referred to as "cooperative federalism," which
14 means there's some broad policy guidance at the
15 federal level; a tremendous amount of PURPA
16 implementation, as we've seen from the legislation,
17 is left to the states to handle. And that's true
18 with respect to this issue of LEO formation. And
19 that has resulted in incredible diversity of tests
20 in the states about what a QF has to do in order to
21 establish a LEO. And I've been involved in all
22 kinds of litigation around that; it's a mess. And
23 I question whether that's a good issue to be left
24 to the states, but that's an issue for another day.
25 The good news here is that, in Act 62, your General

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1 Assembly effectively made this decision for you, in
2 that it decided to follow the North Carolina
3 example for what it takes to establish a LEO. And
4 you'll see in 58-41-20(D) that what the General
5 Assembly said is that — it provided for the QF to
6 form a LEO and bind the utility by tendering what's
7 referred to as a commitment-to-sell form to the
8 utility.
9 Now, what you have been tasked with doing is
10 figuring out what those commitment-to-sell forms
11 should look like. Presumably, they'll be proposed
12 by the utilities and you'll have to determine
13 whether those are reasonable and what they should
14 look like.
15 Another issue that has been left to your
16 discretion is determining how long a period of time
17 the QF should have from the moment that it tenders
18 that LEO and says, "I want to commit myself to
19 selling you my power," how long does it have, then,
20 to sign a PPA, because nobody thinks these things
21 should go on indefinitely. So I can tell you the
22 North Carolina Utilities Commission approved a
23 commitment-to-sell form that gives the QF six
24 months to sign a contract, once it's been tendered
25 by the utility. So the QF tenders its commitment-

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1 to-sell form; the utility, at its discretion,
2 provides an executable contract; and the QF has six
3 months within which to return the executed
4 contract — with a proviso, which was also included
5 in your legislation, that the QF can't be required
6 to sign the PPA before it's received a final
7 interconnection agreement. And the idea there is
8 that we've had delays in the interconnection
9 process; the utility controls that. You don't want
10 to put the QF in a bind while it's waiting on the
11 utility to do its job. And the QF has a reasonable
12 right to know what its interconnection costs are
13 going to be before it commits itself to damages and
14 other liability under the PPA.
15 Now, just quickly, getting into the weeds a
16 little bit further — and I apologize for that, but
17 this is an issue that I think is important to the
18 whole concept — I think our commission got
19 something wrong. They provided that — so the issue
20 is the QF is going to tender this form, say, "I'm
21 committed to sell you my power," wait for the PPA,
22 as I described. And the question is what are the
23 consequences to the QF if it doesn't sign the PPA
24 and just walks away? Said it was making a
25 commitment, but then says, "Just kidding, I'm not

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1 going through with this." And there do need to be
2 consequences.
3 What I think our commission got wrong in North
4 Carolina — and I'm not sure how it squared with
5 PURPA — is the form provides that, if the QF fails
6 to execute the contract in a timely fashion, it is,
7 effectively, barred from selling its output to the
8 utility for a period of two years. And I just
9 don't — that seems draconian and hard to
10 understand. What I've said — I've repeatedly said
11 in my negotiations with the utilities and in
12 various jurisdictions, what I do think has to
13 happen is you can't let the QF game the system.
14 And by that, I mean if the QF says, "I'm ready to
15 sell you my power at $50 a megawatt-hour," and then
16 it turns out that the power goes to $55 while
17 they're waiting to sell the contract, you don't
18 want to let them be able to walk away and then get
19 the $55 rate. So we have — I have been an advocate
20 for the idea that, if you fail to sign, for that
21 whole life that you are committing — a 10-year
22 period — you can't get a better rate than the one
23 you said, "I'm ready to sell to you at this
24 number." I think that's a fair resolution of the
25 issue.

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1 [Reference: Presentation Slide 29]
2 I want to turn to my next topic, which is
3 about competitive solicitation. So, Act 62
4 authorizes you — it's in 58-41-20(E)(2) — to
5 develop a competitive solicitation program for the
6 procurement of renewable energy.
7 The last time I was before you, we talked
8 about — I talked about — the merits of competitive
9 procurement programs, and I want to, at the risk of
10 repeating myself a little bit, I want to put this
11 whole issue in context. As you know, South
12 Carolina currently has a system of regulated
13 monopoly — a monopoly generation sector. So, under
14 this system, the generation's traditionally been
15 developed by the utility by seeking approval. They
16 decide what they think needs to be built. They
17 come before you and try to persuade you that that's
18 the correct thing and, if you agree, then they're
19 allowed to recover the cost of those resources
20 through cost-of-service ratemaking. There's
21 currently no economic or policy reason that
22 electric generation, which is not a natural
23 monopoly, should continue to be managed in that
24 outmoded fashion. And, of course, 14 states in the
25 country no longer do it that way. We've seen, with

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1 V.C. Summer, it can produce disastrous results; and
2 more generally, it prevents customers from
3 realizing the benefits of competition. But
4 dismantling the current system of regulated
5 monopolies is an extremely complicated task, and I
6 am not here to advocate for that. But as long as
7 we continue to have a system of monopoly-controlled
8 generation, some form of competitive pressure on
9 utilities is needed to protect ratepayer interests.
10 PURPA was enacted by Congress to provide
11 exactly that sort of competitive pressure, and I'm
12 certainly hopeful that your implementation of Act
13 62 is going to result in a really robust
14 development of renewable resources that keep
15 driving prices lower and lower. But an important
16 alternative or supplement to PURPA is that
17 utilities could be charged with procuring — meeting
18 their identified generation needs through a
19 competitive process of the sort that's been
20 authorized here, and that's exactly what we've done
21 in North Carolina. I want to just share some
22 experience with you of that.
23 So, we — I think I've previously shared with
24 you, and you probably know — in 2017, we passed a
25 landmark piece of energy legislation, not unlike

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1 this one, called House Bill 589. And it mandated
2 that our utilities procure 2660 megawatts of
3 renewable energy through a new competitive
4 solicitation program — we call it CPRE — overseen
5 by the Utilities Commission.
6 [Reference: Presentation Slide 30]
7 So I want to share a few lessons with you
8 about our progress, to date, with competitive
9 solicitation. We are now through the first tranche
10 of this program. So, under that, DEC procured 515
11 megawatts of renewables, I think all solar; DEP, 80
12 megawatts. And there really were a lot of lessons
13 that we learned and we are learning from those
14 lessons. So I mentioned the technical conference
15 that we just had in North Carolina a couple of
16 weeks ago. Our commission is very actively trying
17 to figure out how to do a better job of designing
18 Tranche 2, based on our experience in the first
19 round. And I think many of these lessons may be
20 relevant to you as you consider the possibility of
21 competitive procurement programs here.
22 So, I'm just going to walk through the issues
23 that you see there on the slide. A key threshold
24 question that you have to deal with, with these
25 programs, is whether to allow the utility to

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1 compete as a market participant. So, the utility's
2 the buyer, in a monopoly situation; all the power's
3 coming through them. But they have nonregulated
4 affiliates; they also have development activities
5 of their own. You have a question of are you going
6 to let them participate as, essentially, a seller
7 to themselves.
8 Our industry agreed to that in the North
9 Carolina legislation, but we had a lot of concerns
10 about it. And what House Bill 589 did was to limit
11 awards to the utilities to 30 percent of the total
12 amount, out of the concern that there could be —
13 the utilities could enjoy an unfair advantage in
14 the process.
15 But if you're going to allow the utilities to
16 participate as market participants, I think
17 everybody agrees, including the utilities, that the
18 first tranche in North Carolina was successful in
19 large part because it was administered by a truly
20 independent third-party administrator, and you see
21 this with a lot of these programs around the
22 country. So that's a critical element for you to
23 think about, but I'll tell you we had to work hard
24 to get that degree of independence and objectivity.
25 We had to fight to ensure that the independent

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1 administrator controlled the bid evaluation
2 process, the methodology, the final determinations
3 of winning bids, and to be sure that we had access
4 and the ability to comment on the guidelines, the
5 plan, the pro forma contracts. It all was — it was
6 a battle, but I think it had a good outcome.
7 Mr. Davis talked about how all this stuff —
8 all the moving parts here fit together. And
9 another aspect on the competitive solicitation
10 program is, if you introduce a new way of procuring
11 energy, you need to think about how it's going to
12 interface with your interconnection procedures, and
13 that was a very challenging issue in Tranche 1.
14 The utilities wanted to figure out a way that you
15 could basically take the successful bidders, the
16 winners, in the competitive process, and kind of
17 accelerate them through the interconnection
18 process. They came before you, here in South
19 Carolina, to ask for dispensation to do that,
20 because South Carolina projects were able to bid
21 into the North Carolina competitive process. It's
22 a complicated and potentially controversial issue
23 that I just want you to be aware of.
24 Another big issue, a really critical issue in
25 all this, when the utilities came to the North

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1 Carolina legislature and said, "We want to do
2 things differently," one of the big arguments that
3 they made was, "We have all these PURPA projects,
4 and PURPA only gives us limited abilities to
5 curtail the operation of these third-party
6 facilities, and we're used to running our own
7 system and we get to dispatch and curtail however
8 we want, whatever we think makes the most sense.
9 We'd like, basically, to be able to operate these
10 third-party units the same way we operate our own."
11 And the independent power sector was amenable to
12 that, but nobody builds infrastructure like this
13 unless you have certainty about your cash flow.
14 Certainly, the utilities never build infrastructure
15 if they don't know they're going to get cost
16 recovery, and the same is true in the independent
17 power sector. So everybody understood that, if you
18 were going to allow greater flexibility on
19 curtailment, you couldn't have that create
20 uncertainty for the developers with respect to
21 their revenues. And the commission took a shot at
22 how to do that in Tranche 1. I don't think they
23 got it right. They have it under consideration
24 now, and basically are looking at some options that
25 would involve more complete compensation for

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1 curtailment events.
2 I've already talked about power purchase
3 agreements. Just the same point is true here as
4 with PURPA. They need to be commercially
5 reasonable.
6 One last point in this area is there are a
7 variety of concerns, particularly when the utility
8 is a market participant, about sharing of
9 information. And our legislation required the
10 utilities to make information available to other
11 market participants about, for example, their
12 transmission system, areas that were most likely to
13 experience congestion and require network upgrades,
14 and the most advantageous points of
15 interconnection, so that you couldn't have the
16 utility competing with a lot of inside information
17 that no one else had access to. And that's gone
18 reasonably well. Still being looked at.
19 So I'm going to try to accelerate through this
20 last topic —
21 [Reference: Presentation Slide 31]
22 -- and this is the voluntary renewable energy
23 program under Act 62. So just, again, by way of
24 background, to explain this program if you're not
25 all familiar with it, I know you're all aware that

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there's a huge trend in America among corporate and institutional and industrial customers to procure green energy. A huge number of the Fortune 500 companies have made 100 percent clean-energy commitments. And what comes with that is, and it's important to economic development in this State, is they're not going to site new facilities, they're not going to invest in expanding facilities, if they've got one of their top corporate goals is green energy and you can't figure out a way to satisfy that goal. And the problem is, in a monopoly-utility state, where they can't purchase directly from the green energy provider, a corporate customer's energy profile, their energy footprint, is exactly that of the utility, because they're buying all their energy from the utility. So that may be 30 percent coal, 35 percent gas, 30 percent nuclear, and only 5 percent renewables. That doesn't cut it for these corporate customers.

But, there's a workaround, and that's the creation of this type of program. A very similar program is part of House Bill 589 in North Carolina. I'm sorry to say that our commission has taken almost two years to implement that program, and I hope y'all are going to — I'm confident y'all

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are going to do better. Because our customers there are still sitting on the sidelines waiting for something that they thought they got two years ago.

[Reference: Presentation Slide 32]

Now, I hope this is close to the most complicated slide that's ever presented to you, and I apologize for that. It is actually prepared by the Public Staff of the North Carolina Commission. But I just wanted you to have a little sense of how these programs work, and this essentially replicates what your legislation requires —

CHAIRMAN RANDALL: Before we get into this —

MR. STEVE LEVITAS [CYPRESS CREEK]: Yes, sir.

CHAIRMAN RANDALL: — complicated slide, Ms. Wheat's been talking for about two and a half hours now; we're going to need to take a little short break, and then we'll come back and wrap up, okay?

MR. STEVE LEVITAS [CYPRESS CREEK]: I don't have much more, but I'll —

CHAIRMAN RANDALL: Because we've got questions.

MR. STEVE LEVITAS [CYPRESS CREEK]: — be happy to take a break. I'll be quick when we get back.

CHAIRMAN RANDALL: Okay.

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1 **MR. STEVE LEVITAS [CYPRESS CREEK]**: Okay.
2 Thank you.
3 **CHAIRMAN RANDALL**: Great. We'll take five or
4 ten minutes, and then we'll finish up. Thank you.
5 [WHEREUPON, a recess was taken from 3:10
6 to 3:20 p.m., during which time a
7 complete version of Slide 20 was provided
8 to the Commissioners and Staff]
9 **CHAIRMAN RANDALL**: Please be seated. All
10 right. We'll continue. Thank you.
11 **MR. STEVE LEVITAS [CYPRESS CREEK]**: Thank you,
12 Mr. Chairman. I'm going to wrap this up in five
13 minutes or less.
14 I just want to say, on this slide and what
15 this illustrates, is that the way these programs
16 work is through a three-way relationship. So on
17 the left side of that pyramid, the customer, the
18 participating customer, is continuing to pay its
19 full retail bill. It also, where you see that
20 green line where it says — the full retail bill is
21 the middle green line, then you see "GSA product
22 charge"? That's where it's paying the utility for
23 the full cost of the PPA that's been put in place
24 on its behalf, so now it's paying twice.
25 So the key thing that you need to be aware of

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is — and this is provided for in your legislation — it pays both those charges, but then it gets a bill credit that comes back to the customer, and that's based on the utility's avoided cost. So in order for — the main thing these customers are trying to do is get green energy, but they'd also like to save money or at least not incur higher energy costs, and the way they do that is, if they can negotiate a PPA price that is lower than the avoided-cost rate, then the bill credit that they get back is more than what they're paying. So that's just a key concept to be aware of.

[Reference: Presentation Slide 33]

There are quite a lot of challenges that we've run into in North Carolina with this program. That's why it's taken two years to implement. I'm going to hit these very quickly, just a couple of issues.

[Reference: Presentation Slide 34]

I mentioned the program size. In North Carolina, our program was limited in size. Your General Assembly elected not to place a statutory limit and left that to you to decide the appropriate size of the program. I think you'll find a lot of appetite.

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1 [Reference: Presentation Slide 35]
2 Secondly, this is a little bit of a tricky
3 issue. This is the question of however big your
4 program is, how much can each customer have, how
5 much can they participate in, in the program. And
6 the Legislature, as you see here, specifically gave
7 you the authority to limit that but didn't tell you
8 what it should be. But I just want you to be aware
9 of the issue that we grapple with here.
10 In North Carolina, our program, by statute,
11 only allows the customer to participate up to 125
12 percent of its peak load. So if you have a
13 customer that's consuming 650,000 megawatt-hours
14 per year of energy, say, it's got a peak load of
15 100 megawatts, with that limit that means it can
16 have 125 — 25 percent over 100 — of a solar project
17 that it could bring into the program to supply it.
18 But if that 125 megawatt project only delivers —
19 you know, solar doesn't generate all the time; so
20 if it only generates 35 percent of the time, the
21 customer is now getting 400 megawatts — sorry — 400
22 megawatt-hours, or less than 60 percent of its
23 total, from the clean resource. And so you see the
24 problem that that creates for a Google or Apple or
25 Facebook who says, "We're doing 100 percent clean

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1 energy." Well, if you don't set the program cap
2 right, they simply can't get there.
3 Skip over this next one.
4 [Reference: Presentation Slides 36-37]
5 An issue that you'll — you've already — your
6 Legislature has addressed here, and it's been an
7 issue in North Carolina, is, again, and I mentioned
8 it in the competitive solicitation program, to what
9 extent can the utility be a renewable energy
10 supplier and compete with independent power
11 producers to serve customers under this program?
12 Your Legislature answered that question by allowing
13 utility affiliates, but not the utilities
14 themselves, to participate.
15 [Reference: Presentation Slide 38]
16 And the last issue I want to touch on is the
17 most controversial, so I'll just take a minute
18 longer with that. And this is the methodology for
19 calculating that bill credit that comes back to the
20 customer. I believe, under your legislation, it's
21 called a generation credit. And the Legislature
22 here has said essentially that it's based on the
23 avoided cost — that's the cost that the utility
24 avoids by being able to utilize the new renewable
25 energy facility that's coming on through the

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1 program. What caused so much disagreement in North
2 Carolina was whether — the length of time over
3 which the avoided cost should be calculated and
4 whether they should be fixed or variable. And all
5 the prospective customers — virtually all of them —
6 argued for long-term fixed bill credits over the
7 life of the agreement, and they argued that they
8 needed certainty because, if they didn't have that,
9 they couldn't know whether what they were signing
10 up for was a good deal or a bad deal.
11 The commission ultimately — a divided
12 commission; it's one of the few decisions since
13 I've been working in front of the North Carolina
14 Commission where there was a dissent. It was a
15 divided commission, but ultimately approved two
16 options: a variable bill credit linked to market
17 prices, and a fixed five-year credit. So what that
18 means is that, if a customer in this program signs
19 up for a 10-year contract or a 20-year contract — I
20 was with a customer yesterday; they said, "We want
21 a 30-year contract." Well, North Carolina law
22 doesn't allow for it. But these customers want to
23 make long-term commitments, but if they don't know
24 what their bill credit is, they have no way of
25 knowing what their costs are going to be after the

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1 initial bill credit expires.
2 So there's been a lot of prediction that there
3 won't be full subscription of the North Carolina
4 program because of this problem with the bill
5 credit. We'll see how that goes in the coming
6 months; and if it doesn't work out, I'm sure the
7 commission and the legislature will revisit it.
8 So I appreciate your attention. I'm sorry to
9 run a little long, there. That's the end of my
10 prepared presentation, and we'd love to take your
11 questions.
12 **CHAIRMAN RANDALL**: Thank you. There's lots of
13 information. We've been working on Act 62 for a
14 couple of weeks now, since we've gotten into it, so
15 we appreciate all of you being here today.
16 Commissioners, any questions? Commissioner
17 Williams.
18 **VICE CHAIRMAN WILLIAMS**: Thank you, Mr.
19 Chairman. Just a few questions.
20 Gentlemen, thank you for being here today.
21 Mr. Sowers, you mentioned that diversity was an
22 important issue for your group. I was wondering
23 what measures have you implemented to address
24 diversity issues?
25 **MR. BRET SOWERS [SOUTHERN CURRENT/SC-SBA]**:

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Sure. So, most of us — we have a national organization called SEIA, is the acronym. Solar Energy Industries Association. We also work with another nonprofit organization called the Solar Foundation where, for the last five years, we've been monitoring this and supplying data to them to help us understand what is the diversity. I mean, over 150,000 workers. Who are those workers? And what are community colleges doing?

So I actually think Steve's company, Cypress Creek Renewables, made a donation I believe to Greenville Technical College, that was stinted towards helping its diversity in its workforce as we're coming into the State, and making sure we're training folks to come in, and have an eye towards making sure we're representing the American populace and that we're not, you know, being ignorant to an engineering stint, or otherwise. We have to reach out. We've had this issue in the General Assembly, as well, Commissioner, where we're not doing a good enough job seeking out a diverse workforce. It's a friend or family of an existing worker, and that's typically how us smaller companies have grown. Now that we're, at Southern Current, 130 employees, you know, we have

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1 an HR person for the first time, and these are
2 things that we're starting to monitor.
3 As an industry, you know, we're relying
4 heavily on our national organizations to help drive
5 us in that direction. We're small businesses, and
6 we struggle with employees generally on how to
7 retain and attract. So I hope that's providing
8 some color. And it's a recently, I would say, new
9 objective or priority in this past, really, two
10 years for the industry.
11 **VICE CHAIRMAN WILLIAMS**: Thank you, Mr.
12 Sowers. And I want to be clear, I'm not here to
13 make any judgments as to where you are on the
14 diversity issue. Just curious, since you brought
15 it up. I'm wondering, does your company track
16 employee demographics?
17 **MR. BRET SOWERS [SOUTHERN CURRENT/SC-SBA]**: We
18 are starting to now, I think as of three months
19 ago.
20 **VICE CHAIRMAN WILLIAMS**: Okay, sounds good.
21 Thank you for sharing that information with the
22 Commission today.
23 Moving right along, Mr. Davis, you said you
24 spent the last 365 days working on this
25 legislation. Is that right?

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MR. HAMILTON DAVIS [SOUTHERN CURRENT]: It is. The conversation really began in earnest last summer when ORS put the Act 236 2.0 stakeholder process in place, and so that was when we started getting into a lot of these details. And then, of course, once the legislative session started in January, it was pretty nonstop until the bill actually passed.

VICE CHAIRMAN WILLIAMS: Understood. Well, congratulations. There seems to be a lot of excitement around this legislation. I just have a couple of questions for you. Considering your experience and the time you spent with the law, do you see any potential pitfalls that we're not seeing right now due to all the excitement?

MR. HAMILTON DAVIS [SOUTHERN CURRENT]: In terms of drawbacks, like unintended consequences, or —

VICE CHAIRMAN WILLIAMS: Yes, sir.

MR. HAMILTON DAVIS [SOUTHERN CURRENT]: I mean, I think the biggest risk is that, because it's complicated and because it's so new for this Commission and a lot of the parties involved, that we don't take the time on the front end to think about what exactly is the — you know, procedural

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1 process for this is very important, and so that we
2 get a good product. And it's — you know, I
3 mentioned the technical conferences as an
4 opportunity to have everybody in the room thinking
5 through implementation at the same time, so that
6 that is a — I think if we don't stop to breathe and
7 understand it well, then we may walk down an
8 implementation path that either gets us status quo
9 or, you know, I don't know what those unintended
10 consequences could be. But certainly, just due to
11 the complication of it, if we don't implement it
12 correctly, then I'm sure there will be some.
13 **VICE CHAIRMAN WILLIAMS**: Thank you. I
14 appreciate you sharing that. One final question
15 for me. I understand, as a general economic
16 principle, that competition in the market usually
17 provides better prices for customers. How would a
18 ratepayer, who is not interested in purchasing
19 solar panels or participating in any type of solar
20 program, but just comfortable with the status quo —
21 they just want the lights to come on when they flip
22 the switch — what benefit would they receive from
23 this new law?
24 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: So, I
25 mean, I think, again, from a competition

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1 standpoint, if we are sending accurate price
2 signals to the marketplace, then you've got a
3 series of players — you've got solar developers,
4 you've got folks in the energy efficiency world,
5 and then, of course, you have utilities that are
6 all fighting for that market share. And as they're
7 competing, you're driving those: Who can do that
8 the cheapest? Who can provide the lowest-cost
9 kilowatt-hour? And the consumer is going to be the
10 beneficiary of that. So, I mean, I think it is, to
11 a large extent, just that competitive environment
12 and that consumer choice environment, so that we
13 actually understand what customers want and then
14 you send the market signals and let the developers,
15 utilities, and others compete to provide those
16 services.
17 I mean, as you know, the legislation does
18 speak directly to things like community solar, and
19 we'll be having an updated net metering discussion,
20 and solar leasing, so there's opportunities for
21 folks to directly benefit, But I think, given the
22 trends in the clean-energy world where you see
23 declining price curves and the ability to hedge
24 against things like fuel uncertainty related to
25 natural gas, and you create a competitive platform

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for folks to go compete it out, you get lower cost at the end of the day, and we've seen that in the deregulated markets to a large extent, as well.

VICE CHAIRMAN WILLIAMS: So is your testimony — just to clarify — your testimony that, if we get this right, if we implement this new law correctly, it will drive down the cost of energy in South Carolina?

MR. HAMILTON DAVIS [SOUTHERN CURRENT]: As compared to what it would otherwise be. And in general — in the short term, I think it will drive cost down. In the longer term, it's hard to know, you know, where these trends head. But in a competitive environment, you're going to have lower costs than you otherwise would.

VICE CHAIRMAN WILLIAMS: Thank you for sharing.

MR. STEVE LEVITAS [CYPRESS CREEK]: If I might follow up on that, with respect to PURPA, as opposed to some of these other programs, it may not be immediately obvious how the competitive pressure in PURPA works — I just want to take a minute and explain that — because the PURPA mandate is that the utility buy power from an independent power producer, a QF, if the QF can meet its price.

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1 So you buy at the price that the utility would
2 otherwise incur, and you might say, "Well, where's
3 the cost savings? You know, you're just shifting
4 from one source to another." But the answer to
5 that is, these utilities badly want to hold market
6 share. They don't want QFs coming in and taking
7 their business away because they can meet their
8 price. So what do they do? They need to innovate.
9 They need to drive their price down. If they drive
10 their price — you create competition that doesn't
11 otherwise exist in a noncompetitive market because,
12 in order for the utility to hold market share, it's
13 got to figure out how it can do a better job than
14 the QF and figure out how to generate and deliver
15 energy at a cost that the QF can't match. That's
16 where the competitive pressure comes from under
17 PURPA.
18 **VICE CHAIRMAN WILLIAMS**: And you've peaked my
19 interest, sir. So, in that scenario, if the
20 utility were to do that, would it put the QF out of
21 the business? If the utility committed to
22 innovation in a way where its price was lower than
23 the QF and the QF determines, "This is not — it's
24 not economical for us to be in this business
25 anymore," what happens to all the infrastructure?

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1 **MR. STEVE LEVITAS [CYPRESS CREEK]**: Well, so,
2 as with the utilities, what's in the ground, the
3 existing contracts are contracted to sell at a
4 certain price, so we wouldn't be talking about
5 those. But if the utility could figure out how to
6 generate energy cheaper than we can, then
7 eventually you're not going to see QFs being able
8 to — they will have succeeded in the competitive
9 arena, as opposed to just having everything locked
10 up. And, you know, until relatively recently, the
11 last decade or so, renewables couldn't compete in
12 this market. They couldn't compete under PURPA,
13 and no solar was built. And then what happened is
14 a lot of innovative people went out and figured out
15 how to drive the cost of solar down to the point
16 where they could compete. So that creates exactly
17 what you want to see in a competitive market, which
18 is the utilities have to go and try to invent a
19 better mousetrap. And if they do that, then we've
20 got to do the same thing and try to do it even
21 better, so that we can take the business. So I
22 think that's how the American economy is supposed
23 to work.
24 **MR. BRET SOWERS [SOUTHERN CURRENT/SC-SBA]**:
25 Commissioner, if I could, I think, as I've watched

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1 and been intimately involved, of course, in the
2 energy conversation in South Carolina, risk is a
3 huge benefactor. With price all the same, as we
4 saw with V.C. Summer, who bears the cost? And so,
5 from an independent power perspective, the
6 developer bears the cost. We put at-risk capital
7 into the market to develop, finance, permit, go
8 through all of the due diligence hurdles that a
9 utility would, as well, only we're not under a
10 cost-of-service business model.
11 So, you know, we make money on energy sold,
12 not on plants built. So it's a much different
13 business model and so, as a consumer, even if price
14 is the same, which is the least-risk kilowatt-hour
15 coming to you, and long-term maintenance — who
16 bears that? So the business models are completely
17 different.
18 Even if I were to go build a new natural gas
19 plant as adverse to a cost-of-service utility-built
20 natural gas plant, I'm developing that at my own
21 risk capital and not the ratepayers'. The O&M
22 costs are borne by the developer and the owner of
23 that plant. And so the ratepayer is not having to
24 pay that. And in the case of V.C. Summer, if
25 something doesn't get built or becomes

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1 uneconomical, back to one of the slides we had
2 earlier of the uneconomical coal plants, who's
3 paying for that? And it's not always a direct who-
4 can-deliver-the-lowest-kilowatt-hour; it's also who
5 can deliver the lowest kilowatt-hour with the least
6 amount of risk to the ratepayer.
7 **VICE CHAIRMAN WILLIAMS**: Thank you, gentlemen.
8 I really appreciate your commentary. And I guess
9 it's fair to say: May the Hunger Games begin.
10 [Laughter]
11 **MR. STEVE LEVITAS [CYPRESS CREEK]**: Thank you.
12 **CHAIRMAN RANDALL**: Thank you.
13 Commissioners. Commissioner Whitfield.
14 **COMMISSIONER WHITFIELD**: Mr. Chairman, thank
15 you.
16 I have one question for you, and hopefully you
17 can answer it shortly, in a short and succinct
18 manner, but it's kind of complicated. Following up
19 where Commissioner Williams was going, and to be
20 real specific to South Carolina — I guess, Mr.
21 Davis, it might be directed at you, although Mr.
22 Levitas, you talked a lot about North Carolina —
23 specifically the Section 58-41-20(D), where you
24 talked about — you and Mr. Levitas talk about
25 implementing, or a quasi-contract or executed

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1 notice of commitment to sell to the utility, under
2 PURPA, and within six months, they're required to
3 execute a PPA, a purchased-power agreement. Is
4 that the way it works in North Carolina and is that
5 the way — how do you envision that working here in
6 South Carolina? And to go a little further, to
7 Commissioner Williams, what he said, what if the
8 utility has innovated in that time, and the QF is
9 now not the least-cost? I mean, how do you think
10 58-41-20(D) is — how did it work in North Carolina
11 and what do you envision here?
12 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: Yeah,
13 Steve, why don't you — you're much more familiar
14 with the North Carolina environment.
15 **MR. STEVE LEVITAS [CYPRESS CREEK]**: Thank you
16 for the question. As I mentioned, the North
17 Carolina commitment-to-sell form does require that
18 the PPA be executed in six months. But your
19 Legislature left it to you to decide what an
20 appropriate reasonable time is. The six months is
21 not in the statute; it says you'll provide that it
22 be executed in a reasonable period of time.
23 You have — a fundamental concept with the LEO
24 is the notion that a QF has got to be able to lock
25 in rates at some point, in order to do all of its

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development planning. Just like the utilities do. When the utilities go to build something, there's a point in time they come before you, they need to know that they're going to be able to recover the costs that they present to you. And things are going to change over time. So the whole idea of the LEO is to lock in a price for a reasonable period of time, knowing that the prices could go up, prices could go down. And FERC has said that's going to even out.

So to answer your question, yeah, there could be a scenario where the price has been locked in — just as after you've executed a contract. You execute a 10-year contract, and who knows what happens in year eight. It could've been a great deal; it could've been a bad deal. But that's just the nature of the infrastructure business, that you make the best judgment that you can at the time, based on the information that's in front of you.

So, yes, that's why the six months — I think the North Carolina Commission thought that was a reasonable period, and if you can't get your contract executed in that period of time, then you need to form a new LEO and start over.

COMMISSIONER WHITFIELD: Thank you.

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1 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: Just
2 to quickly follow up on that, I mean, I think
3 that's — you know, that type of concern is what the
4 statute envisions and why the level of transparency
5 and accountability that goes into things like
6 setting avoided-cost rates, updating integrated
7 resource plans, is that we want to be operating
8 from the best information possible. So yes, things
9 change. But, you know, at any given moment in time
10 in South Carolina we want to have a price signal
11 that's as close to accurate as you can be, given
12 the uncertainties that we all operate with.
13 **COMMISSIONER WHITFIELD**: Mr. Davis, I'm going
14 to put you on the spot. What's your opinion of a
15 reasonable period of time? Six months like North
16 Carolina? Or what do you —
17 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: That's
18 not my responsibility in the company, but my
19 understanding is —
20 **COMMISSIONER WHITFIELD**: Right.
21 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: — the
22 North Carolina model is something that has
23 essentially worked from the timing perspective.
24 **MR. STEVE LEVITAS [CYPRESS CREEK]**: [Nodding
25 head.]

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1 **COMMISSIONER WHITFIELD**: Thank you.
2 That's all I have, Mr. Chairman.
3 **CHAIRMAN RANDALL**: Thank you.
4 Commissioner Ervin.
5 **COMMISSIONER ERVIN**: Thank you for being with
6 us today. It's been very informative and I
7 appreciate your attendance.
8 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**:
9 Hopefully not too informative.
10 [Laughter]
11 **COMMISSIONER ERVIN**: Tell me about — what is a
12 community solar program? What exactly does that
13 entail?
14 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: It's
15 essentially an option that a customer, whether it's
16 a church or a school or a resident of South
17 Carolina that can't put solar on their premises for
18 some reason, whether they don't have the roof for
19 it or they don't like the way it looks — it's an
20 opportunity for them to invest in this resource and
21 presumably achieve some sort of savings. I mean,
22 ideally, you want these programs designed in a way
23 that a customer has access and the same types of
24 benefits that maybe would accrue if they put solar
25 on their rooftop, but basically tap into the

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1 economic advantages of the technology.
2 There are a number of different models for
3 that. The C&I program's model actually is one that
4 could work for the community solar approach, and I
5 expect that folks will be bringing different ideas
6 to the table as we get into those dockets.
7 **COMMISSIONER ERVIN**: How has North Carolina
8 developed that out?
9 **MR. HAMILTON DAVIS [SOUTHERN CURRENT]**: I
10 don't think that North Carolina — I don't think
11 North Carolina has struck a successful model.
12 South Carolina — Duke and SCE&G both have had
13 successful programs in South Carolina that I
14 believe are fully subscribed now, but they were
15 successful in that window of time after Act 236 was
16 passed.
17 **MR. STEVE LEVITAS [CYPRESS CREEK]**: And I
18 would just add to that, Commissioner Ervin, that
19 the legislation in North Carolina provided for a 40
20 megawatt pilot community program with very little
21 statutory meat on the bones, and I think most of
22 the industry said 40 megawatts is not worth messing
23 with. There have been a lot of successful
24 community solar programs around the country, in
25 Minnesota, and Colorado, I think, Oregon, Illinois,

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in the Northeast. So there are a lot of models to choose from.

COMMISSIONER ERVIN: In terms of promulgating forms as required by the new law, do you think that a good starting point would be the North Carolina forms that are already — you're familiar with? I mean, is that a good starting point?

MR. STEVE LEVITAS [CYPRESS CREEK]: I think so. I think they're generally good forms. I mentioned a couple of things that we've had problems with. And I don't know that you need to reinvent the wheel. Frankly, in case of Duke, which does business in both states, they've already been using those forms to some extent in South Carolina. So I've done a lot of work on those over the years; there's a lot of good there, just some things that I think could use some tweaking.

COMMISSIONER ERVIN: Thank you.

CHAIRMAN RANDALL: Thank you.

Commissioners, anything else?

[No response]

Okay. Gentlemen, thank you very much for being here.

Mr. Whitt, thank you. Have you got anything?

MR. WHITT: I just want to conclude by saying

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1 thank you to you and the members of the Commission.
2 Thank you for your questions and your time. We
3 appreciate it.
4 **CHAIRMAN RANDALL**: Great. Thank you. That
5 was very informative, a lot of — we're getting a
6 little bit of — with this new legislation and with
7 all it entails, there's a little bit of information
8 overload at times, and we're dealing with it and
9 working hard on it. So, thank you very much. This
10 was very informative and very helpful, this
11 afternoon, so thank you.
12 **MR. STEVE LEVITAS [CYPRESS CREEK]**: And you
13 may not realize it, but someday you're going to be
14 glad you have that slide.
15 [Laughter]
16 **CHAIRMAN RANDALL**: There you go. I'm glad. I
17 got it, and I put it in the right place, too.
18 Thank you, very much. We are adjourned.
19 [WHEREUPON, at 3:45 p.m., the proceedings
20 in the above-entitled matter were
21 adjourned.]
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C E R T I F I C A T E

I, Jo Elizabeth M. Wheat, CVR-CM-GNSC, Notary Public in and for the State of South Carolina, do hereby certify that the foregoing is, to the best of my skill and ability, a true and correct transcript of all the proceedings had regarding a requested allowable ex parte briefing in the above-captioned matter before the PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA;

IN WITNESS WHEREOF, I have hereunto set my hand and seal, on this the 14th day of June, 2019.

Jo Elizabeth M. Wheat, CVR-CM/M-GNSC
Hearings Reporter, PSC/SC
My Commission Expires: January 27, 2021.