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**BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**

**COLUMBIA, SOUTH CAROLINA**

**PROCEEDING #18-11705 JANUARY 31, 2018 10:30 A.M.**

**ALLOWABLE EX PARTE BRIEFING – ND-2017-30-EG**

**EnerNOC, INCORPORATED —** Request for an Allowable Ex Parte Briefing Regarding Modernizing Procurement in South Carolina Electric and Gas Utilities

**TRANSCRIPT OF PROCEEDINGS** **EX PARTE BRIEFING**
**VOLUME 1 OF 1**

**COMMISSION MEMBERS PRESENT:** Swain E. WHITFIELD, *Chairman*; Comer H. 'Randy' RANDALL, *Vice Chairman*; and COMMISSIONERS John E. 'Butch' HOWARD, Elliott F. ELAM, Jr., Elizabeth B. 'Lib' FLEMING, Robert T. 'Bob' BOCKMAN, and G. O'Neal HAMILTON

ADVISOR TO COMMISSION: Joseph Melchers, Esq.
General Counsel

**STAFF:** James Spearman, Ph.D., Executive Assistant to Commissioners; B. Randall Dong, Esq., and Josh Minges, Esq., Legal Staff; Thomas Ellison and John Powers, Technical Advisory Staff; Jo Elizabeth M. Wheat, CVR-CM/M-GNSC, Court Reporter; and Afton Ellison, Hope Adams, and Deborah Easterling, Hearing Room Assistants

**APPEARANCES:**

***ALEXANDER HOUGHTALING [Director, Wholesale & Government Procurement - EnerNOC]*** and ***RAPHAEL HERZ [Manager, Wholesale Procurement Sales - EnerNOC]***, presenting for **ENERNOC, INC.**

***ANDREW M. BATEMAN, ESQUIRE,*** representing the **SOUTH CAROLINA OFFICE OF REGULATORY STAFF**

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Note: For identification of any additional referenced materials and/or links for same, please see correspondence to be filed by the Office of Regulatory Staff.

Please note the following inclusions/attachments to the record:

- PowerPoint Presentation Slide (PDF)
- A World Bank Study: *Electricity Auctions*

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1 P R O C E E D I N G S
2 **CHAIRMAN WHITFIELD**: Please be seated. I'll
3 call the allowable ex parte briefing to order and
4 ask our attorney, Mr. Melchers, to read the docket.
5 **MR. MELCHERS**: Thank you, Mr. Chairman.
6 Commissioners, we're here pursuant to a Notice
7 of Request for Allowable Ex Parte Briefing
8 scheduled for today, here in the Commission's
9 hearing room, January 31, at 10:30. The entity
10 requesting the briefing is EnerNOC and the subject
11 matter to be discussed at this briefing is:
12 Modernizing Procurement for Electric and Gas
13 Utilities.
14 Thank you, Mr. Chairman.
15 **CHAIRMAN WHITFIELD**: Thank you, Mr. Melchers.
16 I'll now call on the Office of Regulatory
17 Staff, Mr. Bateman, for any instructions or
18 anything regarding this allowable ex parte
19 briefing.
20 **MR. BATEMAN**: Yes, sir. Good morning, Mr.
21 Chairman, members of the Commission. My name is
22 Andrew Bateman and I'm a staff attorney for the
23 South Carolina Office of Regulatory Staff. I've
24 been selected as the designee to certify today's
25 allowable ex parte briefing that it takes place in

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1 accordance with South Carolina Code 58-3-260(C)(6).
2 That statute sets forth certain parameters and
3 rules under which this briefing must take place,
4 and if you will indulge me, I'm going to go over a
5 few of those.
6 First, EnerNOC, Inc., requested this allowable
7 ex parte communication pursuant to South Carolina
8 Code 58-3-260(C). This presentation is limited
9 solely to information Noticed by the company, which
10 was "Modernizing Procurement for Electric and Gas
11 Utilities." I, therefore, ask that everyone here
12 please refrain from discussing any matters not
13 related to that Notice.
14 Secondly, the statute prohibits any
15 participants, Commissioners, or Commission Staff
16 from requesting or giving any commitment,
17 predetermination, or prediction regarding any
18 action by any Commissioner as to any ultimate or
19 penultimate issue which either is or is likely to
20 come before the Commission.
21 Next, if I've counted my days correctly, a
22 transcript of today's proceedings will be posted on
23 the Commission's website by the end of the day next
24 Tuesday. Any document referenced or utilized today
25 should be included with that posting.

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1 Fourth, I ask that the participants,
2 Commissioners, and Staff refrain from referencing
3 any reports, article, statutes, or documents of any
4 kind that are not included in today's presentation,
5 to prevent the need of having to try to track down
6 copies or links to those documents to include in
7 the record. I would also note that none of the
8 information contained in the presentation appears
9 to have been marked or requested to be granted
10 confidentiality, and I ask that the presenters
11 please refrain from referencing or discussing any
12 confidential materials. This is a public briefing.
13 And I ask that everyone please understand, if the
14 presenters decline to provide such information to
15 the questions here today.
16 As a final note, please make sure to read,
17 sign, and return the form which you saw at the door
18 as you entered here today. This form needs to be
19 signed by each attendee to certify the requirements
20 contained in South Carolina Code Annotated Section
21 58-3-260(C) have been complied with for the
22 presentation today.
23 Thank you for your time, Mr. Chairman. This
24 concludes my opening remarks.
25 **CHAIRMAN WHITFIELD**: Thank you, Mr. Bateman.

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I'll now turn it over to the parties, to EnerNOC, and if you would introduce yourselves, and — I don't see any counsel here for you, so if you would, whoever is the lead person, take over and go in the order you'd like.

**MR. HOUGHTALING [EnerNOC]**: Great. Thank you, Mr. Chairman. And thank you, Commissioners, for having us here today. We look very much forward to having this conversation.

[Reference: Presentation Cover Page]

My name is Alex Houghtaling. I work for the company, EnerNOC, and I'm joined by my colleague, Raphael Herz. And both of us have spent a lot of time over the past several years meeting with our partners in utility companies across the United States, and I'm sure, as all of you know, utilities are some of the most technically advanced organizations in the country and, yet, we find, despite that, it's often the case that many utilities tend to procure their electricity and gas in ways that haven't taken advantage of modern developments. So we contend that the ability to introduce a higher level of transparency and accountability helps utilities, and creating a market will foster more competition to help secure

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1 lower rates for ratepayers.
2 So what we're looking forward to today is
3 sharing with you some of what we present to those
4 utilities and, hopefully, engender a conversation
5 where we can talk about how we feel our methods and
6 our technology can help secure lower rates for
7 ratepayers.
8 [Reference: Presentation Slide 1]
9 So we can jump right into the presentation.
10 So, what we'd like to cover today, first, is what
11 I'm sure you're all familiar with, the importance
12 of procurement. We want to talk specifically about
13 a few procurement methods that we see frequently,
14 talk about some of the best practices that we find,
15 and do a little comparison of procurement methods
16 that are common, talk about our specific technology
17 and process with respect to alt-auction methods,
18 and then overall just touch on the benefits. We
19 appreciate how busy the Commission is, and we will
20 do our best to make our remarks concise, but we
21 think and hope that what we have to offer will be
22 interesting to the panel.
23 [Reference: Presentation Slide 2]
24 **MR. RAPHAEL HERZ [EnerNOC]**: So, good morning.
25 Raphael Herz, here. And as you, with Alex's kind

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1 remarks and your time, what we recognize is that
2 procurement is important. It's vitally important.
3 And as Alex said, maybe because it seems
4 conventional, it doesn't receive enough attention.
5 It's important because a lot of money is
6 transacted. It's important because, if you get it
7 wrong, the ratepayers end up with a burden,
8 collectively, of paying a lot more, and vitally
9 important because, in today's utility era — and we
10 see this at every utility we speak with — in
11 today's era, the rapid landscape transformation,
12 changes in technology and the energy landscape are
13 being blasted at utilities at sort of a hyperspace
14 speed, and the result is that the tendency is to
15 make these long-term decisions look risky, and so
16 we feel that procurement is vitally important
17 because it allows for prudent shorter-term
18 decisions while that landscape continues to evolve.
19 So it's important.
20 So, why does that matter, and why would we
21 have to have a discussion about it? In short, the
22 space of utility commodity procurement has also
23 changed dramatically over the last decade,
24 harnessing the power of computing, the internet, in
25 the digital age. And we see that, certainly, on

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1 the supplier side and less so on the utility side.
2 But before I go into that, I have to provide a
3 bit of context so that you, the Commissioners,
4 understand where we are suggesting change. And
5 that context is going to take a few minutes, so I
6 kindly ask for some of your time as I go through
7 this.
8 [Reference: Presentation Slide 3]
9 This slide here outlines typical utility
10 transition types. Utilities buy a vast amount of
11 things, some of which has to go through scrutiny of
12 the Commission and boards, like yours. And I list
13 some of them. This is probably the 80 percent
14 list; it's not 100 percent. And if you look at
15 these transaction types, what you'll see is that,
16 in the long-term asset ownership, the stuff at the
17 top, allows the utility to deal with more
18 uncertainties by getting into long-term supply
19 contracts, such as a PPA for unit-specific power
20 from a power plant. And that makes sense. And
21 those transactions you'll frequently have in front
22 of you, getting your attention.
23 It's the stuff that's boxed here in the red
24 [indicating] and the daily spot-market type of
25 purchasing that I submit you see much less of,

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1 okay? And these transactions are also vitally
2 important. Okay?
3 That leads me to another point. Utilities
4 have many tools at their disposal, and certain
5 tools are better suited for certain types of
6 procurements. So at the top, these long-term
7 decisions and procurements, are better suited for
8 certain types of tools. It's like this: If you
9 open up your kitchen drawer, when you need to scoop
10 up something, you're not going to grab the knife,
11 okay? So certain tools for certain applications.
12 And we're here to share with you what others are
13 doing and how they're looking at these tools. And
14 for this area of procurement, we submit what we're
15 going to talk about in that red space [indicating]
16 gives a utility operational and business
17 flexibility in that rapidly evolving landscape.
18 And that area is often overlooked for
19 modernization. I'll submit to you, if utilities
20 harness the power of the well-documented benefits
21 of modernizing this area of procurement, utilities
22 will be better able to manage risk, be more
23 efficient, and the ratepayers over time — and even
24 in the very near term — customers of the utilities
25 will be rewarded from the benefits of optimal

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1 procurement.
2 [Reference: Presentation Slide 4]
3 So we're going to take a moment here and look
4 at the evolution of procurement methods, okay, and
5 let me walk you through a little bit of it as we
6 have seen in other states and markets. So, long
7 time ago when utilities started buying power and
8 natural gas, it was done by what I would consider
9 standard bidding process, where the buyer would
10 request pricing for a particular product and the
11 seller would request — would provide the cost of
12 that product. That's what we're seeing over here
13 on the left side, the sealed-bid method. The buyer
14 would compare the prices and make a judgment as to
15 which entity was the right one to go with.
16 On a technology side, this started out with
17 letter, and then phone calls — for commodities —
18 and then faxes, and e-mails with spreadsheets, and
19 now instant messaging. And utilities in America
20 still request bids by e-mail and instant messaging,
21 because the system works and they know the
22 commissions approve. And that's important.
23 Now, in various markets — if you look at the
24 middle box there — over the last couple of decades,
25 we've seen adoption of what we call descending

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1 clock auction. I'm just going to walk through
2 this, so you can be aware of this type of
3 procurement.
4 It's particularly useful if the value of what
5 is being auctioned, the thing being bought or sold,
6 is not readily known, and the buyer wants to make
7 sure there's supplier diversity among the
8 counterparties and that everybody gets the same
9 price. This procurement style was adopted from the
10 wireless space, right, like when the FCC would
11 auction particular bands of spectrum in a
12 geographic market. Let me give you an example:
13 Before everybody had a cell phone, we might be
14 going out to cell phone service providers and say,
15 "Who wants to bid on the Columbia metro market?"
16 And since we don't know who's going to buy a cell
17 phone in the future, maybe that market is worth
18 $100 million or maybe it's worth $5 million. And
19 so we make sure — to make sure the person who bids
20 that $100 million doesn't vastly overpay, the
21 descending clock option was run, and all the
22 service providers received the same price for their
23 portion of the market. And the challenge with this
24 is that the bidding stops once the least
25 competitive supplier drops out. The mechanics of

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1 it: You go back to the price where the least
2 competitive supplier can participate, and those who
3 are more competitive are enjoying the benefits of
4 receiving the payment that exceeds their lowest
5 cost to provide that service. So, descending clock
6 make sense in certain types of procurement. The
7 federal government uses them to auction land rights
8 in the Atlantic Ocean for offshore leasing. And
9 since we don't really know how much it costs to
10 install and maintain and operate a wind turbine out
11 in the Atlantic, it makes sense out there.
12 But with the advancements of technology, we
13 see the use of a historic auction method being
14 implemented online, and that's in that final box on
15 the right. The online reverse auction. I'm sure
16 that you're familiar with an example of this in
17 your day-to-day life. It's live-streaming so that
18 everybody participates at the same time against a
19 running clock. And, we contend, for commodities,
20 in which we all can easily determine what the price
21 is, just as if you were to buy shares of Amazon or
22 Apple in an online brokerage account, for
23 commodities we contend that the reverse online
24 auction is the most efficient, most transparent,
25 and results in, over time, consistently the best

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1 rate for ratepayers.
2 I'm going to go into further detail on this in
3 a minute, but let me just say these procurement
4 methods have been tested, used, and are still being
5 implemented. They're tools in the toolbox.
6 There's times when one makes sense and the other
7 one doesn't.
8 So, why should you, as a commission, care?
9 Let me provide a little bit of additional context.
10 [Reference: Presentation Slide 5]
11 All right. So we're going to look through at
12 some of the symptoms that we see in imperfect
13 procurements, when things go wrong, okay?
14 No one bidding. That's a pretty big one right
15 there. I'm going to skip to the next one: data
16 integrity. Utilities need their data to be secure
17 and suppliers need their data to be secure, and
18 when things don't go as expected, either on the IT
19 side or in other places with the human error,
20 that's a problem.
21 Let me explain bidder fatigue. In a
22 descending clock auction, for example, with the
23 federal government auctioning off leasing rights on
24 the Atlantic shore, the process took two days.
25 Okay? The folks on the other side, the suppliers,

they are definitely experiencing fatigue, because they've got to wait for all these cycles to go through to find out what that lowest prices is, and you have people dropping out because it's simply not worth it to wait that long.

So in a sealed-bid environment, there's little opportunity for a supplier to see what others are bidding and to change their price, and that's the bottom bullet right there. If you, as a supplier, can't figure out what others are bidding, you can't make a business decision, "Do I want to adjust my price to earn this other party's business?"

Alex, you want to add?

**MR. HOUGHTALING [EnerNOC]**: Sure. Thanks, Raphael.

The only thing I would add on this is that I've really enjoyed my time learning about auction theory. And some of it remains theoretical in the sense that some auctions are better matched for certain types of products than others, as Raphael shared. What I've been impressed with is how humble and tactical some of the elements that make for a successful auction are, and some of them are listed here. In particular, something like bidder fatigue. It seems like something that really



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1 shouldn't be an issue, but, ultimately, how
2 auctions are actually deployed and how the process
3 actually works has a big impact on the overall
4 results. So, one of the things that we found over
5 the years is that the details do matter, and that
6 our ability to not just provide a technological
7 solution to help increase the level of transparency
8 for bidders, to drive that competition, but also,
9 as I mentioned earlier, bringing forth a method
10 that makes it easier for people to participate in
11 these auctions, I contend, increases that level of
12 competition and the overall benefit. But these are
13 just, I think, some interesting things that we've
14 seen over the years, that are real and make for
15 potentially a better process, moving forward, with
16 reverse online auctions.
17 **MR. RAPHAEL HERZ [EnerNOC]**: Commissioners, we
18 didn't walk through all those bullets. Do you have
19 any questions about anything that you see up here?
20 Or should we proceed? Proceed? Go ahead.
21 **CHAIRMAN WHITFIELD**: I think we're going to
22 hold questions until the end, and we can come back
23 to this slide if we need to.
24 **MR. RAPHAEL HERZ [EnerNOC]**: Absolutely.
25 Thank you, so much.

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1 **CHAIRMAN WHITFIELD**: But we'll make a note, if
2 anybody has a question about this slide and come
3 back later.
4 **MR. RAPHAEL HERZ [EnerNOC]**: All right.
5 Great.
6 [Reference: Presentation Slide 6]
7 So, on the flipside, you know, what makes for
8 optimized procurements? And so maybe that old-
9 fashioned mechanism of sealed bid, even though it's
10 been modified for text messages and phone calls
11 and, you know, not using fax machines, maybe that
12 methodology is obsolete as a result, and suppliers
13 can extract greater profit. Utilities should take
14 advantage of the technological advancements that
15 facilitate reduced cost, but also increased
16 transparency.
17 The old-fashioned way of doing things
18 definitely works, right? And they definitely have
19 applicability. But they're not as time-efficient
20 and they're more difficult to audit, and that
21 becomes important. They have high transaction
22 costs because, in terms of efficiency, because of
23 the back-and-forth negotiation, they don't offer
24 true price discovery, as well, to a supplier.
25 That's not bad. It's okay. But we believe there's

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1 room for improvement.
2 And so let me just see if I can give you an
3 example. Someone might say, "Well, I get my bids
4 by instant message and I compare, and I choose the
5 lowest one." That's a sealed-bid process, and
6 maybe they go through multiple rounds of that. The
7 issue that you have here is that the buyer is
8 acting as a referee. They're participating in
9 this, which is perfectly fine because it's part of
10 negotiation, but if you've ever watched any
11 football you know that referees can make mistakes.
12 And there are definitely subjective elements. So,
13 by limiting the data elements to one or two
14 variables and compressing these transactions into
15 small units of time, we activate certain human
16 elements in competing — Alex alluded to that — we
17 provide price discovery, so that a supplier can
18 come down in their price and adjust it for winning
19 the business; and we eliminate some of that
20 subjectivity and mistakes on the side of the buyer.
21 So I want to frame it up just a slightly
22 different way. You see here some of the
23 characteristics of an optimized procurement. What
24 does it take and what are the results? But, with
25 the advanced technology and supercomputing, on the

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1 supplier side of these commodity transactions,
2 they've beefed up their side to take advantage of
3 that technology, and we haven't seen so much on the
4 side of the utilities. This is what has changed.
5 The suppliers are adept at running these
6 transactions and squeezing more out of it for them,
7 and as a result, you have what I consider asymmetry
8 of information where they've got a little bit more
9 and we've got a little bit less, and that yields a
10 sub-optimal procurement outcome for buyers.
11 They've got the competitive advantage, and we're
12 seeing this in many other areas of the utility-as-
13 a-buyer landscape. So if you're not taking
14 advantage of it, the ratepayers are paying more
15 over time.
16 Alex?
17 **MR. HOUGHTALING [EnerNOC]**: I think just — I
18 think we made the point a few times. I'm sure it's
19 clear. But the best way I can articulate it is
20 that, Raphael's point, while sealed bids do, of
21 course, work, the challenge becomes that the
22 suppliers tend to submit the offer that they think
23 the buyer will accept, which is not necessarily the
24 price that the suppliers can afford. And it would
25 be similar to a real estate transaction where, if

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1 you're buying a condo or a house, you, of course,
2 submit what you think will be accepted, if you
3 really want the house. But if you want it more,
4 you'll put in a more aggressive offer. And we
5 contend that it is the transparency that online
6 real-time auctions afford that allows the referee
7 to be removed and allow people to just bid and get
8 the business if they want it. And I can see for
9 myself, having been in that position from a real
10 estate standpoint, you know, having lost a property
11 by a few thousand dollars, I would've happily paid
12 a little bit more to get the place but I just
13 didn't know that that was the offer. So for me,
14 that really struck home as analogous to what
15 suppliers and buyers are dealing with in the
16 wholesale market, which is, "Hey, if you know you
17 can get the business and all you have to do is be a
18 little bit more aggressive, wouldn't having that
19 knowledge, wouldn't having that price discovery
20 help all parties?"
21 **MR. RAPHAEL HERZ [EnerNOC]**: So you've got
22 these optimized procurements and you've got these
23 things as outcomes —
24 [Reference: Presentation Slide 7]
25 — but, really — you've heard us say it, and so

we won't beat it to death — but what you get when we run these transactions, and we run them all over the United States and into Canada, what we see is that lower ratepayer costs, increased transparency, which helps all parties — suppliers, buyers, folks that are interested in tracking what happened — and because it's information technology, this is really no surprise, it's immediately available. You can produce a record of what happened within a matter of hours, and a hard copy within, you know, a couple of days. So folks that need to review it can review it, and by making the pricing information transparent, suppliers can bring down their price to win the business.

Anything you want to add on that, Alex?

**MR. HOUGHTALING [EnerNOC]**: No. Well said.

**MR. RAPHAEL HERZ [EnerNOC]**: All right. So, you'll remember the slide where I talked about the sealed bid, the descending clock, and the reverse online auction.

[Reference: Presentation Slide 8]

This is just a simple graphic that looks at all three of them and gives you, as you look across the top of the table, what we consider some of the key criteria when we look at these transactions,



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how they match up. Price discovery, I think you now understand what that is. Speed and efficiency, I think you can gather what that is. Bid improvement is this notion that, if a supplier wants to improve their bid to win the business, they have the ability. And the ultimate outcome: The best price for the ratepayer. And this is how we see it. I'll go back to, they're all tools in the toolbox. There's times to use one and not the other, right?

[Reference: Presentation Slide 9]

On this next slide, I'm going to stand up a little bit and do a little bit of explanation here, just because it's easier. So, this is a real transaction. When I say "real" this was roughly a year ago, April. It's a gas transaction, but they're commodities, so it really doesn't matter. This is what we consider an ordinary bid curve. This is, across the bottom [indicating] — oops.

**MR. MELCHERS**: You don't want to touch the screen.

**MR. RAPHAEL HERZ [EnerNOC]**: Yeah, did I touch it? Well, I'll stand over here. I'll use my pen. There we go. All right. Thank you.

So, ordinary bid curve. Across the bottom,



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these are bids being placed, right? This is a bid, that's a bid, that's a bid. And this is the dollar per MMBtu, which just is a unit of measure. Dollars per something, okay?

The bidders are coming in at the opening price, which we work with — we just set, okay? And as the auction progresses, they see the price and they bring that price — their price — down, as they continue to bid. It's pretty simplistic, to the end of the auction. This auction lasted for 10 minutes and had 33 unique bids and 13 bidders. Okay? And somebody earned some business at the end.

[Reference: Presentation Slide 10]

So I want to now explain what you saw there, okay, and if you'll just indulge me for a second. This [indicating] is time, counting down, right here. This is more or less the beginning of time; this is the end of the time of the auction, okay? In the early stages, we had a bidder give us an opening. All right? Everybody gets in on the system. They don't give us an opening bid — if they don't give an opening bid, they can't see. In the process of the auction, the folks that are bidding test the waters and improve their bids.



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1 Through the midway, they continue to test and
2 refine their bids. And at the tail end, somebody
3 wins. And in an optimized procurement, you've got
4 what is, in effect, a sealed bid at the very end,
5 so that we see this, in our experience, 20 percent
6 of the time: A bidder will improve their own price.
7 You do not see this in a typical sealed bid, are,
8 definitely, in a descending clock auction.
9 Let me say that again. In this example,
10 Bidder A had won, already. But because they
11 weren't sure what somebody else was going to do,
12 what somebody else was going to enter into the
13 online browser, they decided to improve their bid.
14 Now, these [indicating] are just units. This is
15 against an index and, you know, basically, what the
16 bidder was saying is, "I, Bidder A, said my offer
17 is a penny less than the index."
18 **MR. HOUGHTALING [EnerNOC]**: [Indicating.]
19 **MR. RAPHAEL HERZ [EnerNOC]**: Alex, thank you.
20 Even with the pen.
21 Penny less than the index. But even in the
22 last few seconds, they improved their bids so that
23 they said, "You know what, I improve my bid to a
24 penny and a quarter less than the index," all
25 right? We don't see this in sealed bid.

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1 And, Alex, you want to add anything to that?
2 **MR. HOUGHTALING [EnerNOC]**: I think that the
3 point that Raphael just made about the penultimate
4 bid being the same as the winning bid is important,
5 because that strongly suggests that this will
6 deliver savings for ratepayers, because — to
7 Raphael's point — if Bidder A had submitted their
8 best and final offer, that would've been it, but
9 because there was the concern of a competitor
10 coming in at the last moment and being more
11 aggressive, even that forced Bidder A to be more
12 aggressive, in itself. So I think that stands as a
13 very significant point, and that point happens
14 frequently. That happens in roughly 20 percent of
15 the many thousands of auctions that we have
16 conducted. So, I think it's a strong point that
17 was made.
18 **MR. RAPHAEL HERZ [EnerNOC]**: Alex, let's hop
19 to the next slide here, real quick.
20 **MR. HOUGHTALING [EnerNOC]**: [Indicating.]
21 [Reference: Presentation Slide 11]
22 **MR. RAPHAEL HERZ [EnerNOC]**: All right. So,
23 again, we talk about our experience in auctions
24 and, you know, others can do the same thing.
25 There's no question about that, right? But in the

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1 end, why does it matter? I'm going to walk you
2 through, over here on this right column, a real
3 transaction, a typical transaction.
4 The utility says — this is power, this time —
5 "I'm going to buy seven-days-a-week, 24-hours-a-
6 day, around-the-clock power for the calendar year
7 2018." Okay? So that's a standard product that you
8 can buy. The customer says — well, through their
9 research and effort, "Here's what I would like to
10 pay for this product"; they set their target.
11 Dollars per megawatt-hour, $33-and-change, okay?
12 The auction is run. The final price on that
13 auction: $31.10, so below what the customer's
14 target was. Okay? By about two bucks. $2.71. If
15 you look at how many megawatt-hours are in that
16 calendar year period, it turns out to be a sizable
17 chunk of money [indicating]. Okay?
18 And here's some other examples. This stuff
19 matters. That's the bottom line, here, right? And
20 if you can drive out some excess margin on the
21 supplier side, I contend it puts money back in
22 people's pockets to be used for paying mortgages,
23 putting kids in school, buying lunch money, buying
24 lunches, all that sort of thing. It's real money.
25 All right? So that's a great example.

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1 Alex, you want to add anything to that?
2 **MR. HOUGHTALING [EnerNOC]**: Nope.
3 **MR. RAPHAEL HERZ [EnerNOC]**: All right.
4 [Reference: Presentation Slide 12]
5 So, over here — we're not the only ones who
6 believe in this, and World Bank did a study, among
7 many. And I'm leaving you with a copy [indicating]
8 that talks about some of the benefits. And they
9 specifically look at a municipal auction in Florida
10 that we reference here, and, per guidelines, you've
11 got the web link and you've got the paper copy.
12 And so, with that, Alex, do you want to go, on
13 this last one?
14 **MR. HOUGHTALING [EnerNOC]**: Sure. So, again,
15 we thank you for your time.
16 [Reference: Presentation Slide 13]
17 We've had many of these conversations over the
18 past several years, and we always enjoy the
19 questions that we have, because the reality of it
20 is procurement is something that is being done
21 every single day, and, necessarily, there's a
22 method that already exists. So, we find there's a
23 rich topic of discussion around applying, perhaps,
24 more innovative methods that can help the utilities
25 with which we work be more transparent, have a more

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1 robust competitive landscape, and, ultimately, work
2 in better collaboration with the regulatory bodies
3 because they have the documentation and they've run
4 their procurements with the higher level of
5 transparency that I think allows for easier
6 communication and a higher level of accountability
7 between the utility and regulatory bodies.
8 So those are our remarks. We thank you for
9 your time, and look forward to any questions that
10 you have.
11 **CHAIRMAN WHITFIELD**: Well, we'd like to thank
12 both of you for your presentation. We'll take a
13 few Commissioner questions — I think we may have a
14 few. But I would like to, first of all, have the
15 Commission thank you for coming in here and thank
16 you for making your presentation. And I think — I
17 guess maybe to preface any questions, I think the
18 two of you probably are aware we are in a state
19 where we have vertically integrated markets; we're
20 not in a regulated market. And we do have a few
21 proceedings where we can see some of your
22 principles might be applicable. We have fuel
23 proceedings in our electric cases, and we have also
24 annual purchased gas adjustment hearings with our
25 LDCs, our natural gas companies, that we regulate.

But, with that, I'm going to turn it over — I may have one at the end I might want to ask you, if it doesn't get asked, but I'm going to turn it over to Commissioners for questions. Commissioner Bockman, did you have a question?

**COMMISSIONER BOCKMAN**: Yes.

Good morning, gentlemen. When you say you run these transactions, what exactly do you do?

**MR. HOUGHTALING [EnerNOC]**: Perfect. So, I like to think of ours as a three-step process, when we partner with a utility. So the first is the work we do before an auction is conducted, where we meet with them and we understand their goals, we understand the product. And then we work to, in a sense, enhance the marketplace by actively reaching out to the supplier community to get them interested in the product. We find that that's very important, because current methods that utilities employ, we find, sometimes don't shake the tree enough to create competition within the market, so we help them with that.

Once that is done, an RFP is issued, and an auction date and time is set. And, as was mentioned, we recommend auctions typically run 10 to 15 minutes, depending on the product. We find



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that that does spur the human competitive element. And so we will be on-site in a boardroom with utility partners, and we will have the live exchange up and running. And at a fixed time, each supplier, from wherever they are logging in with a secure login, can begin entering their bids to compete in the auction. There's a running descending clock where they know exactly when the auction's over.

And once the auction's done, our partners confer and they make decisions about awards. They make decisions about supplier diversity. They make all the prudent decisions they need to make, in terms of how they will or if they decide to award the award, the auction. And then, following that, our team provides a level of documentation that can be used for conversations with commissioners, to help you be sure that each auction was conducted with a high level of accountability and transparency.

**COMMISSIONER BOCKMAN**: How long have you been providing these services?

**MR. HOUGHTALING [EnerNOC]**: So, EnerNOC purchased World Energy, which was another local firm in Massachusetts, that had been running this



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1 since 2007. So we've been in business for over a
2 decade.
3 **COMMISSIONER BOCKMAN**: And for what utilities
4 have you provided these services?
5 **MR. RAPHAEL HERZ [EnerNOC]**: Alex, I'll take
6 that.
7 So, I appreciate that question. That one is
8 fairly difficult for us to answer in this
9 environment. We'd be happy —
10 **CHAIRMAN WHITFIELD**: Mr. Herz, could you get
11 your microphone on? Just hit the button, for the
12 one in front of you.
13 **MR. RAPHAEL HERZ [EnerNOC]**: [Indicating.]
14 All right. So, in this environment, that's
15 difficult for us to answer, because our partner
16 utilities have, in our legal construct, have asked
17 us to refrain from using their names, so we have to
18 go out and get permission. So what I would say to
19 you, the easiest way to look at this, is we have
20 run auctions in 18 regulated states on the
21 wholesale side, simply on the wholesale side, 18
22 regulated states, 13 deregulated states and
23 provinces.
24 And, then, Alex, do you happen to know what
25 federal — we also have federal business.

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1 **MR. HOUGHTALING [EnerNOC]**: Sure. So, this
2 technology — the process is a little bit different
3 for wholesale versus the retail markets, but
4 overall we've conducted 60,000-plus auction events,
5 and we work in the federal sector, we work with, of
6 course, utilities in the regulated and deregulated
7 space. We partner with over 100 utilities in the
8 country. So, despite not being able to directly
9 answer which specific utilities we partner with, I
10 think what's important is that the scope of
11 utilities we partner with is vast and that we work
12 with regulated, deregulated, small, large,
13 municipalities, cooperatives, investor-owned
14 utilities, so — if that helps.
15 **MR. RAPHAEL HERZ [EnerNOC]**: And we're happy
16 to figure out a way with Mr. Bateman and Mr.
17 Melchers' guidance, on how to provide you with that
18 information.
19 **COMMISSIONER BOCKMAN**: Couldn't a utility do
20 this same thing itself?
21 **MR. HOUGHTALING [EnerNOC]**: Sure. So, it's a
22 great question. And it often comes down to a
23 build-or-buy decision. Utilities employ very
24 capable, smart people, and of course they can build
25 something similar to this. We contend that it's

our ability to have market expertise across many regions that is helpful. It ends up being less expensive if we run the process for them, because there are significant IT costs to build an exchange, in effect. And then, ultimately, there is no financial relationship between our firm and utilities. Suppliers pay us to — if they've won the auction, they pay us directly. So utilities find that, in a sense, outsourcing this arm of it not only is more cost-effective but it ultimately helps the transparency, as well, because it's a third party that's being responsible for running the events.

**COMMISSIONER BOCKMAN**: And your pricing to the supplier, presumably, your costs are incorporated in the costs the utilities pay those suppliers.

**MR. HOUGHTALING [EnerNOC]**: That's right.

**COMMISSIONER BOCKMAN**: And so what are the costs for your services?

**MR. HOUGHTALING [EnerNOC]**: So, it's a good point. So, in effect, one could argue that the ratepayers ultimately do pay, of course, because it is included in that. But we use, as a proxy, the size of the procurement that's being conducted, because, in effect, the larger and more complex the



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procurement, the more upfront time is required for us, and the greater investment is required, for us to perform. So we have a scale, depending on the overall size of the procurement.

**COMMISSIONER BOCKMAN**: A percentage of the size of the —

**MR. RAPHAEL HERZ [EnerNOC]**: Typically, a volumetric fee that we attach to this. But one of the things — and I think it's a great question that you bring out — our objective is that here [indicating] is that price where — Alex would you get me back to that slide with the four boxes?

**MR. HOUGHTALING [EnerNOC]**: [Indicating.]

**MR. RAPHAEL HERZ [EnerNOC]**: Keep going. One more. One more. One more? And the next one. Next one?

[Reference: Presentation Slide 11]

This one. Okay, so here we go. So it's easiest for me to explain it this way, all right? So the customer has that target [indicating]. We have a fee that has to live inside of whatever that transaction price is — and I touched that screen.

**MR. HOUGHTALING [EnerNOC]**: [Indicating.]

**MR. RAPHAEL HERZ [EnerNOC]**: And what we've observed is that our fee cannot impact the outcome

of the auction, okay? So if our fee is significant, then you're probably thinking, "Well, the supplier's just going to attach their fee to the bid." But we've got to make sure that our fee doesn't have a significant impact on the outcome here. And because of the auction method, it's compressing the supplier margin down to what the supplier can afford to sell at, as opposed to what they would like you to buy at. And our fee lives in that area, okay? I hope I explained that.

**COMMISSIONER BOCKMAN**: I understand. Thank you, gentlemen.

Mr. Chairman, that's all the questions I have. Thank you, sir.

**CHAIRMAN WHITFIELD**: Thank you, Commissioner Bockman.

Commissioner Elam.

**COMMISSIONER ELAM**: Good morning.

**MR. HOUGHTALING [EnerNOC]**: Good morning.

**COMMISSIONER ELAM**: Is all of this dependent on suppliers adopting this? A system like this?

**MR. HOUGHTALING [EnerNOC]**: So, we — when we conduct an auction, absent a robust supplier market there's no auction, so we maintain close relationships with suppliers across the country and



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we, in a sense, become the marketplace for these transactions to occur. And what's, I think, important is that we've articulated what we think are the benefits for a utility to partner with us, but there are benefits for suppliers to partner with us, as well, because they know that there is a very high likelihood that an award will be made when a procurement is run with this level of transparency. They know that, if they aren't as large a supplier as some of them in the market, that they still have a fighting chance to be awarded, because it's open; it's transparent.

**COMMISSIONER ELAM**: And that presupposes the utilities or the large customers have also bought into this system.

**MR. HOUGHTALING [EnerNOC]**: Correct, yes. And I think one of the things that that speaks to our role as a marketplace is that we're an objective party and we have partners who transact both on the buy and sell side. So on one day, they're transacting through us to purchase; on the next day, they're shedding load. So, to me, that suggests to me that they see the benefits of both sides of the table, if that helps.

**COMMISSIONER ELAM**: I'm just trying to figure



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1 out the motivation of a supplier or the motivation
2 of the utility in a vertically integrated market.
3 I mean, if the supplier is going to, you know, be
4 forced to accept a smaller margin by adopting this
5 sort of auction method, why would they do that?
6 **MR. HOUGHTALING [EnerNOC]**: So, I suggest that
7 it's their ability to win the business if they want
8 to win the business. And, earlier, I had mentioned
9 what was perhaps not the best articulated example
10 of the real estate market, where, if a supplier had
11 the chance to slightly improve his or her bid to be
12 able to win the business, if they would do that,
13 this gives them the opportunity to do that.
14 Wherein, with a sealed bid, it's not necessarily a
15 shot in the dark but there's less price discovery,
16 so there's less assurance they're going to win the
17 business if they really want it.
18 **MR. RAPHAEL HERZ [EnerNOC]**: I'll add to that,
19 and I think what it does is it levels the playing
20 field among the suppliers, and in the — and if I'm
21 a supplier, it would be — can you hear me
22 [indicating]? If I'm a supplier, I'm going to want
23 an equal chance to win the business, rather than an
24 unequal chance, okay? So while they might
25 experience margin compression, in the end what they

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1 know is, through this method, there's a high degree
2 of likelihood that there will be a transaction,
3 that somebody will win, and they want to win that
4 business. Again, it brings them back to what they
5 can afford to sell you, as opposed to what they
6 would like you to buy it at.
7 **COMMISSIONER ELAM**: In the vein of why you're
8 here —
9 **MR. RAPHAEL HERZ [EnerNOC]**: Right.
10 **COMMISSIONER ELAM**: — does adoption of this
11 kind of a system presuppose that this Commission's
12 judgment of prudency in purchasing would require a
13 utility to show why this wasn't a prudent way to go
14 about their business?
15 **MR. HOUGHTALING [EnerNOC]**: So, if I
16 understand your question, I think what's — it's, of
17 course, important that anytime a decision or a
18 recommendation that suggests a switch in style —
19 it's, of course, important that it be evaluated and
20 that it be prudent. We have ample evidence to
21 suggest that ours is a method that delivers more
22 competitive results, but, of course, it's a
23 decision that's made by commissions; it's a
24 decision that's made by utilities every time they
25 choose to work with us. And we work with them on a

transaction-by-transaction basis. And to Raphael's earlier point, sometimes they see products for which this is a good fit, and for other products this is not the path they choose. And so to continue with the metaphor, it's a tool that they can employ when appropriate, but, of course, having the proper level of scrutiny to make sure that this is a prudent decision in a given market is important.

**MR. RAPHAEL HERZ [EnerNOC]**: Did we answer your question?

**COMMISSIONER ELAM**: Yeah, I think so.

**MR. RAPHAEL HERZ [EnerNOC]**: Okay.

**COMMISSIONER ELAM**: And is this system being used anywhere in the Southeast?

**MR. RAPHAEL HERZ [EnerNOC]**: Yes.

**COMMISSIONER ELAM**: Can you tell me what states? Or is that going too far?

**MR. RAPHAEL HERZ [EnerNOC]**: I can tell you that we certainly use it in Florida for multiple utilities.

**COMMISSIONER ELAM**: Okay.

**MR. RAPHAEL HERZ [EnerNOC]**: And then, there are other states where, if I told you the state, you'd be able to figure it out.



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**COMMISSIONER ELAM**: I don't know, some days I don't have enough coffee.

**MR. RAPHAEL HERZ [EnerNOC]**: I'm with you.

**COMMISSIONER ELAM**: Thank you.

**MR. HOUGHTALING [EnerNOC]**: Thank you.

**CHAIRMAN WHITFIELD**: Thank you, Commissioner Elam.

Commissioner Randall.

**VICE CHAIRMAN RANDALL**: Thank you, Mr. Chairman.

I just have one quick question. I was looking at your example. It looked like the whole auction lasted about six minutes. Is that normal?

**MR. RAPHAEL HERZ [EnerNOC]**: Yes, sir.

**VICE CHAIRMAN RANDALL**: Okay.

**MR. RAPHAEL HERZ [EnerNOC]**: Quite simply. We've done five minutes to — you know, it depends on the — you know, if we're going out for pricing, we might do it for five minutes. Again, this notion of bidder fatigue is real, and so if we have seven or eight different pricing events inside of a morning, we might run the first one for 10 minutes and the next five or six for five minutes. So, five, ten, fifteen minutes, totally normal.

**MR. HOUGHTALING [EnerNOC]**: If I may add,



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that's not a decision that's made in a vacuum. We, of course, make recommendations based on our experience, but the strategic component of all of these auctions is determined by our partner. So the construct is very nimble for a given product, and utilities ultimately make every call about how it's run.

**VICE CHAIRMAN RANDALL**: Thank you.

Thank you, Mr. Chairman.

**CHAIRMAN WHITFIELD**: Thank you, Commissioner Randall.

Commissioner Hamilton.

**COMMISSIONER HAMILTON**: Thank you, Mr. Chairman.

I've been very intrigued by your presentation. It's been very interesting and something that I don't think most of us were aware of. But where do you start? At the index price for the day?

**MR. RAPHAEL HERZ [EnerNOC]**: Well, so, again, tools in the toolbox. What we see is that if — I'll just pop back to this slide here [indicating].

[Reference: Presentation Slide 3]

And I'll try not to touch that screen. For certain products, this [indicating] makes sense. For something like a day-ahead or spot-market



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1 product, it does not make sense. It just is
2 inefficient, right? And I'm wired towards
3 efficiency. Not everybody is. But some of these
4 other things, it doesn't make sense. So where we
5 say start at is a product that looks at a term that
6 has, roughly, a month or longer. Maybe seasonal,
7 three months, maybe half a year, or a year. Maybe
8 it's a three-year product, maybe it's a five-year
9 product, but it's in that range. And I'll add to
10 that — it's a great question, where do you start.
11 What we find most often is that the starting point
12 is around a specific product which tends to look
13 at: What is the commodity? Where is it being
14 delivered? And what is the term? Those are
15 probably the bigger ones. Then there's other
16 things that kind of come in. But if somebody says,
17 "I'm going to buy something," well, how much do you
18 want to buy? Where do you want it delivered to?
19 That's the starting point. But, again, one month
20 to, call it, five years.
21 **COMMISSIONER HAMILTON**: Okay. On a reverse
22 auction, when does the supplier have an opportunity
23 to say. "That is low. I'm not going any further,"
24 and to not accept the bid?
25 **MR. RAPHAEL HERZ [EnerNOC]**: I'll pop back —

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1 Alex, take this just for a second, if you will.
2 See if I can get the right slide here [indicating].
3 [Reference: Presentation Slide 10]
4 So this slide is kind of a little bit hard to
5 read, but this [indicating] was the end point of
6 this pricing event and this [indicating] was the
7 beginning. So Bidder H was the first one to jump
8 in. Well, after they got in and started watching
9 the bidding, they decided they'd back out. All
10 right? A went all the way. Look at D. D is here
11 [indicating], and they show up again here
12 [indicating] and they show up again here
13 [indicating]. But they exited when the price was
14 what we call at flat, at the index point. They
15 said, "Okay, I can't make any more money at this.
16 I'm going to exit." So they make that decision.
17 And we frequently — so, I ran an auction on
18 Monday — frequently see this sort of behavior going
19 on [indicating]. In this case, A took it all the
20 way. But sometimes you might have two bidders
21 going head-to-head, or you might have three of them
22 going head-to-head, to drive that price down for
23 the business.
24 **COMMISSIONER HAMILTON**: Okay. Let's say what
25 we talk about is gas.

**MR. RAPHAEL HERZ [EnerNOC]**: Yes, sir.

**COMMISSIONER HAMILTON**: Is transportation — do y'all —

**MR. RAPHAEL HERZ [EnerNOC]**: We typically don't work in that space. We're more about the actual molecules. But because transportation is woven in there, we have to consider it at times, so — but, usually, if I'm a gas supplier ~~gasifier~~, LDC — right? — I might have a contract for transportation, and I might say "Okay, can you deliver it at Milepost 159? Or can you deliver it at Milepost 72?" And I'll get my pricing, and I say, "Well, I've got transportation. I'll do the math and figure out where is the cheapest place for me to buy, using my transportation or not."

**COMMISSIONER HAMILTON**: Okay. Thank you, very much. Again, I enjoyed your presentation and I think we'll all be better off for being here, this morning. Thank you.

**MR. RAPHAEL HERZ [EnerNOC]**: Thank you.

**MR. HOUGHTALING [EnerNOC]**: Thank you.

**CHAIRMAN WHITFIELD**: Thank you, Commissioner Hamilton.

Commissioner Howard.

**COMMISSIONER HOWARD**: I guess I don't know how



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to ask this, but exactly what are you looking for? When you leave here and you say, "Well, we wowed that Commission. We did this," what do you want to leave here for us to take out of this room?

**MR. RAPHAEL HERZ [EnerNOC]**: I think the most important thing is that you are aware that utilities are evolving the way they buy, and they have different tools at their disposal. And so, if somebody were to come talk to you tomorrow or next week, whether it's in DC or here in Columbia — doesn't matter — and they say, "I ran a reverse online auction," you're aware of what that means. I think that's the most important thing that I can say, with this group.

**COMMISSIONER HOWARD**: And in a rate case, it is in the cost of fuel that where, when we go for a rate — when the utility comes in for a rate case or a fuel adjustment hearing, there are your prices in the cost of fuel, is what you're saying?

**MR. RAPHAEL HERZ [EnerNOC]**: That's correct, what we're saying. Yes, sir. Our services, our fee, is in there. And I will tell you, this is the way that we set up our business. Not all competitors have set it up — so I just want to be clear about that. We run it at a no risk to the



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utility transaction. So if our fee is in there, or not, doesn't matter, and the utility decides they don't want to transact, doesn't matter. We take that as part of our business development cost. So our job — Alex and my job — is to deliver successful auction outcomes. We don't care what the price is. We just want the customer to be happy. And that's where we live.

**MR. HOUGHTALING [EnerNOC]**: Right.

**COMMISSIONER HOWARD**: Why does your method make for more business? Why does either bidder want to go into — for several reasons, why would I want to enter into your bidding process?

**MR. RAPHAEL HERZ [EnerNOC]**: It's a great question, and the challenge here is, what we've seen in the bidder universe is that they enjoy price discovery. So we create that market for the moment, and they will watch and see where does that product settle. "How do I need to adjust my business to be able to win the business of the other party?" So that's the price discovery piece; that's what they enjoy. The other thing that they enjoy is knowing that their efforts are not for naught. And I'll say it differently: If there's a transaction to be had here, and if this is going to



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be run through this platform, I know, when I go and marshal my resources on the pricing desk and everywhere else, that somebody's going to win that business and we've got a fair chance of competing at that. So that's the other thing that they enjoy.

Now, I will tell you, they don't enjoy the margin compression. But we have suppliers, large national suppliers, who look at this auction platform as the majority of their book of business now. So this has happened over time. Earlier the question was asked, how long have we been doing this? Over the decade, what people have realized is, "This is a place where we can make money."

**COMMISSIONER HOWARD**: Does this compromise, as a bidder — does this compromise any confidentiality I might want in my business?

**MR. HOUGHTALING [EnerNOC]**: The level of transparency during an actual auction is tightly controlled. So what our partner, the utility, would see is very different than what a supplier would see. So we've mentioned several times that price discovery is a component of this, but what's visible is limited to the actual price. Suppliers don't know who is offering the prevailing low bid;



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they don't know how many bidders are in play. So they, in a sense, can't reverse-engineer this to figure out, from a competitive standpoint, how to game the system. All they see is the prevailing low bid, and if they, indeed, are the prevailing low bid, or not.

**COMMISSIONER HOWARD**: But they don't know who Bidder A is.

**MR. HOUGHTALING [EnerNOC]**: Correct.

**MR. RAPHAEL HERZ [EnerNOC]**: They don't even know how many bidders there are; they don't know what the volume is, if volume is one of the variables which, frequently, it is. All they see is that lowest price. And so some young upstart business trading gas might be able to only provide 10,000 dekatherms — whatever unit that means — but they might, because they've got lower operating costs, might be able to offer a better price. Well, large, big supplier only sees, "Wow, that price is pretty low. If I want to win the business, I've got to bring my price down there," even if they can offer a much greater volume.

**COMMISSIONER HOWARD**: Thank you, very much.

**MR. RAPHAEL HERZ [EnerNOC]**: Sure.

**MR. HOUGHTALING [EnerNOC]**: Thank you.



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1 **CHAIRMAN WHITFIELD**: Thank you, Commissioner
2 Howard.
3 I believe our — I have one question for you,
4 but first I believe our attorney, Mr. Melchers, may
5 have a question for you. Mr. Melchers?
6 **MR. MELCHERS**: Thank you. Mr. Chairman.
7 The question is on this same slide. I'm
8 curious that — you're saying that price discovery
9 is important, and yet the last bid is blind.
10 **MR. RAPHAEL HERZ [EnerNOC]**: Yes.
11 **MR. MELCHERS**: I'm not really understanding
12 how you make the determination that it's the last
13 bid.
14 **MR. HOUGHTALING [EnerNOC]**: Right. That's a
15 good question. And, so, when you brought up the
16 term "price discovery," it led me to something
17 else, too. So, let me just say first, when I say
18 "price discovery," it's important to be noted that
19 this isn't public. So for a supplier to bid into
20 this, they, of course, need to be vetted and
21 approved and all the requisite paperwork needs to
22 be in place. They can't just log into the system
23 and observe an auction; they have to enter a viable
24 bid to be able to see the auction progress. So
25 that's the first point. As it relates to your

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1 question about the last bid being blind, it's
2 really a tactical thing, in the sense that it takes
3 a few seconds to enter a bid and to type the bid in
4 and then press enter, and in those few seconds, in
5 effect, everyone's last bid becomes blind. So what
6 we'll see, or I should say what we envision, is
7 that in the remaining 30 seconds of an auction, all
8 the suppliers around the country or around the
9 region have entered in their lowest price and
10 they're all hovering over the keyboard waiting to
11 press enter at that last second. So, in effect,
12 that last entry becomes blind, but they've had the
13 benefit of price discovery throughout to be able to
14 sharpen their pencils and get really aggressive.
15 **MR. RAPHAEL HERZ [EnerNOC]**: And if I may add
16 to that —
17 [Reference: Presentation Slide 9]
18 — the system — it's a design feature of the
19 system, such that the supplier, when they enter in
20 their — this is the same thing as we saw in
21 numerical format earlier. When Bidder A entered
22 that last bid [indicating], they had to go to
23 another screen in the browser, where they don't see
24 time, they don't see what that lowest bid is.
25 They've got to enter, they've got to verify that

they didn't ultimately make a mistake, and in that duration all the other suppliers could be doing the same thing, entering in another number, okay? And that's where somebody loses and somebody wins. And so, in that last — in those last 37 thirty or seven seconds, whatever it is, they're going in and making sure they entered their last and best bid. And that got A to here [indicating]. I hope that explains it.

**MR. MELCHERS**: It explains it very well. I realized suddenly that you're talking about several of my eBay experiences.

**MR. RAPHAEL HERZ [EnerNOC]**: Yes.

**MR. MELCHERS**: Everybody's waiting for the last 15 seconds of the deal to throw in that final maximum.

**MR. RAPHAEL HERZ [EnerNOC]**: Yes, so if you're an eBay user, you have some experience here, no question.

**MR. MELCHERS**: Thank you, so much.

**MR. HOUGHTALING [EnerNOC]**: Thank you.

**CHAIRMAN WHITFIELD**: Thank you, Mr. Melchers. I noticed his question of you, between the last and the final was 12 seconds, is what I saw on your chart there.

**MR. RAPHAEL HERZ [EnerNOC]**: Right. Yeah.



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1 [Reference: Presentation Slide 10]
2 **CHAIRMAN WHITFIELD**: So they were hovering
3 over the keyboard.
4 **MR. HOUGHTALING [EnerNOC]**: Yeah. Common
5 practice, yes.
6 **CHAIRMAN WHITFIELD**: It looks like
7 Commissioner Elam may have one more, before we —
8 **COMMISSIONER ELAM**: Just to run that, once you
9 brought eBay into it, people find ways to game eBay
10 to — electronically, to write some sort of program
11 to move at the speed nobody else can do with their
12 finger over the keyboard. Possible, here?
13 **MR. RAPHAEL HERZ [EnerNOC]**: We monitor this
14 very closely, right? We pay very close attention.
15 We are in touch with the suppliers, and our system
16 is set up so that we would notice if somebody had
17 done some sort of robot script to be able to do
18 this. Our experience is, they haven't yet. You
19 know, could you put 1000 engineers at it, and
20 figure it out? Look, I tend to be very direct.
21 Sure, somebody could figure it out. But we pay
22 close attention, because, quite seriously, the
23 integrity of the process and the integrity of the
24 suppliers matters here, because if people start
25 smelling things foul, the whole thing starts to

collapse. So we have to police, to make sure that the process has high integrity.

**COMMISSIONER ELAM**: Thank you, Mr. Chairman.

**CHAIRMAN WHITFIELD**: Thank you, Commissioner Elam.

Looks like Commissioner Howard's got another follow-up.

**COMMISSIONER HOWARD**: Have you ever had a tie? And what happens if, at the last minute, everybody's done and you've got a tie?

**MR. HOUGHTALING [EnerNOC]**: So, that can happen. And, if it does happen —

**CHAIRMAN WHITFIELD**: Sudden death.

**MR. HOUGHTALING [EnerNOC]**: Yeah, right. Start again. So, each supplier is trained in advance of every auction not just on how to participate in the auction, but on the rules that govern the auction. And, really, the short answer is there is a component of utility discretion when making award decisions. So if the utility elects to award and choose, sometimes they elect to split the quantity, sometimes they award to whichever supplier's more diverse. But it is at their discretion when making an award.

**MR. RAPHAEL HERZ [EnerNOC]**: And so the rules



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of the procurement can also be established up front. And some of our utility partners might say first in, the person with the first bid in wins. So those rules are determined by the utility, and we are in the business of bringing everybody to the party, ultimately, and making sure there's a high degree of competition. In the end, it's the utility or the customer that makes the decision on, "If it's a tie, do I want to split it, do I want to give it to the first one in, do I want to — what do I want to do?" That's — you know, and it can be predetermined.

**COMMISSIONER HOWARD**: Well, does the utility have to take the low bid?

**MR. RAPHAEL HERZ [EnerNOC]**: No, sir.

**MR. HOUGHTALING [EnerNOC]**: The utility doesn't have to take — it definitely doesn't have to take the low bid. It doesn't have to make an award at all, if they elect not to. But the reason they don't need to take the low bid is because, often, diversity concerns are present, and so that's why it is so important that we train the suppliers in advance, so they know.

**COMMISSIONER HOWARD**: Thank you.

**MR. HOUGHTALING [EnerNOC]**: Thank you.



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1 **CHAIRMAN WHITFIELD**: Thank you, Commissioner
2 Howard.
3 And I'm going to ask one question of you. It
4 might not be the best analogy, but, actually,
5 Commissioner Howard, in his very last sentence
6 there may have gone there, where I'm going. When
7 you look at the utility procurement transaction
8 types — I think it was your page three.
9 **MR. HOUGHTALING [EnerNOC]**: [Indicating.]
10 [Reference: Presentation Slide 3]
11 **CHAIRMAN WHITFIELD**: And you talk about the
12 physical assets that utilities procure for both
13 electric and gas, and then you get down to the red
14 box, which is the commodities part of it. And I
15 guess where I'm going with this — Commissioner
16 Hamilton and Commissioner Elam both talked about
17 the incentive for the supplier to participate and
18 to be involved. I'm going to go to the opposite of
19 that, back to the utility, to the entity doing the
20 procuring, and their incentive to be involved, and
21 back to what Commissioner Howard last said with the
22 low bid. What I would use — you used your analogy
23 about the real estate transaction that you missed
24 out on because you didn't know if you just went
25 another $500 or $700 or whatever it was, you might

1 could've won that purchase on that real estate
2 deal. Well, conversely, again, might not be the
3 same or best analogy, but it's similar. I was
4 looking at selling some of my parents' furniture,
5 and I looked at an online service, and the online
6 service, it all hinges — and I think your service
7 does too — on the participants, and the number of
8 participants being great. And this online service
9 told me, he said, "Well, you know, we're going to
10 do this during a certain time window," just like
11 you're doing, and the minimum bid — say if it's on
12 a certain piece of furniture that I think is
13 antique or old, it might be worth a couple thousand
14 — he told me the minimum bid of $25 was it, and
15 once this online period is over, I had to accept
16 that. And that, for me, was a deal breaker. As
17 the participant on my end, why should I unload
18 something that might be worth $2000-3000 for $25.
19 And same thing with this end. If the utility
20 doesn't have the level of participants from the
21 supplier side — now, you just told Commissioner
22 Howard that they didn't have to accept. But where
23 is a minimum number? Where do you — and
24 Commissioner Hamilton, I think, almost — where do
25 you start? And what is the obligation, if they



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1 don't have to accept the low bid, as you just told
2 Commissioner Howard, what is the obligation of the
3 utility for participating in this?
4 **MR. HOUGHTALING [EnerNOC]**: Sure. So there
5 are two really good questions there. One is
6 theoretical and then one is really tangible. So
7 the theoretical one first: You are right, in that,
8 unlike what you found online, selling furniture,
9 the utility partner of ours is not beholden to a
10 transaction. So, if —
11 **CHAIRMAN WHITFIELD**: So, they're not locked
12 in.
13 **MR. HOUGHTALING [EnerNOC]**: No. No.
14 **CHAIRMAN WHITFIELD**: Just like you told
15 Commissioner Howard, there's nothing binding.
16 **MR. HOUGHTALING [EnerNOC]**: No. It's all
17 about them being satisfied with the price. So if
18 an auction is run, and they're not satisfied, then
19 they can elect to walk away and not award, and
20 that's fine.
21 **CHAIRMAN WHITFIELD**: What does that do to the
22 credibility of what you're doing, or arrangements
23 that you might've made? What repercussions are
24 there on your end?
25 **MR. HOUGHTALING [EnerNOC]**: It weakens the

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1 strength of the auction model if suppliers don't
2 see awards being made. And so, we don't like that
3 to happen — because you're right, it ultimately
4 reduces the credibility of this marketplace that
5 we've developed. So to protect that from
6 happening, which will touch on the more tangible
7 question, to protect that from happening we work
8 very closely with our partners in advance, to do
9 the appropriate market research and sometimes we'll
10 run an indicative bid round with suppliers to get a
11 good understanding of where the market is, such
12 that we're confident that we'll be able to get to a
13 price at which they'll transact. So if we don't
14 think that's going to happen, we will confer with
15 the utility and we may elect not to run that
16 product, or change elements of it, or change the
17 opening price, so that that definitely is something
18 that we work out in advance.
19 **CHAIRMAN WHITFIELD**: Have you had that happen?
20 Have you had them — with any frequency — utilities
21 reject or not accept what has happened in your
22 online —
23 **MR. HOUGHTALING [EnerNOC]**: So, that has
24 happened, and it's infrequent. We maintain a 99
25 percent transaction rate. There are things that

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occur sometimes that make it unsatisfactory for the utilities, but at a 99 percent transaction rate, we think that the work we do up front to really gauge expectations and to create an environment where transactions will occur contribute to that high transaction rate.

**MR. RAPHAEL HERZ [EnerNOC]**: [Indicating.]

[Reference: Presentation Slide 11]

So let me just add to that really quickly. In this instance here [indicating], the customer had set a target. We had worked with them — as we do with all of our customers — to figure out, can we deliver at or below that? Right? Because we know, through this 99 percent success ratio, that if we can't get there, then we're going to alert the customer well in advance. And then sometimes, stuff happens in the marketplace and, so, it's not perfect but it's pretty good. And that's where the supplier confidence comes in.

**MR. HOUGHTALING [EnerNOC]**: Actually, if I may, I didn't answer your first question, which was on the number of suppliers. And that's a really important point. If we find that we don't have enough counterparties to create a high level of competition, then we would suggest that a different

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1 auction method would be more appropriate.
2 Typically — and this depends on the product, but
3 typically we find that if we have at least five
4 counterparties, that creates a good enough
5 marketplace for there to be healthy competition.
6 If it's fewer, then we need to do some thinking.
7 **MR. RAPHAEL HERZ [EnerNOC]**: Alex, may I add
8 to that?
9 So if we go back to the piece of antique
10 furniture that you were looking at an online — am I
11 off-mic here?
12 **CHAIRMAN WHITFIELD**: You're on. Just pull it
13 a little closer.
14 **MR. RAPHAEL HERZ [EnerNOC]**: Okay
15 [indicating]. And so the reason that you elected
16 not to proceed, I'm guessing, is that you thought
17 the thing was worth more than what you thought you
18 could get in the marketplace. And this gets back
19 to that asymmetry of information. If you could see
20 that there were 1000 transactions of a very similar
21 piece of furniture, same era, same make — maybe a
22 different maker — maybe different curlicues and
23 handles, or whatever, and you knew that that piece
24 was transacting in the, you know, $1752-$2500 $1750-2500
25 range, but the rules were, "Hey, they've got to

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1 start at $25," you'd be like, "Okay, well, that's
2 fine, because I found a lot of evidence that
3 there's people out there who want it and are going
4 to pay what I'm looking for it." You weren't
5 confident. So if we take that same analogy and we
6 look at commodities, I submit to you — all of you
7 probably have smart phones and you can probably
8 figure out what the price of something is online in
9 a matter of, you know, probably hours if not
10 minutes, and that's the notion behind a commodity
11 is that the price is vastly known. And that's what
12 makes it different from that piece of furniture,
13 because if we set an opening price of, you know, I
14 don't know, $50 — right? — we know that the bidders
15 are going to be able to come in at and go beyond —
16 or go below $50 or go, you know, for selling, go
17 up. Either way. So, you know, there is a lot of
18 strategic elements and thoughtfulness that go into
19 auction architecture, and no matter who the utility
20 uses, you've got to find somebody that understands
21 that piece of it. Now, did I do an adequate job of
22 comparing antique furniture with commodities?
23 **CHAIRMAN WHITFIELD**: You did. And the service
24 — I don't know their ratio, but they could be in a
25 maybe not 99 percent successful transaction ratio,

like you, but possibly in the 90s, you know. I do think they're very reputable and pretty high, but the mere fact that I don't know —

**MR. RAPHAEL HERZ [EnerNOC]**: Right.

**CHAIRMAN WHITFIELD**: — and the fact that once I do enter into that, it's gone, and I do have to, no matter what happens — if one bidder comes in at $25, it's gone — no matter how successful, whether it's 99 percent like you or not, I didn't like the notion that it's an absolute thing, is —

**MR. RAPHAEL HERZ [EnerNOC]**: Yeah.

**MR. HOUGHTALING [EnerNOC]**: Yes.

**CHAIRMAN WHITFIELD**: — I guess the word I'm looking for.

**MR. RAPHAEL HERZ [EnerNOC]**: Our methods and others' methods are, what I would say, tested in the industry. And so they have evolved over the period of a decade, plus, to be like this. If there were an easier, better way, we'd probably go there. But reality is, a utility doesn't want to be locked into a transaction, so we've got to do this on our dime, but if we're going to do it on our dime, we've got to make sure that we're pretty good at it.

**CHAIRMAN WHITFIELD**: Well, you sort of



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1 answered that, too, in Commissioner Howard's last
2 line, when you said they're not locked in. It's
3 not absolute.
4 **MR. RAPHAEL HERZ [EnerNOC]**: It's not
5 absolute.
6 **CHAIRMAN WHITFIELD**: Okay. I don't see
7 anything further. I think that you've answered all
8 our questions, and we certainly thank both of you
9 for coming in and bringing this very informative
10 panel before us.
11 Mr. Bateman, is there anything from the Office
12 of Regulatory Staff?
13 **MR. BATEMAN**: Nothing from ORS.
14 **CHAIRMAN WHITFIELD**: Well, if not, we thank
15 you again for your informative panel, and thank you
16 for being with us, and this allowable ex parte is
17 adjourned.
18 [WHEREUPON, at 11:45 a.m., the
19 proceedings in the above-entitled matter
20 were adjourned.]
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C E R T I F I C A T E

I, Jo Elizabeth M. Wheat, CVR-CM-GNSC, 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 in an Allowable Ex Parte Proceeding held before THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA in Columbia, South Carolina, according to my verbatim record of same.

IN WITNESS WHEREOF, I have hereunto set my hand, on this the 2nd day of February, 2018.

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