

**DETERMINATION AND FINDINGS  
FOR  
SOLE SOURCE PROCUREMENT**

1. **Authorization**<sup>1</sup>

- D.C. Code § 34-801
- D.C. Code § 34-804
- 15 D.C.M.R. § 3700

2. **Minimum Need**

The Office of the People’s Counsel for the District of Columbia (“OPC” or “Office”) requests the services of Spiegel & McDiarmid, LLP (“Spiegel & McDiarmid”) in representing the interests of the Office and District of Columbia utility ratepayers before the Federal Energy Regulatory Commission (“FERC”) regarding docket No. ER21-1635, in which PJM seeks FERC approval of a change in how “blackstart” resources are to be compensated.

3. **Estimated Fair and Reasonable Price**

The total contract (“not –to-exceed”) price is \$12,000.

4. **Facts That Justify a Sole Source Procurement**

- A. The Office of the People’s Counsel is an independent agency of the District of Columbia Government. By law, it is the advocate for consumers of natural gas, electric and landline telephone services in the District. District of Columbia law designates the Office as a party to all utility-related proceedings before the District of Columbia Public Service Commission. The Office also represents the interests of District ratepayers before federal regulatory agencies. The Office is authorized to investigate the operation and valuation of utility companies independently of any pending proceedings.
- B. The Office of the People’s Counsel already has an established contract in place with Spiegel & McDiarmid, LLP to retain their legal services and expertise in representing the Office’s interests before FERC in related matters. At this time, OPC believes that a contract amendment to secure further funding is needed to specifically address the potential for protest that has recently emerged in response to PJM’s request in ER21-1635.
- C. Spiegel & McDiarmid, LLP provides legal services—largely to public sector entities such as city and consumer-owned utilities, ratepayer advocates and states—on energy, telecommunications, and transportation issues. The attorneys at Spiegel & McDiarmid, LLP are experienced in addressing complex energy-related matters including those related to FERC and other Federal regulatory bodies. Spiegel & McDiarmid, LLP has a

longstanding relationship assisting the Office in such matters and is exclusively qualified based on their experience understanding the tasks at hand. The tasks covered in this procurement will include:

- Review of PJM’s filing in ER21-1635;
- Review of key aspects of the PJM stakeholder process concerning blackstart issues;
- Coordination with aligned parties that are expected to protest PJM’s filing; and
- Drafting a protest in coordination with respective OPC staff.

D. Given Spiegel & McDiarmid’s expertise in overseeing the interests of the Office and derivatively that of District utility ratepayers; and given their longstanding working relationship with the Office in providing expert legal services, they’re uniquely and exclusively qualified to handle the tasks specific to the aforementioned proceeding. Additionally, due to time constraints related directly to the filing of OPC’s protest in the corresponding FERC docket (No. ER21-1635), OPC cannot afford to retain and/or compete the services that Spiegel & McDiarmid, LLP is already currently providing. Based on the nature and complexity of the issues at hand, and based on the familiarity of the tasks to be performed with the timeframe required; OPC believes it is justified in awarding a sole source contract to Spiegel & McDiarmid, LLP.

E. It is for the reasons outlined herein that it is recommended that a sole source contract be awarded to Spiegel & McDiarmid, LLP.

5. **Certification by the Contracting Officer**

I hereby certify that the above facts are accurate and complete.

\_\_\_\_\_  
Christopher K. Sellers  
Contracting Officer

\_\_\_\_\_  
Date

**DETERMINATION**

Based on the above findings and in accordance with the District of Columbia procurement regulations: *DC Law: 34-804; DC Law: 34-801; and 15 D.C.M.R. §3700*, I hereby determine that the award of a sole source contract for the services described herein is in the best interest of the Office of the People’s Counsel.

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Eric B. Scott, Esq.  
Chief Operating Officer

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Date

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<sup>i</sup> Procurement authority is vested in the Commission pursuant to § 13(c) (2) of the Residential Real Property Seller Disclosure, Funeral Services Date Charge, and Public service Commission Independent Procurement Authority Act of 1998 (D.C. Law 12-263). The Commission is statutorily exempt from the D.C. procurement rules as set forth in D.C. Official Code § 1-1181 et seq.

D.C. Code § 34-804, hereby established within the Public Service Commission of the District of Columbia, as established by D.C. Code § 34-801, as Office to be known as the “Office of the People’s Counsel.” The Office shall be a party, as of right, in any investigation, valuation, revaluation, or proceeding of any nature by the Public Service Commission of or concerning a public utility operating in the District of Columbia.

15 D.C.M.R. § 3700: Public Utilities and Cable Television – Public Service Commission Rules of Practice and Procedure.