

**DETERMINATION AND FINDINGS
FOR
SOLE SOURCE PROCUREMENT**

1. **Authorization**¹

- 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 Office and District of Columbia ratepayer and consumers before the Federal Energy Regulatory Commission (“FERC”) in settlement discussions regarding consolidated dockets ER19-5, ER19-6, ER19-10, ER19-14, and ER19-18. These dockets concern, among other things, revisions that the Exelon Companies, including Pepco, have proposed to their transmission formula rate to refund or recover certain deferred income tax excesses and deficiencies.

3. **Estimated Fair and Reasonable Price**

The total contract (“not –to-exceed”) price is \$10,000.

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. District consumers and ratepayers are served by Pepco transmission lines and pay to receive such service pursuant to Pepco’s transmission formula rate that is on-file with FERC.
- C. Spiegel & McDiarmid 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 are experienced in addressing complex energy matters including those related to FERC, transmission formula rates, and cost allocation issues. Spiegel & McDiarmid is currently

performing services similar those covered under this procurement for another consumer advocate office. The tasks covered in this procurement will include:

- Reviewing Pepco’s Filing in Docket No. ER19-10;
- Attending and representing OPC’s interests at meetings, and technical and settlement conferences related to the consolidated proceedings.
- Reviewing data responses;
- Preparing comments and advising OPC on legal positions that will maximize the benefit and minimize the harm to DC ratepayers and consumers from Pepco’s proposed tariff changes;
- Working with other stakeholders and experts to coordinate development of positions and strategies; and
- Providing regular updates on key issues of concern.

D. Given Spiegel & McDiarmid’s expertise in transmission formula rate and FERC electric matters, this consultant is uniquely qualified to assist the Office of the People’s Counsel with analyzing, and identifying consumer concerns related to, Pepco’s proposed formula rate changes that address certain deferred income tax excesses and deficiencies, and with presenting strategies to help achieve just and reasonable electric rates for electric customers in the District of Columbia.

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.

Eric B. Scott, Esq.
Chief Operating Officer

Date

ⁱ 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.