

**DETERMINATION AND FINDINGS
FOR
SOLE SOURCE PROCUREMENT**

1. **Authorization**ⁱ

- 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 request Mr. Matthew I. Kahal, Economic Consultant, to assist our office in preparing and filing the Petition of the Federal Power Act Rule 206 Complaint against PHI Companies and Baltimore Gas and Electric Company Before the Federal Energy Regulatory Commission under Docket No. EL13-48-000. The consultant will assist in the development of and filing a Section 206 complaint at the Federal Energy Regulatory Commission (“FERC”) against the PHI electric utility companies and Baltimore Gas and Electric Company (“BG&E”). Specifically, the purpose of this complaint is to challenge whether the currently-authorized return on equity (“ROE”) in the PHI/BG&E transmission service formula rates (i.e., Network Integration Transmission Service, or “NITS”) remains just and reasonable, in light of the sharp reductions in the market cost of capital that has taken place over the past several years since the currently-effective ROE was set.

The services rendered by Mr. Matthew I. Kahal involve three tasks or tracks. Under Phase I, Mr. Kahal conducts background research on recent FERC precedents on electric utility cost of equity rulings, conduct of a cost of equity study, develop recommendation and the preparation of an affidavit that could support a Section 206 complaint. Phase II of the task involves preparing reply to response by PHI/BG&E. In Phase III of the proposed task, the consultant will post testimony, hearings and settlement conferences. The three tasks are jointly sponsored by to Delaware Division of the Public Advocate, Maryland Office of People's Counsel, New Jersey Division of Rate Counsel, and Office of the People's Counsel of the District of Columbia.

3. **Estimated Fair and Reasonable Price**

This work will be conducted by Matthew I. Kahal who will serve as OPC's rate of return witness in this case. As indicated above, the proposal is sponsored by four offices of public advocates. The total contract not –to-exceed price is \$30,500. This contract price is allocated for three phases. The not-to-exceed budget for work under task 1 of this contract is \$15,000. The not-to-exceed budget for work under task 2 of this contract is \$7,500. The final not-to-exceed budget for work under task 3 of this contract is \$8,000.

OPC’s share of the total cost of the three tasks is 25 percent, and therefore its total project budget is not-to-exceed \$7,625.00. Specifically, the not-to-exceed prices for tasks I, II and II are, \$3,750.00, \$1,875.00, and \$2,000.00, respectively. These costs are for the consultant’s time directly related to this project. However, a not to exceed \$600 may be required to cover direct project costs, such as travel, as incurred.

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

- A. The Office of the People’s Counsel (“OPC” or “Office”) is an independent agency of the District of Columbia government. By law, it is the advocate for consumers of natural gas, electric and telephone services in the District. District of Columbia law designates the Office as a party to all utility-related proceedings before the 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.

Matthew I. Kahal provides consulting services regarding FERC filing under Docket No. EL13-48-000. The services are intended to ensure that transmission rates paid by retail electric ratepayers are just, fair and reasonable.

The technical tasks covered in this procurement will include three phases as outlined below:

Phase I: Development of Initial Complaint

This phase will require conducting the background research on recent FERC precedents on electric utility cost of equity rulings. This will be used to gain an understanding of the methods, proxy groups and data sources found to be acceptable to the FERC. Using this research as background, our work will involve the conduct of a cost of equity study, development of a recommendation and the preparation of an affidavit that could support a Section 206 complaint. In addition, we would provide support assistance to counsel, as needed, regarding the drafting of the complaint.

If FERC accepts the complaint for investigation, the next phases discussed below will be applicable.

Phase II: Reply to Response by PHI/BG&E

If the complaint proceeds, it is expected that PHI/BG&E will submit a response, including expert testimony on cost of capital. The Phase II tasks will include analysis of the PHI/BG&E responses, conducting discovery on cost of equity testimony and/or affidavits, and preparing data request, reviewing data responses and preparing testimony/affidavit to rebut the PHI BG&E filing. This may also cover any submissions by FERC staff and intervening parties. We shall assist counsel, as needed.

Phase III: Post Testimony, Hearings and Settlement Conferences

Work in the third phase involves tasks associated with post testimony activities. This would involve participation in hearings to defend testimony,

assistance with cross-examination of opposing witnesses, attendance/participation with settlement conferences, miscellaneous assistance with post-hearing briefs.

- B. Given Mr. Kahal’s expertise in rate of return studies, he is uniquely qualified to assist the Office of the People’s Counsel, as well as other offices of public advocates within the PJM region, with preparing and filing the Petition of the Federal Power Act Rule 206 Complaint against PHI Companies and Baltimore Gas and Electric Company Before the Federal Energy Regulatory Commission under Docket No. EL13-48-000. The filing of this complaint will help achieve just and reasonable electric rates for retail electric customers in the District of Columbia.
- C. It is for the reasons outlined herein that it is recommended that a sole source contract be awarded to Matthew I. Kahal.

5. **Certification by the Contracting Officer**

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

Frank G. Scott, Jr.
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 DCMR §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.

Sandra Mattavous-Frye
People’s Counsel

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.