

**BEFORE THE  
MARYLAND PUBLIC SERVICE COMMISSION**

RESOURCE ADEQUACY

ADMINISTRATIVE DOCKET PC66

**COMMENTS OF THE MARYLAND OFFICE OF PEOPLE'S COUNSEL ON THE  
PRELIMINARY REPORT**

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The Office of People’s Counsel (“OPC”) submits these comments in response to the Public Service Commission’s August 17, 2026 Notice of Technical Conference and Request for Comments in Administrative Docket PC 66 (“Notice”).<sup>1</sup> The Notice identifies that Power Advisory LLC (“Power Advisory”) prepared a preliminary report entitled *RECA Generation Procurement Model Study: Approach & Assumptions* (“Preliminary Report”) and “invites interested stakeholders to file comments on the matter.”<sup>2</sup> OPC appreciates Power Advisory’s efforts to engage with the feedback from OPC and other parties during earlier stages of this proceeding, and the Commission’s willingness to seek additional feedback. The Preliminary Report reflects that engagement and provides a useful framework for evaluating the relative advantages, disadvantages, and risks of alternative generation procurement models. As discussed below, OPC believes that framework would benefit from several clarifications and refinements before the methodology and assumptions are finalized.<sup>3</sup>

## INTRODUCTION

The Preliminary Report appropriately finds that utility-owned generation exposes customers to risks that would otherwise be borne by competitive developers under other procurement structures. The report identifies some—though not all—of the issues that

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<sup>1</sup> Md. Pub. Service Comm’n, *Notice of Technical Conference and Request for Comments* (PC 66, Aug. 17, 2026) (“Notice”).

<sup>2</sup> Notice at 1.

<sup>3</sup> See, in particular: Comments of the Maryland Office of People’s Counsel on Scope of RECA Generation Procurement Model Study (PC 66, Jan. 23, 2026) (“OPC Study Scope Comments”); Comments of the Maryland Office of People’s Counsel on Preliminary RECA White Paper (PC 66, Apr. 24, 2026) (“OPC White Paper Comments”).

would arise with utility ownership, and the report could be strengthened in that regard. In several additional respects, Power Advisory should improve its preliminary report. In particular, the preliminary report analyzes and ranks various procurement models without identifying or defining the underlying scope, scale, timing, location, or product type of Maryland's procurement needs. By not determining these underlying parameters of the procurement need, the Preliminary Report's comparisons are abstract and risk guiding future policy decisions toward structures that are fundamentally unsuited to Maryland's actual circumstances.

Additionally, the Preliminary Report should more fully account for current market reform initiatives taking place at PJM Interconnection LLC ("PJM"). Such potential reforms relating to large loads, capacity market redesign, interconnection process, load forecasting, and transmission planning may reshape the wholesale market and directly impact the timing, necessity, and risk involved with any state-led procurement. The Preliminary Report's "least regrets" analysis should test sensitivity against these changing and uncertain market conditions.

Furthermore, the Preliminary Report's Multi-Criteria Decision Analysis lacks threshold screening requirements for basic legal and commercial viability. Additionally, the "speed to market" metric should account for interconnection process requirements, state agency review processes, and overall project readiness. The final report should also clarify its levelized cost metrics and incorporate independent evaluator safeguards to protect procurement integrity.

## COMMENTS

### **I. Effective comparison of procurement models requires an identification of the need.**

OPC previously explained that Maryland has not defined the need it is attempting to meet with sufficient specificity to permit a meaningful comparison among procurement models. As OPC stated in its April comments, the proceeding had not resolved “how much Maryland actually seeks to procure beyond” the statutory 100 MW floor; “what technologies are acceptable sources of capacity; whether the objective is strictly energy, capacity, ancillary services, or some combination therein; who the procuring entity or offtaker will be; when procurement will occur; or where procured resources should be located.”<sup>4</sup> OPC concluded: “Without at least an initial understanding of these basic parameters, procurement models can be described but not compared on equal terms.”<sup>5</sup>

The Preliminary Report acknowledges this concern but does not resolve it. Power Advisory states that it is “up to Maryland policymakers to establish the scope and objectives of specific procurements” and assumes that policymakers will direct the procuring entity “to procure a specific type of resource and/or outline the objectives of the procurement process.”<sup>6</sup> It further recognizes that “[t]his direction will be critical in determining the preferred form of procurement model to be employed.”<sup>7</sup> Yet the Preliminary Report proceeds to identify preferred procurement models based on three

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<sup>4</sup> OPC White Paper Comments at 6–7.

<sup>5</sup> *Id.* at 7.

<sup>6</sup> Preliminary Report at 6.

<sup>7</sup> *Id.*

generalized policy objectives—resource adequacy, affordability, and speed to market—before the particular need, scale, timing, or product to be procured has been defined.

Those parameters may materially affect the preferred procurement structure. Indeed, Power Advisory itself recognizes that the appropriate model may depend on the particular generation technology being procured.<sup>8</sup> Comparing procurement models before defining the underlying procurement need therefore risks future procurement decisions being guided by abstract determinations of a “preferred model” that is not suited to Maryland’s actual circumstances.

Timing and term parameters carry particular risk for customers. OPC previously cautioned that “this may be an inopportune time for Maryland SOS customers to ‘go long’ (particularly for capacity)” because of the risk that generation could be procured “at the market peak, followed by a future market correction, thereby locking customers in at excessive costs.”<sup>9</sup> The Preliminary Report quotes that concern and responds that the risk can be mitigated through competitive procurement in which prospective sellers offer substantially more supply than the quantity sought.

Competition is important, but it does not resolve the concern OPC identified. As OPC explained in its April comments, “[a] solicitation may be competitive and still produce prices that reflect temporarily elevated market conditions, supply-chain constraints, financing costs, and capacity scarcity.”<sup>10</sup> OPC’s concern is therefore not

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<sup>8</sup> *Id.* at 9–11.

<sup>9</sup> OPC Study Scope Comments at 2–3; OPC White Paper Comments at 2–3.

<sup>10</sup> OPC White Paper Comments at 3.

simply whether bids are competitive when received, but whether customers are committed for many years to prices established under conditions that later prove temporary. The Preliminary Report itself recognizes that “there is a risk that this may be the ‘peak’ of the supply chain constraints and locking in term now locks in that cost.”<sup>11</sup> The final report should therefore address how procurement structure, scale, and term could mitigate that risk (e.g., whether an identified need should be procured in tranches rather than through a single large, long-term commitment) rather than treating competitive bidding alone as sufficient mitigation.

In summary, the final report should, at a minimum, make clear that its model rankings cannot substitute for defining the objective, scale, timing, product, and other material parameters of any actual procurement. The final report should also address how structure, scale, and term can mitigate risks to customers. Without these clarifications, the report risks favoring procurement methods that are not suitable for meeting Maryland’s objectives and risks locking in customers with potentially high-cost long-term contracts.

## **II. Ongoing PJM initiatives should inform Maryland’s consideration of generation procurement.**

PJM has already undertaken or initiated reforms addressing resource adequacy and other conditions relevant to the generation procurement objectives identified in the Preliminary Report. These initiatives are significant because they may materially affect the need for, scope of, and sequencing of any generation procurement that Maryland

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<sup>11</sup> Preliminary Report at 41.

undertakes. Many of the reforms also directly affect the business-as-usual (“BAU”) scenario evaluated by Power Advisory, which defines BAU as reliance on PJM’s capacity market, formally known as the Reliability Pricing Model (“RPM”).<sup>12</sup> Indeed, the Preliminary Report recognizes that PJM is currently reassessing the capacity market and investment incentives.<sup>13</sup>

PJM’s 2025 Critical Issue Fast Path (“CIFP”) on Large Load Additions, and the 2026 CIFP addressing Reliability Backstop Procurement (“RBP”) and Connect & Manage both produced several reforms directly responsive to looming capacity shortfalls associated with the rapid growth of large loads.<sup>14</sup> These include the Reliability Backstop Procurement (“RBP”),<sup>15</sup> Interim Resource Adequacy Service (“IRAS”),<sup>16</sup> Large Load Registry, and Bring Your Own New Capacity (“BYONC”) requirements tied to the inclusion of large loads in PJM’s RPM.<sup>17</sup> The tariff revisions implementing these programs and requirements are currently pending before the Federal Energy Regulatory Commission (“FERC”).<sup>18</sup>

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<sup>12</sup> Power Advisory specifically refers to the “Base Residual Auction,” which is the primary RPM auction conducted for each delivery year. The Base Residual Auction is followed by smaller Incremental Auctions that provide a market for capacity adjustments before a delivery year begins.

<sup>13</sup> Preliminary Report at 18.

<sup>14</sup> See PJM, Critical Issue Fast Path – Large Load Additions, <https://www.pjm.com/committees-and-groups/cifp-lla> and PJM, Critical Issue Fast Path - Reliability Backstop Procurement / Connect & Manage, <https://www.pjm.com/committees-and-groups/cifp-rbp>, for links to each processes issue charge, the PJM Board’s decisional letters, and files associated with Manual changes.

<sup>15</sup> RBP provides a mechanism to procure additional capacity where the market has cleared short of the reliability requirement.

<sup>16</sup> IRAS creates a framework under which qualifying new large loads without sufficient capacity may be subject to curtailment rather than freeriding on existing shared reliability.

<sup>17</sup> BYONC requirements require large loads to support their incremental capacity needs more directly.

<sup>18</sup> See PJM, *Reliability Backstop Procurement to Address Resource Adequacy and Large Loads*, Docket No. ER26-3380-000 (filed July 31, 2026); PJM, *Proposal to Establish Interim Resource Adequacy Service & a Large Load Registry*, Docket No. ER26-3515-000 (filed Aug. 13, 2026).

PJM is separately pursuing several reforms to the design and inputs of the RPM. The Quadrennial Review addresses the administrative inputs that shape the RPM demand curve and price formation, including Cost of New Entry (“CONE”), Net CONE, the reference resource, and the Variable Resource Requirement (“VRR”) curve.<sup>19</sup> Following the typical quadrennial review timeframe, these topics are due to be addressed again in the next few years. PJM is also, through related capacity-market workstreams: (a) considering a seasonal or sub-annual capacity construct; (b) reevaluating the Base Residual Auction (“BRA”) forward period; and (c) revising capacity accreditation treatment.<sup>20</sup> Additionally, the Reserve Certainty Senior Task Force (“RCSTF”) is considering energy and ancillary service market reforms intended to value flexibility, commitment, reserves, and uncertainty more efficiently.<sup>21</sup>

Changes in these areas could materially affect the amount and timing of capacity procured, how different resource capabilities are valued, the volatility of market outcomes, and the ability of new entry to respond to forward market signals, and therefore should inform an assessment of the need for and design of any resource procurement. They also underscore the importance of testing whether the Preliminary

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<sup>19</sup> See, e.g., Newell, S., et al., The Brattle Group, *Sixth Review of PJM’s Variable Resource Requirement Curve* (Apr. 11, 2025); Newell, S., et al., The Brattle Group & Sargent & Lundy, *Brattle 2025 CONE Report for PJM* (Apr. 11, 2025).

<sup>20</sup> See PJM, Sub-Annual Capacity Market Senior Task Force, <https://www.pjm.com/committees-and-groups/task-forces/sacmstf>; PJM, Effective Load Carrying Capability Senior Task Force, <https://www.pjm.com/committees-and-groups/task-forces/elccstf>.

<sup>21</sup> See PJM, Reserve Certainty Senior Task Force, <https://www.pjm.com/committees-and-groups/task-forces/rcstf>.

Report’s results remain robust under alternative assumptions regarding future RPM design and performance.

PJM has already adopted a series of measures intended to accelerate the entry of new supply. Its broader interconnection reforms shifted the queue toward a “first-ready, first-served” cluster-study process.<sup>22</sup> More recently, FERC approved the Reliability Resource Initiative (“RRI”) and expanded use of Surplus Interconnection Service (“SIS”),<sup>23</sup> and PJM has proposed an Expedited Interconnection Track (“EIT”).<sup>24</sup> RRI was designed to accelerate the study of a limited number of “shovel-ready” projects, while SIS may permit new resources to make use of existing interconnection capability that is not fully utilized. EIT would provide an alternative expedited path for certain large capacity projects capable of reaching commercial operation on an accelerated schedule. These developments are relevant to the Preliminary Report’s treatment of “speed to market” as one of its three principal policy objectives. The success or failure of RRI, SIS, EIT, and the underlying queue reforms will therefore bear directly on supply development by merchant developers.

Other ongoing processes may also materially affect the conditions underlying potential generation procurement. PJM’s Load Analysis Subcommittee and related forecasting work, for example, will continue to refine the treatment of large load additions and determine the demand against which capacity and transmission are planned.

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<sup>22</sup> See PJM, 181 FERC ¶ 61,162, (2022) (Transition to clustered, “first-ready, first-served” cycle process).

<sup>23</sup> See PJM, 190 FERC ¶ 61,084 (2025) (Reliability Resource Initiative); PJM, 190 FERC ¶ 61,083 (2025) (Surplus Interconnection Service).

<sup>24</sup> See PJM, 195 FERC ¶ 61,197, (2026) (Expedited Interconnection Track), Docket Nos. ER26-1563-000 and ER26-1563-001.

Regional transmission planning and large-load interconnection reforms will affect future market conditions and many of the same questions concerning reliability, timing, and the allocation of risk that the Preliminary Report addresses in evaluating procurement models.

The final report should consider whether pending and recently adopted PJM reforms could improve the credibility of projected demand forecasts, facilitate needed supply additions, better allocate incremental costs and risks, or otherwise change the assumptions underlying the Preliminary Report's evaluation. The final report should also evaluate the sensitivity of its conclusions to alternative scenarios emanating from these reforms. This does not mean that Maryland should await the completion of every PJM initiative before taking action. It does mean, however, that Maryland should avoid committing customers to a long-term procurement structure based on assumptions about market conditions, resource entry, or reliability needs that ongoing reforms could materially change. More fundamentally, the study should inform the Commission's consideration of available options, rather than be treated as demonstrating that any particular procurement action is necessary under current conditions.

**III. The “least regrets” assessment should incorporate sensitivity analysis and address threshold requirements that a procurement model must satisfy to be considered viable.**

The Preliminary Report states that the Commission's Requests for Proposals (“RFP”) calls for a “least regrets planning” approach that considers procurement

performance under “uncertain future conditions.”<sup>25</sup> Power Advisory implements that analysis by using each model’s lowest score across the three policy objectives (i.e., resource adequacy, affordability, and speed to market) as a proxy for “downside exposure.”<sup>26</sup> This approach tests performance as policy priorities change, but not as underlying market conditions change.

Maryland’s future procurement needs will depend on uncertain assumptions regarding load growth, capacity-market outcomes, interconnection and construction timelines, project attrition, and other market conditions. Those assumptions could materially affect both the need for procurement and the comparative risks of different procurement models. A more complete least-regrets analysis should therefore supplement Power Advisory’s analysis with sensitivity analysis that tests procurement models under plausible alternative market conditions.

Likewise, The Multi-Criteria Decisions Analysis (“MCDA”) results should be presented with greater recognition of uncertainty and should not convey greater precision than the underlying qualitative judgments support. For example, the difference in the Resource Adequacy score for a power purchase agreement (4.15) and an Index Renewable Energy Certificates (4.18) is too small, standing alone, to support a meaningful distinction between the models.<sup>27</sup> The final report should fully explain the basis for each score, identify material areas of uncertainty, and use the above mentioned

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<sup>25</sup> Preliminary Report at 40.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 36.

sensitivity testing to show whether modest changes in assumptions, scores, or weighting would alter the rankings.

Finally, the final methodology should consider whether certain fundamental requirements should operate as threshold screens rather than weighted criteria. As currently structured, the MCDA is compensatory: a low score in one category can be offset by higher scores in unrelated categories. That may be appropriate for many comparative criteria, but not necessarily for requirements such as legal feasibility, adequate consumer protections, or a credible ability to support timely delivery of needed capacity. A procurement model that cannot satisfy a fundamental requirement should not receive a favorable overall assessment merely because it performs well in unrelated categories. The final report should identify any minimum requirements that a procurement model must satisfy before it is comparatively scored.

#### **IV. Power Advisory appropriately identifies significant disadvantages associated with utility ownership and build-transfer models.**

OPC agrees with the Preliminary Report's treatment of utility ownership and build-transfer arrangements. Power Advisory's illustrative financial analysis compares the lifecycle cost of utility ownership with independent power producer ("IPP") ownership for a representative 200 MW Maryland solar project. Although the assumed utility debt and equity costs are lower, the modeled cost to ratepayers under utility ownership is approximately \$354-\$363 million, compared with approximately \$302-\$351

million under the modeled IPP scenarios. Power Advisory concludes that IPP ownership produces lower estimated ratepayer costs in each modeled return scenario.<sup>28</sup>

The Preliminary Report appropriately recognizes that utility ownership exposes customers to risks that are borne by developers under other procurement structures. In particular, prudently incurred construction cost overruns may be recovered from ratepayers, and customers remain exposed to capital and performance risks over the life of the asset. The build-transfer model reduces some construction risk because the developer bears that risk until transfer, but thereafter the utility and its customers assume the asset's future performance risk.<sup>29</sup>

These findings identify some, but not all, the risks of utility ownership. OPC previously explained that build-transfer<sup>30</sup> structures can increase customer costs because developers lose risk mitigation options available under continued private ownership and may therefore include a risk premium in their bids.<sup>31</sup> OPC has also emphasized the broader structural implications of expanded utility involvement in Maryland's restructured market and the importance of procurement integrity safeguards and competitive alternatives.<sup>32</sup> The final report should retain these risk allocation and market structure considerations in its assessment of utility ownership and build-transfer models.

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<sup>28</sup> Preliminary Report at 20–21.

<sup>29</sup> *Id.* at 22–23, 53.

<sup>30</sup> As defined by Power Advisory, “build-transfer” involves “a partnership where an [IPP] or project developer/constructor constructs a generation project for an electric utility” and “transfers the project to the electric utility upon completion.” Preliminary Report at 52.

<sup>31</sup> OPC Study Scope Comments at 11.

<sup>32</sup> OPC White Paper Comments at 6; OPC Study Scope Comments at 9–11.

## **V. The “speed to market” criterion should be enhanced.**

The Preliminary Report defines “speed to market” as favoring “procurement models and methods that can be readily implemented.”<sup>33</sup> That definition focuses principally on implementation of the procurement mechanism, rather than whether a resulting project can actually begin providing accredited capacity when needed. The final report should also consider project-development readiness, including interconnection process requirements.

Power Advisory characterizes interconnection feasibility as a “tactical issue” that “isn’t an appropriate evaluation criterion to distinguish between models.”<sup>34</sup> This characterization understates interconnection feasibility’s importance where timely delivery of accredited capacity is a procurement objective. Even if interconnection feasibility does not distinguish procurement models in the abstract, it is central to whether a procurement can accomplish that objective.

The “speed to market” category should also be enhanced to address the Maryland Department of Natural Resources’ Power Plant Research Program’s (“PPRP”) concerns regarding State review. PPRP recommended that Power Advisory’s study consider the “practical requirements of coordinated State agency review,” including the “[a]nticipated volume and clustering of CPCN filings,” project complexity, and the “[f]easibility of completing coordinated agency review within the statutory timeline.”<sup>35</sup> PPRP further

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<sup>33</sup> Preliminary Report at 14.

<sup>34</sup> *Id.* at 8.

<sup>35</sup> Comments of the Maryland Department of Natural Resources Power Plant Research Program (PC 66, Jan. 23, 2026) (“PPRP Comments”) at 2–3.

cautioned that “late-stage changes may create process inefficiencies and undermine the ability of reviewing agencies to complete meaningful environmental and siting review.”<sup>36</sup> These considerations bear directly on whether a procurement model can produce projects that are capable of proceeding through interconnection, permitting, and construction on a credible schedule and should be analyzed by Power Advisory in the final report.

**VI. Power Advisory should clarify its treatment of LCOC and LCOE for the final report.**

The Preliminary Report defines levelized cost of capacity (“LCOC”) as the annualized revenue a resource needs “per unit of nameplate capacity” to recover its fixed costs.<sup>37</sup> For purposes of evaluating resource adequacy, however, nameplate capacity may not reflect the amount of capacity a resource can actually contribute to PJM. The final report should explain why nameplate capacity is the appropriate denominator or, alternatively, evaluate LCOC based on PJM-accredited capacity using current accreditation assumptions.

The treatment of LCOC and levelized cost of energy (“LCOE”) within the MCDA also needs clarification. Power Advisory identifies LCOC as most relevant when resource adequacy is the objective and LCOE as most relevant when affordability is the objective.<sup>38</sup> Both are averaged into the same “Cost & Rate Impacts” score.<sup>39</sup> The final report should explain why equal implicit weighting is appropriate or vary the relative

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<sup>36</sup> PPRP Comments at 3–4.

<sup>37</sup> Preliminary Report at 12.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 33, 35.

weight of these metrics based on the policy objective being evaluated through the sensitivity analysis discussed above.

Finally, Power Advisory should provide additional support for assigning BAU the lowest possible LCOE score. The stated rationale is that the BRA is “designed to procure lowest cost capacity, not lowest cost energy.”<sup>40</sup> OPC agrees that the BRA does not expressly optimize lifecycle energy costs. However, capacity procured through the BRA does not require the corresponding energy to be purchased from the same resource. Absent modeling or other analysis of resulting energy-cost outcomes, the Preliminary Report does not establish that BAU necessarily produces higher energy costs than every alternative. The final report needs to either provide additional support for this score or characterize it as a qualitative assumption and test whether other reasonable scores materially affect the results.

## **VII. Power Advisory should address independent-evaluator issues.**

The Preliminary Report does not fully address OPC’s prior recommendation that an independent evaluator participate in the procurement process. OPC previously stated that “[i]t is best practice to have an independent evaluator participate in the procurement process” because an independent evaluator “provides both confidence in the results as well as experience in designing and conducting RFPs that the regulated utility may not have in-house.”<sup>41</sup> OPC reiterated this concern in its April comments, identifying an

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<sup>40</sup> *Id.* at 19.

<sup>41</sup> OPC Study Scope Comments at 9–10.

independent evaluator as an important “procurement integrity safeguard.”<sup>42</sup> The final report must address whether and under what circumstances independent oversight should be required, particularly where a utility-owned or affiliated project could compete against third-party proposals or where the entity administering the procurement may have an interest in the outcome.

## **CONCLUSION**

The Preliminary Report provides a useful framework for evaluating the relative advantages, disadvantages, and risks of alternative generation procurement models but should be refined before its methodology and assumptions are finalized. In particular, the final report should more clearly define the procurement need being evaluated; account for ongoing PJM reforms and changing market conditions; incorporate sensitivity analyses to test how reasonable changes in key assumptions, scores, and weighting affect the results; strengthen its treatment of least-regrets analysis, speed to market, LCOC, and LCOE, and procurement safeguards; and preserve appropriate distinctions among procurement models and their associated risks. OPC respectfully requests that the Commission take these concerns into account in further developing the approach and assumptions of the RECA Generation Procurement Model Study and refining the criteria by which procurement approaches will be evaluated.

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<sup>42</sup> OPC White Paper Comments at 6.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 17<sup>th</sup> day of September, 2026, these comments of the Maryland Office of People's Counsel were e-mailed to all parties of record to this proceeding.

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