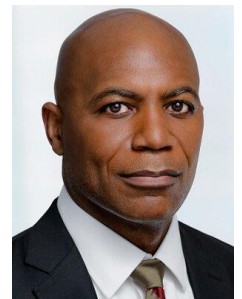


AG Watch: How Maryland Is Meeting The Data Center Age

By **Erek L. Barron** (October 1, 2026, 5:44 PM EDT)

A century ago, Maryland created the nation's first public advocate for residential utility consumers, the Office of People's Counsel. It was an access to justice move: When monopoly utilities appear before regulators seeking rate increases, the households paying those rates need a lawyer of their own in the room.

Today, the office faces the most expensive rate environment in its history, and the five-year term of the current people's counsel, David Lapp, has run. Under the Maryland Public Utilities Article, the attorney general appoints the people's counsel with the advice and consent of the Maryland Senate.



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The incumbent continues to serve until a successor is appointed and qualifies. Whatever Maryland Attorney General Anthony Brown decides, Senate review waits until January when the Maryland General Assembly convenes. Few decisions on the attorney general's desk carry comparable stakes for household budgets.

At a time when Maryland households are confronting unprecedented utility bill pressure, the decision carries significance beyond a personnel appointment. The selection will provide a window into the attorney general's broader priorities on consumer protection, energy affordability and utility accountability.

It may also shape the tone of some of the state's most consequential debates over rate increases, grid investment and the costs of the ongoing energy transition for years to come.

The Data Center Cost Shock

For two decades, American electricity demand was essentially flat, with efficiency gains absorbing growth. Artificial intelligence and the data centers behind it have ended that era and the change shows up first in the capacity market run by PJM Interconnection, the regional grid operator for Maryland, 12 other states and the District of Columbia.

Capacity is not electricity itself — it is a payment for being available when the grid needs power. That distinction matters because the bill for availability can rise before a customer ever flips a switch.

The price movement has been dramatic. In the 2024-2025 delivery year, capacity cleared at \$28.92 per megawatt-day across most of PJM. For 2025-2026, it cleared at \$269.92, then a record, and

the Baltimore Gas and Electric zone cleared at \$466.35, the highest price anywhere in the grid. The three auctions since have all cleared at the Federal Energy Regulatory Commission-approved cap, across the entire footprint: \$329.17, \$333.44 and \$325.[1]

PJM's independent market monitor, Monitoring Analytics, attributes 63 % of the 2025-2026 increase — about \$9.3 billion — to data center demand. Across the last four capacity auctions, it puts data center-driven charges at \$29.4 billion of \$63.6 billion in total capacity costs. Those dollars are collected from ratepayers.[2]

The legal question underneath the dollars is cost allocation. When a hyperscale data center interconnects, someone must fund the generation, transmission and capacity built to serve it, and a commission must decide who.

Consumer advocates argue that recovering those costs from the general rate base leaves residential customers paying for infrastructure built to serve the system's largest loads, and that the loads driving the cost should carry it. Large-load and industrial customers contest how that principle is operationalized, arguing that demand forecasts are overstated and that a rate class drawn around one kind of business discriminates.

The Ohio Manufacturers' Association took both arguments to the Ohio Supreme Court last November, challenging regulators' approval of a separate tariff for large data center customers. The case illustrates the tension at the center of modern utility regulation.

Advocates of specialized rate treatment argue that extraordinarily large new loads should bear the incremental costs they create. Opponents counter that utilities have long recovered system costs through broadly applicable rate structures and that creating industry-specific classes risks discrimination and inaccurate cost allocation.

Oregon created the first dedicated data center rate class, and the Virginia State Corporation Commission established one for large loads in Dominion Energy's territory. But Maryland set its threshold in statute rather than leaving it to a commission, which few states have done.

As states compete for data center investment while confronting rising electricity costs, that debate is increasingly moving from regulatory commissions to legislatures and courts.

What Maryland Enacted

Maryland legislated in two steps. The Next Generation Energy Act of 2025 created a separate large-load rate construct intended to make data centers pay the grid costs they impose, but its threshold of 100 megawatts and an 80% load factor left most facilities outside its reach. A data center could draw enormous power and never trigger the tariff.

The 2026 session closed that gap. The Utility Relief Act lowers the threshold to 25 megawatts and a 60% load factor. H.B. 1532 became Chapter 353 when Maryland Gov. Wes Moore signed it as emergency legislation on May 12, and it left in place the 2025 act's requirement that each utility file a large-load tariff with the Maryland Public Service Commission by Sept. 1. That deadline has passed, and the fight has moved from the bill text to the tariff sheets, where utilities, large-load customers, the Office of People's Counsel and other intervenors will litigate rate design.

The act requires utilities to pass through to large-load customers the capacity costs PJM assigns on their account; because PJM bills load-serving entities rather than data centers, that pass-through is what makes the tariff reach them. The act also creates a mandatory registration program under which large-load customers report their energy and water use to the commission, and a voluntary clean-capacity rating that offers accelerated permitting.

The same bill reached ratemaking practice more broadly. It tightens eligibility for multiyear rate plans, authorizes the commission to require reconciliation of forecast against actual spending, and bars rate increases based on "forecast test years," which let utilities set rates on projected rather than documented costs, until April 2027 or until the commission completes its study of the practice — whichever is later.

The Office of People's Counsel built the public record for that reform. Its March rates analysis — drawn directly from Public Service Commission-approved tariffs — showed that Pepco's annual distribution charges grew by roughly \$323 per customer over six years of forecasted ratemaking, against \$157 over the prior six years under traditional review. Baltimore Gas and Electric's electric distribution charges grew \$164 against \$55.[3]

The office made a methodological point worth adopting: measure rate impacts in dollars, not percentages, since the same dollar increase shrinks as a percentage as rates climb. The market response was immediate. Within weeks of the bill's final passage, and before the governor had signed it, Pepco withdrew its pending forecasted test-year proposal.

Priorities for Companies With Maryland Load

For in-house counsel at data center developers, colocation operators and large industrial users, whether Maryland will make large loads carry their own costs is settled. How the tariff terms get set and who shows up to shape them is not.

First, they should run the threshold math. The statute defines a large-load customer by aggregate monthly demand of at least 25 megawatts and a load factor above 60%, and the rate schedule reaches a customer using, within its initial contract term, more than 25 megawatts at a single location or in aggregated contract capacity across a utility's service territory. Facilities that sat comfortably outside the 2025 construct — phased builds, colocation tenants, industrial users electrifying processes — should model whether and when they cross.

Second, they should consider treating the large-load tariff proceedings as the main event. Rate design, minimum-take provisions, exit fees and collateral requirements will be decided in commission proceedings where large-load customers can intervene.

Ohio is the benchmark for where those terms land once settled — the tariff the Public Utilities Commission of Ohio approved for AEP Ohio in July 2025 applies at 25 megawatts, requires payment for at least 85% of subscribed capacity, runs up to 12 years with a four-year ramp, and carries exit fees and credit support. Maryland's proceedings begin from the same threshold and will set their own answer to each term. The time to shape those answers is during review.

Third, they might price the pass-through into contracts and siting. A large-load customer negotiating a utility service agreement is now negotiating its share of PJM capacity costs at prices that have run at the cap, and long-term siting decisions should be underwritten accordingly. Registration is mandatory,

carries a fee of at least \$1,000 per megawatt of peak load, and covers water as well as energy use — a disclosure obligation that will generate a public record.

Fourth, they might treat the clean-capacity rating as a siting strategy. Accelerated permitting has real option value for a developer able to bring its own generation, storage or demand response. The rating carries a prevailing wage condition for construction, which should be priced alongside the permitting benefit.

Utilities have their own calendar. The multiyear plan tightening, the reconciliation authority and the test-year moratorium will shape rate case strategy into next year, with transmission congestion reporting beginning Dec. 1.

None of this stops at the state line. On June 18, FERC issued show-cause orders under Section 206 of the Federal Power Act to all six organized markets — PJM, MISO, SPP, CAISO, NYISO, and ISO New England — directing each to justify or revise the rules by which it integrates large loads.[4]

The orders reach cost allocation for network upgrades, a minimum financial contribution from the large-load customer, and credit support. The 60-day response window ran in August. A company with load anywhere in those footprints is now answering the questions Maryland has answered by statute, on a federal schedule it does not set.

The Office's Record

The people's counsel appointment comes at an unusual moment, as the issues likely to define the office's agenda for years already have a well-developed record, leaving the attorney general to decide whether that record is best advanced by its architect or by new leadership.

The Maryland Department of Legislative Services' fiscal 2026 budget analysis shows the office's participation in commission, federal and appellate matters rising from 195 matters in fiscal 2020 to 288 in fiscal 2024, with favorable decisions rising from 94 to 137 a year.[5]

In January, the D.C. Circuit sided with the office and its co-petitioners, holding that FERC had erred in concluding it lacked authority under Section 206 of the Federal Power Act to revisit the rerun of the 2024-2025 capacity auction, and the matter is now back before FERC on remand.

This summer, the people's counsel protested PJM's proposed backstop procurement of 6,831 megawatts for 2028-2029, which the office estimates could add as much as \$562 million to Maryland customers' costs over 15 years if the full amount is bought at the maximum price, for data center load that may never materialize. Its March transmission report documented how PJM's cost allocation rules assign Maryland consumers an outsized share of regional transmission costs, and its analysis shaped the Utility Relief Act itself, including the lower large-load threshold.

Rate proceedings are resource-intensive on every side, and a utility's showing of counsel, economists and expert witnesses is ultimately recovered in the rates at issue. The premise of the statute establishing the people's counsel was that residential customers who cannot organize to fund a comparable presentation need standing counsel to make their record. That is a judgment about who can afford to participate, not about which party should prevail, and every state that adopted the model accepted it.

The Attorney General's Decision

The people's counsel appointment belongs to the attorney general. Whether the choice is a new appointee or a continuing one, it will carry Brown's imprimatur and reflect his own judgment about what the office requires now. A reappointment is not inertia — it is an affirmative decision to put one's own stamp on the office and answer for its direction.

The appointment is unlike most others in the attorney general's portfolio. His other appointments staff his own office; this one staffs an independent agency whose statutory client is Maryland's residential households and whose opposing parties include the region's grid operator and the utilities themselves, though the two offices work adjacent ground, since the attorney general's consumer protection responsibilities reach the retail energy market.

What the docket demands of the office is concrete. The large-load tariffs that were due Sept. 1 will be litigated line-by-line before the commission. The remand on the 2024-2025 auction and the protest of PJM's backstop procurement will run before FERC at the same time. And the test-year question returns to Annapolis when the moratorium lifts. Section 2-202 leaves the sequencing where it belongs.

The people's counsel serves until a successor is appointed and qualifies, and whatever appointment the attorney general makes reaches the Senate in January with an unusually complete public record behind it.

The decision will be read outside Maryland, where in most states the residential consumer's only institutional advocate is an office of the kind Maryland created first.

As the costs of the AI build-out settle onto the grid and FERC presses the same questions on every organized market, the state consumer advocate's role grows rather than shrinks. Maryland answered the first version of this question in 1924, and most of the country followed. It has answered part of the second version by statute and will answer the rest in a tariff proceeding that starts now. That record will be read well past the state line.

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[1] PJM Interconnection, "PJM Auction Procures 134,311 MW of Generation Resources; Supply Responds to Price Signal," July 22, 2025, <https://www.pjm.com/-/media/DotCom/about-pjm/newsroom/2025-releases/20250722-pjm-auction-procures-134311-mw-of-generation-resources-supply-responds-to-price-signal.pdf>.

[2] The Independent Market Monitor for PJM, Analysis of the 2025/2026 RPM Base Residual Auction, Part G, June 3, 2025, Analysis of the 2025/2026 RPM Base Residual Auction - Part G - Revised. https://www.monitoringanalytics.com/reports/reports/2025/IMM_Analysis_of_the_20252026_RPM_Base_Residual_Auction_Part_G_20250603_Revised.pdf.

[3] Office of People's Counsel, State of Maryland, OPC MRP Rates Comparison, March 28, 2026, Microsoft Word - 20260328 OPC MRP Rates Comparison. <https://opc.maryland.gov/Portals/0/20260328 OPC MRP Rates Comparison.pdf>.

[4] See, e.g., PJM Interconnection, L.L.C., 195 FERC 61,211 (2026).

[5] Maryland General Assembly, Department of Legislative Services, Analysis of the FY 2026 Maryland Executive Budget, 2025: Office of People's Counsel, 2025, 2026FY - Operating Budget Analysis - C91H00 - Office of People's Counsel. <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2026fy-budget-docs-operating-C91H00-Office-of-Peoples-Counsel.pdf>.