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January 24, 2024

VIA eFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Petition of PECO Energy Company to Modify Its Default Service
Supplier Master Agreement
Docket No. P-2023-3045119**

Dear Secretary Chiavetta:

On December 22, 2023, PECO Energy Company (“PECO” or the “Company”) filed its Petition to Modify Its Default Service Supplier Master Agreement (the “Petition”), which was docketed by the Pennsylvania Public Utility Commission (the “Commission”) at the above-referenced docket. In light of an inquiry from the Bureau of Technical Utility Services, PECO is filing this letter to provide additional information in support of the Petition for consideration by the Commission.

In the Petition, PECO requests approval from the Commission to add a new Appendix I, attached as Exhibit A to the Petition, to the Default Service Supplier Master Agreement (“SMA”) for PECO’s fifth default service program (“DSP V”). PECO’s DSP V SMA was approved by the Commission on December 3, 2020.¹ As described in the Petition, Appendix I incorporates the 2018 International Swaps and Derivatives Association, Inc. (“ISDA”) U.S. Resolution Stay Protocol (“Protocol”) into the SMA. This addition would enable globally systemically important banking organizations (known as “GSIBs”) and their affiliates and subsidiaries subject to the regulations issued by the Board of Governors

¹ *Petition of PECO Energy Co. for Approval of its Default Serv. Program for the Period from June 1, 2021 through May 31, 2025*, Docket No. P-2020-3019290 (Opinion and Order entered Dec. 3, 2020) (“DSP V Order”)

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of the Federal Reserve System (12 C.F.R. §§ 252.2, 252.81-88), the Federal Deposit Insurance Corporation (12 C.F.R. §§ 382.1-7) and the Office of the Comptroller of the Currency (12 C.F.R. §§ 47.1-8) (“US Stay Regulations”) to participate in the Company’s default service solicitations.

As stated in Paragraph 8 of the Petition, during a recent solicitation held under DSP V, the Independent Evaluator (NERA Economic Consulting, or “NERA”) received an inquiry from a GSIB subsidiary requesting incorporation of the Protocol into the SMA so that it could participate in the procurement as a potential supplier. Because the SMA is a covered agreement under the U.S. Stay Regulations, the potential supplier advised that without the additional language of the Protocol in Appendix I in the SMA, it could not enter into the SMA in the event it is a winning bidder in a solicitation.

GSIBs are the largest financial institutions in the world, many of which have global operations. GSIBs are subject to extensive regulation in their home country as well as in other countries in which they operate. The Financial Stability Board, in consultation with Basel Committee on Banking Supervision and governmental authorities, has identified 29 GSIBs for 2023. The list of GSIBs includes JP Morgan Chase, Bank of America, Citigroup, Goldman Sachs, and nineteen other financial institutions (a full list is available at <https://www.fsb.org/2023/11/2023-list-of-global-systemically-important-banks-g-sibs/>).

GSIBs are extensively regulated entities, provide a great deal of financial information to the public, are closely monitored by credit rating agencies and the public, and have some of the highest credit ratings available. Given the importance of GSIBs to the global banking system, the GSIB entities are not subject to bankruptcy rules that might apply to a typical corporation. In the United States, GSIBs are required to include in their qualified financial contracts (e.g., commodity contracts like the SMA) the language in Appendix I in which a counterparty in a contract with a GSIB (in this case, PECO) acknowledges that the counterparty will comply with the U.S. resolution regime applicable to the GSIB. This special resolution regime imposes a brief 48-hour stay on a counterparty exercising contractual remedies against a GSIB in order to facilitate any required resolution of a GSIB by the federal government. The U.S. special resolution regimes do not invalidate an otherwise enforceable qualified financial contract or any security interest in any collateral taken to secure performance under that qualified financial contract and they do not permit a GSIB to fail to pay or perform under a qualified financial contract. Notably, all counterparties to a GSIB qualified financial contract are subject to the same stay requirement (i.e., PECO is not disadvantaged by agreeing to comply with the 48-hour time period in the Protocol since the counterparties to any other GSIB qualified financial contracts are subject to the same stay period).

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Certain GSIBs are active in the energy markets, and affiliates and subsidiaries of banking organizations now classified as GSIBs under the US Stay Regulations previously participated in PECO default supply procurements prior to the adoption of the US Stay Regulations. In light of that past participation and the current interest of this supplier, NERA believes that it is reasonable to expect that the inclusion of Appendix I may serve to attract a greater number of suppliers. All else equal, increasing participation by GSIBs would increase competition, which may lead to lower prices for customers in future solicitations under DSP V.

Importantly, the inclusion of Appendix I does not mean that GSIBs (or their subsidiaries or affiliates) do not have to meet the same qualification and collateral requirements under the PECO RFP and SMA as any other prospective supplier. Inclusion of the Protocol in Appendix I in the SMA solely serves to broaden the field of prospective suppliers to include GSIBs, and does not increase risk for PECO's customers.

As indicated on the attached Certificate of Service, copies of this letter have been served upon all parties of record in PECO's DSP V proceeding.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Kenneth M. Kulak

Enclosures

c: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY :
COMPANY TO MODIFY ITS DEFAULT : **Docket No. P-2023-3045199**
SERVICE SUPPLIER MASTER :
AGREEMENT :

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of **PECO Energy Company's Letter to Rosemary Chiavetta, Secretary - Pennsylvania Public Utility Commission** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

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Dated: January 24, 2024

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