

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
HARRISBURG, PA 17120**

Public Meeting held February 1, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman, Statement  
Kimberly Barrow, Vice Chair  
Ralph V. Yanora  
Kathryn L. Zerfuss  
John F. Coleman, Jr.

Petition of PECO Energy Company for approval to  
Modify its Default Service Supplier Master Agreement

Docket Number:  
P-2023-3045119

**ORDER**

**BY THE COMMISSION:**

On December 22, 2023, PECO Energy Company-Electric (PECO), Utility Code 110550, filed a Petition for Approval to Modify its Default Service Supplier Master Agreement (SMA) to incorporate the 2018 International Swaps and Derivatives Association, Inc. (ISDA) U.S. Resolution Stay Protocol into the SMA. On January 5, 2024, PECO filed an amendment to the petition to correct a typographical error. On January 24, 2024, PECO filed additional details regarding the petition (Supplement).

PECO served the Petition on the Pennsylvania Public Utility Commission's (Commission) Bureau of Investigation and Enforcement (BI&E), the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Pennsylvania Utility Law Project, Community Legal Services, McNeese Wallace & Nurick, LLC, Norris McLaughlin, P.A., Phillips Lytle LLP, Eckert Seamans Cherin & Mellott, LLC, Clean Air Council, Clean Energy Program. No answers or comments were filed, and no hearings were held. For the reasons expressed in this Order, the Commission approves this Petition consistent with this Order.

PECO states that it is requesting approval to modify its SMA, included in PECO's fifth default service program (DSP V), to add a new Appendix I to the SMA which incorporates the 2018 International Swaps and Derivatives Association, Inc. (ISDA) U.S. Resolution Stay Protocol (Protocol) into the SMA. PECO asserts this addition would enable globally systemically important banking organizations (GSIBs) and their affiliates and subsidiaries subject to the regulations issued by the Board of Governors 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) (Collectively "US Stay Regulations") to participate in the Company's default service solicitations. Petition page 1 and Supplement ¶2.

PECO states that the U.S. Stay Regulations impose certain requirements on the terms of swaps, repurchase agreements and other qualified financial contracts for GSIBs. PECO submits that during a recent solicitation held under DSP V, the Independent Evaluator, NERA Economic Consulting (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. PECO asserts the wholesale suppliers that are GSIBs have not been able to participate in PECO's default service supply solicitations because the SMA approved by the Commission for DSP V, which is a covered agreement under the U.S. Stay Regulations, does not incorporate the 2018 ISDA U.S. Resolution Stay Protocol. PECO states that under the modified SMA, both PECO and the wholesale supplier will confirm adherence to the U.S. Resolution Stay Protocol to ensure compliance with the US Stay Regulations, which will allow additional parties to compete and bid in PECO's default service procurements. Petition ¶7, 8, 9, Supplement ¶ 3.

PECO states that 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. PECO states that GSIB entities are not subject to bankruptcy rules that might apply to a typical corporation. PECO states that GSIBs are required to include in their qualified financial contracts, the language in Appendix I in which a counterparty in a contract with a GSIB acknowledges that the counterparty will comply with the U.S. resolution regime applicable to the GSIB. PECO states that 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. PECO states that 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. Supplement ¶ 5.

PECO states 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's default supply procurements prior to the adoption of the US Stay Regulations. PECO avers that it is reasonable to expect that the inclusion of Appendix I may serve to attract a greater number of suppliers, increasing competition, and may lead to lower prices for customers in future solicitations under DSP V. Supplement ¶ 6 and 7.

We agree with PECO's proposal to modify its Default Service Supplier Master Agreement. We find this modification may attract more suppliers, may increase competition, and may lead to lower prices for customers. Accordingly, we grant PECO's request to modify its Default Service Supplier Master Agreement; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition filed by PECO Company, for approval to modify its Default Service Supplier Master Agreement to incorporate the 2018 International Swaps and Derivatives Association, Inc. U.S. Resolution Stay Protocol, is hereby granted.

2. That a copy of this Order be served on PECO Energy Company, Bureau of Investigation and Enforcement (BI&E), the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), and all Parties of Record.

3. That the proceeding at Docket No. P-2023-3045119 be closed.

**BY THE COMMISSION,**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: February 1, 2024

ORDER ENTERED: February 1, 2024