

147 FERC ¶ 61,013  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;  
Philip D. Moeller, John R. Norris,  
and Tony Clark.

Occidental Chemical Corporation

Docket Nos. EL14-28-000  
QF00-64-002

NOTICE OF INTENT NOT TO ACT AT THIS TIME

(April 4, 2014)

1. On February 5, 2014, Occidental Chemical Corporation (Occidental) filed a petition for enforcement pursuant to section 210(h)(2) of the Public Utility Regulatory Policies Act of 1978 (PURPA)<sup>1</sup> against the Louisiana Public Service Commission (Louisiana Commission). Occidental alleges that the Louisiana Commission's January 9, 2014 order,<sup>2</sup> which approved Entergy Gulf States Louisiana, L.L.C.'s and Entergy Louisiana, LLC's (collectively, Entergy's) application for modification of Entergy's methodology for calculating avoided cost rates paid to qualifying facilities (QFs), is inconsistent with the requirements of PURPA and the Commission's regulations implementing PURPA.<sup>3</sup>
2. On January 17, 2013, Occidental filed a petition for declaratory order and complaint in Docket No. EL13-41-000 against the Midwest Independent Transmission System Operator, Inc. (MISO)<sup>4</sup> with respect to MISO's proposed treatment of QFs in the Entergy service territory upon Entergy's joining MISO. On March 6, 2014, the Commission asked Occidental to update its petition for declaratory order and complaint

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<sup>1</sup> 16 U.S.C. § 824a-3(h)(2) (2012).

<sup>2</sup> *In re: Joint Application of Entergy Gulf States, L.L.C. and Entergy Louisiana, LLC for Approval of the Current Methodology for Calculating Avoided Costs*, Order No. U-23628-A (Corrected), Docket No. U-32628 (Louisiana Commission Jan. 9, 2014) (January 9 Order).

<sup>3</sup> 18 C.F.R. pt. 292 (2013).

<sup>4</sup> Effective April 26, 2013, MISO changed its name from "Midwest Independent Transmission System Operator, Inc." to "Midcontinent Independent System Operator, Inc."

in Docket No. EL13-41-000 in light of Entergy's joining MISO in December 2013.<sup>5</sup> Occidental may provide such information to the Commission by April 7, 2014, and other parties in that proceeding may comment on that information no later than twenty-one days after Occidental's response.

3. We find that the petition for complaint and declaratory order in Docket No. EL13-41-000, while against MISO instead of the Louisiana Commission (the party Occidental seeks enforcement action against in this proceeding), largely raises the same issues as those raised in this proceeding and that these proceedings should be addressed at the same time.

4. Therefore, notice is hereby given that the Commission declines to initiate an enforcement action at this time pursuant to section 210(h)(2) of PURPA,<sup>6</sup> as requested by Occidental. Our decision not to initiate an enforcement action at this time means that Occidental may itself bring an enforcement action against the Louisiana Commission in the appropriate court;<sup>7</sup> the Commission's action here reserves its ability to issue a further order or to take further action at a future date should the Commission find that doing so is appropriate.<sup>8</sup>

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>5</sup> See *Occidental Chem. Corp. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 146 FERC ¶ 61,160 (2014).

<sup>6</sup> 16 U.S.C. § 824a-3(h)(2) (2012).

<sup>7</sup> *Id.* § 824a-3(h)(2)(B).

<sup>8</sup> See, e.g., *id.* § 824a-3(h)(2)(A).