

136 FERC ¶ 61,085  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Gregory R. Swecker and Beverly F. Swecker

v.

Docket No. EL11-39-000

Midland Power Cooperative and State of Iowa

NOTICE OF INTENT NOT TO ACT

(August 5, 2011)

1. On May 6, 2011, Gregory R. Swecker and Beverly F. Swecker (Petitioners) filed a complaint for enforcement pursuant to section 210(h)(2)(A) of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. § 824a-3 (2006), against Midland Power Cooperative (Midland) and the State of Iowa. The Petitioners assert that Midland has refused to purchase the excess electric energy of the Petitioners' qualifying facility (QF) at Midland's full avoided cost rate as required pursuant to 18 C.F.R. § 292.304(d)(1) (2011) and that Midland seeks to discriminate in the price paid to the Petitioners in violation of the statutory requirements of 16 U.S.C. § 824a-3(b)(2) (2006). The Petitioners request that the Commission direct payment for energy and capacity that has been delivered to Midland from 2004 to April 1, 2011. The Petitioners also request that the Commission prohibit Midland from disconnecting the Petitioners from access to back-up power until all violations and complaints have been resolved.

2. Notice is hereby given that the Commission declines to initiate an enforcement action under section 210(h)(2)(A) of PURPA. Our decision not to initiate an enforcement action means that the Petitioners may themselves bring an enforcement action against Midland and the State of Iowa in the appropriate court.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.