

147 FERC ¶ 61,114  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Gregory and Beverly Swecker

v.

Docket Nos. EL14-9-000  
QF11-424-002

Midland Power Cooperative

Gregory Swecker  
and  
Beverly Swecker

v.

Docket No. EL14-18-000

Midland Power Cooperative  
and  
Central Iowa Power Cooperative

NOTICE OF INTENT NOT TO ACT

(May 15, 2014)

1. On November 4, 2013, as amended on December 4, 2013, Gregory and Beverly Swecker (Sweckers) filed a petition for enforcement, in Docket Nos. EL14-9-000 and QF11-424-002, against Midland Power Cooperative (Midland) pursuant to section 210(h)(2)(A) of the Public Utility Regulatory Policies Act of 1978 (PURPA).<sup>1</sup> On January 10, 2014, the Sweckers filed a second petition for enforcement; the second petition is against Midland and Central Iowa Power Cooperative (CIPCO). In both petitions, the Sweckers allege, among other things, that Midland Power Cooperative, an unregulated utility, has calculated its avoided costs in a manner inconsistent with PURPA; specifically the Sweckers claim that Midland's avoided costs should be the rate at which Midland purchases power from its full-requirements supplier, CIPCO. On April 24, 2014, the Sweckers filed additional information in Docket No. EL14-18-000 that, the Sweckers claim, shows that the Commission, in a previous order in Docket

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

No. EL11-39-002,<sup>2</sup> had erroneously found that Midland's avoided cost methodology – the same methodology challenged here -- was a correct methodology; on the basis of that finding, the Commission declined to initiate an enforcement proceeding.<sup>3</sup>

2. Notice is hereby given, in both proceedings, that the Commission declines to initiate an enforcement action pursuant to section 210(h)(2)(A) of PURPA. Our decision not to initiate enforcement actions means that the Sweckers may themselves bring an enforcement action or actions against Midland and/or CICPO in the appropriate court.<sup>4</sup>

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>2</sup> *Gregory R. Swecker and Beverly F. Swercker v. Midland Power Cooperative and State of Iowa*, 142 FERC ¶ 61,207, at P 36 (2013).

<sup>3</sup> The Sweckers, separately, filed, as was their right under PURPA, an enforcement proceeding in Federal District Court for the Southern District of Iowa; that enforcement petition has since been dismissed. *Gregory R. Swecker and Beverly F. Swecker v. Midland Power Coop. et. al.*, Case No. 4:13-cv-00250-JEG, Order (S.D. of Iowa, Dec. 30, 2013), *order denying motion for new trial or to alter or amend judgment* (S.D. of Iowa, Apr. 18, 2014).

<sup>4</sup> 16 U.S.C. § 824a-3(h)(2)(B) (2012).