

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE:</p> <p>MR. AND MRS. GREGORY SWECKER,</p> <p style="padding-left: 100px;">Complainants,</p> <p style="padding-left: 100px;">vs.</p> <p>MIDLAND POWER COOPERATIVE,</p> <p style="padding-left: 100px;">Respondent.</p>	<p style="text-align:center">DOCKET NO. FCU-99-3 (C-99-76)</p>
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**ORDER REGARDING ADMINISTRATIVE LAW JUDGE'S QUESTIONS AND  
PRELIMINARY MATTERS**

(Issued November 17, 1999)

I. Questions.

The undersigned administrative law judge has certain questions of the parties. In order to allow the parties to prepare their responses prior to the hearing, the following questions are posed.

Midland Power Cooperative (Midland) is directed to answer the following questions at the hearing on November 23-24, 1999.

1. 18 CFR 292.305(a)(2) states: "Rates for sales which are based on accurate data and consistent systemwide costing principles shall not be considered to discriminate against any qualifying facility to the extent that such rates apply to the utility's other customers with similar load or other cost-related characteristics."

Did Midland use additional data to develop the structure of rates under Tariffs 26.16 (and 26.18) other than the data used to develop Tariff 26.11?

2. Is the different treatment of customers under Tariff 26.16 (and 26.18) from customers under Tariff 26.11 based on accurate data?

3. What data did Midland rely on to separate out the Tariff 26.16 (and 26.18) customers from the Tariff 26.11 customers, and structure the rates for Tariff 26.16 (and 26.18) customers differently from the rates for Tariff 26.11 customers?

4. What data did Midland rely on to structure the rates under Tariff 26.16 (and 26.18) to include a separate coincidental demand charge, when the rate structure under Tariff 26.11 does not include a separate coincidental demand charge, but recovers the coincidental demand costs in the declining block per KWH energy charge?

5. What data did Midland rely on to structure the rates under Tariff 26.16 (and 26.18) to require payment of an \$86 monthly service charge and a \$0.03 per KWH energy charge, as opposed to the rate structure under Tariff 26.11 which requires a \$36 monthly service charge and a declining block per KWH charge?

6. What is the data which supports Midland's conclusion that rates under Tariff 26.11 could not recover the cost of serving member-customers that have generation?

7. What is the data that Midland uses to compare member-consumers that have generation with member-consumers that do not have generation, with regard to

their kWh usage and kW demand? What does the data show regarding how their usage and demand patterns are different?

8. In Tariffs 26.16 and 26.18, Midland uses the term coincidental. Does coincidental mean the same thing as coincident?

9. Does CIPCO bill Midland on a coincident demand basis, or a non-coincident demand basis? Or both? Please explain. Same questions for Corn Belt.

10. In Tariffs 26.16 and 26.18, the demand charge says that coincidental kW will be billed at \$15.90/kW/month. Does coincidental kW mean kW demand coincident with CIPCO's and Corn Belt's coincident peak? If yes, then why does Exhibit 1 attached to Mr. Greneman's November 1, 1999 testimony refer to non-coincident demand for Welch Motels?

11. Are Midland's coincident peaks measured separately for CIPCO and Corn Belt? Please explain how the coincident peaks for CIPCO and Corn Belt are calculated.

12. Please explain how and when a member-generator would incur coincident demand charges under either 26.16 or 26.18, and how Midland would calculate the member's bill for those charges.

13. In his August 30, 1999 testimony at page 10, Mr. Greneman testified that "Demands for the non-demand-metered classes were estimated using the REA AB Methodology as described in its Bulletin No. 45-1". Please provide this, and provide

an explanation of how this was used to derive class demand for three-phase customers in Tariff 26.11.

14. In the August 27, 1998 letter from Midland to Mr. Swecker signed by Mr. Dean Borchers, the total cost to install three-phase service is stated to be \$5,712.17, and includes a list of items. On page 2 of the Response and Objection to Data Requests 1 Through 8 filed by Midland on July 16, 1999 (and referred to in Ms. Collister's October 18, 1999 testimony), Midland lists additional detail of required equipment included in the \$5,712.17 cost. On Exhibit 4 attached to Mr. Severson's November 1, 1999 testimony, which is a list of all equipment needed to provide three-phase service to a QF facility in the Sweckers' situation, the total cost is listed as \$8,583.15, plus a \$2,000 hook-up fee, plus a \$1 per foot line extension fee. There are items listed which are not included in the earlier lists. Why aren't the items and cost in Mr. Severson's testimony and exhibit the same as the earlier items and cost? Why weren't some of the items on Mr. Severson's list included in the earlier lists? Were the new items not included in the earlier quote to the Sweckers because they are recovered through the \$86/month service charge, and not billed for as a separate up-front charge? Please explain what the new items are, and why the charge for labor increased. Do the new items include a 40% markup? Is Midland still planning to bill Mr. Swecker \$5,712.17 to install three-phase service? If not, why not?

15. With respect to Exhibit 1 attached to Mr. Severson's testimony filed October 1, 1999, are the figures which show energy used after Mr. Welch installed his wind generator the net amount of KWHs purchased from Midland after subtracting what Mr. Welch generated?

16. How is Mr. Welch paid for the energy he produces?

17. On Midland Exhibit II attached to Midland's Supplemental Response to OCA Data Request 24 (attached to 10/18 testimony of Ms. Collister, OCA Ex. CAC-2 Sch. A, pp. 4-7), why are the service charges shown as 0 instead of \$36 per month? Does this change the calculation of the per KWH figure? Why or why not? This exhibit is labeled calculations based on Tariff 26.12. Should it be Tariff 26.11? If not, why not?

18. In Mr. Greneman's November 1<sup>st</sup> testimony, page 4, line 12, does he mean 26.11 or 26.16?

19. How did Midland determine the \$1 million figure for the amount of liability insurance a co-generator must carry?

20. Was Mr. Welch charged a separate demand charge of \$8/kW/month prior to installation of his wind generator? If yes, why? Was this a non-coincident demand charge? If yes, what was the basis for changing the demand charge from an \$8 non-coincident demand charge to a \$15.90 coincident demand charge?

21. Are customers under 26.11 charged a separate non-coincident demand charge? If yes, what is the charge? If yes, why are non-generating customers

charged a non-coincident demand charge and generating customers charged a coincident demand charge? If yes, how is non-coincident demand measured? If yes, how is the non-coincident demand charge calculated?

22. Will Midland charge Mr. Welch or Mr. Swecker a \$50 per month meter reading fee? Would such a fee be included in the \$86/month service charge? Does Midland charge customers under 26.11 a meter reading fee? Why or why not?

23. Does Midland agree with Mr. Welch's figures for April 1998 contained in his September 16<sup>th</sup> testimony? If yes, what was Mr. Welch paid for the 9580 kWh he produced that month? Is that payment made directly from Corn Belt, separate from his bill from Midland? Or does it appear on his Midland bill?

24. Do the majority of Midland's regular three-phase customers only use their service for drying grain at harvest? Is Midland able to recover its costs from those customers under Tariff 26.11? Does Midland agree with Mr. Swecker that those customers are similar to co-generators and should be treated similarly? Why or why not?

25. In his September 20<sup>th</sup> testimony, Mr. Swecker stated he does not object to the disconnect switch, and that he would provide it at Midland's pole at the time of installation. Is this acceptable to Midland? Why or why not?

26. In his August 30<sup>th</sup> testimony, Mr. Weick stated at page 18 that Tariff 26.16 was adopted by the Board August 21, 1996, to be effective October 1, 1996, and that no one had contacted Midland regarding wind generation before Tariff 26.16 was

adopted. In his October 1, 1999 testimony, Mr. Severson stated at page 4 that he was aware that Dean Borchers talked with Mr. Welch in the fall of 1995 and spring of 1996, and that Mr. Severson talked with Mr. Welch in April 1996 and sent him a follow-up letter. Please explain. Also, what tariffs and co-generation agreement were provided to Mr. Welch in April of 1996?

27. In his testimony of November 1<sup>st</sup>, Mr. Greneman stated at page 6 that it is common practice for utilities to develop a separate backup rate to serve co-generation facilities such as wind generators, which often includes recovery of internal fixed costs through a monthly service charge not tied to energy consumption. Is it also common for utilities to charge a separate coincident demand charge for co-generators when such a separate charge is not charged to non-generating customers of the same class? Are the rate structures for these utilities comparable to the rate structures contained in Tariffs 26.11 and 26.16? Please provide support for the statement that it is common practice by giving specific examples and percentages of such utilities doing so in the industry.

28. Please identify and provide all rate structures under which Mr. Welch was billed from 1994 to the present, and list the months each rate structure was applied to Mr. Welch's usage.

29. Please provide a wiring diagram that shows Midland's proposed interconnection with the Sweckers. Please include details such as transformers, disconnect switch, automatic relaying, and system protection requirements.

30. Please provide details of the demand meter that is proposed for the Swecker residence, including details such as manufacturer's name, type and size of the meter, types of information the meter will measure, and whether the meter will need current and potential transformers.

The Sweckers are directed to answer the following questions at the hearing on November 23-24, 1999.

1. On page 6 of the Swecker Brief filed July 26, 1999, the Sweckers included a table. With regard to the \$498.50 charge, what were you assuming the demand to be? Why did you make that assumption?

2. With regard to the \$513.50 charge, what were you assuming the demand to be? Why did you make that assumption?

3. With regard to the \$485.50 charge, what were you assuming the demand to be? Why did you make that assumption?

4. What did you mean by the term capacity credit in your September 20<sup>th</sup> testimony?

Mr. Welch is directed to answer the following questions at the hearing on November 23-24, 1999.

1. On page 5 of Mr. Wind's testimony on behalf of the Sweckers, he stated that you added "six 175 high pressure sodium security lights". Is this correct? If yes, when did you add them? Are these six 175 kW lights? Please describe any changes in the occupancy rate of your motel from 1994 through 1998. From 1994

through 1998, did you add any other equipment or change anything else which could have affected your electricity usage, other than adding the wind generator? When were those changes made?

2. Do you have anything written to support your assertion that Midland agreed to a “net billing” arrangement?

3. What do you mean by a “net billing” arrangement?

4. How are you paid for the energy you produce?

5. In any month, have you ever produced as much electricity or more electricity from your wind generator than you purchased from Midland? If yes, when?

6. What did you mean when you said in your September 16<sup>th</sup> testimony that Midland “steals” the first kW that you produce each month?

The OCA is directed to answer the following question at the hearing.

1. In her testimony of October 18<sup>th</sup> at page 17, line 14, did Ms. Collister mean to refer to Tariff 26.16 or 26.11?

The OCA and the Sweckers are each directed to answer the following question at the hearing.

1. Do the OCA and the Sweckers agree with Mr. Greneman’s calculations as shown in Exhibit 2 attached to his November 1<sup>st</sup> testimony, and his conclusion that these show Midland could not recover its costs from the Sweckers if they were billed under Tariff 26.11? Why or why not?

The OCA, the Sweckers, and Mr. Welch are each directed to answer the following question at the hearing.

1. Do you agree with Midland's per KWH calculations as testified to by Mr. Severson on October 1<sup>st</sup> at page 14? Why or why not?

All parties who know the answers to the following questions are directed to answer them at the hearing.

1. Is liability insurance as required by Midland commercially available? What would the cost be for Mr. Swecker to obtain a \$1 million policy?

2. Do investor-owned utilities in Iowa have a separate rate structure for customers with generation which is similar to Midland's Tariffs 26.11 and 26.16? If yes, please describe.

All parties will be given the opportunity to cross-examine the witnesses who testify regarding the above questions at the hearing on November 23-24, 1999, and all witnesses will be given the opportunity for redirect.

## II. Preliminary Matters

Attached to this document is a list of all filings submitted by the parties in this case. Please review the list, and if there were documents filed which are not on the list, please inform the undersigned at the hearing.

All parties are requested to be present in the hearing room 15 minutes prior to the hearing to discuss renumbering of exhibits and any other preliminary matters which may arise.

**IT IS THEREFORE ORDERED:**

1. The parties are hereby ordered to answer the above questions at the hearing on November 23-24, 1999, and to review the attached list of filings.

2. The parties are requested to be at the hearing 15 minutes early to discuss renumbering exhibits and any other preliminary matters.

**UTILITIES BOARD**

/s/ Amy L. Christensen  
Amy L. Christensen  
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary, Deputy

Dated at Des Moines, Iowa this 17<sup>th</sup> day of November, 1999.

MR. & MRS. GREGORY SWECKER v. MIDLAND POWER COOPERATIVE  
DOCKET NO. FCU-99-3 (C-99-76)

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<b>Date</b>	<b>Filed</b>	<b>Pleading (Party)</b>
06-30-99	F	Motion for Enlargement of Time (OCA)
07-06-99	F	Appearance (Midland)
07-07-99	F	Letter from Bob Welch to David Lynch
07-09-99	F	Sweckers' Data Requests 1 [Midland's Cost of Service Study Referenced in Previous Correspondence] & 2 [Midland's Avoided Costs Under 18 C.F.R. Subpart C Chapter 292.302(h)(l)(c)(i)(ii)], Midland 's Response & Objection to Data Requests of Complainants (Midland)
07-09-99	F	Appearance (OCA)
07-12-99	F	Data Requests 1 & 2 [same as #4 above] for Midland (Swecker)
07-12-99	F	Request to Intervene (Bob Welch)
07-15-99	F	Motion to Compel (Swecker)
07-16-99	F	Response & Objection to Complainants Data Requests 3 [Copies of minutes of the Midland Board from January 1 – June 30, 1999] & 4 [Copies of Midland's invoices of purchases of power from Corn Belt Power and CIPCO] (Midland)
07-16-99	F	Response & Objection to Data Requests 1 to 8 of OCA (Midland) Included is copy of OCA's Data Request dated 07-07-99
07-16-99	F	Appearance (Lisa Davis Cook)
07-16-99	F	Petition to Intervene - Iowa Citizen Action Network (ICAN)
07-16-99	F	Petition to Intervene - Iowa Association of Electric Cooperatives (IAEC) & Central Iowa Power Cooperative (CIPCO)
07-21-99	F	Verification that Tariffs are Correct & Current (Midland)

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<b>Date</b>	<b>Filed</b>	<b>Pleading (Party)</b>
07-26-99	F	Complainants' Briefs
07-26-99	F	Prepared Direct Testimony & Exhibit of Witness, Christine A. Collister [In response to # 8, OCA Ex.___ (CAC-1) Schedules A & B] (OCA)
07-26-99	F	Direct Testimony of Lisa Davis Cook (ICAN)
07-27-99	F	Telephone Conference Call on 07-22-99
07-29-99	F	Motion to Deny Intervention by IAEC & CIPCO (Swecker)
08-18-99	F	Intervenor's Response to Motion to Deny Intervention (IAEC & CIPCO)
08-23-99	F	Motion for Extension of Time (Midland)
08-23-99	F	Motion to Deny Intervention (Swecker)
08-23-99	F	Motion to Determine Rates & to Provide Backup Power to a QF Facility (Swecker)
08-30-99	F	Respondent's Request that Materials Submitted to the Board be Withheld from Public Inspection & Affidavit of Roger Wieck in Support of Request that Materials Submitted be Withheld from Public Inspection
08-30-99	F	Motion for Surrebuttal Testimony (Midland)
08-30-99	F	Prepared Testimony of Robert Greneman on Behalf of Respondent
08-30-99	F	Prepared Testimony & Exhibits of Roger Wieck on Behalf of Respondent
09-01-99	F	Resistance to Motion to Determine Rates and To Provide Backup Power to QF Facility (Midland)
09-02-99	F	Response to Respondent's Motion for Surrebuttal Testimony (OCA)

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<b>Date</b>	<b>Filed</b>	<b>Pleading (Party)</b>
09-07-99	F	Response to Motion to Determine Rates & Prove Backup Power to QF Facility & Request for Dismissal Of Motion (CIPCO & IAEC)
09-07-99	F	Objection to Surrebuttal Testimony (Swecker)
09-09-99	F	Response to Intervenors Request for Dismissal of Motion to Determine Rates & to Provide Backup Power to a QF Facility (Swecker)
09-10-99	F	Response to Complainant's Motion to Determine Rates & to Provide Backup Power to QF Facility (OCA)
09-15-99	F	Motion for Enlargement of Time (OCA)
09-16-99	F	Letter from Bob Welch to ALJ
09-16-99	F	Partial Motion to Dismiss (CIPCO & IAEC)
09-17-99	F	Supplemental Statement in Support of Motion for Enlargement of Time (OCA)
09-17-99	F	Response to OCA's Motion for Enlargement of Time (Midland)
09-20-99	F	Rebuttal Testimony (Swecker)
09-20-99	F	Statement in Lieu of Testimony (OCA)
09-30-99	F	Appearance (Wallace L. Taylor)
09-30-99	F	Resistance to Intervenors Partial Motion to Dismiss (Swecker)
09-30-99	F	Response to Motion to Dismiss (OCA)
10-01-99	F	Prepared Rebuttal Testimony & Exhibits of Donald A. Severson on Behalf of Respondent

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<b>Date</b>	<b>Filed</b>	<b>Pleading (Party)</b>
10-06-99	F	Motion to Strike & Disregard Portions of Bob Welch Testimony & for Order Determining Respondent Need Not Defend Against Any New Issues Raised in Bob Welch Testimony (Midland)
10-06-99	F	Intervenor's Clarification Regarding Communication With Board Staff (IAEC)
10-07-99	F	Exhibit 5.28(A) & Exhibit 4.28(B), referred to in Tariff 5.28. (Midland)
10-18-99	F	Rebuttal Testimony, Exhibit and Electronic file (disk) of Witness, Christine A. Collister (OCA)
10-20-99	F	Appeal of the Order Denying Partial Motion to Dismiss (IAEC & CIPCO)
10-29-99	F	Response to Appeal from Order Denying Partial Motion to Dismiss (OCA)
11-01-99	F	Prepared Surrebuttal Testimony & Exhibits of Donald A. Severson on Behalf of Respondent
11-01-99	F	Prepared Surrebuttal Testimony & Exhibits of Roger Wieck on Behalf of Respondent; Prepared Surrebuttal & Exhibits of Robert Greneman on Behalf of Respondent; Midland's Offer of Informal Complaint Proceedings as Evidence in This Formal Complaint Proceedings
11-10-99	F	Reply to Surrebuttal Testimony & Exhibit of Christine A. Collister (OCA)
11-10-99	F	Prepared Testimony of Tyler A. McNeal on Behalf of Complainants
11-15-99	F	Prepared Testimony of Thomas A. Wind on Behalf of Complainants