

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Union Electric Company dba AmerenUE

Project No. 459-178

ORDER DENYING REHEARING

(Issued July 6, 2007)

1. Duncan's Point Lot Owners Association, Inc., Duncan's Point Homeowners Association, Inc., and, individually, Nancy A. Brunson, Juanita Brackens, Helen Davis, and Pearl Hankins have filed a request for rehearing of two orders: (1) the Commission's March 30, 2007 Order issuing a new license to AmerenUE for the continued operation and maintenance of the Osage Project No. 459,¹ and the May 25, 2007 notice dismissing the Homeowner's Association's and Ms. Brunson's request for rehearing of that order.² Because the request for rehearing of the May 25 notice fails to allege any error in the notice, and the parties may not again seek rehearing of the March 30 license order, this order denies rehearing.

2. As noted, the Commission issued AmerenUE a new license for the Osage Project on March 30, 2007. On April 30, 2007, the Homeowners Association and Ms. Brunson filed a timely request for requesting of that order. By notice issued May 25, the Commission dismissed the request for rehearing as deficient because it failed to include a Statement of Issues section separate from its arguments, as required by Rule 713 of the Commission's Rules of Practice and Procedure.³ Notwithstanding the fact that the

¹ 118 FERC ¶ 62,247.

² 119 FERC ¶ 61,200.

³ 18 C.F.R. § 385.713(c)(2) (2006). *See Revision of Rules of Practice and Procedure Regarding Issue Identification*, Order No. 663, 70 Fed. Reg. 55,723 (September 23, 2005), FERC Statutes and Regulations ¶ 31,193 (2005). *See also*, Order 663-A, effective March 23, 2006, which amended Order 663 to limit its applicability to rehearing requests. *Revision of Rules of Practice and Procedure Regarding Issue*

(continued)

request for rehearing was deficient, the notice nonetheless addressed the arguments raised in it, and explained why they had no merit.

3. On June 25, 2007, the Homeowners Association, Ms. Brunson, and other parties filed a request for rehearing of the dismissal notice.⁴ The Homeowners Association and Ms. Brunson do not in their June 25 pleading allege any error in the May 25 notice. Instead, the substance of the current request for rehearing repeats, essentially verbatim, the text of the earlier request for rehearing. Because the current pleading fails to state that the notice was in error in any respect,⁵ and because the Homeowners Association and Ms. Brunson may not file a second, untimely request for rehearing regarding the license order,⁶ the June 25, 2007 request for rehearing is denied.

Identification, Order No. 663-A, 71 Fed. Reg. 14,640 (March 23, 2006), FERC Statutes and Regulations ¶ 31,211 (2006).

⁴ While the current request for rehearing is signed by Ms. Brunson “President [presumably of the Homeowners Association] and Individually,” the caption of the pleading also lists Duncan’s Point Lot Owners Association, Inc., Juanita Brackens, Helen Davis, and Pearl Hankins. These latter entities were not party to the April 30 request for rehearing, and therefore may not seek rehearing of the notice dismissing it.

⁵ See section 313(a) of the Federal Power Act, 16 U.S.C. § 8251(a) (2000) (requiring that an application for rehearing “set forth specifically the ground or grounds upon which such application is based”). See also 18 C.F.R. § 385.713(c)(1) (2006) (requiring that a request for rehearing “[s]tate concisely the alleged error in the final decision or final order”).

⁶ See section 313(a) of the Federal Power Act, *supra* n.5 (requiring that requests for rehearing be filed within 30 days of the order at issue).

The Commission orders:

The June 25, 2007 request for rehearing filed by the Duncan Point Homeowners Association, Inc. and Nancy A. Brunson is denied.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.