

156 FERC ¶ 61,244  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur and Colette D. Honorable.

Willow Creek Hydro, LLC

Project No. 7856-028

ORDER DISMISSING REHEARING

(Issued September 30, 2016)

1. On April 21, 2016, the Commission issued an order terminating, by implied surrender, the license for the Potosi Power Company Water Power Project No. 7856 (Potosi Project).<sup>1</sup> On May 17, 2016, Mr. Darrin L. Brooks, the on-site project manager, filed a timely request for rehearing. For the reasons discussed below, the rehearing request is dismissed.
2. The Commission terminated the project license after finding that the licensee, Willow Creek Hydro, LLC (Willow Creek Hydro), through its action and inaction, had clearly indicated its intent to abandon the Potosi Project. As discussed in the April 21 Order, the Potosi Project has not operated since the project's penstock ruptured in 1994. Since Willow Creek Hydro acquired the project in 2002, the Commission has granted Willow Creek Hydro multiple extensions to restore the project or transfer it to an entity that would. Willow Creek Hydro repeatedly failed to meet pertinent deadlines, respond to Commission staff in a timely manner, or make substantial progress towards restoring project operations.
3. The rehearing request does not provide any new information, allege any error with respect to the April 21 Order, or set forth with specificity the grounds upon which rehearing is sought. The Commission's regulations require that parties requesting rehearing provide the basis, in fact and law, for each alleged error, including representative Commission and court precedent.<sup>2</sup> Rule 713(c)(2) of the Commission's Rules of Practice and Procedure further specifies that a rehearing request must include a separate section entitled "Statement of Issues" listing each issue presented to the Commission in a separately enumerated paragraph. Under Rule 713, any issue not so

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<sup>1</sup> *Willow Creek Hydro, LLC*, 155 FERC ¶ 61,057 (2016).

<sup>2</sup> 18 C.F.R. § 385.713 (c)(2) (2016).

listed will be deemed waived.<sup>3</sup> The rehearing request does not comply with these requirements and is therefore dismissed.<sup>4</sup>

4. Even if we were to reach the merits of the request, we would deny it. In his request, Mr. Brooks claims that Willow Creek Hydro continues to search for an engineer to make repairs and asks that the license be continued. In light of the project history, the Commission will not reconsider its decision to terminate the license by implied surrender based on this information. As detailed in the April 21 Order, since 2002, the licensee has filed a plan and schedule to restore project operation at least nine times and little work has been done. Moreover, in the four months since Mr. Brooks filed his request, there is no indication that an engineer has been hired, much less that plans for repair have been formulated.

The Commission orders:

The request for rehearing filed May 17, 2016, by Darrin L. Brooks is dismissed.

By the Commission. Commissioner Clark is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>3</sup> *Id.*

<sup>4</sup> *See Duke Power Co., LLC*, 116 FERC ¶ 61,171, at P 3 (2006).