

appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Philis J. Posey,**

*Acting Secretary.*

[FR Doc. E7-4719 Filed 3-14-07; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP07-341-000]

#### Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 9, 2007.

Take notice that on March 6, 2007, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Thirty-Second Revised Sheet No. 28B and Second Substitute Thirty-Third Revised Sheet No. 28B, to become effective February 9, 2007 and March 1, 2007, respectively.

Transco states that copies of the filing are being mailed to affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in

accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Philis J. Posey,**

*Acting Secretary.*

[FR Doc. E7-4720 Filed 3-14-07; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL07-44-000]

#### Complainant: Dakota Wind Harvest, LLC, vs. Respondents: Midwest Independent Transmission System Operator, Inc., Montana-Dakota Utilities Company, Western Area Power Administration; Notice of Complaint

March 9, 2007.

Take notice that on March 8, 2007, Dakota Wind Harvest, LLC (Dakota Wind) pursuant to Rule 206 of the Rules of Practice and Procedures of the Commission, 18 CFR 385.206 and sections 206 and 215 of the Federal Power Act, hereby submits the Complaint Requesting Fast Track Processing against Midwest Independent Transmission System Operator, Inc. (Midwest ISO), Montana-Dakota Utilities Company (MDU) and Western Area Power Administration (Western). Dakota Wind is required to file this Complaint due to: (i) Midwest ISO's refusal to allow Dakota Wind's wind-powered electricity generation facility currently under development to commence operations without first having a Balancing Authority designated; (ii) MDU's and Western's refusal to serve as Balancing Authority despite the fact that the Project will be interconnected to the transmission system owned by MDU and located in the geographic area in which Western is the designated Balancing Authority; and (iii) Midwest ISO's and MDU's refusal to act to ensure that a Balancing Authority agrees to provide balancing services to Dakota Wind.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically

should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. eastern time on March 23, 2007.

**Philis J. Posey,**

*Acting Secretary.*

[FR Doc. E7-4714 Filed 3-14-07; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 349-115—Alabama]

#### Alabama Power Company; Notice of Availability of Environmental Assessment

March 9, 2007.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application for non-project use of project lands and waters at the Martin Dam Project (FERC No. 349), and has prepared an environmental assessment (EA) for the proposal. The project is located on Lake Martin near Dadeville, in Tallapoosa County, Alabama.

In the application, Alabama Power (licensee) requests Commission authorization to permit The Pointe at Sunset Pointe, LLC (The Pointe) to install 30 boat slips as well as a pier/platform and floating-dock structure on Lake Martin, the project reservoir. These structures would serve the residents of condominiums that are located on adjoining project lands. The EA contains Commission staff's analysis of the potential environmental impacts of the proposal and concludes that approval of the proposal, as modified by the staff-identified alternative, would not constitute a major federal action

significantly affecting the quality of the human environment.

The EA is attached to a Commission order titled "Order Modifying and Approving Non-Project Use of Project Lands and Waters," which was issued February 22, 2007, and is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the project number (prefaced by P- and excluding the last three digits) in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

**Philis J. Posey,**

*Acting Secretary.*

[FR Doc. E7-4718 Filed 3-14-07; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 12617-001]

#### Fall Creek Hydro, LLC; Notice Dismissing Filing as Deficient

March 9, 2007.

On January 10, 2007, Commission staff issued an order dismissing Fall Creek Hydro, LLC's (Fall Creek) application for a second three-year preliminary permit to study the proposed 4.7-megawatt Fall Creek Hydroelectric Project No. 12617, to be located at the existing U.S. Army Corps of Engineers' (Corps) Fall Creek Dam, on Fall Creek in Lane County, Oregon. On February 8, 2007, Fall Creek filed a timely request for rehearing, seeking reinstatement of its application.

Fall Creek's rehearing request is deficient because it fails 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.<sup>1</sup> Rule 713(c)(2) requires that a rehearing request must

<sup>1</sup> 18 CFR 385.713(c)(2) (2006). See Revision of Rules of Practice and Procedure Regarding Issue Identification, Order No. 663, 70 FR 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 Identification, Order No. 663-A, 71 FR 14,640 (March 23, 2006), FERC Statutes and Regulations ¶ 31,211 (2006).

include a separate section entitled "Statement of Issues" listing each issue presented to the Commission in a separately enumerated paragraph that includes representative Commission and court precedent on which the participant is relying.<sup>2</sup> Under Rule 713, any issue not so listed will be deemed waived. Accordingly, Fall Creek's rehearing request is dismissed.<sup>3</sup>

In any event, Fall Creek's arguments on rehearing are without merit. The purpose of a preliminary permit is to maintain priority of application for a license during the term of the permit while the permittee conducts investigations and secures data necessary to determine the feasibility of the proposed project and, if the project is found to be feasible, prepares an acceptable development application. While an applicant is not precluded from seeking and obtaining a successive preliminary permit for the same site, it must demonstrate that, under the prior permit, it pursued the proposal in good faith and with due diligence.<sup>4</sup> A permittee seeking a successive permit is therefore required to take certain minimal steps, including filing six-month progress reports and consulting with the appropriate federal and state resource agencies.<sup>5</sup>

In October 2002, Commission staff granted Fall Creek a three-year preliminary permit to study its proposed project.<sup>6</sup> Upon expiration of the first permit term, Fall Creek immediately filed its application for a second permit. Commission staff dismissed Fall Creek's application for a successive permit, concluding that Fall Creek failed to prosecute diligently the requirements of its previous permit.

On rehearing, Fall Creek contends that it has made substantial progress in analyzing the proposed project's feasibility and completing the Pre-

<sup>2</sup> As explained in Order No. 663, the purpose of this requirement is to benefit all participants in a proceeding by ensuring that the filer, the Commission, and all other participants understand the issues raised by the filer, and to enable the Commission to respond to these issues. Having a clearly articulated Statement of Issues ensures that issues are properly raised before the Commission and avoids the waste of time and resources involved in litigating appeals regarding which the courts of appeals lack jurisdiction because the issues on appeal were not clearly identified before the Commission. See Order No. 663 at P 3-4.

<sup>3</sup> See, e.g., South Carolina Electric & Gas Company, 116 FERC ¶ 61,218 (2006); and Duke Power Company, LLC, 116 FERC ¶ 61,171 (2006).

<sup>4</sup> See Little Horn Energy Wyoming, Inc., 58 FERC ¶ 61,132 (1992).

<sup>5</sup> See Burke Dam Hydro Associates, 47 FERC ¶ 61,449 (1989).

<sup>6</sup> 101 FERC ¶ 62,038 (2002).