

an employee of the private institution, acting on behalf of the private institution, violated its stated institutional policy regarding freedom of speech or academic freedom no later than 45 calendar days after such final, non-default judgment is entered. A final judgment is a judgment that the institution chooses not to appeal or that is not subject to further appeal.¹ Public and private institutions of higher education should submit to the Secretary a copy of any such final, non-default judgment by a State or Federal court by email to freespeechjudgment@ed.gov no later than 45 calendar days after such final, non-default judgment is entered.

As previously noted, the Final Rule becomes effective November 23, 2020, and the Department will not enforce the Final Rule retroactively.² Accordingly, under 34 CFR 75.500(b) and 34 CFR 76.500(b) of the Final Rule, a public institution does not need to submit a copy of a final, non-default judgment by a State or Federal court concerning conduct that violated the First Amendment if such conduct occurred before November 23, 2020. Similarly, under 34 CFR 75.500(c) and 34 CFR 76.500(c) of the Final Rule, a private institution does not need to submit a copy of a final, non-default judgment by a State or Federal court concerning conduct that violated a stated institutional policy regarding freedom of speech or academic freedom if such conduct occurred before November 23, 2020. A public institution must submit to the Secretary a copy of a final, non-default judgment by a State or Federal court concerning conduct that violated the First Amendment if such conduct occurred on or after November 23, 2020. Similarly, a private institution must submit to the Secretary a copy of a final, non-default judgment by a State or Federal court concerning conduct that violated a stated institutional policy regarding freedom of speech or academic freedom if such conduct occurred on or after November 23, 2020.

¹ 34 CFR 75.500(b)(1), (c)(1); 34 CFR 76.500(b)(1), (c)(1).

² Federal agencies authorized by statute to promulgate rules may only create rules with retroactive effect where the authorizing statute has expressly granted such authority. See 5 U.S.C. 551 (referring to a “rule” as agency action with “future effects” in the Administrative Procedure Act); *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988) (“Retroactivity is not favored in the law. Thus, congressional enactments and administrative rules will not be construed to have retroactive effect unless their language requires this result.”).

Reporting Alleged Violations of 34 CFR 75.500(d) and 34 CFR 76.500(d)—Equal Treatment of Religious Student Organizations at Public Institutions of Higher Education

Under 34 CFR 75.500(d) and 34 CFR 76.500(d) of the Final Rule, a public institution as a material condition of the Department’s grant “shall not deny to any student organization whose stated mission is religious in nature and that is at the public institution any right, benefit, or privilege that is otherwise afforded to other student organizations at the public institution (including but not limited to full access to the facilities of the public institution, distribution of student fee funds, and official recognition of the student organization by the public institution) because of the religious student organization’s beliefs, practices, policies, speech, membership standards, or leadership standards, which are informed by sincerely held religious beliefs.” Anyone may report an alleged violation of 34 CFR 75.500(d) and 34 CFR 76.500(d) to the Department by email at religiousliberty@ed.gov.

As explained in the preamble to the Final Rule, an “all-comers” policy as described in *Christian Legal Society v. Martinez*, 561 U.S. 661 (2010), does not violate the Final Rule’s requirement regarding equal treatment of religious student organizations at public institutions in 34 CFR 75.500(d) and 34 CFR 76.500(d). A true all-comers policy “mandate[s] acceptance of all comers” meaning that “[s]chool-approved groups must ‘allow any student to participate, become a member, or seek leadership positions in the organization, regardless of [the student’s] status or beliefs,’ ” and without any exceptions.³ A non-discrimination policy with enumerated protected classes is not an all-comers policy and, therefore, cannot be applied to prohibit religious student organizations from having faith-based membership or leadership criteria.⁴ Under the stipulated facts of *Martinez*, the all-comers policy applied to all 60 groups on campus, including “political groups (e.g., the . . . Democratic Caucus and the . . . Republicans), religious groups (e.g., the . . . Jewish Law Students Association and the . . . Association of Muslim Law Students), groups that promote[d] social causes (e.g., both pro-choice and pro-life groups), groups organized around racial or ethnic identity (e.g., the Black Law Students Association, the Korean American Law Society, La Raza Law Students Association, and the Middle

³ *Id.* at 671 (citations omitted).

⁴ *Id.* at 678 n.10.

Eastern Law Students Association), and groups that focus[ed] on gender or sexuality (e.g., the Clara Foltz Feminist Association and Students Raising Consciousness at Hastings).”⁵ The implications of such an all-comers policy were that “the . . . Democratic Caucus cannot bar students holding Republican political beliefs from becoming members or seeking leadership positions in the organization.”⁶ With respect to a true all-comers policy, pro-choice groups could not bar membership or leadership positions from pro-life individuals; Muslim groups could not bar membership or leadership positions from non-Muslims; the feminist group could not bar membership or leadership positions from misogynists; sororities could not bar membership or leadership positions from males; fraternities could not bar membership or leadership positions from females; and so on. Such an all-comers policy is constitutional under *Martinez* and permissible under the Final Rule, but is not required by the U.S. Constitution, the holding in *Martinez*, or the Final Rule. Indeed, many public institutions of higher education elect not to implement a true all-comers policy due to these obvious practical difficulties. Absent a true all-comers policy that is uniformly applied, §§ 75.500(d) and 76.500(d) of the Final Rule prevent public institutions from failing to recognize religious student organizations because of their faith-based membership or leadership criteria. Whether a policy is a true “all-comers” policy may be challenged if the policy or the application of the policy results in a violation of 34 CFR 75.500(d) or 34 CFR 76.500(d). Other policies also may be challenged if the policy or the application of the policy results in a violation of 34 CFR 75.500(d) and 34 CFR 76.500(d).

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–24–000.
Applicants: Crossing Trails Wind Power Project LLC, Headwaters Wind Farm II LLC.

⁵ *Id.* at 709.

⁶ *Id.* at 675.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Crossing Trails Wind Power Project LLC, et al.
Filed Date: 11/18/20.

Accession Number: 20201118–5199.
Comments Due: 5 p.m. ET 12/9/20.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–37–000.
Applicants: Luna Storage, LLC.
Description: Self-Certification of Exempt Wholesale Generator of Luna Storage, LLC.

Filed Date: 11/18/20.
Accession Number: 20201118–5185.
Comments Due: 5 p.m. ET 12/9/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2508–025; ER11–2863–012; ER19–1411–001; ER19–1412–001; ER19–1414–001; ER19–1417–002; ER19–1865–001; ER19–1866–001; ER19–1867–001; ER19–1868–001; ER19–1869–001; ER19–1870–001; ER19–1871–001; ER19–1872–001; ER19–2140–002; ER19–2141–002; ER19–2142–002; ER19–2143–002; ER19–2144–002; ER19–2145–002; ER19–2146–002; ER19–2147–002; ER19–2148–002; ER20–1887–001.

Applicants: GenOn Energy Management, LLC, Blossburg Power, LLC, Brunot Island Power, LLC, Chalk Point Steam, LLC, GenOn Bowline, LLC, GenOn Canal, LLC, GenOn Mid-Atlantic, LLC, GenOn Power Midwest, LP, GenOn REMA, LLC, Gilbert Power, LLC, Hamilton Power, LLC, Heritage Power Marketing, LLC, Hunterstown Power, LLC, Niles Power, LLC, Orrtanna Power, LLC, New Castle Power, LLC, Mountain Power, LLC, Portland Power, LLC, Sayreville Power, LLC, Shawnee Power, LLC, Shawville Power, LLC, Titus Power, LLC, Tolna Power, LLC, Warren Generation, LLC.

Description: Supplement to June 26, 2020 Updated Market Power Analysis for the Northeast Region of the GenOn Holdings, Inc. subsidiaries.

Filed Date: 11/18/20.
Accession Number: 20201118–5186.
Comments Due: 5 p.m. ET 12/9/20.

Docket Numbers: ER20–1800–002; ER20–1799–002; ER20–1801–003.
Applicants: Techren Solar III LLC, Techren Solar IV LLC, Techren Solar V LLC.

Description: Notice of Non-Material Change in Status of Techren Solar III LLC, et al.

Filed Date: 11/18/20.
Accession Number: 20201118–5195.
Comments Due: 5 p.m. ET 12/9/20.

Docket Numbers: ER21–121–001.
Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Errata to WMPA SA No. 5825, Queue No. AF2–401 in Docket No. ER21–121 to be effective 9/16/2020.

Filed Date: 11/18/20.
Accession Number: 20201118–5080.
Comments Due: 5 p.m. ET 12/9/20.

Docket Numbers: ER21–434–000.
Applicants: Nevada Power Company.
Description: Compliance filing: Market-Based Rate Tariff, Volume No. 11; WECC Price Cap to be effective 12/31/9998.

Filed Date: 11/18/20.
Accession Number: 20201118–5052.
Comments Due: 5 p.m. ET 12/9/20.

Docket Numbers: ER21–435–000.
Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2020–11–18_PSC–SWF-Info-2020–09-Intercon Study-614–0.0.0 to be effective 11/19/2020.

Filed Date: 11/18/20.
Accession Number: 20201118–5064.
Comments Due: 5 p.m. ET 12/9/20.

Docket Numbers: ER21–436–000.
Applicants: San Diego Gas & Electric.
Description: Annual Filing of Revised Costs and Accruals for Post-Employment Benefits Other than Pensions of San Diego Gas & Electric Company.

Filed Date: 11/18/20.
Accession Number: 20201118–5174.
Comments Due: 5 p.m. ET 12/9/20.

Docket Numbers: ER21–437–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX–LCRA TSC Asphalt Mines Facilities Development Agreement to be effective 11/11/2020.

Filed Date: 11/19/20.
Accession Number: 20201119–5011.
Comments Due: 5 p.m. ET 12/10/20.

Docket Numbers: ER21–438–000.
Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Third Revised ISA No. 4415; Queue No. AF2–044 to be effective 10/20/2020.

Filed Date: 11/19/20.
Accession Number: 20201119–5045.
Comments Due: 5 p.m. ET 12/10/20.

Docket Numbers: ER21–439–000.
Applicants: Moss Landing Energy Storage 1, LLC.

Description: Baseline eTariff Filing: SFA new baseline to be effective 11/20/2020.

Filed Date: 11/19/20.
Accession Number: 20201119–5057.
Comments Due: 5 p.m. ET 12/10/20.

Docket Numbers: ER21–440–000.

Applicants: Moss Landing Energy Storage 2, LLC.

Description: Baseline eTariff Filing: SFA COC new baseline to be effective 11/20/2020.

Filed Date: 11/19/20.
Accession Number: 20201119–5058.
Comments Due: 5 p.m. ET 12/10/20.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 19, 2020.

Kimberly D. Bose,
Secretary.

[FR Doc. 2020–26083 Filed 11–24–20; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2413–132]

Georgia Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Application Type:* Recreation and Land Use Plan.
- b. *Project No:* 2413–132.
- c. *Date Filed:* October 16, 2020.
- d. *Applicant:* Georgia Power Company.
- e. *Name of Project:* Wallace Dam Pumped Storage Project.
- f. *Location:* Oconee River in Hancock, Putnam, Green, and Morgan counties, Georgia.
- g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.
- h. *Applicant Contact:* Joseph Charles, Hydro Compliance Coordinator, Georgia