

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF PUBLIC SERVICE COMPANY OF)	
NEW MEXICO’S APPLICATION FOR APPROVAL OF)	
PURCHASED POWER AGREEMENTS, ENERGY)	
STORAGE AGREEMENTS, AND CERTIFICATE OF)	Case No. 24-00271-UT
CONVENIENCE AND NECESSITY FOR SYSTEM)	
RESOURCES IN 2028)	
)	
PUBLIC SERVICE COMPANY OF NEW MEXICO,)	
)	
Applicant)	
)	
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UNOPOSED COMPREHENSIVE STIPULATION

The signatories to this Unopposed Comprehensive Stipulation (“Stipulation”) dated March 12, 2025, consist of the following parties (collectively, the “Signatories”):

- Utility Division Staff of the New Mexico Public Regulation Commission (“Staff”)
- Public Service Company of New Mexico (“PNM”)
- Coalition for Clean Affordable Energy (“CCAEE”)
- New Energy Economy (“NEE”)
- New Mexico Affordable Reliable Energy Alliance (“NMAREA”)
- Prosperity Works
- Western Resource Advocates (“WRA”)

In addition to the Signatories, the following entities have intervened or have pending motions to intervene: Albuquerque Bernalillo County Water Authority (“ABCWUA”); Bernalillo County; Bernalillo Solar, LLC; New Mexico Department of Justice (“NMDOJ”); and the Central Consolidated School District (“CCSD”). CCSD states that it supports the Stipulation. The following have not taken a position on the Stipulation as of this filing date: ABCWUA, Bernalillo County, Bernalillo Solar, LLC and NMDOJ.

The Stipulation represents the comprehensive support and settlement of this case agreed to by the Signatories, which is encompassed in this Stipulation. The Stipulation consists of consecutively numbered paragraphs organized in the following sections, which incorporate

relevant summary case information, and the substantive terms and conditions agreed to by the Signatories.

Collectively the term “Parties” refers to PNM, Staff, and the following persons that moved to intervene as parties in this case and whose intervention was granted by rule or order: ABCWA; Bernalillo County; Bernalillo Solar, LLC; CCA; NEE; NMAREA; NMDOJ; Prosperity Works; and WRA.

The Signatories submit this Stipulation to the New Mexico Public Regulation Commission (“Commission”) as a comprehensive settlement of all issues raised in PNM’s Application. Among other things, the Signatories hereby represent to the Commission that the proposed resource additions, including the proposed utility-owned resource with the additional 20 MW bid enhancement: 1) meet the statutory and regulatory requirements for their acquisition; 2) are necessary to the public convenience or necessity; and 3) provide a net public benefit that supports their approval and the issuance of a Certificate of Convenience and Necessity (“CCN”).

Further, the storage portion of the utility-owned resource meets the requirements outlined in NMSA 1978, Section 62-9-1(-D), paragraphs 1-6, and provides the lowest cost resource within the Central Consolidated School District (“CCSD”) that supports future, additional growth while adhering to the initial locational preferences of the Energy Transition Act (“ETA”), set forth in Section 62-18-3(F), in moving PNM to a carbon-free portfolio.

The Signatories further submit this Stipulation to the Commission as representing that PNM has presented one long-term purchased power agreement (“PPA”) and two long-term energy storage agreements (“ESA”). The PPA Rule, 17.9.551 NMAC, does not directly address the ESAs, but the Commission affirmed through its decision in Case No. 23-00353-UT that both long-term

PPAs and ESAs must be approved under the PPA Rule.¹ The Signatories represent that PNM has provided all the necessary documentation required by 17.9.551.8(D) NMAC and that the PPA and ESAs are necessary and in the public interest.

The Signatories request that the Commission issue a Final Order in this case that approves this Stipulation with all necessary findings, conclusions and ordering paragraphs that resolve in full all issues in this proceeding in accordance with the provisions of the Stipulation.

I. Standards applicable to the Application

1. The Commission has statutory authority over the construction and operation of utility-owned generation and battery storage resources pursuant to Section 62-9-1 of the Public Utility Act.
2. The Public Utility Act requires public utilities to obtain a CCN before constructing or operating any new utility plant or system.²
3. The utility must also show that it has considered alternatives before going forward with a project.³ Thus, the utility must show that the resource alternative it proposes “is the most -cost-effective among feasible alternatives.”⁴
4. The Commission must also review a CCN application for energy storage systems

¹ See Case No. 23-00353-UT, 19-00195-UT, *In the Matter of Pub. Serv. Co. of N.M.’s Application for Approval of a Purchased Power Agreement, Energy Storage Agreements, and a Certificate of Public Convenience and Necessity for System Resources in 2026*, Recommended Decision, Section 3.1.3 (requiring Commission approval before becoming irrevocably bound to long-term purchased power or energy storage agreements pursuant to 17.9.551 NMAC).

² NMSA 1978, § 62-9-1(A). A public utility may, but is not required to, request a determination of ratemaking principles and treatment for the proposed facilities; the utility must have its articles of incorporation on file with the Commission and make a showing that it has received the consent and franchise from the municipality where the construction and operation is proposed. NMSA 1978, § 62-9- 1(B).

³ See Case No. 22-00270-UT, *Recommended Decision*, p. 42 (Dec. 8, 2023) (“[U]tilities must conduct reasonable alternatives analyses before selecting resources. Deficiencies in analyses may warrant nonrecovery of all or a portion of the costs of resources imprudently selected.”) (*approved Final Order*, pp. 20-24 (Jan. 03, 2024); Case No. 15-00261-UT, *Corrected Recommended Decision*, pp. 96-99 (Aug. 15, 2016) (*approved Final Order Partially Adopting Corrected Recommended Decision* (Sept. 28, 2016)); Case No. 2382, *Final Order Approving Recommended Decision* pp. 48-49 (Nov. 20, 1995).

⁴ Case 19-00349-UT, *Recommended Decision*, pp. 16-17 (Nov. 16, 2020) (*citing* Case Nos. 15-00261-UT, 13-00390-UT, 15-00205-UT, and Case No. 2382) (*adopted* by order of the Commission (Dec. 16, 2020).

consistent with NMSA 1978, Section 62-9-1(D).

5. The Commission regulates certain PPAs pursuant to 17.9.551.8(A) NMAC, which states that no electric utility shall become irrevocably obligated under a PPA without first obtaining the Commission's written approval of the agreement.

6. The Commission has held that the review and approval procedure for a PPA is similar to the review and approval procedure for a CCN pursuant to NMSA 1978, Section 62-9-1, and that utilities must demonstrate by a preponderance of the evidence that the proposed PPA complies with 17.9.551 NMAC and is in the public interest.⁵ This includes filing a copy of the PPA, explaining its key terms, and describing the benefits of entering into the PPA. The Commission equates "public convenience and necessity" with "public interest" and equates "public interest" with "a net public benefit".⁶

II. SUMMARY OF PNM'S APPLICATION

7. On November 22, 2024, PNM filed its Application for Approval of a PPA, two ESAs, and a CCN for System Resources in 2028 ("Application").

8. In its Application and supporting testimonies, PNM requested Commission approval of:

Power Purchase Agreement:

Valencia Power Plant PPA – A new PPA for the Valencia Power Plant that would add an additional term to PNM's association at this facility until December 31, 2039. The Valencia Power Plant PPA is between PNM, as buyer, and Valencia Power LLC, as seller, for 167 MW of natural gas-fired generation at a rate of \$9.20/kW/month, a variable operations and maintenance charge of \$5.00/MWh, and a start charge of \$8,000 per start. This facility is already constructed and operating.

Energy Storage Agreements:

Sun Lasso ESA – A long-term ESA between PNM, as buyer, and Sun Lasso LLC, as seller, for the capacity of 150 MWAC 4-hour battery storage at a rate of \$14.55/MWh over a

⁵ Case No. 15-00083-UT, *Recommended Decision*, pp 18-25 (Sept. 21, 2015) (*adopted by Final Order* (Oct. 7, 2015)).

⁶ *Id.*

twenty-year term. This project is located in Bernalillo County with an expected Commercial Operation Date (“COD”) of January 15, 2028.

Corazon ESA – A long-term ESA is between PNM, as buyer, and Corazon Energy Storage LLC, as seller, for the capacity of 150 MWAC 4-hour energy storage at a rate of \$15.40/MWh over a twenty-year term. This project is located in Bernalillo County with an expected COD of December 31, 2027.

Certificate of Convenience and Necessity:

Sunbelt Project – A certificate of public convenience and necessity for the Sunbelt Project, a utility self-build project for 100 MW of solar generation facilities coupled with a 30 MWAC 4-hour energy storage system located in the Central Consolidated School District in San Juan County. The overall estimated capital cost for this project is \$220.4 million, with an expected COD of May 1, 2028. Additionally, PNM’s Application provides an option to increase the 30 MW battery by an additional 20 MW, for a total of 50 MW Battery Energy Storage System (“BESS”). The additional 20 MW BESS was not part of the Request for Proposal (“RFP”) bid. This 20 MW BESS bid enhancement increases the capital cost of this project to \$252 million.

9. Apart from the additional 20 MW BESS bid enhancement of the Sunbelt Project (for a total of 50 MW BESS), PNM selected the above projects through a robust and competitive RFP process and conducted resource modelling analysis to develop the optimum mix of generation resources that can be available by summer 2028 to reliably serve customers. The additional 20 MW BESS was not part of the Request for Proposal (“RFP”) bid. Nevertheless, the addition of the 20 MW BESS would provide more reliable service for PNM customers, is cost effective, and would amount to a total of 450 MW in the CCSD.

10. PNM asserts that without approval of these resources, PNM will have a reserve margin of only 0.1% and a loss of load expectation (“LOLE”) of 2.01 days per year in 2028. PNM states that approval of these resources, including the additional 20 MW of battery, will result in a LOLE of 0.055 days per year in 2028 and a projected planning reserve margin of 18.2% and 16.6% in 2028, and 2029 respectively, as PNM experiences load growth.

11. The Application states that the PPA and ESAs are necessary to provide cost-effective and

reliable service while keeping PNM on track to meet the ETA requirements, conform to prior NM PRC Orders,⁷ as well as PNM’s target to provide service from 100% carbon-free generation by 2040.

12. PNM also proposed the Sunbelt Project as an additional carbon-free solar energy resource combined with associated battery storage to help firm up capacity during low renewable generation periods and help serve demand and energy requirements reflected in PNM’s most recent load forecast. The Sunbelt Project is the lowest cost proposed resource located within the CCSD that allows for additional system growth while adhering to the ETA’s initial locational preference. It is the least cost option for adding new resources in the CCSD as soon as practicable.⁸

13. PNM testified that the Sunbelt Project will:

- a. Reduce costs to ratepayers by locating the facility near an existing PNM substation and infrastructure, limiting transmission and substation expansion requirements;
- b. Reduce PNM’s use of fossil fuels for meeting demand by allowing storage of energy produced from renewable resources during off-peak load periods for discharge during peak load;
- c. Aid in ensuring grid reliability;
- d. Support increased diversification of energy resources;
- e. Contribute to the reduction of air pollutants resulting from power generation; and
- f. Ensure efficient service to PNM’s customers.

14. PNM proposed to recover the energy costs associated with the Valencia Power Plant PPA

⁷ Cases No. 19-00195-UT, *Final Order On Recommended Decision on Replacement Resources - Part II*, 7/29/2020 and No. 23-00353-UT, *Final Order*, (5/30/2024).

⁸ The lowest cost resource within the Central Consolidated School District (“CCSD”) approval standard was adopted pursuant to and in order to implement the Energy Transition Act’s legislative priority of locating up to 450 MW of resources within the CCSD of San Juan County after abandonment of the San Juan Generating Station. “[T]here is no doubt that the legislature intended the location of resources in the CCSD to be a priority, and potentially the highest priority.” Case No. 19-00195-UT, *Recommended Decision on Replacement Resources – Part II*, at 120 (June, 24, 2020) (Adopted by *Order on Recommended Decision on Replacement Resources – Part II* (July 29, 2020)).

through its Fuel and Purchased Power Cost Adjustment Clause (“FPPCAC”) in accordance with Rule 551.9(A). PNM will seek recovery of demand charges associated with the Valencia Power Plant through base rates.

15. Pursuant to its stipulation in Case No. 24-00089-UT, PNM proposed to recover the ESA costs through base rates when they are operational.⁹

16. PNM will seek recovery of the Sunbelt Project in a PNM general rate review filing where PNM seeks to adjust its base rates.

III. SETTLEMENT NEGOTIATIONS AND PARTICIPATION OF PARTIES

17. Pursuant to 1.2.2.16 NMAC, the Parties participated in a settlement conference on February 27, 2025 and on March 7, 2025. Additionally, most of the Parties have actively participated in regular bi-weekly meetings conducted by PNM to apprise interested stakeholders of PNM’s ongoing system needs, competitive bid evaluation processes, and the operational status of previously approved resource additions.

18. The Parties that participated in these settlement meetings are knowledgeable and sophisticated parties and are well-informed on the issues raised by PNM’s Application and supporting testimonies and exhibits. The Parties represent a diverse group of stakeholders with diverse and often divergent or competing positions on the issues at hand. The Parties engaged in formal and informal discovery with PNM regarding the Application and supporting testimonies. As a result, the settlement negotiations between and among themselves and PNM were intended to reach an uncontested agreement for the approval of the entire portfolio of resources requested by PNM, together with related ratemaking set forth herein, without establishing any precedential standards for future resource acquisition requests that may be brought before the Commission by

⁹ See Case No. 24-00089-UT, Unopposed Stipulation, ¶ 9 (Nov. 26, 2024).

PNM.

19. The Signatories agree to resolve all issues among them related to PNM's Application, as provided in the specific terms and conditions of settlement set forth in Sections IV-IX.

20. Pursuant to 1.2.2.20(D) NMAC, this Stipulation shall have no precedential effect regarding the principles contained herein.

IV. APPROVALS

Purchased Power Agreement

21. Based on the evidence presented in PNM's Application and direct testimonies, PNM's request for regulatory approval of an executed long-term PPA with the 167 MW natural gas Valencia Power Plant should be approved.

22. PNM shall recover the energy costs associated with the Valencia Power Plant PPA through its FPPCAC in accordance with 17.9.551.9(A) NMAC.

23. PNM shall seek recovery of demand charges associated with the Valencia Power Plant through base rates.

Energy Storage Agreements

24. Based on the evidence presented in PNM's Application and direct testimonies, PNM's request for regulatory approval of two executed 150 MW ESAs, Sun Lasso and Corazon, should be approved.

25. The Signatories agree that the rate recovery for the ESAs originally proposed by PNM should be modified to reflect the stipulated rate treatment for ESAs submitted to the Commission in PNM's pending rate case, Case No. 24-00089-UT. PNM shall seek recovery of the ESA costs through base rates in a future PNM general rate review filing where PNM seeks to adjust its base rates.

26. PNM shall seek any transmission construction-related cost recovery in a future rate case.

Certificate of Convenience and Necessity

27. Based on the evidence presented in PNM's Application, direct testimonies, and testimony in support of the Stipulation, the Sunbelt Project meets the statutory requirements for approval of a CCN, and PNM's request for issuance of a CCN for the Sunbelt Project should be approved, including the additional 20 MW storage bid enhancement. The Signatories acknowledge that the additional 20 MW BESS was not part of the RFP process, but they agree for settlement purposes that this addition component of the Sunbelt Project be approved, along with the other resources requested by PNM.

28. In issuing a CCN, the Commission gives due regard to public convenience and necessity and requires a showing that the requested resources provide net benefits to customers and are in the public interest. The Commission is required to approve a CCN Application for an energy storage system if it satisfies the conditions of NMSA 1978, Section 62-9-1(D). The Sunbelt Project is unique because additional public interest considerations support its approval. The Signatories agree that with regard to the Sunbelt Project, the "net public benefit" includes a broader public interest by helping to mitigate the impact on affected communities for coal plants abandoned by January 1, 2023,¹⁰ consistent with the Commission's determinations in the San Juan Generating Station ("San Juan") abandonment proceedings in Case No. 19-000195-UT. Thus, in determining whether approval of the Sunbelt Project produces a net public benefit, the Commission should consider benefits to the affected community in the Four Corners area from locating the Sunbelt Project within the CCSD.

The Signatories agree that the Sunbelt Project's additional carbon-free 100 MW solar

¹⁰ NMSA § 62-18-3.

energy resource combined with a total of 50 MWAC 4-hour battery storage, provides a public benefit from being located within the CCSD in the Four Corners area. The Sunbelt Project will help firm up capacity during low renewable generation periods and help serve demand and energy requirements reflected in PNM's most recent load forecast and thereby directly benefits customers. Further, the Sunbelt Project's BESS approximate cost of \$15.45 per MWh is reasonably competitive with the other ESA projects' estimated costs of \$15.40 per MWh for Corazon and \$14.45 per MWh for Sun Lasso and takes advantage of the currently existing investment tax credits under the IRA. The Sunbelt Project is the lowest cost proposed resource located within the CCSD. Approval of the Sunbelt Project allows for additional system growth anticipated by PNM while also fulfilling the Commission's regulatory intent to locate San Juan replacement resources in the CCSD, based on the ETA's policy goal of mitigating impacts to affected communities resulting from the retirement of coal plants in the Four Corners area. The energy generated by the Sunbelt Project's 100 MW Solar will also contribute to PNM's ability to meet the ETA emissions limitation of "four hundred pounds of carbon dioxide per megawatt-hour" applicable to PNM's generating resources and is the only renewable energy resource for which approval is sought in this docket.¹¹

29. In Case No. 19-00195-UT, the Commission adopted a portfolio that placed 430 MW of resources in the CCSD. Due to the default of the Rockmont Project and its contract termination, only 300 MW of resources to date have been placed in service in the CCSD since the closure of San Juan Generating Station. The Signatories support the approval of the Sunbelt Project which will bring an additional 100 MW of solar and 50 MW of battery storage to the CCSD consistent with the policy intent of 62-18-3(F) of the ETA and the portfolio determinations of the

¹¹ NMSA § 62-18-10(D).

Commission in Case No. 19-00195-UT.¹²

30. In addition to fulfilling an important policy goal of the ETA, the Sunbelt Project is the most feasible and least cost option for adding new resources in the CCSD as soon as practicable and allows for PNM to reliably meet forecasted load growth that may reasonably occur sooner than expected. These policy considerations, combined with the additional headroom to support near-term economic development, support the conclusion that approval of the Sunbelt Project is a benefit to customers, is in the public interest, and produces a net public benefit. The Signatories agree that the Commission should approve the CCN for the Sunbelt Project, including the 20 MW energy storage bid enhancement, and that the Sunbelt Project provides the benefits to the CCSD that were contemplated by the ETA and Cases No. 19--00195-UT, *Final Order on Recommended Decision on Replacement Resources - Part II*, 7/29/2020 and No. 23-00353-UT, *Final Order*, (5/30/2024).

31. PNM shall seek recovery of the costs for the Sunbelt Project, including the additional 20 MW, through base rates in a future PNM general rate review filing where PNM seeks to adjust its base rates.

32. The Certificated Estimated Cost for the Sunbelt Project with the bid enhancement is \$252 million. To the extent that PNM experiences a cost overrun, PNM will provide the information required by the Cost Overrun Rule (17.3.580 NMAC) to request recovery of these costs in a future rate case.

V. OTHER STIPULATED TERMS

33. The Signatories agree that based upon the terms contained herein as well as the testimony

¹² Case No. 19-00195-UT, *Recommended Decision on Replacement Resources, Part II*, at 61-62; *See also*, Case No. 23-00353-UT, *Final Order*, at 18-19 of 23, ¶¶ 39-41, 43. (5/30/2024)

filed in support of the stipulation by PNM, that a hearing is not required in this matter. If the Commission determines that additional evidence is necessary in its review of this stipulation, the Signatories agree to provide additional evidence to support this stipulation.

34. PNM commits that if the contractual terms of any of the agreements are renegotiated or altered following approval, PNM shall make a compliance filing identifying any such changes in the contractual terms and including copies of any revised contracts. The Commission, Staff, and the Parties shall have ten days from the filing and service of such compliance notice to object to such terms or they shall be deemed to be approved consistent with the Commission's Order in this matter.

VI. ADMISSION OF PRE-FILED TESTIMONY INTO RECORD

35. The Signatories agree to the admission into the case record for background information of PNM's pre-filed direct testimony and exhibits; and they further agree to the admission of PNM's and any other Signatory's testimonies and exhibits filed in support of this Stipulation.

VII. BASIS AND SCOPE OF STIPULATION

36. This Stipulation is the result of good faith, arms-length negotiation, settlement, and accommodation among the Signatories with respect to the issues presented in this case. The Signatories agree that the stipulated resolution of this case provides benefits to both PNM and its customers and is necessary for PNM to continue to provide safe and reliable service to customers and accommodate future growth as it moves toward 100% carbon-free generation. The Stipulation is in the public interest and should be accepted and approved by the Commission.

37. The Signatories agree that this Stipulation comprehensively resolves the issues in this case in a manner that promotes collaborative resolution of potential legal or factual disputes, conserves the resources of the Commission and parties and results in an uncontested outcome. Because the

Stipulation is comprehensive, the terms and conditions of the Stipulation are interdependent and the various provisions of this Stipulation are not severable.

VIII. SUPPORT FOR AND BINDING NATURE OF STIPULATION

38. The Stipulation is in the public interest and should be accepted and approved by the Commission. The Signatories agree to affirmatively support this Stipulation, and to undertake necessary and reasonable efforts in good faith before the Commission to obtain approval of the Stipulation without modification.

39. This Stipulation is the product of negotiations among the Signatories and is binding on each of the Signatories only for the purposes of comprehensively settling the issues in this case and for no other purposes. Subject to compliance with a Commission order accepting and approving or enforcing the Stipulation, the positions taken in support of the Stipulation shall not be binding or precedential on a Signatory outside of this proceeding. Because this is a settlement agreement, a Signatory is under no obligation to take the same position as set out in this Stipulation in other dockets not referenced herein, whether those dockets present the same or a different set of circumstances. The Signatories and non-contesting parties reserve all rights in other dockets in which they and PNM are parties.

40. The Signatories acknowledge that in accordance with 1.2.2.20(D) NMAC, that unless the Commission explicitly provides otherwise in the order approving this Stipulation, approval of a stipulation does not constitute Commission approval of or precedent regarding any principle or issue in the proceeding.

41. The Stipulation provisions shall not be operable until approved by the Commission, and upon approval shall be orders and directives of the Commission.

IX. COMPLIANCE WITH COMMISSION REQUIREMENTS

42. The Signatories agree that if, for any reason, the Hearing Examiners or Commission determine that this Stipulation does not satisfy the Commission's requirements for a Stipulation, the Signatories will endeavor in good faith to remedy any deficiencies in order to satisfy those requirements.

43. If the Commission issues an order rejecting this Stipulation or modifying one or more terms of this Stipulation in a way that is unacceptable to one or more Signatory, then each Signatory shall have the right to withdraw from this Stipulation and to advocate for any position it deems appropriate to resolve this case through the litigation process.

44. If the Stipulation is rejected and this matter is to be resolved through litigation, the Signatories agree to make good faith efforts to complete the hearing process as expeditiously as possible in order to allow approval of the PPA, ESAs, and CCN by August 1, 2025.

X. MULTIPLE COUNTERPARTS AND SIGNATURES

45. Each copy of this Stipulation, which may be executed by facsimile transmission or PDF signature, need not bear the signatures of all the Signatories but will be deemed fully executed if all copies together bear the signatures of all Signatories.

46. Fully and duly authorized representatives of the Signatories have signed this Stipulation effective as of the date first set forth above.

Respectfully submitted this 12th day of March 2025.

UTILITY DIVISION STAFF

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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

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COMPANY OF NEW MEXICO’S)
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**PUBLIC SERVICE COMPANY OF NEW)
MEXICO,)
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Applicant)
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Case No. 24-00271-UT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the **Unopposed Comprehensive Stipulation** was emailed to parties listed below on March 12, 2025:

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