

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, to make adjustments to the universal service fund mechanism established in NUSF-26

) Application No. NUSF-50

) Progression Order No. 3

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In the Matter of the Commission, on its own motion, seeking to investigate whether the zones established in Docket No. 2516 are appropriate in light of NUSF-26 findings and conclusions.

) Application No. C-3554/PI-112

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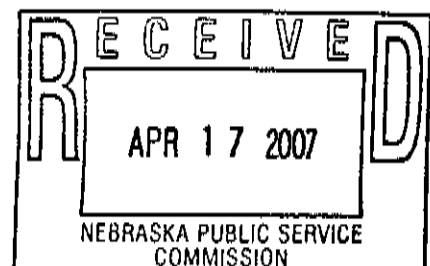
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**ALLO COMMUNICATIONS, LLC'S  
NOTICE OF FILING DIRECT TESTIMONY  
OF  
BRAD MOLINE**

Allo Communications, LLC hereby notices and submits the testimony of Brad Moline on this 17<sup>th</sup> day of April, 2007.

ALLO COMMUNICATIONS, LLC

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**Certificate of Service**

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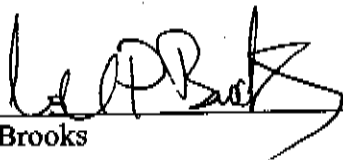
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By:   
Loel P. Brooks

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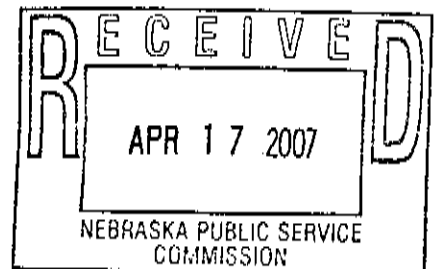
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**ALLO COMMUNICATIONS, LLC**

**DIRECT TESTIMONY OF BRAD MOLINE**

**April 17, 2007**



**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Brad Moline, and my business address is 610 Broadway, Imperial, Nebraska 69033.

**Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

A. I am President of Allo Communications, LLC ("Allo").

**Q. PLEASE DESCRIBE YOUR EDUCATION, WORK EXPERIENCE AND PRESENT RESPONSIBILITIES.**

A. I graduated with distinction from the University of Nebraska-Lincoln in 1988, earning a Bachelor of Science Degree in Business Administration with an emphasis in accounting. My experience includes five years as a certified public accountant with Ernst & Young (Kansas City) and Grant Thornton (Lincoln). For seven years, I was the chief financial officer with Covenant Transport, Inc (Chattanooga, TN) and Birch Telecom, Inc. (Kansas City). During my tenure as chief financial officer, I oversaw successful public offerings for both companies. While at Birch Telecom, I purchased one of the early UNE-P providers in Texas and assisted in using the knowledge to add over 250,000 UNE-P lines in various Midwestern and Southeastern states. As President of Allo Communications, I oversee the UNE-P and the fiber-to-the-premise operations of the Company and other operational matters.

**Q. PLEASE DESCRIBE ALLO AND ITS CURRENT BUSINESS ACTIVITY IN NEBRASKA.**

A. Allo is a Nebraska limited liability company with its business headquarters located in Imperial, Nebraska. Allo was granted authority to operate as a local exchange and interexchange carrier of telecommunications services within the State of Nebraska by Order of the Nebraska Public Service Commission (the "Commission") on January 7, 2003, in Application No. C-2844.

Allo requested designation as a Nebraska eligible telecommunications carrier (NETC) and access to universal service support for supported services provided in Qwest Corporation ("Qwest") exchanges in Application No. NUSF-36, which requests were granted by Commission Order entered August 26, 2003.

Allo currently offers facilities-based local service, non facilities-based interexchange resale service and other communications services to business and residential customers. Allo provides wireline service through unbundled network element platforms (UNE-P) provided over Qwest's facilities pursuant to an Interconnection Agreement established between Allo and Qwest and approved by the Commission in Docket C-2936 on June 3, 2003. Allo does not seek cost recovery from the NUSF in any areas not served by Qwest.

**Q. ARE YOU FAMILIAR WITH THE COMMISSION'S ORDERS CONCERNING THE POLICIES AND MECHANISMS FOR FUNDING NEBRASKA UNIVERSAL SERVICE PROGRAMS, SPECIFICALLY DOCKETS C-1628, NUSF-26, C-2516, C-3448, C-3554 and NUSF-50?**

A. Yes, I have reviewed and am familiar with the Commission's Orders regarding NUSF funding mechanisms, and specifically Dockets C-1628, NUSF-26, C-2516, C-3448, C-3554 and NUSF-50.

**Q. ARE YOU FAMILIAR WITH THE STAFF PROPOSAL RELEASED BY THE COMMISSION STAFF ON FEBRUARY 13, 2007 IN THIS DOCKET?**

A. Yes, I have reviewed and am familiar with the Staff Proposal released on February 13, 2007.

**Q. PLEASE DESCRIBE ALLO'S INTEREST IN THIS PROCEEDING.**

A. On July 15, 2005, Allo, along with Mobius Communications Company and Pinpoint Communications, Inc. filed a Joint Petition with the Commission in which they requested that a docket be opened to investigate the findings and conclusions under Application Nos. C-2516 and NUSF-26 regarding competitive business telecommunications services. Docket C-3448/PI-02/NUSF-46 was opened in response.

In its Findings and Conclusions in NUSF-26, entered November 3, 2004 (the "NUSF-26 Order"), the Commission revised the universal service funding mechanism which it had established in C-1628. (See Application No. C-1628, Findings and Conclusions, entered January 13, 1999.) The Commission found that affordable access to telecommunications and information services at comparable rates is key in developing a long term universal service mechanism and that access to such services should be affordable and comparable in rural and urban areas. The Commission further found that NUSF should not reward inefficient investment. However, in order to keep local rates affordable, the Commission determined that a new methodology for calculating support was necessary so that NUSF support would be targeted to the most costly and sparsely populated out of town service areas where NUSF support is needed. (See NUSF-26 Order, Paragraph 11.)

Among other findings and conclusions in the NUSF-26 Order, the Commission decided to freeze the support level for residential lines at the pre-NUSF-26 transitional support amount throughout the five (5) year post-NUSF-26 transition period. The Commission concluded that, for residential lines, NUSF support should continue to be ported, based on the total support amount, from the ILEC to the providing competitive NETC ("CNETC") on a dollar-for-dollar basis.

However, these recommendations did not extend to business lines, which had previously been eligible for NUSF support. While the Commission permitted CNETCs to continue to receive NUSF support for certain "grandfathered" lines placed in service before September 2004, the Commission determined that NUSF would no longer port support for new business lines after September, 2004. This decision represented a substantial change in Commission policy since its Order in Docket C-1628, issued January 13, 1999, when it determined that the NUSF should support basic service for all customer access lines, whether business or residential.

**Q. PLEASE EXPLAIN THE IMPACT OF THE COMMISSION'S NUSF-26 ORDER ON ALLO'S ABILITY TO PROVIDE COMPETITIVE TELECOMMUNICATIONS SERVICES TO BUSINESS CUSTOMERS LOCATED IN RURAL QWEST EXCHANGES.**

A. While Allo generally agrees with the Commission's findings and conclusions as they relate to support for residential lines, Allo believes that the Commission's decision to discontinue NUSF support without simultaneously decreasing the loop rate for business lines has effectively eliminated competition for business customers in two of the zones established by the Commission in its C-2516 Order of April 23, 2002 (the "Cost Study Order"); i.e., Zones 2 and 3. During the period following the Cost Study Order, but prior to the NUSF Order, CNETCs were able to effectively compete in rural exchanges for business customers because NUSF support received by the CNETCs eliminated the impact of deaveraged UNE Loop rates in Zones 2 and 3 by making up the difference between Zone 1 UNE Loop costs and the costs established for UNE Loops in Zones 2 and 3. Under this arrangement, no carrier was unduly benefited or injured by the UNE Loop prices. QWEST continued to receive appropriate amounts of NUSF support for its UNE Loop investment and CNETs did not subsidize QWEST beyond the available NUSF

support the CNETCs received. In short, there were adequate economic opportunities for CNETCs to compete for business customers in the Zone 2 and Zone 3 exchanges.

The NUSF-26 Order, however, destroyed the economic incentive essential for any CNETC to compete for business lines, leaving the Zone 2 and 3 deaveraged UNE Loop rates established in the Cost Study Order unchanged, but eliminating NUSF support for these UNE Loops, effectively creating high cost areas which no longer received support.

Neither Allo nor any other CNETC can profitably offer service to business customers in Zones 2 and 3. Without NUSF support, Zone 2 business lines (McCook, Sidney, Holdrege, etc.) have so little available margin that Allo and other CNETCs no longer are able to justify sales, billing, switching or provisioning costs. Competition has been eliminated in these areas. Worse, in Zone 3 markets (Alliance, Broken Bow, etc.), Allo has "negative margins" (i.e., Allo would pay out to Qwest more than it collects from its customers on a per line basis) in excess of \$35.00/per line per month, which is simply not economically justifiable or sustainable. This economic situation amounts to a subsidy for Qwest in downtown Zone 2 and Zone 3 communities and an uneconomic environment for any CNETC.

In the absence of NUSF support, Allo and other CNETCs have been forced to halt most efforts to provide service to new business customers in Zones 2 and 3. Since the NUSF-26 Order, Allo has had to decline to provide hundreds of business access lines to prospective clients who had submitted firm orders to Allo for service. In addition, Allo has had to decline the requests of many other potential business clients because it was not economically possible to provide the requested service.

Rather than establishing a system which fosters an environment in which competition may flourish, a stated goal of the Commission, the Commission has inadvertently eliminated competition for business customers in Zones 2 and 3.

Clearly the rationale utilized by the Commission in its NUSF-26 Order to eliminate NUSF support for business lines, is not consistent with the logic it utilized in creating the deaveraged zones in the Cost Study Order. The goal of fostering competition and maintaining affordable rates has been destroyed as a result of these inconsistent decisions. Under current Commission Orders, CNETCs must now subsidize QWEST for in town Zone 2 and Zone 3 business lines when NUSF-26 was intended to eliminate such subsidies.

Allo asserts that residential service revenue streams alone are not sufficient to drive network investment and competitive services by CNETCs. Investment in infrastructure, including switching facilities and use of UNE Loops, is not economically viable for business customers because the cost of acquiring the UNE Loop is too high without NUSF support. Without network competition by CNETCs, ILECs will continue to invest only in the largest communities (Zone 1), much as they have done historically.

**Q. WHAT ACTION HAS THE COMMISSION TAKEN TO ADDRESS ALLO'S CONCERNS TO DATE?**

A. On March 7, 2006, in Application C-3448 (NUSF-46/PPI-102), the Commission entered an Order (the "Interim Order") which temporarily modified its findings and conclusions in the NUSF-26 Order relative to supporting business lines. The Commission temporarily included business lines in Zones 2 and 3 which were in service and were in the process of being procured for service as a business line as of November 3, 2004 under the grandfathering provision of the NUSF-26 Order. This temporary modification of the provisions of the NUSF-26 Order was to

last until the Commission had an opportunity to initiate and make a determination "on the alignment of the NUSF-26 Order and Docket C-2516."

The Commission then opened, on its own motion, Docket C-3554, to investigate the possibility of implementing changes to Zones established in C-2516 and altering the methodology for porting of NUSF Support, established in NUSF-50, Progression Order No. 2. Those two dockets are here before us today for further consideration.

**Q. PLEASE DESCRIBE ALLO'S POSITION CONCERNING OPTION A OF THE STAFF PROPOSAL.**

A. Allo generally supports Option A of the Staff Proposal. Option A suggests increasing the number of Zones established in C-2516 from three to six. This step acknowledges the findings of the Commission in the NUSF-26 Order that average UNE-Loop cost is a function of population density – the higher the density, the lower the loop cost. Therefore, the utilization of "in-town" and "out-of-town" support areas is appropriate and consistent with both the Commission's own conclusions and Allo's actual experience in deploying its fiber optic infrastructure in the State. This fundamental axiom was also the basis for the Commission's Porting Method proposed in NUSF-50, Progression Order No. 2, which shifted NUSF support to sparsely populated out-of-town areas where the Commission determined that NUSF support was most needed. Allo supported the Commission Staff's Unifying Method set forth in C-3554/PI-112 as an approach which married the theories of the original zone-based rate calculation adopted in C-2516 with the new methodology for calculating universal service support adopted by the Commission in the NUSF-26 Order.

Allo also believes that the four-zone configuration suggested in the Staff Proposal as an alternative to the six-zone configuration would be acceptable. Essentially, the four-zone

configuration establishes what appears to be a weighted average of the three in-town rates from the six-zone configuration and utilizes that weighted average across all in-town areas, while retaining the same out-of-town Zone pricing. In fact, the four-zone configuration would provide simplicity and would represent only a slight price differential from the six-zone configuration model.

Option A also suggests that the Commission should adopt the Porting Method proposed in NUSF-50, Progression Order No. 2, which Allo believes is essential. Allo strongly supported the Commission Staff's Porting Method, which sought to establish appropriate pricing for UNE-Loops. The Porting Method allows for competition in those areas where the UNE-Loop rate was supported by NUSF Portable Support. Without Portable Support, there would be no opportunity for competition in any out-of-town Zone.

Under the Staff Proposal, the Porting Method would provide an opportunity for competition in all out-of-town Zones by supporting the cost of accessing a customer to a point where the CLEC's cost to acquire a UNE-Loop would be the same as the Loop Revenue Benchmark. However, the support would not be sufficient for CLECs to aggressively target these areas for competition. Consequently, incumbent carriers would continue to receive and maintain virtually all of the NUSF support in these mostly rural areas, insuring that basic service would continue to be available to customers. In the event a CLEC entered the marketplace, and offered a choice of service to consumers, the economic return to the ILEC would not be negatively impacted because the CLEC would have to pay to the ILEC the full UNE-Loop rate for each new customer retained by the CLEC, while the ILEC would lose only the amount of the per-line NUSF Portable Support calculated under the Porting Method. In fact, the ILEC would be economically enhanced by such an arrangement. As an illustration, if a CLEC were to

acquire a rural customer from an ILEC in out-of-town Zone 3, the CLEC would receive \$148.81 of Portable Support for that customer, but would have to pay the ILEC \$172.95 for access to the UNE-Loop serving that customer. The ILEC would continue to receive \$218.55 in NUSF Support for that lost customer, but would lose the \$148.81 Portable Support to the CLEC. The ILECs' resulting economic support would be as follows:

Monthly Per Line NUSF Support	\$ 218.55
Less: Portable Support to CLEC	<u>&lt; 148.81 &gt;</u>
	69.74
Plus: UNE-Loop Cost paid by CLEC	<u>\$ 172.95</u>
ILEC Total Per Line Revenue	\$ 242.69

(See Exhibit A). This represents an increase of revenue/support to the ILEC of \$24.14 per line. The result of this porting of support would be the opportunity for some competition for rural Nebraskans without undue strain on the NUSF fund or illogical benefits for either ILECs or CNETCs.

Consequently, under Option A, for those customers in out-of-town Zones, representing 8.3% of the total residential access lines, cost effective service would be maintained and the incumbent carrier would either retain substantially all of the NUSF support for those lines, or be paid the cost of those UNE-Loops by the CLEC, thus insulating the incumbent carrier from negative economic consequences.

On the other side of the equation, consumers representing 91.7% of the total access lines would benefit from the availability of competition and the deployment of new facilities. An economic environment would be created which would foster competition without negatively impacting the NUSF support funding. In order to "foster competition," a primary goal of the

Commission in the Cost Study Order of C-2516, the economic environment created through the more logical in-town UNE-Loop rates would encourage the development of competitive networks, by which competitive service could be delivered. As revealed in the Commission's proceedings in Docket C-3448, which gave rise to this Docket, the development and maintenance of new telecommunications facilities and network infrastructure will not occur unless a competitive provider can generate sufficient revenues to cover the cost of providing the service. As intended by the Commission in NUSF-26, NUSF support would be targeted to the most rural high cost areas where the support is most needed, thus preserving the economic viability of providing services in such high costs areas, while permitting competition to emerge in low cost areas which do not require NUSF support.

The Porting Method proposed by the Commission in this Docket, when coordinated with the pricing methodology emerging in Docket C-3554, will create a flexible process for allocating NUSF funds to high cost areas, giving the Commission the ability to alter the UNE-Loop affordability benchmark as necessary to further the goals of the Nebraska Telecommunications Universal Service Fund Act ("NUSF Act"), without altering the methodology for allocating the available NUSF support to appropriate high cost areas. Further, when incorporated with the Unified Method set forth in Docket C-3554, the Porting Method will permit adjustments to the NUSF surcharge itself without affecting the relative allocation of NUSF funds.

**Q. DO YOU FEEL THAT PORTING SUPPORT IN OUT-OF-TOWN AREAS IN ZONE 3 RESULTS IN "ARTIFICIALLY SUSTAINED COMPETITION" BY THE HIGH COST PROGRAM WHICH SHOULD BE DISCONTINUED?**

A. Allo does not feel that porting support in Zone 3 out-of-town areas results in "artificially sustained competition." The availability of ported NUSF support simply creates an economic

environment which would permit the development of new telecommunication facilities and network infrastructures through which competition could exist. Neither an ILEC nor a CLEC could afford to provide any service in high cost areas, and still maintain affordable rates, without NUSF support. The entire purpose of the NUSF Fund is to "ensure that all Nebraskans, without regard to their location, have comparable accessibility to telecommunications services at affordable prices." (See, Neb. Rev. Stat. § 86-317). Further, the Act states that the policy of the state to preserve and advance universal service is based on the following principle: "Access to advanced telecommunications and information service should be provided in all regions of the state" . . . "at rates that are reasonably comparable to rates charged for similar services in urban areas." (See, Neb. Rev. Stat. § 86-323). Portable NUSF Support, therefore, does not any more "artificially sustain" competition any more than it "artificially sustains" basic local service! The porting of NUSF Support merely permits the provision of affordable service to customers by whatever service provider can offer desirable service. The porting of NUSF Support to CLECs simply allows another provider to enter the marketplace in an effort to win the customer's business with the best service. The NUSF Fund is not burdened by porting NUSF Support and the ILEC does not suffer a detrimental economic impact if a CLEC wins a customer. The customer is the ultimate winner in this situation and the economic risk lies with the CLEC to obtain and maintain new customers.

**Q. SHOULD THE COMMISSION GRANDFATHER EXISTING LINES IN ZONE 3, BUT NOT SUPPORT NEW LINES?**

A. If the Commission were to decide not to continue to provide support for new lines, which Allo feels would be a poor decision, then the Commission should permanently grandfather those lines receiving support because to terminate support would force customers to return to the ILEC

for service, which would not be good public policy. Customers expect to have options in selecting telecommunication services, as their urban counterparts have, and limiting or restricting consumer options is neither desirable nor necessary.

**Q. SHOULD THE COMMISSION PHASE OUT ZONE 3 OUT-OF-TOWN SUPPORT ENTIRELY OVER A PERIOD OF TIME?**

A. Allo does not feel that it is necessary or advisable to phase out portable NUSF support for Zone 3 out-of-town areas because to do so would forever eliminate the ability of consumers in those areas to have any choice of service provider, or the benefits of competitive service offerings available to their urban counterparts. The Act is based on the principal that "universal service" means accessibility to advanced telecommunications and information service "without regard to location" which are comparable to such services provided in urban areas. Clearly, without the availability of competitive choice, such "comparable" service will not likely become available to customers in Zone 3 areas. Therefore, phasing out of portable NUSF Support in Zone 3 out-of-town areas should not be a goal of the Commission.

**Q. PLEASE DESCRIBE ALLO'S POSITION CONCERNING OPTION B OF THE STAFF PROPOSAL.**

A. In the event the Commission decides not to adopt Option A, it should not consider Option B without permanently grandfathering all existing customers. Without permanent grandfathering of these customers, the Commission will force customers to leave the provider of their choice and return to the ILEC because the CLEC will no longer be able to economically afford to provide service to such customers. Again, this represents public policy which is neither desirable or necessary.

Beyond the undesirable public policy results of adopting Option B, the context of the Staff Proposal referred to in Option B (the "2006 Staff Proposal") must be reexamined. The 2006 Staff Proposal (released in NUSF-50/NUSF-4) was offered in the context of determining how to proceed with CLEC porting issues while awaiting the resolution of related issues in NUSF-50, Progression Order No. 2 and C-3554. While the 2006 Staff Proposal is not detailed and leaves several questions unanswered, the thrust of the 2006 Staff Proposal suggests an alternative consistent with the Commission's August 29, 2006 Order in the same Docket, which proposed to index NUSF support for CLECs to the underlying NUSF support received by ILECs in order to target universal service support to high cost areas while reducing UNE-Loop costs paid by the CLECs to the ILECs. The 2006 Staff Proposal is premised on the Staff's assumption that eliminating support in Zones 1 and 2 would be both technologically and competitively neutral, "... treating the CLEC and the ILEC equally, as the carriers will experience the same reduction in support for using the same facilities."

While the 2006 Staff Proposal articulates a goal that is designed to result in the "same reduction in support" for both ILECs and CLECs using the same facilities, the 2006 Staff Proposal does not address the remaining critical issue of reducing the UNE-Loop costs paid by the facilities-based CLEC to the ILEC. Reduction in CLEC support must have a simultaneous change to the applicable Zone pricing of UNE-Loops in order to preserve the CLEC's ability to compete. Simply eliminating support to both CLECs and ILECs by the same amount does not address the underlying problem of UNE-Loop costs which must be paid by CLECs to ILECs which exceed the costs that CLECs can competitively charge customers for the use of the UNE-Loop. While Zone 1 UNE-Loops are priced below the cost the CLEC can competitively charge to a customer, the Zone 2 and 3 UNE-Loop costs, which must be paid by the CLEC to the ILEC,

exceed the revenues CLECs can generate from that same UNE-Loop. Therefore, without a simultaneous change to the UNE-Loop costs of the ILEC, the 2006 Staff Proposal cannot be supported. The intertwined issues sought to be resolved in this proceeding cannot be effectively or temporarily solved or even mitigated by an "alternate" plan that does not address simultaneously the UNE Loop costs of the ILEC.

While Allo fully supports the Commission's goal of reducing NUSF support requirements by targeting the support to specific high-cost areas, for those CLECs which must depend on access to the ILEC's UNE-Loop in order to provide services, UNE-Loop costs must be either sufficiently below the retail value of accessing that loop by the CLECs customer, or they must be subsidized by NUSF support. Any other model will effectively destroy competition and will be neither technologically nor competitively neutral. Particularly in rural areas of Nebraska, CLECs have made significant investments in smaller communities' telecommunications infrastructure before bringing broadband, Internet, voicemail and switching services, where incumbents have failed to invest in the infrastructure necessary to provide these features and services. Eliminating CLECs' economic viability will also eliminate the telecommunications investment in these communities.

**Q. HOW SHOULD THE COMMISSION PROCEED IN THIS DOCKET?**

A. Allo believes that the Commission should adopt Option A, either employing the six-zone configuration or the four-zone configuration and adopt the Staff's Unifying Method as set forth in C-3554/PI-112. Further, the Commission should adopt the Porting Method proposed by the Commission Staff in NUSF-50 Progression Order No. 2. The Commission should apply the rates to both residential and business lines in these methodologies. The adoption of Option A of

the Staff Proposal for business and residential lines achieves a level playing field which will permit competition and limit the size of the NUSF Fund.

**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

A. Yes.

**EXHIBIT A  
TO  
DIRECT TESTIMONY  
OF  
BRAD MOLINE**

**APPLICATION NO. NUSF-50 PROGRESSION ORDER NO. 3**

**APPLICATION NO. C-3554/PI-112**

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