

**GENERAL**

**WAC 480-123-010 Name and Authority.** *The program prescribed by this chapter shall be known as the universal service program and the fund created in RCW 80.36.XXX shall be known as the state universal service fund.<sup>1</sup>*

**WAC 480-123-020 Purpose.** *The purpose of this chapter is to preserve and advance access to affordable basic telecommunications service in a competitive environment and to prescribe a program of support for the provision of basic telecommunications service in high-cost locations with rates and services reasonably comparable to those in low-cost locations. Principles that will guide the program are that quality services should be available at just, reasonable and affordable rates; competition will be promoted in all local telecommunications markets through minimizing implicit sources of support, and maximizing explicit sources of support; access to advanced telecommunications and information services should be promoted in all regions; carriers should contribute to the fund on an equitable and nondiscriminatory basis; support should be specific, predictable and sufficient; and the program of support should be competitively and technologically neutral.*

**WAC 480-123-030 Applicability.** *Unless the context clearly requires otherwise, these rules apply to all telecommunications carriers.*

**WAC 480-123-040 Reports Include Declaration.** *All reports filed with the commission or the administrator must be filed with a declaration that the information is correct and the filing is made subject to the penalty of perjury provided for in RCW 9A.72.030.*

**WAC 480-123-050 Coordination.** *The commission will implement these rules in coordination with the federal program of universal service.*

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<sup>1</sup> Several of the proposed rules are not presently authorized by law. It is the Commission's understanding that fundamental changes in universal service require legislative action. When that occurs, the issues raised by these draft rules may be considered. In particular, we refer to the 28.8 Kbps transmission speed standard. We have taken that standard out of proposed WAC 480-123-400 and placed it at the end of the proposed rules.

**WAC 480-123-060** *[Reserved]*

**WAC 480-123-070 Outcome Measures.** *The commission will develop outcome measures to determine if the program established under this chapter has furthered the purpose stated in WAC 480-123-020. The administrator will provide the commission with the information necessary to measure outcomes and carriers must provide such information as the administrator may need.*

### **DEFINITIONS**

**WAC 480-123-080 Definitions.** *The definitions in WAC 480-123-090 through WAC 490-123-200 apply to this chapter unless the context clearly requires otherwise. Unless defined in this chapter, terms used in this chapter have the same meaning they have in WAC 480-120-021.*

**WAC 480-123-085 Non-wireline Service.** *Non-wireline means telecommunications services over a radio access line as defined in RCW 82.14B.020 and provided by a radio communications service company as defined in RCW 80.04.010.*

**WAC 480-123-090 Access Line.** *Access line means the connection of the end-user customer to the local and toll public switched network. A reference to access lines means switched access lines as defined in WAC 480-120-021 and radio access lines as defined in RCW 82.14B.020 and access line equivalents. This definition is not limited to wireline or any other technology.*

**WAC 480-123-100 Access-Line Equivalent.** *When they are used to connect customers to the public switched network the following are access line equivalents: each trunk for PBX local exchange service; each Network Access Register (NAR) for restricted (blocked) centrex service; each line for unrestricted (unblocked) centrex service; each trunk for Digital Switched Service (DSS); and each B-channel for ISDN service.*

**WAC 480-123-110 Administrator.** *Administrator means (1) A program administrator designated by the commission and subject to the policy direction and control of the commission, but acting independently in the day to day operation of the program; or  
(2) The commission when performing the function of the administrator.*

**WAC 480-123-120 Commission.** *Commission means the Washington utilities and transportation commission.*

**WAC 480-123-130 Telecommunications Carrier.** *Telecommunications carrier has the same meaning as 47 U.S.C. § 153(44).*

**WAC 480-123-140 Eligible Telecommunications Carrier (ETC).** *Eligible telecommunications carrier, or ETC, means a telecommunications carrier designated by the commission pursuant to WAC 480-123-330 as eligible to draw from either the federal universal service fund, or state universal service fund, or both, for the support of universal telecommunications service.*

**WAC 480-123-150 Service Area.** *Service area means a geographic area established by the commission for the purpose of determining universal service obligations and support.*

**WAC 480-123-160 End-User Retail Revenue.** *(1) End-user retail telecommunications revenue is the carrier's total end-user retail revenue reported on FCC Universal Service Worksheet Form 457, line 49 column (a), multiplied by the percentage of revenue attributable to Washington operations. Washington operations means revenue from telecommunications services billed to Washington customers.*

*(2) References in this section and subsequent sections to FCC Universal Service Worksheet Form 457 means the worksheet and the instructions for contributor revenue information in effect on the date of adoption of this rule.*

**WAC 480-123-170 Telecommunications Services.** *For the purposes of this chapter, telecommunications services are those for which revenues must be reported on FCC Universal Service Worksheet Form 457.*

**WAC 480-123-180 High-Cost Location.** *High-cost-location means a geographic area where the commission has determined the average cost per line to provide basic telecommunications service exceeds the applicable benchmark.*

**WAC 480-123-190 Revenue Benchmark.** *Revenue benchmark means an amount of revenue per access line determined by the commission and based on revenue from local exchange service; subscriber line charge (SLC); presubscribed interexchange carrier charge (PICC); vertical or discretionary services, also known as advanced features, or premium services, such as, but not limited to, call waiting, call forwarding, and caller ID; services billed on a per-use basis such as last call return dialing; local exchange carrier toll revenue; access payments received for origination and termination of toll calls; line extension charges; and such other revenue as the commission determines will be included. In the case of bundled service offerings at one price, the commission will determine, for the purpose of calculating a revenue benchmark, what portion of the bundled price will be considered in determining a revenue benchmark.*

**WAC 480-123-200 Services Supported By The Universal Service Fund.** (1) *The USF supports basic services, consisting of :*

- (a) *Single-party service;*
- (b) *Voice-grade access to the public switched network;*
- (c) *Support for local usage;*
- (d) *Dual tone multifrequency signaling (touch tone);*
- (e) *Access to enhanced emergency services (E-911);*
- (f) *Access to operator services;*
- (g) *Access to interexchange services;*
- (h) *Access to directory assistance and white pages directory; and*
- (i) *Toll limitation services.*

(2) *The Commission may waive the requirements of (a) through (i) for good cause shown.*

## CONTRIBUTORS AND CONTRIBUTIONS

**WAC 480-123-210 Contributors To the Universal Service Fund.** *All telecommunications carriers providing telecommunications services to end users in the state of Washington must contribute to the USF.*

**WAC 480-123-220 De Minimis Contributions Not Required.** *No telecommunications carrier is required to make a contribution if it would be de minimis. For purposes of this chapter, a contribution under \$100 per year is deemed to be de minimis.*

**WAC 480-123-230 Contributions Based on End-User Retail Revenue as Reported on FCC Universal Service Worksheet Form 457.** *Each carrier's contribution to the fund is determined by the ratio of the carrier's total end-user retail revenue attributable to Washington operations to the total end user retail revenue attributable to Washington operations of all carriers as these amounts are reported pursuant to WAC 480-123-160. Each carrier's ratio is its revenue share.*

**WAC 480-123-240 Revenue Reports** *(1) Every carrier must submit a photocopy of its most recently completed FCC Universal Service Worksheet Form 457, and state the portion of each line that is attributable to Washington operations, by September 1 and March 31 of each year. The September 1 report must reflect revenue data for January 1 through June 30. The March 31 report must reflect revenue collected for January 1 through December 31 of each year.*

*(a) carriers that do not contribute to the federal universal service fund, must complete the form and submit it for the purposes of this section.*

*(2)(a) For reports that are more than seven days late but less than 14 days late, the commission will impose a penalty equal to 2% of the carrier's required contribution for the previous calendar year. For reports that are 14 days late but less than 21 days late, the commission will impose a penalty equal to 4% of the carrier's required contribution for the previous calendar year. For reports more than 21 days late and less than 28 days late, the commission will impose a penalty equal to 6% of the carrier's required contribution for the previous calendar year. For reports more than 28 days late, the commission will impose a penalty equal to not less than 8% of the carrier's required contribution for the previous calendar year. The commission may increase the penalty by an additional 2% per week that the report is late at its discretion if the report is not forthcoming.*

*(b) In the event a carrier files a late report and has not made or been obligated to make a contribution in the previous calendar year, the commission will impose a penalty that may be up to \$10,000 for every day the report is late and the commission may increase the fine in the event a report is not filed after a fine or fines are imposed. Every day for which no report is filed is a separate violation subject to the maximum penalty.*

*(c) The administrator may grant an extension for filing a report if the carrier*

*demonstrates that extraordinary circumstances prevented a timely filing.*

*(d) A carrier penalized under this section may petition the commission for waiver of the penalty. The commission may waive or reduce a penalty for good cause shown and after taking into account the effect on the fund.*

*(3) In the event any report is more than 15 days late, the administrator may make calculations based on the administrator's estimate of the carrier's revenue.*

**WAC 480-123-250 Access Line Reports.** *(1) On the last day of each month, state eligible telecommunications carriers (SETCs) must report to the administrator the number and type of access lines subscribed to in high-cost locations on the last day of the preceding month. The report must contain such other information as the administrator may require.*

*(2) In the event any report is more than 15 days late, the administrator may make calculations based on the administrator's estimate of the SETC's access lines.*

*(3) Once a year, at the direction of the administrator, every carrier must report the number of access lines for all locations.*

**WAC 480-123-260 [Reserved.]**

**WAC 480-123-270 Determination of Contribution.** *(1) The administrator will determine no later than October 1, based on the September 1 filing and May 1, based on the March 31 filing required under WAC 480-123-240, the monthly contribution for each carrier. The level of contribution will be in effect for six months from December 1 and June 1, respectively.*

*(2) Each carrier's contribution for each month is the amount that results from multiplying its revenue share, as determined under WAC 480-123-230, by the total support amount projected by the administrator for the next six month period, divided by six.*

*(3) Contributions must be paid to the fund on the last business day of each month.*

*(4) For contributions that are more than seven days late but less than 14 days late, the commission will impose a penalty equal to 2% of the carrier's required contribution for the previous calendar year. For contributions that are 14 days late but less than 21 days late, the commission will impose a penalty equal to 4% of the carrier's required contribution for the previous calendar year. For contributions more than 21 days late and less than 28 days late, the commission will impose a penalty equal to 6% of the carrier's required contribution for the previous calendar year. For*

*contributions more than 28 days late, the commission will impose a penalty equal to not less than 8% of the carrier's required contribution for the previous calendar year and may increase the penalty by an additional 2% per week that the payment is late at its discretion if the payment is not forthcoming.*

*(5) In the event a carrier does not make a timely contribution and has not made or been obligated to make a contribution in the previous calendar year, the commission will impose a penalty that may be up to \$10,000 for every day the contribution is late and the commission may increase the fine in the event a contribution is not made after a fine or fines are imposed. Every day for which no contribution is made is a separate violation.*

*(6) A carrier penalized under this section may petition the commission for waiver of the penalty. The commission may waive or reduce a penalty for good cause shown and after taking into account the effect on the fund.*

**WAC 480-123-280 Net Contributions Required.** *Only carriers required to contribute more than it will draw from the fund must make payments to the fund in accordance with this chapter. Each carrier's monthly contribution is reduced by the amount it has been authorized to draw from the fund.*

**WAC 480-123-290 Contributions From Carrier Revenue.** *Contributions to the SUSF must be paid from carrier revenue and must not be billed directly to customers. Carriers may choose:*

*(1) To provide no information; including no information regarding percent of customer payment contributed by the carrier to the fund; or*

*(2) To provide full and accurate information about receipts and contributions, including:*

*(a) The amount of monthly support the carrier receives from the fund;*

*(b) The amount of the carrier contribution;*

*(c) The amount of support per-line received by the carrier in the customer's service area;*

*(d) A recurring statement of the carrier total and per-line rate reduction ordered under WAC 480-123-390.*

**WAC 480-123-300 Notice on Universal Service Fund.** *Once a year, the fund administrator will inform the public of the purpose and operation of the state and federal universal service funds.*

**ELIGIBLE TELECOMMUNICATIONS CARRIERS**

**WAC 480-123-310 Eligibility to Draw Universal Service Fund Support.** *A telecommunications carrier must be designated by the commission as a state eligible telecommunications carrier (SETC) to be eligible to draw support from the state universal service fund (SUSF). A telecommunications carrier must be designated by the commission as a federal eligible telecommunications carrier (FETC) to be eligible to draw support from the federal universal service fund (FUSF).*

**WAC 480-123-320 Petition for Eligible Telecommunications Carrier Designation.** *Any telecommunications carrier which seeks to be designated as an ETC must file with the commission a petition which must include evidence sufficient to make the demonstration required in WAC 480-123-330 and a description of the service area or areas for which it seeks designation. The petition must also include a statement of why the proposed service area designation will promote competition.*

**WAC 480-123-330 Designation of Eligible Telecommunications Carriers.** *(1) The commission will either approve a petition, deny a petition, or, on its own motion or by request of the petitioner, set the petition for an adjudication or a brief adjudication. Any approval or denial will include findings of fact and conclusions of law and will specify the service area or areas for which designation is made. Designation for wireline carriers will be for an exchange and conform to any existing exchange boundaries. For non-wireline carriers, the commission will determine a service area or areas that best promotes competition in telecommunications services, giving substantial weight to the non-wireline carrier's existing coverage area commonly referred to as "footprint".*

*(2) The commission will designate a telecommunications carrier as a state ETC if the carrier demonstrates that:*

*(a) It offers or will offer upon designation the basic services required by WAC 480-123-200 throughout the service area for which designation is received;*

*(b) It offers or will offer such services at a sufficient level of quality; and*

*(c) It will advertise in media of general distribution that it offers such services required by WAC 480-123-200.*

*(3) A petition for designation as an FETC for purposes of the federal universal service program must meet the requirements of 47 U.S.C. § 214(e).*

*(4) The commission may grant a petition for approval of FETC status for the federal program in conjunction with a petition for SETC status.*

*(5) The commission will require an annual verification from each SETC that it*



*continues to meet the requirements of subsection (2) of this rule and annual verification from each FETC that it continues to meet the requirement of subsection (3) of this rule.*

**WAC 480-123-340 Modification, Revocation, or Suspension of Eligible Telecommunications Carrier Designation.** *On its own motion or in response to a petition, the commission may modify the service area of an ETC for purposes of the state or federal universal service program. On its own motion or in response to a petition, and after notice and for good cause shown, the commission may modify, suspend, or revoke the designation with respect to matters other than service area.*

**WAC 480-123-350 Limitations on Resellers' Eligibility for Designation.** *A carrier that provides service solely through resale in a service area is not eligible for ETC designation for that service area. A carrier that provides service through resale and facilities combined, unbundled network elements, or both, is eligible for ETC designation but may not receive support for access lines it purchases for resale.*

#### **REVENUE BENCHMARK AND CALCULATION OF SUPPORT**

**WAC 480-123-360 Revenue Benchmark--Wireline.** *For each exchange the commission determines to be high-cost, the commission will determine a revenue benchmark for residential service and a revenue benchmark for business service. The initial benchmark will be based on the statewide average revenue per line of wireline service. Not less than every eighteen months the commission will consider appropriate adjustments to the revenue benchmark based on the effects of competition on per-line revenues and such other factors as the commission considers appropriate.*

**WAC 480-123-370 Revenue Benchmark--Non-Wireline.** *For each service area the commission determines to be high cost, the commission will also determine a revenue benchmark that applies to non-wireline service. The initial benchmark will be based on the statewide average revenue per line of non-wireline service. Not less than every eighteen months the commission will consider appropriate adjustments to the revenue benchmark based on the effects of competition on per-line revenues and such other factors as the commission considers appropriate.*

**WAC 480-123-380 Universal Service Fund Support Calculation.** *The per-line support available to an SETC in a high-cost location will be the commission determined per-line cost minus the applicable benchmark and federal support. For each month in which an SETC serves subscribers in the high-cost location, the SETC is eligible to apply for and be paid an amount equal to the per-line support in the high-cost location multiplied by the number of subscribed access lines served on the last day of the month.*

### **DRAWS UPON THE UNIVERSAL SERVICE FUND**

**WAC 480-123-390 Implicit Support Offset Required.** *(1) For carriers subject to rate regulation under Title 80 RCW, prior to an initial application for support from the universal service fund, the carrier must propose tariff revisions designed to reduce prices of services that contain implicit support in an amount equal to its expected annual draw from the state USF, and the federal USF to the extent it is available to offset intrastate rates. The administrator may not disburse support to an SETC until the commission has approved a revised tariff designed to reduce the regulated carrier's revenue in an amount equal to its expected annual draw from the universal service fund.*

*(a) When a carrier that is a small business as defined in RCW 19.85 files a tariff in accord with this subsection, the commission will approve the tariff if it reduces rates for services in proportion to the amount of implicit support attributable to each service.*

*(b) To the extent that costs previously covered by line extension charges paid by customers are included in the commission's determination of costs and are covered by payments from the SUSF, line extension charges must be reduced in an equal amount.*

*(2) After each determination of the cost of providing basic telecommunications service to subscribers in high-cost locations, the commission will determine if any additional tariff filing to adjust revenue is required and, if so, will order the same to be filed.*

**WAC 480-123-400 Disbursement of Support for All Subscribed Lines.** *(1) A state eligible telecommunications carrier that serves subscribers in high-cost locations may apply for support from the fund for each subscribed access line.*

*(a) An SETC may draw support for access lines that have been resold by another carrier to a subscriber in a high-cost location.*

*(b) An SETC that provides unbundled network elements that are used to provide service to a subscriber in a high-cost location may draw support if the price of*

*unbundled network elements has been determined on a state-wide average basis. If the price of unbundled network elements has been determined at the exchange level, the SETC purchaser of unbundled network elements that are used to provide service to a subscriber in a high-cost location may draw the support and the provider of the elements may not draw the support.*

*(2) (Reserved.)*

*(3) An SETC must apply to the administrator for payment on such forms and in such a manner as prescribed by the administrator. An application for payment from the fund must be filed with the administrator at the same time as the SETCs access line report is filed. The administrator will act to approve or reject the payment within fifteen days after the application and will disburse funds within five days of approval.*

*(4) No disbursement will be made if the SETC's required contribution for the same period is greater than the amount that would be disbursed. The SETC's required contribution will be reduced in an amount equal to what would be disbursed.*

**WAC 480-123-410 Approval for Payment by Administrator.** *(1) An application will be approved for payment by the administrator if the SETC has filed all reports required under this chapter, has submitted the application on the form and in the manner prescribed, if the administrator is satisfied that the information contained in the application is accurate, and the SETC meets all other requirements of this chapter.*

*(2) In the event of insufficient funds to pay all approved applications, the administrator will pro-rate payments to all recipients.*

**WAC 480-123-420 Form of Payment.** *The fund administrator may make payment either by electronic funds transfer or by check.*

**WAC 480-123-430 Fund Balance.** *The administrator will accumulate an adequate fund balance of not less than one-tenth of the expected annual disbursement of USF support prior to initial disbursements from the fund. Thereafter, the administrator will maintain an adequate fund balance. The fund balance will be invested in a prudent manner and the proceeds from the investment will be used to reduce the required company contributions. If in the opinion of the administrator the fund balance is larger than necessary at any time, the administrator may distribute the excess to contributors based on their proportionate contribution during the preceding year.*

## ADMINISTRATION

**WAC 480-123-440 Administrator.** (1) *The fund will be administered by an independent fund administrator designated by the commission and subject to the guidance and direction of the commission. To contract with a program administrator, the commission will use a competitive bid process and consider the following in evaluating the bids:*

- (a) *each bidder's ability to be neutral and impartial;*
- (b) *whether the bidder is a member of a trade association that advocates positions before this commission or other state commissions;*
- (c) *whether the bidder is an affiliate of any provider of telecommunications services;*
- (d) *whether the bidder has a substantial financial interest in any telecommunications carrier or affiliate of any other carrier; and*
- (e) *whether the bidder has a board of directors that includes any member with direct financial interests in entities that contribute to or receive support from the USF program in this state or any other state.*

(2) *If the competitive bid process is not successful, the administrator may be an employee of the commission.*

(3) *The administrator may establish an account or accounts in one or more independent financial institutions.*

(4) *The commission will establish and approve the budget for the administrator and the administrative expense will be paid out of the fund when such expenses have been approved by the commission.*

**WAC 480-123-450 Expenditure Authorization and Information.** *The commission will authorize, in the form of a biennial budget, the necessary expenditures for administration of USF and these will be paid from contributions to the fund. USF expenditure information will be made available at least once each year at an open meeting of the commission.*

**WAC 480-123-460 (Reserved.)**

**WAC 480-123-470 Dispute Resolution.** (1) *If a carrier and the administrator disagree on any matter, either may ask the commission for assistance in resolving the disagreement informally. The commission favors the informal resolution of disputes.*

(2) *A carrier aggrieved by a decision of the administrator may request a*

hearing..

(3) *The commission may delegate the final decision in any disputed matter relating to the universal service fund to an Administrative Law Judge, for a particular case or class of cases.*

**WAC 480-123-480 Bank Accounts.** *The administrator will establish such accounts in one or more independent financial institutions as are necessary for the operation of the SUSF.*

**WAC 480-123-490 Program Compliance.** (1) *The administrator must ensure that support from SUSF is used for the purpose of the program and that each telecommunications carrier is making its required contribution to the program. The administrator will audit the use of SUSF payments and contributions to the SUSF on a regular basis.*

(2) *Upon a finding by the administrator that a carrier has used universal service support for purposes other than to preserve and advance universal service or a finding that a carrier has not contributed in the full amount required by this chapter, the administrator will issue a written finding. The administrator will request the carrier to pay a sum equal to the misused funds or the deficiency in its contribution not later than 14 days after the finding is issued.*

(3) *The carrier must pay the requested amount into the fund or seek dispute resolution under WAC 480-123-470 within 14 days of the issuance of the finding.*

(4) *In the event a carrier fails to pay the requested amount or seek dispute resolution, the administrator will request an order from the commission to compel the carrier to pay the requested amount, and may request statutory penalties.*

**WAC 480-123-500 Access to Books, Records and Property.** *The administrator will have access to the books of account, records and property of all telecommunications carriers to the extent necessary to verify information reported under this chapter. The administrator may direct a carrier to send copies of records to the administrator or may inspect records at the offices of the carriers, at the administrator's discretion.*

**WAC 480-123-510 Notice of Inspection.** *In the normal course of business, the administrator will give three days notice of its plans to inspect records in the offices of a carrier. The administrator may apply to the commission for a subpoena in order to inspect records without notice.*

**WAC 480-123-520 Program Records.** *The administrator will create such data bases and maintain such records as are necessary to administer the program and account for the funds.*

**WAC 480-123-530 Program Forms.** *The administrator will develop appropriate forms for use in collecting information from carriers and carriers must report information in the manner prescribed by the administrator. Required reporting will not be unduly burdensome and will be accomplished electronically when practicable.*

**WAC 480-123-540 [Reserved.]**

**WAC 480-123-550 Time for Reporting.** *Where no date is specified for a report, or when a request is made by the administrator for information necessary for the administration of the fund, the administrator will specify when the report must be filed.*

**WAC 480-123-560 Audit of Administrator and Fund.** *Not less than once every two years the commission will engage the state auditor or an outside auditor to review the financial administration of the fund and the administrator with respect to matters of budget and accounting.*

#### **DETERMINATION OF COSTS**

**WAC 480-123-570 Determination of Costs.** *The commission will review the need to determine the cost of providing basic telecommunications service to subscribers in high-cost locations at least every three years, beginning in 2001. The commission will consider affordability, comparability and changes in technology and will consider revisions to this chapter.*

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The language appearing below would set a standard for network transmission speed of at least 28.8 Kbps in high-cost locations for carriers receiving universal service support. In ESSB 6622, the Legislature did not include access to the internet at a reasonable speed as a part of basic service. The Commission, however, has heard from many customers and small businesses in rural areas that reliable, speedy access to the internet is very important. At the same time, we acknowledge the considerable comments in opposition to the standard made in response to the 3rd draft of the proposed rules. We include this language here so that we receive formal comment as a result of the CR-102 process. The formal comments will assist the Commission as well as the Legislature as it considers enabling legislation for universal service reform.

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**WAC 480-123-XXX Network Transmission Standard** *When carriers that receive support under this chapter construct or upgrade access lines in high-cost locations, the new and upgraded lines must be capable of sending and receiving information at rates no lower than 28.8 kilobits per second. Five years after the adoption of this rule, all lines for which support is received must be capable of end-to-end transfer rates sending and receiving information at a rate no lower than 28.8 kilobits per second. Carriers must report to the administrator once a year on their progress.*

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