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0000147691

1 Thomas A. Loquvam, AZ Bar No. 024058  
 2 Pinnacle West Capital Corporation  
 400 North 5th Street, MS 8695  
 Phoenix, Arizona 85004  
 3 Tel: (602) 250-3630  
 Fax: (602) 250-3393  
 4 E-Mail: [Thomas.Loquvam@pinnaclewest.com](mailto:Thomas.Loquvam@pinnaclewest.com)  
 Attorney for Arizona Public Service Company

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ARIZONA CORPORATION COMMISSION  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

8 BOB STUMP, Chairman  
 9 GARY PIERCE  
 10 BRENDA BURNS  
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11 IN THE MATTER OF ARIZONA PUBLIC  
 12 SERVICE COMPANY – APPROVAL OF  
 13 UPDATED GREEN POWER RATE  
 SCHEDULE GPS-1, GPS-2 AND GPS-3

DOCKET NO. E-01345A-10-0394

14 IN THE MATTER OF THE APPLICATION  
 OF ARIZONA PUBLIC SERVICE  
 15 COMPANY FOR APPROVAL OF ITS 2013  
 RENEWABLE ENERGY STANDARD  
 16 IMPLEMENTATION FOR RESET OF  
 RENEWABLE ENERGY ADJUSTOR

DOCKET NO. E-01345A-12-0290

17 IN THE MATTER OF THE APPLICATION  
 18 TUCSON ELECTRIC POWER COMPANY  
 FOR APPROVAL OF ITS 2013  
 19 RENEWABLE ENERGY STANDARD  
 IMPLEMENTATION PLAN AND  
 20 DISTRIBUTED ENERGY  
 ADMINISTRATIVE PLAN AND  
 21 REQUEST FOR RESET OF RENEWABLE  
 ENERGY ADJUSTOR

DOCKET NO. E-01933A-12-0296

22 IN THE MATTER OF THE APPLICATION  
 23 OF UNS ELECTRIC, INC. FOR  
 APPROVAL OF ITS 2013 RENEWABLE  
 24 ENERGY STANDARD  
 IMPLEMENTATION PLAN AND  
 25 DISTRIBUTED ENERGY  
 ADMINISTRATIVE PLAN AND  
 26 REQUEST FOR RESET OF RENEWABLE  
 ENERGY ADJUSTOR

DOCKET NO. E-04204A-12-0297

Arizona Corporation Commission

**DOCKETED**

AUG 27 2013

**CLOSING BRIEF**

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1 Throughout this proceeding, the various parties submitted several ideas that  
2 evidenced significant thought and preparation. APS appreciates the robust discussion  
3 and testimony regarding the parties' proposals and thanks all participants. APS has had  
4 the opportunity to review the testimony in depth and consider how the parties' various  
5 perspectives compare to one another. APS believes that its proposal, and the proposals  
6 offered by Tucson Electric Power Company and UNS Electric, Inc., offer strong  
7 advantages. Nonetheless, based upon the testimony offered in this proceeding, APS has  
8 concluded that Staff's proposal is the best option and supported by the most evidence.  
9 Staff has proposed a clear means for utilities to comply with the Renewable Energy  
10 Standard and Tariff that can be implemented immediately, will minimize costs and  
11 promote certainty. Accordingly, APS urges the adoption of Staff's proposal and submits  
12 this Closing Brief in support of Staff's proposal.

### 13 I. BACKGROUND

14 Electric utilities in Arizona subject to the REST must serve a portion of their  
15 retail load with renewable distributed generation (DG).<sup>1</sup> Each year, that portion increases  
16 incrementally; by 2025, Affected Utilities must serve 4.5% of their retail load with DG.<sup>2</sup>  
17 To establish compliance with this "DG carve-out," Affected Utilities must retire  
18 renewable energy credits (RECs) that they obtain by paying direct cash incentives to  
19 customers that install DG.<sup>3</sup>

20 Arizona Public Service Company currently acquires residential DG RECs by  
21 offering a \$0.10/watt direct cash incentive to its residential customers that install DG.<sup>4</sup> If  
22 direct cash incentives fall to zero, however, APS will no longer have the same means to  
23 obtain RECs. In anticipation of this eventuality, the Commission ordered APS to address  
24  
25

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26 <sup>1</sup> See Ariz. Admin. Code. R14-2-1805 & 1806; see Written Direct Testimony of APS witness Gregory L.  
27 Bernosky, p. 3:22 – 4:12.

<sup>2</sup> Ariz. Admin. Code. R14-2-1805 & 1806.

<sup>3</sup> A.A.C. R14-2-1803(D).

<sup>4</sup> Bernosky Written Direct, p. 5:16-24.

1 how APS would comply with the DG carve-out if direct cash incentives were no longer  
2 available.<sup>5</sup> This proceeding ultimately resulted.

## 3 **II. THE PARTIES' PROPOSALS**

4 The parties' proposals fall into three general categories: waiting, creating a new  
5 mechanism for utilities to purchase RECs or addressing the underlying compliance  
6 obligation in some fashion. This brief first focuses on the strengths of Staff's proposal,  
7 and explains why APS formally endorses Staff's proposal in this proceeding. It then  
8 raises the concerns APS has with the proposals put forth by the non-utility parties.

### 9 **A. Staff's Proposal Achieves All Critical Objectives, Minimizes Cost and 10 Avoids Uncertainty and Should Be Adopted in this Proceeding.**

11 Staff proposes that each utility's REST requirement be reduced by the amount of  
12 DE that is installed in their service territory without a transfer of RECs.<sup>6</sup> This proposal  
13 addresses the question that prompted this proceeding: how utilities can comply with the  
14 DG carve-out if customers install DG without a direct cash incentive. Under Staff's  
15 proposal, if a customer installs DG without an incentive, the customer keeps its RECs  
16 and the REST is adjusted to recognize how much load is being served by renewable  
17 generation.

18 In addition to answering the core question underlying this proceeding, Staff's  
19 proposal achieves the following important goals identified by Staff and generally  
20 accepted by all parties:

- 21 (i) Providing a clear and easily documented way for utilities to achieve  
22 compliance under the REST rules;
- 23 (ii) Recognizing reality regarding how much electric load is actually being met  
24 with renewable energy;
- 25 (iii) Minimizing cost to customers;
- 26 (iv) Maximizing value to the extent possible for those who undertake DG  
27 installations and Arizona as a whole; and
- 28 (v) Being minimally invasive to the REST rules.<sup>7</sup>

<sup>5</sup> See Decision No. 72737, Docket No. E-01345A-11-0264, p. 39 (January 18, 2012).

<sup>6</sup> Written Direct Testimony of Staff Witness Robert Gray, p. 7:1-6.

<sup>7</sup> See Gray Written Direct, p. 6:4-21.

1 Certain parties did raise a possible concern related to Staff's proposal. According to  
2 these parties, if Staff's proposal were adopted, the Center for Resource Solutions may  
3 refuse to certify DG RECs created in Arizona without an incentive because the DG  
4 RECs might be counted twice. The Commission, however, can address this possible  
5 concern with clear statements of intent, as described by CRS's witness,<sup>8</sup> and modest  
6 adjustments to Staff's proposal to reflect that intent, if necessary. But before considering  
7 the need for those statements of intent or related adjustments, one should scrutinize the  
8 double counting issue.

9 **1. Alleged REC double counting is not a reason to reject Staff's**  
10 **proposal.**

11 The concern regarding double counting is that CRS may conclude that Staff's  
12 proposal somehow uses all DG RECs created by DG installed without an incentive. If  
13 CRS reaches this conclusion, CRS would refuse to certify those RECs.<sup>9</sup> The owners of  
14 those installations would then be unable to participate in CRS's program, which might  
15 limit their ability to sell DG RECs to third parties.

16 A primary flaw of the double counting concern, however, is that no market exists  
17 into which Arizona DG REC owners could sell their RECs.<sup>10</sup> And even if a market  
18 existed, Arizona's REST rules only enable Affected Utilities to transfer RECs to a party  
19 or acquire RECs from a party.<sup>11</sup> Without a change to the REST rules, it is not clear if an  
20 owner of RECs can sell them to anyone other than a utility as RECs are defined under  
21 Arizona law.

22 Moreover, it is not clear if CRS refusing to certify Arizona DG RECs would  
23 have. Hawaii continues to experience renewable energy growth,<sup>12</sup> despite having a  
24 statewide policy that automatically counts all RECs in a manner that renders them

25 <sup>8</sup> See, e.g., Testimony of CRS witness Jennifer Martin, p. 838:20 – 839:9; 842:8-14; 843:3-15; 859:15 –  
860:4; 861:19 – 862:8; 867:11 – 868:7.

26 <sup>9</sup> Written Direct Testimony of Jennifer Martin, p. 13:9-21.

27 <sup>10</sup> Testimony of Tucson Electric Power Witness Carmine Tilghman, p. 234:19 – 235:8; Testimony of  
Residential Utility Consumer Office Witness Lon Huber, p. 579:14 – 580:1; Testimony of Center for  
Resource Solution Witness Jennifer Martin, p. 855:24 – 856:23.

28 <sup>11</sup> A.A.C. R14-2-1803(C).

<sup>12</sup> Martin Testimony, p. 839:14 – 840:3.

1 ineligible for CRS's program.<sup>13</sup> And CRS is not the only entity that certifies RECs.<sup>14</sup> If  
2 CRS does not certify DG RECs in Arizona as a result of the Commission adopting  
3 Staff's proposal, it is possible that a different entity would step in and certify Arizona  
4 DG RECs in CRS's place. Based on the facts presented in this proceeding, the perceived  
5 issue of double counting should not be something that dictates Arizona energy policy.

6 **2. Rules created by a California non-profit should not determine**  
7 **Arizona's energy policy.**

8 Another issue with crafting proposals around the possibility of double counting  
9 concerns is whether the Commission should look to a California non-profit to determine  
10 Arizona's energy policy in the first place. Energy goals emanating from California are  
11 not necessarily Arizona's goals, and it likely makes sense to evaluate the overall  
12 direction of Arizona's energy policy before assuming, without discussion or additional  
13 fact finding, that the nuances of CRS's rules should guide the Commission's decision-  
14 making. Further, CRS is currently on version 2.3 of its rules and has changed its rules  
15 numerous times in the past in response to market conditions, or because stakeholders  
16 have raised an important issue.<sup>15</sup> If the Commission adopts a final decision that is  
17 possibly inconsistent with CRS's current rules, CRS always has the option of modifying  
18 its rules to reflect the reality of the Arizona market.

19 **B. Waiting is Not Justified—Circumstances Always Change and the**  
20 **Commission is Well Equipped to Address Any Changes that Occur.**

21 A group of parties advocate taking no action at this time. These parties assert that  
22 due to changing circumstances, the Commission should not act, and instead gather more  
23 information.<sup>16</sup> But waiting only furthers uncertainty and administrative burden.<sup>17</sup>  
24 Moreover, circumstances regarding Arizona's renewable energy marketplace are always  
25 changing. The Commission has successfully addressed those changes as they have

26 <sup>13</sup> Martin Testimony, p. 827:7-19.

27 <sup>14</sup> Martin Testimony, p. 865:18-22.

28 <sup>15</sup> Martin Testimony, p. 856:24 – 857:15

<sup>16</sup> See, e.g., Written Direct Testimony of SEIA witness Carrie Cullen Hitt, pp. 10-12; Testimony of Carrie Cullen Hitt, p. 342:10-22.

<sup>17</sup> Testimony of Commission Staff witness Robert Gray, p. 694:1-3.

1 arisen, and will continue to do so through the utilities annual REST plans and other  
2 fora.<sup>18</sup> Waiting will only cause parties, including Commission Staff, to essentially lose  
3 the resources they spent on this proceeding, and expend significant resources in the  
4 future when this issue is raised again. Because the Commission must inevitably resolve  
5 what to do regarding RECs when direct cash incentives are no longer available, waiting  
6 appears to make little sense. Instead, the Commission should act now and respond to  
7 future changes as those changes occur.

8 **C. A New Structure for Utilities to Purchase RECs Will Result in Unknown,  
9 Unnecessary Costs to Customers.**

10 The second group of intervening parties advocates a REC auction model, or a  
11 standard offer model, that would be developed in a technical conference or workshop  
12 setting and used as the means for utilities to purchase DG RECs in the future.<sup>19</sup> If  
13 Arizona were to adopt a standard offer-type model, it would be the first state in the west  
14 to have this type of structure for utilities to acquire DG RECs.<sup>20</sup> Both models would  
15 require additional details regarding the precise mechanics, resulting in delay while those  
16 details are resolved, and the uncertainty and wasted resources that come with that delay.  
17 One commonality between the models is clear, however; under both models, utilities  
18 must pay an undetermined amount to acquire RECs for the purpose of demonstrating  
19 compliance. And this commonality “would expose the utility ratepayer to an unknown  
20 and potentially large amount of additional cost that would have to be recovered through  
21 the REST surcharge.”<sup>21</sup> Due to the uncertain, but inevitable, costs that will result from  
22 these proposals, APS joins with RUCO, Staff, Tucson Electric Power and others in  
23 rejecting both the auction and standard offer models.  
24

25 <sup>18</sup> Written Rebuttal Testimony of Robert Gray, p. 3:22 – 4:4.

26 <sup>19</sup> See Written Direct Testimony of Vote Solar witness Rick Gilliam, pp. 15-17 (presenting Vote Solar’s  
27 standard offer proposal); Written Direct Testimony of Western Resource Advocates witness David  
28 Berry, pp. 8-10 (presenting Western Resource Advocates’ auction proposal).

<sup>20</sup> Testimony of Rick Gilliam, p. 307:13 – 308:3.

<sup>21</sup> Testimony of Robert Gray, p. 745:8-11; see also Testimony of David Berry, p. 463:13-16; 472:20-25;  
Testimony of RUCO witness Lon Huber, p. 633:24 – 634:4.

1           **D. RUCO’s “Baseline” Proposal Needs Further Development, Will Result in**  
2           **Delay and May Trigger Significant Costs.**

3           RUCO’s Baseline proposal<sup>22</sup> involves setting a new threshold for the amount of  
4           DG installed in a year, and if that amount is installed, the utilities’ DG compliance  
5           obligations for the year are permanently waived.<sup>23</sup> On the other hand, if the threshold  
6           amount of DG is not installed, the utilities would have to ensure that enough DG was  
7           installed to meet the DG carve-out.<sup>24</sup> Utilities would accomplish this task in the same  
8           manner as the status quo—using direct cash payments to incentivize DG installations.<sup>25</sup>  
9           In other words, the Baseline would become a new de facto DG carve-out; if the Baseline  
10          level of DG installations did not occur, utilities would have to step in and take action. It  
11          is unclear, however, why the Commission should rewrite Arizona’s policy regarding  
12          how much DG should be installed. The REST rules already established this amount in  
13          Arizona Administrative Code R14-2-1803 after a lengthy stakeholder and rule making  
14          process. Revising this policy now, without a formal rule making process, presents  
15          challenges that no party addressed in testimony.

16          In addition, APS has other concerns regarding the Baseline proposal. The new de  
17          facto DG threshold created by the Baseline could wind up guaranteeing a specific level  
18          of DG market activity. As acknowledged by RUCO witness Lon Huber, if the level of  
19          activity embedded in the threshold did not occur, utilities would be required to inject  
20          direct cash incentives in order to bring the level of DG market activity up to this new  
21          threshold.<sup>26</sup> But establishing a new level of DG market activity would exacerbate the  
22          amount of indirect costs caused by rooftop solar that are being discussed and quantified  
23          in the net metering docket.<sup>27</sup> Further, it is not clear whether the Baseline proposal would

24          <sup>22</sup> RUCO also proposed a “50/50” proposal, but appeared to back away from the proposal during the  
25          hearing. *See* Huber Testimony, p. 634:24 – 635:10. Accordingly, APS does not discuss the 50/50  
26          proposal in detail. APS notes, however, that the lack of details concerning the 50/50 proposal would  
27          require a lengthy, difficult and resource intensive effort amongst the parties to resolve those details. *See*  
28          *id.* at 616:8-18. And the 50/50 proposal could result in twice as many installations, exacerbating indirect  
29          costs associated with DG that are being explored in the net metering docket. *Id.* at 586:12-19.

30          <sup>23</sup> Written Surrebuttal Testimony of Lon Huber, pp. 3-5.

31          <sup>24</sup> Huber Testimony, p. 647:6-12.

32          <sup>25</sup> Huber Testimony, p. 644:7-9.

33          <sup>26</sup> Huber Testimony, p. 647:6-12.

34          <sup>27</sup> Huber Testimony, p. 632:1-633:9.

1 accomplish the stated objective of spurring market activity. As described by NRG  
2 Solar's witness, Diana Fellman, the annual setting of the DG threshold may hinder DG  
3 developers. Because some solar projects require more than one year to negotiate and  
4 develop, an annual review process could complicate the consummation of these deals.<sup>28</sup>

5 Beyond these concerns, meaningful assessment is difficult because the proposal  
6 requires more development. As WRA's Dr. Berry testified, the Baseline proposal is  
7 "very vague."<sup>29</sup> Based on RUCO's written and oral testimony, various aspects of the  
8 Baseline proposal must be resolved, including whether the Baseline:

- 9 (i) is set using a percentage of historical DG installations, *or* projected market  
10 activity;<sup>30</sup>  
11 (ii) exists into perpetuity, until the end of the REST, set to "somewhere in the  
12 ballpark and maybe levelized over the remaining years of the RES" or set  
13 year to year;<sup>31</sup>  
14 (iii) is based on installed capacity<sup>32</sup> or energy;<sup>33</sup>  
15 (iv) applies to commercial customers;<sup>34</sup> or  
16 (v) would exceed the current REST.<sup>35</sup>

17 Although these issues remain unresolved, they are fundamental aspects of how the  
18 Baseline would function. Further, RUCO testified that all of these details were subject to  
19 negotiation and change.<sup>36</sup> Ultimately, we are left with a Baseline that might be based on  
20 historical or future DG installations, and might be levelized over future years, modified  
21 year to year or based on a formula.<sup>37</sup>

22 RUCO's proposal simply does not contain sufficient details to permit an accurate  
23 or adequate comparison between the Baseline proposal and other proposals offered in  
24 this proceeding. More evidence is needed before adoption of the Baseline proposal

24 <sup>28</sup> Testimony of NRG Solar witness Diana Fellman, p. 542:2-10.

25 <sup>29</sup> Testimony of David Berry, p. 453:19-20.

26 <sup>30</sup> Huber Written Surrebuttal, p. 3:21-23.

27 <sup>31</sup> Huber Testimony, p. 604:24 – 605:11.

28 <sup>32</sup> *Id.* at 604:20-23

<sup>33</sup> *Id.* at 606:1-6.

<sup>34</sup> *Id.* at 621:23 – 622:1.

<sup>35</sup> Huber Testimony, p. 647:13-19

<sup>36</sup> *Id.* at 573:4-14.

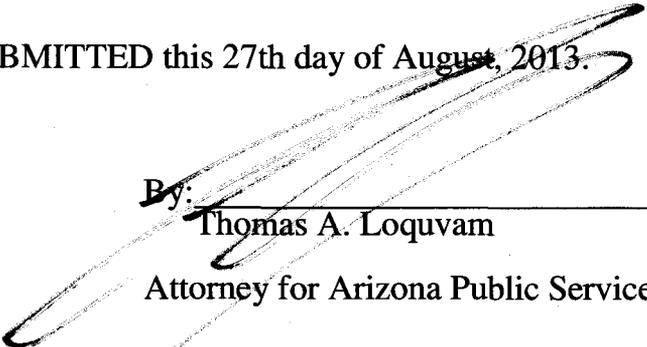
<sup>37</sup> Huber Testimony, p. 674:1-19.

1 would be warranted. In addition, the ambiguity in the Baseline proposal virtually  
2 guarantees that any process to resolve the details would be lengthy and difficult. The  
3 inevitable delay, lack of certainty and resource expenditure triggers similar concerns that  
4 exist with the proposal to delay addressing this issue.

5 **III. CONCLUSION**

6 Staff has proposed a solution that addresses the central compliance issue  
7 underlying this proceeding, and also minimizes costs and provides certainty. Other  
8 proposals are either too ambiguous to be adequately assessed, involve undesirable costs  
9 and delay, or both. The only potential criticism of Staff's proposal is that after the  
10 proposal, CRS might refuse to certify unincentivized DG RECs in Arizona. But a private  
11 California business may not be the most appropriate driver for Arizona energy policy.  
12 And assuming CRS was unwilling to change its rules to accommodate Staff's proposal,  
13 one need only look to Hawaii to find an example of a state for which CRS does not  
14 certify RECs, but nonetheless enjoys strong renewable energy growth. For the foregoing  
15 reasons and based on the testimony in this matter, APS urges the adoption of Staff's  
16 proposal as the means for Arizona utilities to demonstrate compliance with the REST  
17 should customers install DG without taking a direct cash incentive.

18 RESPECTFULLY SUBMITTED this 27th day of August, 2013.

19  
20 By: 

21 Thomas A. Loquvam

22 Attorney for Arizona Public Service Company

23 ORIGINAL and thirteen (13) copies  
24 of the foregoing filed this 27th day of  
25 August, 2013, with:

26 Docket Control  
27 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

1 COPY of the foregoing mailed/delivered this  
27th day of August, 2013 to:

2 Janice Alward  
3 Arizona Corporation Commission  
4 1200 W. Washington  
Phoenix, AZ 85007

Douglas Fant  
Law Offices of Douglas V. Fant  
3655 W. Anthem Way, Suite A-109  
PMB 411  
Anthem, AZ 85086

5 C. Webb Crockett  
6 Fennemore Craig  
7 3003 N. Central Avenue, Suite 2600  
Phoenix, AZ 85012-2319

Lyn Farmer  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

8 Michael Neary  
9 AriSEIA  
10 111 West Renee Dr.  
Phoenix, AZ 85027

Steve Olea  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

11 Craig Marks  
12 Craig A. Marks, PLC  
10645 N. Tatum Blvd., Suite 200-676  
Phoenix, AZ 85028

Court Rich  
Rose Law Group, P.C.  
202 E. McDowell Road, Suite 153  
Phoenix, AZ 85250

13  
14  
15 David Berry  
16 Western Resource Advocates  
17 P.O. Box 1064  
Scottsdale, AZ 85252

Timothy Hogan  
Arizona Center for Law in the Public  
Interest  
202 E. McDowell Road, Suite 153  
Phoenix, AZ 85004

18 Michael w. Patten  
19 Roshka DeWulf & Patten PLC  
20 One Arizona Center  
400 E. Van Buren St. Suite 800  
Phoenix, AZ 85004

Kevin Koch  
2333 E. 1<sup>st</sup> Street  
P.O. Box 42103  
Tucson, AZ 85733

21 Christopher D. Thomas  
22 Fred E. Breedlove III  
23 Squire Sanders  
1 E. Washington, 27<sup>th</sup> Floor  
Phoenix, AZ 85004

Scott Wakefield  
Ridenour Heinton & Lewis, P.L.L.C  
201 N. Central Avenue, Suite 330  
Phoenix, AZ 85004-1052

24 Kyle J. Smith  
25 General Attorney  
26 Office of the Judge Advocate General  
27 U.S. Army Legal Service Agency  
9275 Gunston Road  
Fort Belvoir, VA 22060-5546

Bradley Carroll  
88 E. Broadway Blvd.  
MS HQE910  
Tucson, AZ 85072

28 Daniel Pozefsky  
RUCO

Annie C. Lappe  
The Vote Solar Initiative

1 1110 W. Washington St., Suite 220  
Phoenix, AZ 85007

1120 Pearl Street, Suite 200  
Boulder, CO 80302

2 Rick Gilliam  
3 Director of Research and Analysis  
4 The Vote Solar Initiative  
1120 Pearl Street, Suite 200  
Boulder, CO 80302

5 Christie Dodson  
6

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
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19  
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