BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 110001-EI

FUEL AND PURCHASED POWER COST RECOVERY CLAUSE WITH GENERATING PERFORMANCE INCENTIVE FACTOR.
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PROCEEDINGS: COMMISSION CONFERENCE AGENDA ITEM NO. 4

COMMISSIONERS PARTICIPATING:
CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, November 22, 2011

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

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P R O C E E D I N G S

CHAIRMAN GRAHAM: Now we will go to Item 4.

MR. FRANKLIN: Good afternoon, Chairman and Commissioners. Kenneth Franklin with staff.

Item 4 addresses Issues 1C and 3B and several fallout issues from fuel and capacity cost recovery. The intervening parties in the fuel docket asked to brief Issue 1C, and FPUC asked to brief Issue 3B.

Issue 1C addresses PEF's request to recover replacement power costs for the Crystal River Unit 3 extended outage through the fuel adjustment clause prior to the Commission's determination of prudence in Docket Number 100437-EI.

Issue 3B addresses FPUC's proposed method to allocate demand costs to its rate classes. All other issues are fallout issues of Issues 1C and 3B.

CHAIRMAN GRAHAM: Commissioners?

Commissioner Brown.

COMMISSIONER BROWN: I'll start off with a question with regard to Option 1 that staff has proposed. If you could tell us, has the Commission ever deferred these type of costs before in whole or in part; and, if so, how is this situation particularly different from those?

MR. LESTER: The Commission has deferred cost in, like, midcourse corrections from one period to the next, and usually it was a shorter period than a year. For example, in 2008, the Commission had midcourse corrections for Progress and FPL, and they deferred half the fuel cost from being recovered in the remaining part of 2008 to 2009.

This case is different in that we do know the plant will not be back before 2014, so there will be replacement power in 2012, 2013, and 2014. So that's a longer period of time compared to what earlier deferrals have been like.

COMMISSIONER BROWN: And if I may. And those earlier deferrals were based on rate shock?

MR. LESTER: Yes, ma'am. It would be for adjustment to a higher level of customer bills.

CHAIRMAN GRAHAM: Staff, you mentioned rate shock on Page 9. The question I have, as anticipated right now with the nuclear moving forward and the cost, my understanding of the cost escalation, what are we anticipating with the 2012 costs, the 2013 costs, and the 2014 costs?

MR. FRANKLIN: What we are looking at right now, 2011 and 2012 replacement power, the dollars at stake here, we're looking at approximately $140 million. Going forward, if NEIL were to determine -- the insurance company -- if NEIL were to determine there would be one event, and if the Commission deemed PEF prudent in the spinoff docket, then in 2013 we are looking at replacement power being possibly double the number that we are looking at today.

And if there were a deferral of the 2011/2012 replacement power costs, it would be put on top of the 2013 replacement power. So in considering rate shock, that -- I mean, if it was double what it was today and approximately the impact of 2011/2012 replacement power costs to the residential 1000-kilowatt-hour bill would be approximately $3.88. Then if you were to defer that, that would be on top of possibly another -- it could be double that in 2013. And then if -- it depends on how long CR-3 stays out in 2014 as far as what replacement power could be in 2014.

So if there was a deferral of these costs, it would just be on top of 2013. It could be possibly double what it is this year, if there was one determination -- or a one-event determination by NEIL and a prudence determination that Progress was prudent in the spinoff docket.

CHAIRMAN GRAHAM: Is that the key reason why staff decided to make that Option 1 of paying it all now?

MR. FRANKLIN: That's definitely one of the main considerations that we were looking at is the compounding effect of deferral. If you were to push those costs out, you run the risk of having that deferral stacked on top of what could be 2013 replacement power costs of double what we are looking at here as well as if natural gas prices were to go up, then you could have increased fuel prices in the future on top of that. So there was a few different compounding effects that led staff to recommend Option Number 1 just to help mitigate what could be a potential future rate shock in 2013/2014.

CHAIRMAN GRAHAM: I don't necessarily have a problem with Option Number 1, but I'm curious as to the rest of my Commission and their thoughts.

Commissioner Brisé.

COMMISSIONER BRISÉ: Thank you, Mr. Chairman.

Other than the compounding effect, what are the other variables that were taken into account when coming up with a recommendation for Option 1? If you can walk us through some of those other variables that may help inform the decision process.

MR. LESTER: I guess there's at least two things. One is I think Option 1 keeps the rates cost-based. The company has given us fuel schedules that identify their actual/estimated and their estimated costs for 2012, and they are going to incur that cost to meet customer demand, so we have a policy in the fuel clause to try to, you know, associate the time the cost is incurred with the time it gets billed to customers and make the rates cost based. And that sends the proper price signal to customers and it minimizes future true-ups and under and over-recoveries.

I guess another consideration, this would actually be an argument against Option 1, but we did consider interest. We didn't think interest was a particularly significant matter affecting your decision in this case.

COMMISSIONER BRISÉ: When you say interest, you're talking about the commercial paper rate?

MR. LESTER: Yes. If anything is deferred and just in general true-ups and general under-recoveries and over-recoveries, they accrue interest at the commercial paper rate, which currently is .09 percent. It's close to zero.

COMMISSIONER BRISÉ: I don't know if this question is appropriate, but I know in the hearing there was a lot of discussion about, and I know staff brought it out and so forth, about markets and so forth. So what impact would each one of the options have in terms of the signal that could be sent to the markets with respect to how this issue is dealt with?

MR. CICCHETTI: Commissioner, Mark Cicchetti with the Finance and Tax Section. I think Witness Garrett, a witness for the company expressed it good when he said whether or not the Commission has an appetite for deferring costs. I think the rating agencies in the street are going look at two main factors. One is going to be the financial impact that this would have, and the other would be the regulatory risk that might be associated with it.

But I think it should be made clear that they are also going to analyze the context in which you made that decision. Did you have good reason to make that decision? Is it based on sound regulatory policies? And so I think deferring the costs may, in fact, cause them to have some concerns with how you might look at some of these costs in the future. That has been pointed out in some of the reports that you saw. But, again, you were not beholden, you have to make the decisions that you think are right. And if somewhere down the road it does, for example, cause a bond rating to be decreased, if you didn't think that that cost should be passed on, you could deal with that later on in a rate case when it came time to pass on those costs.

COMMISSIONER BRISÉ: A follow-up to that. So if the rating went down, what would be the impact to the consumer?

MR. CICCHETTI: Well, there would be the question of the ability to access capital. I think if there was a slight decrease in the bond rating that there shouldn't be a serious concern there. It would, obviously, increase the cost of debt, and that would depend on -- the amount would depend on how low the rating went, and what the market conditions were at the time. But that wouldn't be passed on until it came time for that to be recognized in a rate case.

COMMISSIONER BRISÉ: Okay. I have one more question, and I don't know if you are the appropriate person to answer it. Obviously, any business that is seeking to keep its operation going has to deal with cash flow. What impact would each one of the options that we are looking at have on the cash flow position of the company, and what impact would that have on consumers?

MR. CICCHETTI: Obviously, if you were to allow the costs to be recovered that would have the minimal impact. These costs are expected to be, if you did defer them, would be, or if you did allow them it would be subject to refund. The 50 percent option, obviously, that would have more of an impact on the cash flow, and a 100 percent deferral would have an even larger amount on their cash flow. There has been some concerns by the rating agencies about the company's cash flow. There have been some deferred costs previously. We have not run the specific numbers.

I think Witness Garrett did say that it would have an impact, that it wasn't brought out as to be substantial right away. But it has been brought up in the research reports that there could be problems with the cash flow if too many costs are deferred.

COMMISSIONER BRISÉ: Thank you.

MR. LESTER: Commissioner Brisé, also, we have framed the impact for the customer bill on Page 37 of the rec.

CHAIRMAN GRAHAM: Commissioner Brown.

COMMISSIONER BROWN: Yes. Just a follow-up to Mr. Lester regarding the commercial paper rate. If we defer all costs under Option 2, and then during the prudency review docket we find that the actions on the utility's part were prudent, what is the total amount of interest and the replacement power costs with interest that would be recovered?

MR. LESTER: I would estimate right at 126,000, and I'm just taking the 140,000 and multiplying it by the .09 percent. And what would happen is if you had a vote in September and decided the company was prudent, then those costs would be shifted into -- well, they would be included in the 2013 factors. So it's roughly like a one-year deferral, very roughly.

COMMISSIONER BROWN: Okay. If I may?

CHAIRMAN GRAHAM: Please.

COMMISSIONER BROWN: Also under Option 2 for staff, do we have a rough idea what the fuel cost estimates would be for 2013?

MR. FRANKLIN: As far as replacement power for 2013?

COMMISSIONER BROWN: Correct.

MR. FRANKLIN: Looking at 2011 and 2012 replacement power not being offset by NEIL, we are looking anywhere between 200 to 300 million.

COMMISSIONER BROWN: And how is that in relation to current costs?

MR. FRANKLIN: Well, that was the -- I believe in 2011 it was right at 200, and I believe in 2012 -- I believe it was 286 million replacement power, so we're not sure what exactly they are projecting for 2013. So what exactly those costs may be, we would just assume that it would be somewhere in that range, somewhere between what the 2011 and what the 2012 numbers were without the NEIL offset. However, though, if NEIL were to determine two events, then that number, you know, would be, you know, substantially lower.

COMMISSIONER BROWN: Because then the NEIL coverage would extend through, past that 2012 date?

MR. FRANKLIN: Correct. Correct. If NEIL determines one event, then the NEIL coverage stops in August 2012. However, if there is two events, then the NEIL coverage would go well into 2013. It would basically go throughout 2013, almost to the end of the year.

COMMISSIONER BROWN: Thank you.

CHAIRMAN GRAHAM: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman. I have a few questions for staff on this.

In the past, during the fuel clause process, if there has been a question of prudence, has that been handled in the fuel clause, or what process has --

MR. LESTER: Those items have been spun out to a new docket or a separate proceeding and determined then. I'm thinking of the Progress coal refund cases in 2007 and 2009. I'm thinking of the hole drilling incident, and the Flagami incident with Florida Power and Light. So we have had separate proceedings and separate determinations. We don't make prudent cost determinations in a fuel clause proceeding, except for the hedging cost.

COMMISSIONER BALBIS: Okay. And, obviously, the CR-3 issue has been spun off in a separate docket. And, again, I thank you, Mr. Chairman, for naming me Prehearing Officer for that docket. But as Prehearing Officer, I mean, I was concerned about any regulatory lag with the new information of going to 2014, possibly, for CR-3 coming back into service. So at scheduled prehearing meetings it was discussed what issues are ripe for hearing and what are not, and to have those hearings as quickly as possible so that we don't have hundreds of millions of dollars of replacement fuel costs built up at risk for either the customers or the company.

So I tried to schedule it as quickly as possible, and then the intervenors had requested additional time in order to file testimony, et cetera, so we can have a very detailed and thorough review of all of the aspects of this very complicated issue in the proper venue. And that has been scheduled for June. Again, I wanted it sooner, but we want to make sure we get it right. We have all the information in front of us, and I am comfortable that we are going to have that determination in June. And which, again, complies with what we have done in the past when there is a question of what is prudent and what is not.

So then I kind of want to focus on the fuel clause's true intent, and that is actual expenditures and projected expenditures for fuel. And one of the questions I had for staff during the briefing was what options did Progress have? And what if they sat back and said we don't want to incur any additional fuel costs. And I believe that the answer that was given by staff would be it may have resulted in rolling brownouts, et cetera, and that they had to incur these costs to avoid the rolling brownouts or blackouts or whatever may be. They ate into the reserve margin, so that the customers would not be impacted from a quality of service.

So, you know, again, focusing on what the fuel clause is, if the only other option would have been further reduction in the reserve margin or rolling blackouts, I'm pretty confident this Commission wouldn't want to be in a position where that number of customers is experiencing those. So I'm comfortable with we have a detailed and thorough analysis in a hearing process coming up in June to address it, which although it's far away, it's not that far away, so I'm comfortable with that.

But I would like to focus a little bit on the NEIL coverage and the two event versus one event. And I think that is important for us to discuss as a Commission, because I don't want to have an unintended consequence on the decision we make today, either strengthening or weakening Progress' position on one versus two events. I think we all agree that two events will result in, I believe, a $70 million savings to the customers?

MR. LESTER: Yes, sir.

COMMISSIONER BALBIS: And so I want to make sure that we don't do anything here that leads to one event or two events. So I don't know how we do that, and I don't know which one of the options strengthens or weakens that, but I'd like to have a discussion on that from staff. If it's appropriate now or not, I don't know, or we hold it off until June. But, again, I just want to be cognizant of that.

MR. LESTER: You mean how the decision today on the options might affect NEIL's decisions? We are not clear on -- we really don't know how NEIL is going to rule, and that was clear from the hearing. So Progress approached this as a more conservative approach as a one-event situation, and that is how it's playing out.

COMMISSIONER BALBIS: So the factor for the fuel clause is anticipating one event, correct?

MR. LESTER: Yes, sir.

COMMISSIONER BALBIS: So if it is two events, then there will be additional savings to customers?

MR. LESTER: Yes, sir.

COMMISSIONER BALBIS: And, again, the prehearing meetings that I have had, it was very clear to me that these events were separate from the information that was provided to me, and that is why we scheduled those separate meetings. So I'm comfortable that we are still maintaining that position, and I don't see any of those three options where it would affect it, then. Would staff agree on that?

MR. FRANKLIN: Would we agree that we haven't given a -- I'm not sure I --

COMMISSIONER BALBIS: Well, the question is if the Commission moves forward with staff's recommendation for Option 1, will that strengthen or weaken Progress' position on 1, and do the same analysis for the other two options?

MR. FRANKLIN: Basically, there would be -- there would be multiple scenarios, I'm assuming, where if you thought about it deep enough you could say this decision would strengthen two cases, or two events, or one. However, we are not aware of that. Our recommendation is based upon one event, because that's what we know now. And Progress has basically put one event in their schedules, because that is what they know now.

Now, if that were to change and NEIL were to say it's two events, then we could change that and Progress could file schedules and it would be reflected within that. As far as the impact the Commission decision today may have on the negotiations between NEIL and PEF, we wouldn't be able to speak to that. That's a decision between NEIL and PEF and --

MR. LESTER: We don't have a record for that.

COMMISSIONER BALBIS: Okay. Well, then I guess just to summarize, I'm confident we are going to have a very thorough review of the CR-3 outage in June with all the information available to make a prudent determination in its proper venue, which is a full evidentiary hearing and not in the fuel clause, which, again, I believe is focused more on actual and projected expenditures. I don't see where Progress had any other choice other than to incur these costs without having rolling brownouts or blackouts. So those are my comments at this time.

CHAIRMAN GRAHAM: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

A couple of thoughts from the discussion and the comments that we have had. I believe one of the answers from one of our staff to a question that was asked was something along the lines of a consideration might be whether we, as a Commission, have an appetite for deferring costs. And I guess on that point what I would say is that I believe that as a Commission we have definitely demonstrated a desire to spread out rate impacts when it is our understanding that that would be beneficial to the customers. But I also believe that we have demonstrated a reluctance to pancake costs.

Mr. Franklin earlier in this discussion described some of the other costs that are contained within bills now and some that are expected to come, and/or may come in the next year to two to three years. And you may have also listed this one, and I just didn't hear it, but one that is also in my mind is the rate management plan that we approved through the NCRC. And, again, you may have mentioned that when you described it, but that is one other one that we know we have already authorized.

And I'm sure we all do, but just to speak for myself, Commissioner Balbis, absolutely agree with everything you said as that we would not want to do anything that inadvertently or advertently that would negatively impact a decision by the insurer of record as they are looking at the issues before them. But also I don't have that crystal ball, and I think that I and probably we can only view the issues before us as a regulator, not necessarily as an insurer.

From the hearing that we had, I believe it's accurate to say that no issue was raised as to the prudence of the fuel purchases or costs. And I also believe it's accurate to say that an issue as to how the fuel cost dockets have operated and are operating was not brought into question. There was discussion at hearing about the possibility of deferring costs until some other future issues are decided, and you have certainly touched on that. I have to say that gives me pause. There is certainly a certain amount of emotion and rhetoric that is surrounding some of those larger issues, but what I know is that substantial competent evidence has not been presented to us as a Commission, certainly not to me as one Commissioner on those, and I have great pause in making a decision based upon what may or may not be proven out by the evidence in a factual record yet to come.

And so although it is always more pleasant to defer or delay any cost impact, I do have a concern that

Option B or C would put us in a potential position of presupposing issues that are not yet before us. And for those regulatory reasons, I think that probably as difficult as it is, the staff's recommendation of Option A, although difficult, is probably the more sound route to go at this time. Thank you.

CHAIRMAN GRAHAM: Boy, she's good, isn't she?

Commissioner Brown.

COMMISSIONER BROWN: Thank you, and I appreciate the comments of my fellow Commissioners. First, I wanted to say without saying, and make it clear for the record here, that I believe all of us will maintain the integrity of the prudency review docket and not assume that the utility is culpable by anything that we do here today. The utility deserves an opportunity to present its full case, and we will give that the full weight that it's due.

I did struggle a little bit with Option 1 and Option 2, and to me I hesitate to gamble with the ratepayers' money. I feel that Option 1 provides a more predictable path of financial stability. In the current docket, I'm concerned about rate shock. And not rate shock right now, but rate shock in the future.

We have the issue of potential compounding that the consumer will pay for this at a later date, along with all those additional fuel costs, as well as the NEIL insurance running out in 2012. We can't make any assumptions or speculate about whether this is one event, that the NEIL insurance would be considered one -- will cover one or two events. So if we find that the actions of the company were ultimately prudent, I think the customer may be paying a significant increase in 2013.

And, again, this is the biggest concern to me, and for that reason I am more inclined to support Option 1, because I think overall that would accommodate the rate shock issue before us today. Additionally, the purpose of the fuel clause here is to provide rate stability and certainty, and I think that is what is at issue today. We will have the opportunity to address the prudency issues regarding CR-3, so I would support staff recommendation on Option 1.

CHAIRMAN GRAHAM: Commissioner Brisé.

COMMISSIONER BRISÉ: Thank you, Mr. Chairman. And I, too, struggled with Option 1 and 2, in particular. You know, talking about splitting the baby, it's always easier to split the baby. But I think in this case there are a lot of factors that we cannot control. And in dealing with what is before us and the facts before us, I think it just makes a lot more sense to go with Option 1. And it may be slightly painful for some or maybe considered slightly painful for some right now, but in the long-run I'm thinking that if we consider the notion of rate shock it will be a whole lot more painful in the future. And for those very simple common sense reasons, I am supporting staff recommendation with Option 1.

CHAIRMAN GRAHAM: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman. And thank you, Commissioners, for your comments. I want to touch a little bit on Option 2, and that is one of the things that I looked at. And one of the concerns that I had is it seems to be an arbitrary percentage, and I personally want to avoid looking arbitrary, and so then I focused on, okay, you either have Option 1 or Option 3 with 100 percent recovery or deferral. And absent an upcoming full evidentiary proceeding, I would be more inclined to defer, but the fact that we do have a full evidentiary proceeding moving forward, and I look forward to a very thorough scrutiny of Progress' actions leading up to the first delamination, and I'm sure that staff and the Commission will give that scrutiny that it deserves so that the customers and Progress can be assured that a decision will be made on their actions based on the evidence. So with that, and looking at the implications of possible rate shock in the future, I'm supportive of Option 1, as well.

CHAIRMAN GRAHAM: Is that a motion?

COMMISSIONER BALBIS: Let me make sure I'm on the right issue number, 1C. And with that, Mr. Chairman, I move staff's recommendation on Item 1C, specifically Option 1 for the full recovery.

CHAIRMAN GRAHAM: It has been moved and seconded, staff recommendation on Item 1C, which is moving Option 1, which is 100 percent recovery for the utility. Any further discussion?

Seeing none, all in favor say aye.

(Vote taken.)

CHAIRMAN GRAHAM: Commissioner Brown.

COMMISSIONER BROWN: I just wanted to point one thing out, again, for the record, and that we are all aware of this, but those funds are subject to refund. So thanks.

CHAIRMAN GRAHAM: Any opposed to that motion?

Seeing none, you have approved staff recommendation on Item Number 1C, Option 1.

Okay. Option 3B. I'm sorry, Issue 3B.

MS. DRAPER: This is Elizabeth Draper with staff. Issue 3B addresses FPUC's proposed new methodology to allocate the demand costs that FPUC is assessed from its purchased power providers to the rate classes. FPUC proposed to allocate its demand costs based on an energy or kilowatt hour allocator as opposed to a demand allocator, which incorporates Gulf's and FP&L's actual load research results, which is how FPUC has historically determined cost allocation.

Staff recommends that FPUC continue to use the current demand allocation method that incorporates the load research data provided by FP&L and Gulf, as staff does not believe that FPUC has adequately demonstrated that its proposed method is more accurate or that the FP&L and Gulf load research data are not appropriate for FPUC.

CHAIRMAN GRAHAM: Commissioner Brown, are you on 3B? Okay. All right.

Board, 3B, any discussion?

Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

I found this to be an interesting issue in that none of the intervenors have provided a comment, I don't believe they did, in any of their briefs nor summarized in staff's recommendation. And although you always want to set rates and rate structures based on as good of information as possible, there is a risk of making a change to maybe more information, but it may not be better information. And at this time, I did not see anything in either the CA report or FPUC's filings to indicate that enough information is available to make a change to their rate structure. I would hate to make a change just to make a change, and I would rather us make it through a thought-out process. And I agree with staff that they are not recommending they go through that costly process, but at this time we don't have the information to make that change to the rate structure. So with that, I would support staff's recommendation on this issue.

CHAIRMAN GRAHAM: It has been moved and seconded, staff recommendation on Issue 3B.

Any further discussion?

Commissioner Brisé.

COMMISSIONER BRISÉ: I just want to say that I agree with Commissioner Balbis' point of view that the information that was provided is new information or more information, but it is probably not the best information at this time. And I do want to point out that staff is willing to continue to look at this issue as time moves forward so that it doesn't close the window of opportunity for us to look at the methodology. But at this particular moment, I don't think that it's ripe, so with that I support the motion.

CHAIRMAN GRAHAM: Any further discussion on Issue 3B?

Seeing none, all in favor say aye.

(Vote taken.)

CHAIRMAN GRAHAM: Any opposed?

By your action you have approved Issue 3B.

My understanding is after the approval of 1C and 3B everything else is pretty much a fallout.

MR. LESTER: They are fallout issues, and they are consistent with your votes on 1C and 3B.

CHAIRMAN GRAHAM: So can I get a motion to approve the staff recommendation on the entirety of Item Number 4?

Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

Yes, as you have described, I would move staff recommendation on all remaining issues, recognizing that they are calculations from our two previous votes.

CHAIRMAN GRAHAM: It has been moved and seconded, staff recommendation on the remainder of Item Number 4. Any further discussion?

Seeing none, all in favor say aye.

(Vote taken.)

CHAIRMAN GRAHAM: Any opposed?

By your action you have approved staff

recommendation on Item Number 4.

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 29th day of December, 2011.

JANE FAUROT, RPR
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