



Province of Alberta

## ELECTRIC UTILITIES ACT

# RATE OF LAST RESORT REGULATION

### **Alberta Regulation 262/2005**

With amendments up to and including Alberta Regulation 166/2024

Current as of September 27, 2024

Office Consolidation

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### **Note**

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(Consolidated up to 166/2024)

**ALBERTA REGULATION 262/2005**

**Electric Utilities Act**

**RATE OF LAST RESORT REGULATION**

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**Definitions****1** In this Regulation,

- (a) “Act” means the *Electric Utilities Act*;
- (b) repealed AR 264/2007 s2;
- (c) “business day” means a day other than Saturday or a holiday as defined in the *Interpretation Act*;
- (c.1) “Commission” means the Alberta Utilities Commission established by the *Alberta Utilities Commission Act*;
- (c.2) “consumer awareness surcharge” means a surcharge imposed under section 11.1 for the purpose of funding UCA initiatives to educate regulated rate customers about electricity service options;
- (d) “eligible customer” means
  - (i) a rate classification customer, and
  - (ii) any other customer, if the owner’s reasonable forecast of the customer’s annual consumption of electric energy at a site is less than 250 megawatt hours of electric energy at that site;
- (d.1) “energy price setting plan” means a Rate of Last Resort energy price setting plan established under section 5.1 that includes the owner’s proposed risk margin and outlines the methodology for setting regulated rates for regulated rate customers to ensure rates are just, reasonable and reflective of market conditions;

- (d.2) “financial performance report” means a report prepared by the MSA under section 11.2 to evaluate the financial performance of an owner under a regulated rate tariff;
- (e) “losses” means the energy that is lost through the process of transmitting and distributing electric energy;
- (e.1) “MSA” means the Market Surveillance Administrator continued by section 32 of the *Alberta Utilities Commission Act*;
- (e.2) “MSA determination report” means a report prepared by the MSA under section 5.2 to confirm compliance of an energy price setting plan with the requirements of a fair, efficient and openly competitive electricity market;
- (f) repealed AR 166/2024 s3;
- (g) “owner” means
  - (i) the owner of an electric distribution system, or
  - (ii) if the owner makes arrangements under which one or more other persons perform any or all of the duties or functions of the owner, the owner and those one or more other persons;
- (h) “rate classification customer” means
  - (i) a residential rate classification customer,
  - (ii) a farm rate classification customer, or
  - (iii) an irrigation rate classification customeras defined in a regulated rate tariff;
- (h.1) “Rate of Last Resort” means the charge determined in accordance with sections 10 and 11 for the supply of electric energy to regulated rate customers;
- (h.2) “rate reopener proceeding” means a proceeding initiated by a regulatory authority under section 11.3 to review and determine whether an owner’s regulated rate should be adjusted to ensure compliance with the MSA’s parameters on what constitutes acceptable financial performance;
- (i) “regulated rate” means a Rate of Last Resort;
- (j) “regulated rate customer” means an eligible customer who is not receiving electricity services from a retailer;

- (k) “regulatory authority” means the entity that approves an owner’s regulated rate tariff under section 103 of the Act;
- (l) “risk margin” means the just and reasonable financial compensation that an owner’s regulatory authority approves for the owner based on the financial risks
  - (i) that remain with the owner, and
  - (ii) that are associated with the supply of electricity services to regulated rate customers;
- (m) “site” means a site as defined in accordance with ISO rules for load settlement;
- (m.1) “UCA” means the Office of the Utilities Consumer Advocate established under section 2 of Schedule 13.1 to the *Government Organization Act*;
- (n) repealed AR 11/2013 s2;
- (o) “unaccounted for energy” means the difference between the distribution system total load for a settlement interval and the sum of the allocated loads at the customer meters, plus their allocated losses, for the settlement interval.

AR 262/2005 s1;264/2007;11/2013;135/2018;166/2024

### **Regulated Rate Tariff**

#### **Requirement to provide regulated rate tariff**

**2** Each owner must make available to eligible customers in the owner’s service area the option of being supplied electricity services in accordance with a regulated rate tariff instead of purchasing electricity services from a retailer.

#### **Regulated rate tariff application requirements**

**3(1)** An owner must apply to its regulatory authority for the approval of a regulated rate tariff under section 103 of the Act in accordance with this section.

**(2)** An application under subsection (1) must include

- (a) an energy price setting plan,
- (b) an MSA determination report prepared in accordance with section 5.2,
- (c) the terms and conditions under which the owner supplies electricity services to regulated rate customers, including those set out in subsection (3),

- (d) the billing information requirements set out in subsection (4), and
  - (e) any other terms or conditions the owner considers appropriate.
- (3) The terms and conditions that must accompany an application include

- (a) a statement that the regulated rate customer's full name, phone number, email address and mailing address will be shared with the UCA for the purpose of enabling the UCA's customer awareness initiatives, and
- (b) the following statement:

*The Rate of Last Resort is a 2-year fixed, stable default rate with a 10% rate adjustment cap for any subsequent 2-year fixed rate. The Rate of Last Resort includes energy related charges (including, but not limited to, energy rates, risk margin and trading charges) and a consumer awareness surcharge of 0.1 cents/kWh to support initiatives by the Utilities Consumer Advocate to inform regulated rate customers about their electricity service options.*

*Regulated rate customers are free to purchase electricity services from a retailer of their choice. For a list of retailers, visit [ucahelps.alberta.ca](http://ucahelps.alberta.ca) or call 310-4822 (toll free in Alberta).*

- (4) The application must itemize the following information and specify how each item will be displayed separately on the bill of a regulated rate customer:
- (a) the electric energy charge, shown under the heading "Rate of Last Resort";
  - (b) the administrative charge, which may include a billing charge, as a dollar amount, for each period specified in the regulated rate tariff;
  - (c) the delivery charge for distribution access service and system access service, shown separately as either
    - (i) a distribution charge and transmission charge, or
    - (ii) a fixed delivery charge and variable delivery charge;
  - (d) if applicable, any amount levied under section 45 of the *Municipal Government Act*, under Schedule 1, section 21

of the *Metis Settlements Act* or by bylaw under the *Indian Act* (Canada), shown under the heading “local access fee”.

- (5) The application must not include, propose or consider any deferral accounts, true-ups, rate riders or similar mechanisms for energy related costs.
- (6) The application must specify the period during which the owner intends the regulated rate tariff to be in effect.
- (7) Before applying for approval of a regulated rate tariff, an owner must submit its energy price setting plan to the MSA for review in accordance with section 5.2.

AR 262/2005 s3;11/2013;166/2024

**4** Repealed AR 166/2024 s4.

#### **Risk margin**

- 5(1)** An owner’s regulatory authority must ensure the risk margin is just and reasonable.
- (2) Repealed AR 166/2024 s5.
- (3) Repealed AR 166/2024 s5.
- (4) Risks covered by the risk margin may include risks associated with energy related costs and non-energy related costs that an owner’s regulatory authority considers reasonable and prudent.
- (5) Repealed AR 166/2024 s5.
- (6) The risk margin must be set for a period of 2 years.

AR 262/2005 s5;166/2024

#### **Energy price setting plan**

- 5.1(1)** An owner must develop a Rate of Last Resort energy price setting plan that
  - (a) uses a fair, efficient and openly competitive process, and
  - (b) provides a reasonable degree of transparency to ensure that the resulting prices for the supply of electric energy are just, reasonable and based on market conditions.
- (2) The MSA may
  - (a) provide advice, give guidance or make recommendations to the owner during the development of the energy price setting plan, and

- (b) participate in the negotiation process for the energy price setting plan.

**(3)** The energy price setting plan must set the regulated rate for a period of 2 years, subject to any adjustments to the regulated rate in accordance with section 11.3.

#### **MSA determination report**

##### **5.2** The MSA must

- (a) review an energy price setting plan to determine whether it complies with the requirements for a fair, efficient and openly competitive electricity market, and
- (b) prepare a determination report on the energy price setting plan and indicate whether it complies with the requirements under clause (a).

AR 166/2024 s6

#### **Approval of Tariff by Regulatory Authority**

##### **Matters to be considered when approving tariff**

**6(1)** When considering an application for approval of a regulated rate tariff under section 103 of the Act, a regulatory authority must

- (a) have regard for the principle that a regulated rate tariff, including the risk margin described in section 5, must provide the owner with a reasonable opportunity to recover the prudent costs and expenses incurred by the owner,
- (b) have regard for the principles that
  - (i) a regulated rate tariff must allow for a reasonable return for the obligation on the owner to provide electricity services in accordance with section 2, and
  - (ii) the risk margin described in section 5 must not be considered as a part of that reasonable return,
- (c) have regard for the principle that a risk margin approved by it must provide the owner with a just and reasonable financial compensation for the risks described in section 5,
- (d) have regard for the principle that a regulated rate tariff must not impede the development of an efficient electricity market based on fair and open competition in which neither the market nor the structure of the Alberta

electric industry is distorted by unfair advantages of any electricity market participant,

- (d.1) not have regard to a rate established by or under section 2(a)(ii) of the *Rate of Last Resort Stability Act*;
- (e) examine the reasonableness of the owner's billing costs and other costs the owner's regulatory authority considers appropriate in the prevailing circumstances, without regard to any overall increase in costs due to the separation of distribution access service and the provision of electricity services, and
- (f) approve an energy price setting plan referred to in section 3(2)(a) in a manner that ensures the owner cannot recover any additional costs through the electric energy charge from a regulated rate customer once a Rate of Last Resort rate is finalized.

**(1.1)** A regulatory authority must consider only those applications for a regulated rate tariff that include an MSA determination report.

**(1.2)** Notwithstanding subsection (1.1), a regulatory authority is not obligated to follow any results or recommendations made by an MSA determination report.

**(2)** A regulatory authority must not approve a regulated rate tariff that uses, provides for or contemplates any deferral accounts, true-ups, rate riders or other similar accounts or devices for energy related costs.

**(3)** Subsection (2) does not apply with respect to a deferral account established under the *Rate of Last Resort Stability Act*.

AR 262/2005 s6;138/2017;135/2018;260/2022;166/2024

#### **One-time cost recovery**

**6.1(1)** An owner is entitled to receive a one-time recovery of implementation costs, including costs related to billing, system updates and other non-energy charges associated with the transition from a monthly regulated rate setting plan to a 2-year fixed regulated rate setting plan.

**(2)** In order to receive a recovery of costs under subsection (1), an owner must apply to its regulatory authority

- (a) in a form and manner acceptable to the regulatory authority, and
- (b) within 6 months of the first 2-year term referred to in section 10(1)(a).

AR 166/2024 s8

**Approval of method to determine regulated rates**

**7(1)** Repealed AR 166/2024 s9.

**(2)** A regulatory authority may approve a regulated rate tariff only if the Rate of Last Resort component of the regulated rate tariff is calculated in accordance with section 11.

**(3)** Repealed AR 166/2024 s9.

**(4)** Repealed AR 166/2024 s9.

**(5)** If a regulatory authority discovers that an owner has made an incorrect rate calculation resulting in an overcharge of customers, the regulatory authority must require the owner to refund the amount overcharged to the customers as soon as practicable after the error is discovered.

AR 262/2005 s7;166/2024

**Setting Regulated Rates**

**8** Repealed AR 11/2013 s5.

**9** Repealed AR 11/2013 s6.

**Duty to set Rate of Last Resort**

**10(1)** An owner must set each Rate of Last Resort for a term of 2 years

- (a) for the first 2-year term, beginning on January 1, 2025 and ending on December 31, 2026, and
- (b) for each subsequent 2-year term, beginning on January 1 of the year following the end of the previous term.

**(2)** Each Rate of Last Resort must be set in accordance with the energy price setting plan referred to in section 3(2)(a) and the calculation referred to in section 11.

AR 262/2005 s10;166/2024

**Calculation of Rate of Last Resort**

**11(1)** A Rate of Last Resort must be calculated based on

- (a) regulated rate customer load forecasts made during the relevant price-setting period described in subsection (3),
- (b) electricity market prices prevailing during the relevant price-setting period, and

- (c) the consumer awareness surcharge collected under section 11.1.
- (2) The Rate of Last Resort must not be based on market prices prevailing before or after a relevant price-setting period.
- (3) The price-setting period for a 2-year term begins on a date set by the owner and approved by its regulatory authority, and ends at least 30 days before the next Rate of Last Resort term takes effect.
- (4) Subject to section 11.3(8), the Rate of Last Resort may only be adjusted by a maximum of 10% after the end of each 2-year term.
- (5) The adjustment to a Rate of Last Resort under subsection (4) must be calculated based on the Rate of Last Resort in effect at the end of the preceding 2-year term.

AR 262/2005 s11;11/2013;135/2018;166/2024

#### **Consumer awareness surcharge**

- 11.1(1)** Beginning on January 1, 2025, each owner shall collect a consumer awareness surcharge of 0.1 cents per kilowatt hour during each 2-year term.
- (2) The purpose of the consumer awareness surcharge is to support initiatives led by the UCA to inform regulated rate customers about their electricity service options.
- (3) Each owner shall, on a monthly basis, remit the total consumer awareness surcharge collected for the preceding month directly to the Minister.

AR 166/2024 s10

#### **Financial performance report**

- 11.2(1)** Beginning on January 1, 2025, the MSA shall
- (a) assess the financial performance of each owner under the regulated rate tariff, and
  - (b) prepare a financial performance report every 6 months, with the first report to be completed by July 1, 2025.
- (2) The financial performance report must include
- (a) a detailed evaluation of the owner's financial performance over the preceding 6-month period,
  - (b) an assessment of whether the owner's financial performance falls within acceptable parameters, as set by the MSA under subsection (3),

- (c) a recommendation on whether a rate reopener proceeding should be initiated under section 11.3, and
  - (d) any additional observations or recommendations the MSA considers relevant to maintaining the integrity of the regulated rate tariff.
- (3) The MSA shall establish parameters for what constitutes an owner's acceptable financial performance in accordance with subsection (4).
- (4) Before establishing the parameters under subsection (3), the MSA must consult with persons the MSA considers likely to be directly affected by the parameters.
- (5) Each owner must submit any information requested by the MSA at least one month before the preparation of the financial performance report.
- (6) If the financial performance report shows that the owner's financial performance falls outside the parameters set by the MSA, the MSA must notify the regulatory authority.

AR 166/2024 s10

**Rate reopener proceeding**

- 11.3(1)** On receiving notification from the MSA under section 11.2(6), the regulatory authority shall, within 30 days,
- (a) initiate a rate reopener proceeding, and
  - (b) provide notice of the proceeding to any interested parties.
- (2) Within 30 days of the initiation of the rate reopener proceeding, the owner must submit to the regulatory authority
- (a) any MSA determination reports,
  - (b) any financial performance reports, and
  - (c) any other information the owner considers relevant.
- (3) In the submission under subsection (2), the owner must either
- (a) justify the current regulated rate, or
  - (b) propose a new regulated rate.
- (4) Interested parties notified under subsection (1)(b) have 30 days from the date of the owner's submission under subsection (2) to provide comments on the submission.

- (5) For the purposes of this section, “interested parties” may include the UCA, consumer groups or any other persons that the regulatory authority considers directly affected by a regulated rate adjustment resulting from the rate reopener proceeding.
- (6) The regulatory authority must conclude the rate reopener proceeding and decide whether the regulated rate requires adjustment no later than 90 days after the submission of the information under subsection (2).
- (7) If the regulatory authority determines that a regulated rate adjustment is necessary, the owner must, within 30 days of the decision, submit
- (a) a new energy price setting plan in accordance with section 5.1, or
  - (b) a regulated rate adjustment directly to the regulatory authority for approval.
- (8) An owner’s regulated rate adjustment resulting from a rate reopener proceeding is not limited by the 10% rate adjustment cap described in section 11(4).

AR 166/2024 s10

**Duty to provide regulated rates to regulatory authority**

**12** An owner must submit a regulated rate and its calculations to the regulatory authority at least 30 days before the start of each 2-year term.

AR 262/2005 s12;166/2024

**Publication of regulated rates by Commission**

**13(1)** The Commission must post on its internet page the regulated rates from all owners it regulates, on the first day of each calendar month in which the rates are to have effect.

(2) For eligible customers without access to the internet, the Commission must make available on request the regulated rates from all owners it regulates in an alternative format determined by the Commission.

AR 262/2005 s13;264/2007

**Publication of regulated rates by owner**

**14(1)** An owner must post its regulated rate for each calendar month on an easily accessible internet page on the first day of the calendar month in which the rate is to have effect.

(2) The owner must ensure

- (a) that there is a link on the internet page to a historic file of previous regulated rates for at least the previous 12 months, and
  - (b) that the address of the internet page is shown on each regulated rate customer's bill, with directions that current and historical regulated rates may be found on the internet page.
- (3)** The owner may communicate the information described in subsections (1) and (2) using a method other than the internet, but must ensure that
- (a) the method used to communicate the information will permit regulated rate customers to access the information easily,
  - (b) the regulated rate will be available by the first day of the calendar month in which the rate is to have effect,
  - (c) the regulated rates for the previous 12 months will be available, and
  - (d) information about the method to be used to communicate the current and historical regulated rates is shown on each regulated rate customer's bill.

AR 262/2005 s14;166/2024

## Billing

### Billing information

- 15(1)** Every month, an owner shall issue a bill to each of its regulated rate customers for the use of electricity services.
- (2)** A bill under subsection (1) must separately include
- (a) the charges set out in section 3(4),
  - (b) the consumption of electric energy for which the charges under clause (a) are based,
  - (c) the following statement:  
  
*Regulated rate customers are free to purchase electricity services from a retailer of their choice. For a list of retailers, visit [ucahelps.alberta.ca](http://ucahelps.alberta.ca) or call 310-4822 (toll free in Alberta).*
  - (d) any information that is required to be included under the *Utility Commodity Rebate Regulation* (AR 158/2022).

- (3)** The statement under subsection (2)(c) must be
- (a) on the main page of the owner's website,
  - (b) on the first page of the regulated rate customer's bill,
  - (c) in at least 12-point bold type, and
  - (d) in a colour that contrasts with the background.

AR 262/2005 s15;59/2015;74/2022;166/2024

#### **Basis for charges**

**16** For regulated rate customers,

- (a) where any portion of the delivery charge is based on consumption, both the electric energy charge and the delivery charge to customers in a billing period must be based on common consumption data for that billing period, and
- (b) at sites where electric energy consumption is metered, at least twice each calendar year, the charge for electric energy for a billing period must be based on an actual meter reading.

#### **Undercharge**

**17** An owner is not entitled to collect from a regulated rate customer any amount undercharged as a result of an incorrect meter reading, incorrect rate calculation, clerical error or other error of any kind that is made more than 12 months before the date of the bill.

#### **Overcharge**

**18** If a regulated rate customer is overcharged, the owner must refund the customer the amount overcharged as soon as practicable after the error is discovered.

### **Records and MSA Mandate**

#### **Retaining records**

**18.1** An owner must retain all records pertaining to any action taken by them under this Regulation for a period of at least 2 years from the date the record was created.

AR 166/2024 s13

**Submitting records to the MSA**

**18.2** An owner must prepare and submit any records that the MSA considers necessary to perform its duties under this Regulation, in a form and manner and within a period specified by the MSA.

AR 166/2024 s13

**Carrying out MSA mandate**

**18.3(1)** The performance of any duty or the exercise of any discretion, power or authority by the MSA under this Regulation does not prevent the MSA from carrying out

- (a) any aspect of its mandate under section 39 of the *Alberta Utilities Commission Act*, or
- (b) any powers, duties or responsibilities established by any additional mandate provisions that may be established under regulations made under section 59(1)(a) of that Act.

**(2)** For greater certainty, the duties and responsibilities assigned to the MSA under this Regulation fall within the scope of the MSA's existing mandate under section 39 of the *Alberta Utilities Commission Act*.

AR 166/2024 s13

**Miscellaneous Matters****Entry to or exit from regulated rate tariff**

**19(1)** An owner must not, either in its regulated rate tariff or by other means,

- (a) collect fees related to the entry to, or exit from, the regulated rate tariff by an eligible customer, or
- (b) require notice periods greater than 30 days for entry to, or exit from, the regulated rate tariff.

**(2)** For the purposes of subsection (1), entry to a regulated rate tariff includes a request by an eligible customer

- (a) to purchase electricity services for an existing site, or
- (b) to purchase electricity services for a previously unserved site.

**Delegation of duties**

**20** An arrangement made by an owner under section 104 of the Act under which another person is authorized to perform any or all

of the duties or functions of the owner under this Regulation has no effect unless the arrangement is approved by the owner's regulatory authority.

#### **Financial security requirements**

**21** A rural electrification association is exempt from the requirement to provide financial security, as determined under the ISO rules, in respect of the electric energy acquired by the rural electrification association to meet its obligations under its regulated rate tariff.

#### **Service standards and incentives**

**22** The Commission may determine or establish service standards and service incentives for providing electricity services under a regulated rate tariff.

AR 262/2005 s22;264/2007

#### **Information sharing with the UCA**

**22.1(1)** Each owner shall send the contact information of all current regulated rate customers to the UCA on the first day after every 2 months following the implementation of each 2-year Rate of Last Resort term, for the purposes under subsection (3).

**(2)** The contact information under subsection (1) includes the regulated rate customers' full names, phone numbers, email addresses and mailing addresses.

**(3)** The UCA will contact each regulated rate customer in accordance with the *Utilities Consumer Advocate Regulation* (AR 183/2018) for the purposes of

- (a) inquiring whether the regulated rate customer is aware that their electricity services are being provided by a rate of last resort provider, and
- (b) educating the regulated rate customer of the option to receive electricity services from a retailer of the regulated rate customer's choice.

AR 166/2024 s14

#### **Equalized billing**

**23(1)** An owner may offer an equalized billing plan to regulated rate customers.

**(2)** The owner must make available an equalized billing plan to equalized billing plan eligible customers.

(3) For the purposes of subsection (2), an equalized billing plan eligible customer is a regulated rate customer who can provide evidence sufficient to satisfy the owner that the customer is currently receiving financial support from

- (a) an income support program established under the *Income and Employment Supports Act* or the *Seniors Benefit Act*, or
- (b) the Government of Canada under its Indian Northern Affairs Alberta Region First Nation Income Support Program which is administered to on-reserve residents.

#### **Transitional**

**23.1(1)** In this section,

- (a) “former regulation” means this Regulation as it read immediately before the coming into force of this section;
- (b) “regulated rate”, notwithstanding section 1(i), means a new RRO rate as defined in the former regulation.

(2) Where an application for a regulated rate tariff under the former regulation was made before the coming into force of this section but had not been decided by that time, the application must be considered and decided as if the former regulation were still in force.

(3) Where an application for a regulated rate tariff is made for a regulated rate that is to take effect before January 1, 2025, the application must be considered and decided as if the former regulation were still in force.

(4) For greater certainty, any regulated rate tariff approved for a regulated rate that is to take effect before January 1, 2025 continues to be subject to the terms and conditions approved by the regulatory authority under the former regulation until December 31, 2024.

(5) Notwithstanding sections 5.1 and 5.2 of this Regulation, any energy price setting plan developed for a regulated rate that is to take effect before January 1, 2025 must be developed in accordance with section 4 of the former regulation.

(6) For greater certainty, section 5.2 of this Regulation does not apply to an energy price setting plan developed for a regulated rate that is to take effect before January 1, 2025.

(7) Where a regulatory authority is considering an application to which subsection (2) or (3) applies, the regulatory authority shall

- (a) consider the application in accordance with the criteria set out in section 6 of the former regulation, and
  - (b) approve the method to determine regulated rates in accordance with section 7 of the former regulation.
- (8)** For any regulated rate that is to take effect before January 1, 2025, the owner must
- (a) set the rate in accordance with sections 10, 11 and 12 of the former regulation,
  - (b) publish the rate in accordance with section 14 of the former regulation, and
  - (c) include on every bill sent to a regulated rate customer the information set out in section 15 of the former regulation.
- (9)** All regulated rate tariffs for regulated rates that take effect before January 1, 2025 shall cease on December 31, 2024.

AR 166/2024 s15

**Expiry**

**23.2** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 31, 2028.

AR 166/2024 s15

**24, 25** Repealed AR 138/2017 s8.

**26** Repealed AR 11/2013 s8.

**27** Repealed AR 11/2013 s9.

**28** Repealed AR 138/2017 s8.

**29** Repealed AR 11/2013 s 10.









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