

January 14, 2021

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Corrected Comments of the Minnesota Department of Commerce**
Docket No. P999/CI-20-747

Dear Mr. Seuffert:

Attached are the corrected comments of the Minnesota Department of Commerce (Department) in the following matter:

In the Matter of a Commission Inquiry into the Advertising, Outreach, and Offering of Lifeline by High Cost ETCs

The Department initially filed comments in this docket on January 8, 2021 but learned that its comments contained an error pertaining to the Lifeline advertising of Interstate Telecommunications Cooperative, Inc. (Interstate). The Department submits these corrected comments and attachments to reflect that Interstate is properly offering its Lifeline program.

The Department continues to make the following recommendations:

- a. The Commission may decide best practices and notify companies that it will be looking for companies to follow all or substantially all the practices as it reviews the companies' 481 filings in Docket No. P999/PR-21-8. Or in the alternative, the Commission may refer the issue of best practices to a working group for further consideration.
- b. The Commission may determine that while websites are not to be a sole means of advertising, websites are necessary. Therefore, all companies shall offer webpages that correctly show all income and other requirements and contain the correct rates. Information must be reachable within 3 clicks of the company's home page and Lifeline information must be easily searchable.

Docket No. P999/CI-20-747

Analysts assigned: Joy Gullikson, Diane Dietz, Bruce L. Linscheid

Page 2

Sincerely,

/s/ JOY GULLIKSON

/S/ DIANE DIETZ

/S/ BRUCE L. LINSCHIED

Telecommunications Analysts

JG,DD,BLL/ja

Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. P999/CI-20-747

I. INTRODUCTION

The following comments are offered by the Department of Commerce (Department) in response to the Minnesota Public Utilities Commission’s (Commission’s) Request for Comments, issued October 7, 2020. In that Request, the Commission asked questions of and requested filings from the High Cost Eligible Telecommunications Carriers (ETCs) regarding their Lifeline Offerings. The Commission’s October 7th notice also posed topics for Reply Comments.

This Commission annually certifies that Eligible Telecommunications Carriers (ETCs) that are federal high cost support recipients, have met certain obligations, including the provision of Lifeline service. Lifeline is a “non-transferable retail service offering available to qualifying low-income consumers.”¹ Customers of voice service may receive a discount of \$5.25 per month.² Customers of qualifying broadband service receive a Lifeline discount of \$9.25 per month. Customers residing on Tribal Lands may receive additional support of \$25, for a total credit up to \$34.25 per month.³ To effectively make Lifeline service available to its subscribers, ETCs are required to “[a]dvertise the availability of such services and the charges therefore using media of general distribution.”⁴

During the recertification of High Cost ETCs in Docket P999/PR-20-8 (Docket 20-8), the Commission opened this current Docket to further investigate the advertising, outreach, and offering of Lifeline by ETCs receiving federal high cost support.⁵ On October 7, 2020, the Commission issued a Notice of Comment Period in which it requested each ETC high cost recipient to:

- A. Provide the number of Lifeline customers it is currently serving and identify any patterns or trends it has seen in Lifeline enrollment for its service area.
- B. Explain how it is advertising Lifeline services, with special explanation given to advertising and outreach to diverse populations.
- C. Submit a sample of Lifeline advertising materials and an explanation of the types of outreach and advertising ETCs use to most effectively reach eligible populations.

¹ 47 C.F.R. § 54.401 (a).

² This amount of discount was effective as of December 1, 2020. Beginning December 1, 2021, no Lifeline discount will be offered to voice only customers (47 C.F.R. § 54.403 (a) (2)).

³ 47 C.F.R. § 54.403 (a) (3).

⁴ 47 C.F.R. § 54.201 (d) (2). Also see 47 U.S.C. 214(e)(1)(B): [eligible telecommunications carriers shall “advertise the availability of such services and the charges therefor using media of general distribution.”]

⁵ The Commission addressed Lifeline offered by Wireless Lifeline Only ETCs in its most recent *Order Establishing Customer Notice Requirement*, in Docket No. P999/CI-17-509, November 20, 2020.

- D. Offer other observations or experience about Lifeline that is relevant to the Commission's inquiry into advertising and outreach.

The Commission's notice elicited 64 responses by the November 9, 2020 deadline.⁶ The Commission, in its October 7th Notice, asked that the following topics to be addressed in reply comments:

1. What are best practices in terms of advertising and outreach on the Lifeline program?
2. Are High Cost ETCs properly offering the Lifeline program?
3. Are there other issues or concerns related to this matter?

The Department examined the filings made in response to the Commission's Request for Comments, as well as reviewing the websites of all carriers, including the carriers that did not respond. By and large, the responding providers submitted the number of lifeline customers and examples of outreach materials used in the provision of Lifeline service. However, only a few carriers provided detailed information on the methods of outreach used for diverse populations or made observations on the best outreach practices. While some carriers provide adequate advertising to customers and potential customers, other carriers do not even have an explanation of Lifeline on their websites, or the relevant website pages are difficult for a customer to reach. Some carriers require customers to know the relevant terminology in order to access Lifeline information through a "search" box on the home page. Other carriers provide access to Lifeline information through links that are difficult for customers to discern as being relevant to Lifeline.

II. COMMISSION AUTHORITY

All ETCs must offer service to low income consumers through a Lifeline offering. "Lifeline means a non-transferable retail service offering provided directly to qualifying low-income consumers."⁷ Lifeline discounts may be applied to voice telephony prior to December 1, 2021, after which Lifeline will only be available for broadband service.⁸

The Commission's role in determining whether ETCs are appropriately managing the federal funds provided to them through the High Cost and Lifeline programs is best summed up by the Federal Communications Commission (FCC): "Congress made states—not the Commission—primarily responsible for designating ETCs. And States have vigorously exercised their oversight authority to combat waste, fraud, and abuse in the Lifeline program. In some cases, states have been the first to identify waste, fraud, and abuse by ETCs—"⁹

⁶ The 64 responses represent 52 parent companies plus one response from the Minnesota Telephone Alliance (MTA). The difference between the 64 responses and the 51 parent companies and the MTA occurs because some parent companies filed responses for their operating companies individually.

⁷ 47 C.F.R. § 401 (a).

⁸ *Id.* Subsection (b) (2).

⁹ *In the Matter of Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link-Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, Fifth Report and Order, Memorandum Opinion and

The Congressional authority for state Commissions to designate ETCs is stated in 47 U.S.C 214 (e):

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

United States Code in 47 U.S.C. 214 (e) (1) and 47 C.F.R. 54.405 require ETCs to offer appropriate advertising. 47 C.F.R. 54.405 states:

All eligible telecommunications carriers must:

- (a) Make available Lifeline service, as defined in §54.401, to qualifying low-income consumers.
- (b) Publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.
- (c) Indicate on all materials describing the service, using easily understood language, that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household. For the purposes of this section, the term “materials describing the service” includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms.
- (d) Disclose the name of the eligible telecommunications carrier on all materials describing the service.

Both the FCC and Congress have clearly indicated that State Commissions have authority to oversee the types of advertising for Lifeline service and has authority to ensure Lifeline service is properly advertised.

III. COMPANY RESPONSES

The Department's analysis of the Company responses is largely reflected in two attachments to these comments. Attachment A is a high-level overview of the Department's analysis, intended as an easy reference, of those companies that provided a response to the Commission's notice. Companies that did not respond to the Commission are noted in this Attachment A and highlighted in blue. Column E in Attachment A identifies those companies that the Department believes to be properly offering the Lifeline program. Column D in Attachment A identifies issues found by the Department that merit attention by the companies, to properly offer Lifeline.

Attachment B to these comments contains the detailed analysis conducted by the Department of each responding company. Attachment B also shows, highlighted in blue, the companies that did not respond to the Commission's Request for Comments. Both Attachments A and B contain observations of the Department about the efficacy of each company's website.

Six High Cost ETCs did not respond to the Commission's notice,¹⁰ highlighted in blue on Attachments A and B. One of those companies, Jaguar Communications, had been previously ordered by the Commission to "make a compliance filing in a separate docket describing its Lifeline discount program, the number of recipients, and Jaguar's methods, materials, website, and other means for making customers aware of the Lifeline program."¹¹ On January 4, 2021, the day that Jaguar's filing was due, Jaguar requested the Commission grant a one month extension to respond to the Commission's order.

A. MOST COMPANIES PROVIDED LIFELINE COUNTS AND A FEW COMPANIES MADE SOME OBSERVATIONS, BUT NO COMPANY PROVIDED INFORMATION ON PATTERNS OR TRENDS.

The Commission requested each High Cost ETC to list how many Lifeline customers it serves and identify any patterns or trends it has seen in Lifeline enrollment for its service area. Many High Cost ETCs responded with the number of Lifeline customers they serve. The counts, as reported by the responding companies in this Docket, are shown in column D in Attachment B. The Lifeline count information is also available each year at <https://apps.usac.org/li/tools/disbursements/default.aspx>, and was supplied in the Department's comments in Docket 20-8. With respect to the Commission's recent Request for Comments, most companies that responded did not distinguish between Lifeline applied to voice service and Lifeline applied to broadband service.¹² In some instances, companies distinguished between Tribal and non-Tribal recipients.¹³

¹⁰ The following High Cost Companies did not file comments: Broadband Corporation, Consolidated Communications, , Jaguar Communications, LTD Broadband, Polar Mutual Aid, and Windstream Communications.

¹¹ Commission Order in 20-8. November 25, 2020, p.5.

¹² The Lifeline discount for voice only service is \$5.25 as of December 1, 2020 and is scheduled to be eliminated on December 1, 2021 except for subscribers on Tribal lands whose discount remains at \$34.25.

¹³ Paul Bunyan, and Garden Valley telephone companies identified the number of their respective tribal Lifeline customers.

In aggregate, the responding companies reported serving 8,761 Lifeline customers.

No Companies offered information about trends and patterns, but some companies made observations and suggestions concerning Lifeline:

- County social services departments should be informed of Lifeline programs and how the client can apply through the National Verifier portal. —Halstad Telephone
- Members do advertising at their own expense. The Commission should explore other options than mandating additional advertising. —MN Telecom Alliance
- Ads in newspapers and customer newsletters generate the most Lifeline inquiries. —Paul Bunyan Telephone Cooperative
- How society receives information has evolved. Newspaper ads reach some, electronic media reaches others. There should be partnership with social services agencies. —TDS (Arvig, Bridgewater, Mid State, and Winsted).
- Customers find the National verification to be confusing, even with assistance. Notifications for renewal are often ignored. —City of Barnesville.

B. COMPANIES USE A VARIETY OF OUTREACH METHODS, BUT NO COMPANY ADDRESSED OUTREACH TO DIVERSE POPULATIONS.

Attachment B, columns G through N, list the different media identified by filing companies.

Typical forms of outreach include: company websites, direct outreach, outreach via third parties, and social media.

Website: Almost all companies who responded use their website to make Lifeline information available to customers.¹⁴ Unfortunately, many of the Lifeline pages on these websites are hard to reach or contain outdated or incorrect information. Department analysis of the websites is included in part IV. B, below.

Company direct outreach: Many companies use bill inserts, posters in their business offices, newsletters, annual notices, letters and postcards to subscribers. Other forms of outreach include user guides, brochures, and welcome packets.

Outreach via third parties: Some companies reach out to social service agencies, placed posters in senior housing, grocery stores and gas stations. One company, Midcontinent Communications, is also a cable provider and placed advertising on its cable network.

¹⁴ Northern Telephone Company and Wilderness Valley Telephone Company have no websites)

Social Media: A few companies indicated that they reach out to customers using social media: Facebook, Instagram, and blogs were used to impart information concerning Lifeline.

C. OTHER OBSERVATIONS AND EXPERIENCES FROM COMPANIES

The Minnesota Telecom Alliance (MTA) stated in its comments that it represents “more than 70 telecommunications companies across Minnesota.”¹⁵ It urged the Commission not to mandate additional advertising because “MTA members undertake significant advertising of the Lifeline program at their own expense.”¹⁶

IV. DEPARTMENT ANALYSIS

A. BEST PRACTICES

The term “best practices” suggests more than one method is available to bring about an efficient and desired outcome. The Department understands the term, used in the provision of Lifeline, to include multiple avenues for reaching those who are potential Lifeline customers in order to educate and assist them in obtaining Lifeline service. In its Request for Comments, the Commission requested that respondents offer best practices concerning the advertising and outreach of the Lifeline program.

From the early days of Lifeline offerings, the FCC has encouraged a multi-pronged effort to reach customers. In 2004 the FCC offered guidelines for outreach¹⁷ that included:

- Regular mailings in the form of letters and brochures
- Posters in places where low-income individuals are likely to visit
- Develop outreach material that can be read or accessed by any sizeable non-English speaking population within the carrier’s service area
- Coordination of efforts with governmental agencies that administer any of the relevant government programs
- States should utilize USAC as a resource for outreach to states and carriers

The Department offers the following as a basis for Commission consideration of best practices for Lifeline outreach, either on its own volition, or for consultation with a work group:

1. **Website:** Accurate information on company’s website that can be accessed with three or fewer clicks. Easy access to Lifeline information through a search bar using key words. The Commission may wish to consult its Consumer Affairs Office to determine the most effective key words to use in the search function of a website.

¹⁵ MTA comments, P999/CI-20-747, filed November 9, 2020.

¹⁶ *Ibid.*

¹⁷ *In the Matter of Lifeline and Link-Up*. WCB 03-109 ¶146-50. April 29, 2004.

2. **Social media:** A presence on social media with prominently displayed information concerning Lifeline.
3. **Reaching out to Social Service Agencies:** In coordination with the Commission, regular contact with social service agencies who can offer information to their clients.
4. **Lifeline Champion and Reaching out to the Community:** For smaller companies, an employee well versed in Lifeline and TAP that can assist customers by providing accurate information. For large companies, an internal education program to ensure customer service representatives, that assist consumers with Lifeline and TAP issues, are well versed on the programs. Well versed employees may also be used to speak with community groups and put up flyers in senior housing and community centers. The Lifeline champions needs to be aware of diverse segments of the population, knowledge about Lifeline on tribal areas for those companies that serve tribal lands, and translation services for non-English speaking customers.
5. **Regular outreach to customers through various formats:** Beyond an annual notification, customers who receive information in various forms are, in the Department's opinion, more likely to follow up to determine if they should apply for Lifeline service. Lifeline Awareness Week (the first week after Labor Day) is an opportunity to provide various forms of communications. Outreach by companies in the form of bill messages, letters, postcards, and website banners, may be supplemented by State and federal media initiatives.

Based on the Department's review of the responding companies' filings, it appears that Garden Valley, offers the closest to a series of best practices. In addition, some of the individual practices of other companies warrant note:

Garden Valley: Garden Valley Technologies offers complete information about Lifeline services, as well as the Telephone Assistance Plan, within two clicks from its home page. In addition, Garden Valley mails out brochures; includes information in its directory, bill messages, and welcome booklets; does an annual direct mail piece; sends information to the four social service offices in the area; provides information on social media; does additional advertising during Lifeline Awareness Week; and provides educational information to its employees who provide Lifeline outreach to Garden Valley customers.

TDS Telecom (Arvig, Bridgewater, Winsted, Mid State): Information about TDS's Lifeline offering on its website can be reached within one click from its home or main page. In addition, TDS employs five types of outreach, including use of social media.

Mid Continent Communications (Midco): As a cable provider, Midco airs many Lifeline ads over cable.

CenturyLink: CenturyLink makes extensive use of newspaper advertising, placing at least 190 ads in Minnesota newspapers in 2020.

B. THE FILINGS OF MOST COMPANIES HAVE ONE OR MORE ISSUES RELATING TO THEIR LIFELINE OFFERING NEEDING CORRECTION TO PROPERLY OFFER THE LIFELINE PROGRAM.

The Commission requested comments on whether High Cost ETCs were properly offering the Lifeline program. Attachment A to these comments shows that the Department considers only 15 of the 52 companies to be properly offering Lifeline. Problems found include: 1) difficulty in finding Lifeline information on the website, including non-operating links to Lifeline information and applications; 2) no information about Lifeline; 3) outdated Lifeline credit information for Lifeline; 4) outdated income limits for Lifeline eligibility.

The Department's review of outreach and advertising practices of High Cost ETCs included a review of company websites because they are a prolific means of reaching customers. In its 2004 Order, the FCC noted:

States and carriers may post outreach material on the Internet to provide general information; however, the Internet should not be relied on as the sole or primary means of Lifeline/Link-Up outreach¹⁸

Thus, websites are considered by the FCC to be a necessary but not a sufficient means for communicating the Lifeline program to potential Lifeline customers. 47 C.F.R. 54.405 requires ETCs to publicize the availability of Lifeline service "in a manner reasonably designed to reach those likely to qualify for the service [and] indicate on all materials describing the service, [which] includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms."

The Department notes the following deficiencies in company Lifeline programs:

Difficulty in finding the appropriate page on the website. Some companies had appropriate information on their websites, but getting to the actual Lifeline page was not easily accomplished by Department staff and the Department believes that most of the potential customers of Lifeline service would experience similar difficulty.¹⁹ Some company websites included links that did not work.²⁰

¹⁸ *Ibid* ¶46.

¹⁹ The Department staff had difficulty in getting to the Lifeline page on the websites of the following carriers: the CenturyLink affiliates (including Qwest, Embarq, CenturyTel of Chester, CenturyTel of Minnesota and CenturyTel of Northwest Wisconsin), the Frontier affiliates (including Frontier and Citizens), the Nuvera affiliates (including Hutchinson, Western, Sleepy Eye, Scott Rice – Integra, and New Ulm), and T-Mobile.

²⁰ The Department staff found broken links on the websites of the following carriers: Ace Telephone Association, Kasson & Mantorville Telephone Company, Mabel Coop, and Winnebago Cooperative Telephone Association.

No information about Lifeline on Companies' websites. Broadband, Inc., Jaguar, and LTD Broadband, all winners of the 903 auctions²¹ of 2017, have no information on their websites concerning Lifeline services. Each of these companies, as recipients of federal funds has an obligation to provide information on Lifeline services. In addition to being awarded over \$1 million in the 903 auction, LTD Broadband was the largest recipient of Rural Digital Opportunity Fund (RDOF) funds in the recent Auction 904.²² For Minnesota alone, LTD Broadband received over \$300 million to serve more than 100,000 locations. The Department urges the Commission to take note of the large number of customers that will be in LTD Broadband's service area and require that LTD Broadband ensure that low income residents are aware of the opportunity to receive a discount on their service through information on the company's website, at minimum.

In the case of two very small companies: Northern and Wilderness Valley, there is no website at all. Northern received over \$390,000 in federal support from the FCC in 2019.²³

Outdated information. Several companies had outdated information on their websites.²⁴ Most commonly, a credit of \$7.25 per month credit for voice-only service, rather than a \$5.25 credit, was still on company websites. Companies may be in the process of updating their websites but should be encouraged to do so promptly.

Outdated income limits for Lifeline eligibility. With the poverty guideline being updated annually, some carriers neglect to revise their websites with the updated income limits. Among the carrier websites needing such updates are those of Bevcom's affiliates (of which there are seven in Minnesota), Halstad Telephone Company, and the three affiliates of Park Region Mutual Telephone Company. In addition, some carriers, such as Paul Bunyan Rural Telephone Company have failed to update the income limits on one of their Lifeline brochures.

V. SUMMARY

The Universal Service Fee for the first quarter of 2021 will be 31.8% of interstate end user revenue.²⁵ Subscribers are paying a significant percentage of their telecommunications bill to allow companies to receive subsidies to serve high cost areas and customers who are low-income.²⁶ The law requires

²¹ https://auctiondata.fcc.gov/public/projects/auction903/reports/winning_bidders.

²² https://auctiondata.fcc.gov/public/projects/auction904/reports/winning_bidders.

²³ <https://apps.usac.org/hc/tools/disbursements/default.aspx>

²⁴ As of December 29, 2020, the Department found outdated information on the websites and in the documentation submitted by the following carriers as in filings made in the current docket: Bevcomm affiliates (including Easton, Eckles, Granada, Lonsdale, Blue Earth Valley, Cannon Valley, and Pine Island Telephone Companies), Dunnell, Farmers Mutual, Federated Coop, Halstad, Manchester – Hartland, Northern, Paul Bunyan Rural, and Wilderness Valley Telephone Companies and Winnebago Cooperative Telephone Association.

²⁵ <https://www.fcc.gov/general/contribution-factor-quarterly-filings-universal-service-fund-usf-management-support>

²⁶ See: [Who Must Contribute - Universal Service Administrative Company \(usac.org\)](https://www.usac.org/who-must-contribute) for a list of the providers and services that must contribute.

these recipients of federal subsidies to advertise and make available Lifeline service. As of November 30, 2020, of the 52 parent companies that receive high cost support, the Department found that only 16 are offering Lifeline service with proper advertising, based primarily on a review of the websites. Seven companies did not file comments and 36 companies had one or more corrections needed with respect to references with their Lifeline offerings.²⁷

Websites are a necessary and significant means to communicate about Lifeline service. In too many instances, websites are not updated for qualifying programs, credit amounts, and the distinction between broadband/Internet and voice services. The Department recognizes that keeping websites updated is a continuous challenge. Working together, companies and the regulatory agencies can make voice and Internet services more readily available to qualifying customers. Receptivity to new ideas for communicating and diligence in keeping informed of changes are essential in maximizing Lifeline benefits to customers.

The Department appreciates the opportunity to look at the offerings of the companies who responded to the Commission's Request for Comments. As the offerings of telecommunications evolve and as new companies apply for ETC status, a listing of best practices will serve Minnesota well. Under P999/PR-21-8, the Commission will be asked to recertify high cost ETCs that appropriately use the money they received from the FCC. This proceeding will help the Commission in making that decision. As the FCC noted: "Congress made states—not the Commission—primarily responsible for designating ETCs. And States have vigorously exercised their oversight authority to combat waste, fraud, and abuse in the Lifeline program."²⁸

VI. COMMISSION OPTIONS

The Commission has a few paths it may choose to take. Under P999/PR-21-8, the Commission will be asked to recertify high cost ETCs that appropriately use the money they received from the FCC. This proceeding may assist the analysis at that time. In the meantime, the Department offers the following options for the Commission:

1. Best Practices.
 - a. The Commission may decide best practices and notify companies that it will be looking for companies to follow all or substantially all the practices as it reviews the companies' 481 filings in Docket No. P999/PR-21-8.
 - b. Alternatively, the Commission may refer the issue of best practices to a working group for further consideration.
 - c. The Commission may choose to make no order regarding best practices.

²⁷ The six non-filing companies are included in the 36 companies that need corrections to their offering.

²⁸ *In the Matter of Lifeline and Link Up Reform and Modernization, et.al.*, WC Dockets 17-287, 11-42, 09-197. Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking. November 14, 2019 ¶128.

2. Websites.

- a. The Commission may determine that while websites are not to be a sole means of advertising, websites are necessary. Therefore, all companies shall offer webpages that correctly show all income and other requirements and contain the correct rates. Information must be reachable within 3 clicks of the company's home page and Lifeline information must be easily searchable.
- b. Alternatively, the Commission may refer the issue of requiring websites and the requirements concerning those websites to a working group for further consideration.
- c. The Commission may choose to make no order regarding websites.

VII. DEPARTMENT RECOMMENDATION

The Department recommends 1.a. and 2.a.

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