



Victoria Government Gazette

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SPECIAL

Office of the Regulator-General Act 1994

NOTICE OF SPECIAL REFERENCE UNDER PART 4A

Citipower Pty Ltd ACN 064 651 056

To: The Office of the Regulator-General
1 Floor, 35 Spring Street
Melbourne

WHEREAS:

- (1) pursuant to the provisions of Part 4A of the **Office of the Regulator-General Act 1994** ("the Act") the Minister administering the **Electricity Industry Act 2000** may, by written notice, refer any matter relating to a regulated industry to the Office of the Regulator-General ("the Office") for the Office to conduct an investigation into that matter;
- (2) by virtue of section 12 of the **Electricity Industry Act 2000** and section 3 of the Act, the electricity industry is a regulated industry for the purposes of Part 4A;
- (3) the Hon Candy Broad, Minister for Energy and Resources, and Ports ("the Minister") is the Minister administering the **Electricity Industry Act 2000**;
- (4) Citipower Pty Ltd ACN 064 651 056 ("the retailer") is the holder of a licence to sell electricity issued pursuant to Part 2 of the **Electricity Industry Act 2000**;
- (5) pursuant to section 13 of the **Electricity Industry Act 2000** the Governor in Council may, by Order published in the Government Gazette, regulate, in such manner and in relation to such period as the Governor in Council thinks fit, tariffs for the sale of electricity to prescribed customers or a class of prescribed customers;
- (6) an order under section 13 of the **Electricity Industry Act 2000** may be made in respect of customers or classes of customers of the retailer;
- (7) on 3 November 2000 the retailer published in the Victoria Government Gazette (Special Gazette No S 162) tariffs for the supply and sale of electricity to domestic and small business customers and deemed customers to apply from 4 January 2001 (this gazettal replacing an earlier gazettal of tariffs applying from 1 January 2001 published on 31 October 2000 in Special Gazette No S 156);
- (8) the tariffs published on 3 November 2000 did not result in any increase (in real terms) in tariffs for both domestic and small business customers and deemed customers as compared with the tariffs payable by those customers immediately before 1 January 2001;
- (9) the retailer has given notice that it is intending to publish in the Victoria Government Gazette new tariffs to apply from 1 August 2001;

NOW THEREFORE, the Minister HEREBY refers to the Office the following matter for the Office to investigate in accordance with the terms of reference specified below and subject to the directions given in this notice:

Definitions:

In this notice:

- (a) "base period" means the period commencing 1 January 2000 and ending 31 December 2000;
- (b) "deemed customer" means a person for whom there is deemed to be a contract in force pursuant to section 37 of the **Electricity Industry Act 2000**;
- (c) "domestic and small business customer" has the meaning given it by the Order in Council made under section 169A(5) of the **Electricity Industry Act 1993** dated 19 September 2000 and published in the Victoria Government Gazette on 21 September 2000;

- (d) “franchise fee amount” means an amount payable by the retailer prior to 1 July 2001 by way of impost as determined by the Order in Council made under section 163A of the **Electricity Industry Act 1993** and published in the Victoria Government Gazette on 28 November 1995;
- (e) “Maximum Uniform Tariff” has the meaning given it by the Victorian Electricity Supply Industry Tariff Order 1995, as in force immediately before 1 January 2001;
- (f) “retailer’s proposed increase in tariffs” means the proposed increase in tariffs that the retailer has given notice of and publishes (or is intending to publish) in the Victoria Government Gazette.

Terms of Reference:

The following are the terms of reference for the investigation specified pursuant to section 34A of the Act:

- (a) The Office is to investigate and report on the retailer’s proposed increase in tariffs;
- (b) In its investigation, the Office is to identify in relation to customers of the retailer that are affected, or may be affected, by the retailer’s proposed increase in tariffs:
 - (i) the change in the retailer’s costs, and/or in the retailer’s projected or anticipated costs, in dollars per MWh, of purchasing electricity for those customers as between the base period and each of the following periods:
 - A from 1 January 2001 to the date of publication of this notice in the Gazette or 30 June 2001, whichever is the earlier;
 - B from the end of the period specified in the immediately preceding sub-paragraph to 31 December 2001; and
 - C from 1 January 2002 to 31 December 2002; and
 - (ii) in relation to a change in the retailer’s costs and/or in the retailer’s projected or anticipated costs identified under paragraph (i), for each of the periods specified above as compared with the base period, any countervailing effect (and the actual or estimated amount thereof) arising from the following:
 - A the change in the retailer’s costs, and/or retailer’s projected or anticipated costs, in dollars per MWh, of purchasing the distribution services in respect of which the Office made a determination on 1 December 2000 in its 2001 electricity distribution price review Re-Determination;
 - B the change in the franchise fee amount, if any, in dollars per MWh, payable by the retailer; and
 - C any other relevant fact or matter identified by the Office; and
 - (iii) the extent to which (if at all), for each of the periods specified above as compared with the base period, the change(s) identified in paragraph (i) are, or may be, offset (in whole or in part) by the countervailing effect(s) identified in paragraph (ii); and
 - (iv) the extent to which (if at all) the increases over and above the tariffs published in the Victoria Government Gazette on 3 November 2000, to be made by the retailer’s proposed increase in tariffs, reflect in amount and proportion, for each of the periods specified above as compared with the base period, the changes identified in paragraph (i) as offset in whole or in part (if at all) by the countervailing effect(s) identified in paragraph (ii);
- (c) In calculating or estimating a cost, tariff, effect, or amount for the purposes of this reference, the Office may use the customer numbers and the quantity or quantities of electricity usage that it considers appropriate in the circumstances; and
- (d) Notwithstanding anything to the contrary in the preceding provisions of these terms of reference, the Office may, if it thinks that there is, or is likely to be an inadequacy or

insufficiency of information or in the timely gathering thereof, limit its investigation so that the period from 1 January 2002 to 31 December 2002 is excluded from consideration or is otherwise dealt with in a summary or limited manner.

Directions:

The following directions are given pursuant to section 34A of the Act:

- (a) the Office shall conduct its investigation and submit its report in final form to the Minister no later than 13 July 2001;
- (b) a copy of the Office's report in draft shall be made available to both the Minister and the retailer for comment no later than 6 July 2001;
- (c) in conducting the investigation and preparing its report, the Office shall have specific regard to:
 - (i) the provisions of section 13 of the **Electricity Industry Act 2000**;
 - (ii) any projected or actual stages in introduction of effective full retail competition for both domestic and small business customers and deemed customers;
 - (iii) the Maximum Uniform Tariffs that were previously payable by those customers;
 - (iv) variations in wholesale electricity prices;
 - (v) any contracting or hedging strategies that the retailer has to date, or might have to date, or might in the future put in place to limit its exposure to variations in wholesale electricity prices to thus either avoid increasing tariffs or limit the amount and extent of any such increase; and
 - (vi) the facts and information specified in the schedule to this reference as well as any other facts and information the Office, in its absolute discretion, thinks relevant;
- (d) in conducting the investigation and preparing its report, the Office is not required to hold public hearings, public seminars or workshops but may receive and consider such written submissions as it thinks appropriate and to that end it shall advertise to call for written submissions to be lodged no later than 14 days from the date of publication in the Victoria Government Gazette of this notice. For the avoidance of doubt, this direction does not limit (and is not to be taken as limiting) the Office in the exercise of its powers under section 34D of the Act at any time during or for the purposes of the investigation; and
- (e) in performing its functions and exercising its powers in relation to the investigation and report, the Office is to have regard to the following objectives:
 - (i) that there be prevention of actual or potential misuse of monopoly or market power;
 - (ii) that tariffs of both domestic and small business customers and deemed customers are not unduly volatile; and
 - (iii) the requirement that the investigation be conducted and completed as expeditiously and efficiently as possible.

Dated 31 May 2001

HON CANDY BROAD

Minister for Energy and Resources, and Ports

Minister administering the **Electricity Industry Act 2000**

Schedule

1. past, present and projected retail tariffs (including the Maximum Uniform Tariffs);
2. past, present and projected transmission and distribution tariffs;
3. past, present and projected excluded services charges (being the charges levied pursuant to clause 5.7 of the Tariff Order);
4. contract market energy prices for 2000, 2001 and 2002 – flat energy purchasing costs;
5. contract market energy prices for 2000, 2001 and 2002 – time weighted energy purchasing costs;

6. past, present and projected retail load shaping and risk/market management add-on costs;
7. past, present and projected energy loss factors to be applied to delivered sales volumes to calculate necessary purchase volumes;
8. past, present and projected summary level retail service costs;
9. for each retail tariff, the past, present and projected average usage per tariff component and the past, present and projected customer numbers.

Notes to schedule:

- (i) in this schedule, "Tariff Order" has the meaning given it by section 3 of the **Electricity Industry Act 2000**;
- (ii) the list in this schedule represents facts and information, either in the public domain or in the possession, custody or control of the retailer, that is likely to be of relevance to the investigation and report.

Office of the Regulator-General Act 1994

NOTICE OF SPECIAL REFERENCE UNDER PART 4A

Powercor Australia Ltd ABN 89 064 651 109

To: The Office of the Regulator-General
1 Floor, 35 Spring Street
Melbourne

WHEREAS:

- (1) pursuant to the provisions of Part 4A of the **Office of the Regulator-General Act 1994** ("the Act") the Minister administering the **Electricity Industry Act 2000** may, by written notice, refer any matter relating to a regulated industry to the Office of the Regulator-General ("the Office") for the Office to conduct an investigation into that matter;
- (2) by virtue of section 12 of the **Electricity Industry Act 2000** and section 3 of the Act, the electricity industry is a regulated industry for the purposes of Part 4A;
- (3) the Hon Candy Broad, Minister for Energy and Resources, and Ports ("the Minister") is the Minister administering the **Electricity Industry Act 2000**;
- (4) Powercor Australia Ltd ABN 89 064 651 109 ("the retailer") is the holder of a licence to sell electricity issued pursuant to Part 2 of the **Electricity Industry Act 2000**;
- (5) pursuant to section 13 of the **Electricity Industry Act 2000** the Governor in Council may, by Order published in the Government Gazette, regulate, in such manner and in relation to such period as the Governor in Council thinks fit, tariffs for the sale of electricity to prescribed customers or a class of prescribed customers;
- (6) an order under section 13 of the **Electricity Industry Act 2000** may be made in respect of customers or classes of customers of the retailer;
- (7) on 13 December 2000 the retailer published in the Victoria Government Gazette (Special Gazette No S 187) tariffs for the supply and sale of electricity to domestic and small business customers and deemed customers to apply from 11 February 2000 (sic) (this gazettal replacing an earlier gazettal of tariffs applying from 25 January 2001 published on 27 November 2000 in Special Gazette No S 176 which in turn replaced a gazettal of tariffs applying from 1 January 2001 published on 31 October 2000 in Special Gazette No S 156);
- (8) on 19 December 2000 an Order in Council was made under section 158AA of the **Electricity Industry Act 1993** regulating the tariffs that the retailer may charge both domestic and small business customers and deemed customers in the period 1 January 2001 to 9 February 2001;

- (9) the tariffs published on 13 December 2000 did not result in any increase (in real terms) in tariffs for both domestic and small business customers and deemed customers as compared with the tariffs payable by those customers immediately before 1 January 2001;
- (10) the retailer has given notice that it is intending to publish in the Victoria Government Gazette new tariffs to apply from 1 August 2001 that would result in an increase in tariffs (in real terms) for both domestic and small business customers and deemed customers as compared with the tariffs payable by those customers immediately before 1 January 2001;

NOW THEREFORE, the Minister HEREBY refers to the Office the following matter for the Office to investigate in accordance with the terms of reference specified below and subject to the directions given in this notice:

Definitions:

In this notice:

- (a) "base period" means the period commencing 1 January 2000 and ending 31 December 2000;
- (b) "deemed customer" means a person for whom there is deemed to be a contract in force pursuant to section 37 of the **Electricity Industry Act 2000**;
- (c) "domestic and small business customer" has the meaning given it by the Order in Council made under section 169A(5) of the **Electricity Industry Act 1993** dated 19 September 2000 and published in the Victoria Government Gazette on 21 September 2000;
- (d) "Maximum Uniform Tariff" has the meaning given it by the Victorian Electricity Supply Industry Tariff Order 1995, as in force immediately before 1 January 2001;
- (e) "retailer's proposed increase in tariffs" means the proposed increase in tariffs that the retailer has given notice of and publishes (or is intending to publish) in the Victoria Government Gazette.

Terms of Reference:

The following are the terms of reference for the investigation specified pursuant to section 34A of the Act:

- (a) The Office is to investigate and report on the retailer's proposed increase in tariffs;
- (b) In its investigation, the Office is to identify in relation to customers of the retailer that are affected, or may be affected, by the retailer's proposed increase in tariffs:
 - (i) the change in the retailer's costs, and/or in the retailer's projected or anticipated costs, in dollars per MWh, of purchasing electricity for those customers as between the base period and each of the following periods:
 - A from 1 January 2001 to the date of publication of this notice in the Gazette or 30 June 2001, whichever is the earlier;
 - B from the end of the period specified in the immediately preceding sub-paragraph to 31 December 2001; and
 - C from 1 January 2002 to 31 December 2002; and
 - (ii) in relation to a change in the retailer's costs and/or in the retailer's projected or anticipated costs identified under paragraph (i), for each of the periods specified above as compared with the base period, any countervailing effect (and the actual or estimated amount thereof) arising from the following:
 - A the change in the retailer's costs, or in the retailer's projected or anticipated costs, in dollars per MWh, of purchasing the distribution services in respect of which the Office made a determination on 1 December 2000 in its 2001 electricity distribution price review Re-Determination; and
 - B any other relevant fact or matter identified by the Office; and
 - (iii) the extent to which (if at all), for each of the periods specified above as compared with the base period, the change(s) identified in paragraph (i) are, or may be, offset (in whole or in part) by the countervailing effect(s) identified in paragraph (ii); and

- (iv) the extent to which (if at all) the increases over and above the tariffs published in the Victoria Government Gazette on 13 December 2000, to be made by the retailer's proposed increase in tariffs, reflect in amount and proportion, for each of the periods specified above as compared with the base period, the changes identified in paragraph (i) as offset in whole or in part (if at all) by the countervailing effect(s) identified in paragraph (ii);
- (c) In calculating or estimating a cost, tariff, effect, or amount for the purposes of this reference, the Office may use the customer numbers and the quantity or quantities of electricity usage that it considers appropriate in the circumstances; and
- (d) Notwithstanding anything to the contrary in the preceding provisions of these terms of reference, the Office may, if it thinks that there is, or is likely to be an inadequacy or insufficiency of information or in the timely gathering thereof, limit its investigation so that the period from 1 January 2002 to 31 December 2002 is excluded from consideration or is otherwise dealt with in a summary or limited manner.

Directions:

The following directions are given pursuant to section 34A of the Act:

- (a) the Office shall conduct its investigation and submit its report in final form to the Minister no later than 13 July 2001;
- (b) a copy of the Office's report in draft shall be made available to both the Minister and the retailer for comment no later than 6 July 2001;
- (c) in conducting the investigation and preparing its report, the Office shall have specific regard to:
 - (i) the provisions of section 13 of the **Electricity Industry Act 2000**;
 - (ii) any projected or actual stages in introduction of effective full retail competition for both domestic and small business customers and deemed customers;
 - (iii) the Maximum Uniform Tariffs that were previously payable by those customers;
 - (iv) variations in wholesale electricity prices;
 - (v) any contracting or hedging strategies that the retailer has to date, or might have to date, or might in the future put in place to limit its exposure to variations in wholesale electricity prices to thus either avoid increasing tariffs or limit the amount and extent of any such increase; and
 - (vi) the facts and information specified in the schedule to this reference as well as any other facts and information the Office, in its absolute discretion, thinks relevant;
- (d) in conducting the investigation and preparing its report, the Office is not required to hold public hearings, public seminars or workshops but may receive and consider such written submissions as it thinks appropriate and to that end it shall advertise to call for written submissions to be lodged no later than 14 days from the date of publication in the Victoria Government Gazette of this notice. For the avoidance of doubt, this direction does not limit (and is not to be taken as limiting) the Office in the exercise of its powers under section 34D of the Act at any time during or for the purposes of the investigation; and
- (e) in performing its functions and exercising its powers in relation to the investigation and report, the Office is to have regard to the following objectives:
 - (i) that there be prevention of actual or potential misuse of monopoly or market power;
 - (ii) that tariffs of both domestic and small business customers and deemed customers are not unduly volatile; and
 - (iii) the requirement that the investigation be conducted and completed as expeditiously and efficiently as possible.

Dated 31 May 2001

HON CANDY BROAD

Minister for Energy and Resources, and Ports

Minister administering the **Electricity Industry Act 2000**

Schedule

1. past, present and projected retail tariffs (including the Maximum Uniform Tariffs);
2. past, present and projected transmission and distribution tariffs;
3. past, present and projected excluded services charges (being the charges levied pursuant to clause 5.7 of the Tariff Order);
4. contract market energy prices for 2000, 2001 and 2002 – flat energy purchasing costs;
5. contract market energy prices for 2000, 2001 and 2002 – time weighted energy purchasing costs;
6. past, present and projected retail load shaping and risk/market management add-on costs;
7. past, present and projected energy loss factors to be applied to delivered sales volumes to calculate necessary purchase volumes;
8. past, present and projected summary level retail service costs;
9. for each tariff type, the past, present and projected average usage per tariff component and the past, present and projected customer numbers.

Notes to schedule:

- (i) in this schedule, “Tariff Order” has the meaning given it by section 3 of the **Electricity Industry Act 2000**;
- (ii) the list in this schedule represents facts and information, either in the public domain or in the possession, custody or control of the retailer, that is likely to be of relevance to the investigation and report.

Office of the Regulator-General Act 1994**NOTICE OF SPECIAL REFERENCE UNDER PART 4A**

To: The Office of the Regulator-General
1 Floor, 35 Spring Street
Melbourne

WHEREAS:

- (1) pursuant to the provisions of Part 4A of the **Office of the Regulator-General Act 1994** (“the Act”) the Minister administering the **Electricity Industry Act 2000** may, by written notice, refer any matter relating to a regulated industry to the Office of the Regulator-General (“the Office”) for the Office to conduct an investigation into that matter;
- (2) by virtue of section 12 of the **Electricity Industry Act 2000** and section 3 of the Act, the electricity industry is a regulated industry for the purposes of Part 4A;
- (3) the Hon Candy Broad, Minister for Energy and Resources, and Ports (“the Minister”) is the Minister administering the **Electricity Industry Act 2000**;
- (4) each of Citipower Pty Ltd ACN 064 651 056, Powercor Australia Ltd ABN 89 064 651 109, Pulse Energy Pty Ltd ACN 090 538 337, TXU Electricity Ltd ABN 91 064 651 118 and AGL Electricity Ltd ABN 82 064 651 083 (“the retailers”) is the holder of a licence to sell electricity issued pursuant to Part 2 of the **Electricity Industry Act 2000**;
- (5) the Minister has referred to the Office for investigation pursuant to Part 4A of the Act proposed tariffs of certain of the retailers;
- (6) the Minister is desirous that the Office investigate and report to the Minister on options for the on-going “light-handed” review of standing offer tariffs for the sale of electricity to both domestic and small business customers and deemed customers;

NOW THEREFORE, the Minister HEREBY refers to the Office the following matter for the Office to investigate in accordance with the terms of reference specified below and subject to the directions given in this notice:

Definitions:

In this notice:

- (a) “deemed customer” means a person for whom there is deemed to be a contract in force pursuant to section 37 of the **Electricity Industry Act 2000**;
- (b) “domestic and small business customer” has the meaning given it by the Order in Council made under section 169A(5) of the **Electricity Industry Act 1993** dated 19 September 2000 and published in the Victoria Government Gazette on 21 September 2000;
- (c) “excluded services charges” means the charges for the services specified in clause 5.7 of the Tariff Order;
- (d) “objectives” means the objectives specified in the directions given below;
- (e) “principles” means the principles specified in the terms of reference set out below;
- (f) “standing offer tariffs” means the tariffs that apply to supply and sale of electricity pursuant to sections 35 and/or 37 of the **Electricity Industry Act 2000**;
- (g) “Tariff Order” has the meaning given it by section 3 of the **Electricity Industry Act 2000**.

Terms of Reference:

The following are the terms of reference for the investigation specified pursuant to section 34A of the Act.

- (a) The Office is to investigate and report on options for the on-going “light-handed” review of standing offer tariffs for the sale of electricity to both domestic and small business customers and deemed customers;
- (b) The investigation and report is to have regard to the following overarching principles:
 - (i) that effective competition is to be preferred over regulation;
 - (ii) that where regulation (in place of effective competition) is needed to achieve what would otherwise be the outcome or outcomes of effective competition (that is, where there are constraints on, or on the development of, effective competition), the form of regulation (or the outcomes, or projected outcomes, from applying that form of regulation):
 - A. should not hinder the development of effective competition;
 - B. should seek to provide outcomes that are consistent with the outcomes that could be expected under effective competition (if effective competition existed);
 - C. should be consistent with the principle of “light-handed” regulation;
 - D. should seek to avoid unnecessary duplication, reduce compliance costs and the administrative and regulatory burden on the retailers, to the greatest extent possible; and
 - E. should be consistent with other relevant regulatory regimes, in particular with the current regime for regulation of excluded service charges.

Directions:

The following directions are given pursuant to section 34A of the Act:

- (a) the Office shall conduct its investigation and shall submit its report in final form to the Minister no later than 30 September 2001;
- (b) if the Office identifies more than one option as suitable in all the circumstances, the Office shall rank the options in order of preference;

- (c) for any (or each) option so identified, the Office shall list attributes and detriments having regard to the principles and objectives;
- (d) a copy of the report of the Office in draft shall be made available to both the Minister and the retailers for comment no later than 14 September 2001;
- (e) in conducting its investigation and preparing its report, the Office shall have specific regard to:
 - (i) the provisions of section 13 of the **Electricity Industry Act 2000**, in particular that pursuant to section 13, Orders in Council may be made to regulate standing offer tariffs and that in such a case, the output of any option for ongoing “light-handed” review of those tariffs may become a relevant input to be considered in the exercise of powers under that section or under any Order in Council made under that section;
 - (ii) any projected or actual stages in introduction of effective full retail competition for both domestic and small business customers and deemed customers;
 - (iii) variations in wholesale electricity prices;
 - (iv) variations in any other input cost that the Office, in its absolute discretion, considers relevant;
 - (v) any possible contracting or hedging strategies that have to date, or might have to date, or might in the future be put in place to limit a retailer's exposure to variations in wholesale electricity prices or other input costs to thus either avoid increasing tariffs or limit the amount and extent of any such increase;
 - (vi) the contents of any other investigation and report that the Office has completed under Part 4A of the Act in respect of the tariffs payable by domestic and small business customers and/or deemed customers; and
 - (vii) any other facts and information the Office, in its absolute discretion, thinks relevant;
- (f) in conducting the investigation and preparing its report, the Office may, if it thinks fit, hold public hearings, public seminars or workshops and may receive and consider such written submissions as it thinks appropriate and to that end it shall advertise to call for written submissions to be lodged no later than 14 days after the date of publication in the Victoria Government Gazette of this notice. For the avoidance of doubt, this direction does not limit (and is not to be taken as limiting) the Office in the exercise of its powers under section 34D of the Act at any time during or for the purposes of the investigation; and
- (g) in performing its functions and exercising its powers in relation to the investigation and report, the Office is to have regard to the following objectives:
 - (i) that there be prevention of actual or potential misuse of monopoly or market power especially in respect of domestic and small business customers and/or deemed customers in the period that there is not effective full retail competition for those customers;
 - (ii) that any option should as far as possible replicate the outcomes of a competitive market;
 - (iii) that any option should facilitate the maintenance of a financially viable electricity supply industry and in particular, that no option should be adopted that puts a retailer in a position whereby it is “trapped” (without being able to have recourse to suitable and cost-effective hedging or contracting measures) between variable wholesale electricity prices and invariable retail tariffs;
 - (iv) that any option should minimize regulatory involvement in approval of retail tariffs and that as such an option that gives retailers clear guidelines against which they can fix or vary their tariffs is to be preferred over an option that does not have such guidelines and/ or which requires lengthy or detailed regulatory approvals before tariffs can be fixed or varied;

- (v) that any option should limit or eliminate review of prices in circumstances where domestic and small business customers and/or deemed customers, in response to market signals, move off standing offer tariffs thereby taking tariffs on, and determined by, the market; and
- (vi) the requirement that the investigation be completed as expeditiously and efficiently as possible.

Dated 31 May 2001

HON CANDY BROAD
Minister for Energy and Resources, and Ports
Minister administering the **Electricity Industry Act 2000**

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