



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE PETITION OF SOUNDVIEW	)	DECISION AND ORDER
PAPER COMPANY, LLC TO MODIFY THE ELECTRIC	)	
AND NATURAL GAS SOCIETAL BENEFITS CHARGE	)	
DUE TO CHANGED CIRCUMSTANCES	)	BPU DOCKET NOS. ER19070812
	)	and GR19070813

**Parties of Record:**

**Kenneth R. Stark, Esq.**, McNeese, Wallace & Nurick, LLC on behalf of Soundview Paper Company, LLC  
**Stefanie A. Brand, Esq.**, Director, Division of Rate Counsel  
**Justin Incardone, Esq.**, Associate General Regulatory Counsel, Public Service Electric and Gas Company

BY THE BOARD:

**BACKGROUND**

On February 9, 1999, the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-1 to 3-46, N.J.S.A. 48:3-49, 48:3-98 and N.J.S.A. 48:3-51, -57, -59, -60, -63, 65 and -66, was enacted. L. 1999, c. 23, § 66. Among other provisions, EDECA established the Societal Benefits Charge ("SBC") at N.J.S.A. 48:3-60. The SBC constitutes a per unit charge billed to ratepayers by an electric or gas public utility at a level determined by the New Jersey Board of Public Utilities ("Board") in accordance with N.J.S.A. 48:3-60. The total amount of the SBC paid by each commercial or industrial ratepayer constitutes its SBC liability, and a portion of those remittances fund the New Jersey Clean Energy Program ("CEP").

### **2010 Discount Contract Proceeding**

In 2010, the Board conducted and completed a proceeding in which it examined the standards applicable to gas distribution rate discounts and associated terms and conditions.<sup>1</sup> In the Discount Contract Order, the Board noted that nothing in N.J.S.A. 48:3-60(a) shows a legislative intent that the SBC be applied to all customers at the same level, and in practice the SBC charge varies between the utilities.

By Order<sup>2</sup> dated November 16, 2015, the Board approved a Rate Schedule Contract Service Gas ("CSG") Transportation Service Agreement ("CSG Agreement") between Soundview Paper Company, LLC ("Soundview" or "Petitioner") and Public Service Electric and Gas Company ("PSE&G") for a term of seven (7) years. In the 2015 Gas SBC Order, the Board approved a discount of the SBC associated with Soundview's natural gas distribution service. Under the discount, Soundview was required to pay only the CEP portion of the SBC. The CSG Agreement and discounted SBC expire on December 1, 2022.

By Order<sup>3</sup> dated December 18, 2018, the Board approved a discounted SBC for the electric usage of Soundview. The 2018 Electric SBC Order approved a fifty percent (50%) reduction to Soundview's electric SBC obligations. The fifty percent (50%) electric SBC reduction also expires on December 1, 2022. The Joint Position approved by the 2018 Electric SBC Order included a condition wherein Soundview's committed to not withdraw funds from the CEP while the SBC reduction was in effect.

### **July 2019 Petition**

On July 12, 2019, Soundview filed a petition ("2019 Soundview SBC Petition") seeking to modify the Board's existing orders governing the SBC paid by Soundview at its Marcal Mill in Elmwood Park, New Jersey for electric and gas service provided by PSE&G. In the 2019 Soundview SBC Petition, Soundview sought a ninety percent (90%) reduction of the SBC associated with the electric and natural gas distribution service it receives at the Marcal Mill through December 2022.

Additionally, Soundview indicated that it is considering applying for funds for a natural gas fired cogeneration unit. Accordingly, Soundview sought the elimination of the condition that restricts it from withdrawing any SBC funds during the time in which the SBC reduction is in effect. The potential cogeneration unit would likely not be up and running for at least two (2) years.

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<sup>1</sup> In re a Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts and Associated Contract Terms and Conditions, Docket Nos. GR10100761 and ER10100762 (August 18, 2011) ("Discount Contract Order").

<sup>2</sup> In re the Petition of Soundview Paper, LLC for Approval of a Rate Schedule CSG Transportation Service Agreement Between Public Service Electric and Gas Company and Soundview Paper Company, LLC AND In re Rate Schedule CSG Transportation Service Agreement Between Public Service Electric and Gas Company and Marcal Manufacturing, LLC and the Potential Discount of Social Benefits Charge, BPU Docket Nos. GR14111287 and GR15060659, Order dated November 16, 2015.

<sup>3</sup> In re the Petition Soundview Paper Company, LLC Approval of a Reduction of the Societal Benefits Charge, BPU Docket No. ER18070706, Order dated December 18, 2018.

Soundview requested expedited review and processing of the 2019 Soundview SBC Petition due to the limited amount of time it has to make a final decision regarding whether permanently restarting operations in New Jersey is economically viable.

On July 19, 2019, PSE&G, an electric and gas public utility, filed a motion to intervene pursuant to N.J.A.C. 1:1-16.1. By Order dated September 11, 2019, the Board granted PSE&G's motion to Intervene. The Board also admitted Robert A Weishaar, Jr., Esq. pro hac vice on behalf of Soundview.

Soundview and Board Staff (collectively, "Signatory Parties") executed a Joint Position ("Joint Position"), which Soundview filed with the Board on September 13, 2019. The Joint Position<sup>4</sup> provides for the following:

1. Soundview will receive a 75% discount of the total SBC rate that is billed by PSE&G to Soundview for electric service.
2. Soundview's revised SBC rate for electric service will become effective on October 1, 2019, or on a date specified by the Board, and will continue in effect until the conclusion of Soundview's existing 50% electric SBC discount in BPU Docket No. ER18070706 on December 1, 2022. If Soundview determines the need for an uninterrupted extension of the reduced SBC rate based on substantially similar financial conditions underlying Soundview's SBC Petitions before the Board, Soundview will file a new petition in advance of December 1, 2022.
3. Soundview will receive a 75% discount of the total SBC rate that is billed by PSE&G to Soundview for natural gas service.
4. Soundview's revised SBC rate for natural gas service will become effective on October 1, 2019, or on a date specified by the Board, and will continue in effect until the conclusion of Soundview's discounted Contract Gas Service agreement in BPU Docket No. GR15060659 on December 1, 2022. If Soundview determines the need for an uninterrupted extension of the reduced SBC rate based on substantially similar financial conditions underlying Soundview's SBC Petitions before the Board, Soundview will file a new petition in advance of December 1, 2022.
5. Soundview may determine that a new cogeneration facility or other clean energy project would materially improve its ability to successfully restart and maintain business operations following the catastrophic fire of January 30, 2019. As such, the Signatory Parties request the Board to grant Soundview the option to apply for CEP grants, at some point in the future, to assist with the funding of a cogeneration facility or other clean energy project while the SBC discounts are in effect. If Soundview elects to apply and then receives significant state-funded assistance for a cogeneration facility or other clean energy project, then Soundview will agree to immediately terminate the discounts for the gas and electric SBC when such cogeneration facility or other clean energy project becomes fully operational.

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<sup>4</sup> Although summarized in this Order, the detailed terms of the Joint Position are controlling, subject to the findings and conclusions of this Order.

6. The Signatory Parties respectfully request that the Board approve the Joint Position without modification, with the rate modifications set forth in the Joint Position, effective for service rendered on October 1, 2019, or a date specified by the Board. Upon approval of the Joint Position without modification, the Signatory Parties recommend that the Board close this proceeding.

### Comments

PSE&G submitted a letter indicating that it took no position on the Joint Position.

By letter dated September 27, 2019, the New Jersey Division of Rate Counsel ("Rate Counsel"), submitted comments on the Joint Position. In their comments, Rate Counsel indicated that while previous Board Orders have concluded that nothing in N.J.S.A. 48:30-4-60(a) shows a legislative intent that the SBC be applied to all customers at the same level, the criteria for approval SBC rate reductions need to be reconciled with the provisions of N.J.S.A. 48:3-60.3 governing SBC credits (which ties SBC discounts to a ratepayer's past energy efficiency expenditures) and the Board's 2012 Order implementing N.J.S.A. 48:3-60.3. (Rate Counsel Comments at 5).

While noting that Soundview has contributed to the SBC in the past, Rate Counsel asserted that the contemplated SBC rate discounts are not tied to any past energy efficiency projects funded by Soundview itself. Rate Counsel stated that there should be a linkage between credits for past energy efficiency projects and SBC discounts. (Id. at 6).

Notwithstanding the above, Rate Counsel maintained that if the Board approves the SBC rate reductions set forth in the Joint Position, certain conditions should be imposed on Soundview's access to programs funded by SBC charges. Rate Counsel asserted that Soundview's access to any SBC funds should be capped at the amount of SBC charges collected by Soundview going forward. Rate Counsel further stated that the term "significant state-funded assistance" in paragraph 5 of the Joint Stipulation should be defined as the amounts in excess of SBC collections from Soundview. Additionally, the SBC-funded projects should be limited to Soundview's paper-making production operations. (Ibid.) Finally, Rate Counsel asserted that Soundview should be required to file a petition to obtain any SBC-related funding for the contemplated cogeneration facility if and when more information is available regarding its construction. (Ibid.)

### DISCUSSIONS AND FINDINGS

In addressing the merits of the requested relief, the Board has carefully reviewed the record in this proceeding, including the Petition, the Joint Position, and the comments filed on the Joint Position. As mentioned in the Discount Contract Order, nothing in N.J.S.A. 48:3-60(a) shows a legislative intent that the SBC be applied to all customers at the same level, and in practice the SBC charge varies between the utilities. In addition, the Board re-affirms that it has the necessary authority to approve discounted SBC discount rates in appropriate circumstances.

The Board's authorization to provide discounted SBC rates covers providing such rates to avoid a loss of load. In 2014, the Board determined that a combined heat and power facility qualified for a discounted gas service rate on the basis of "other considerations" under the PSE&G gas tariff. In effect, the Board discounted the SBC applicable to gas distribution service to avoid the loss of the customer and its entire contribution to the SBC. In the Matter of Rate Schedule CSG Transportation Service Agreement Between Public Service Electric and Gas Company and

Homasote Company and the Potential Discount of Societal Benefits Charges, Order (Apr. 15, 2015) and Decision and Order Approving Gas Service Agreement, BPU Docket No. GR14030266 (Dec. 17, 2014). The Board is satisfied that the discounted SBC rate set out in the Joint Position will also benefit the State of New Jersey, and ultimately its ratepayers, by avoiding the loss of Petitioner's load. Petitioner will continue to contribute to the maintenance of PSE&G's distribution system and also make some level of contribution to the SBC. As noted by the Petitioner, to date, Soundview has not applied for or used any SBC funds.

Rate Counsel asserted that the criteria for approval SBC rate reductions need to be reconciled with the provisions of N.J.S.A. 48:3-60.3 governing SBC credits and the Board's 2012 Order implementing N.J.S.A. 48:3-60.3. In the Board's judgment, Rate Counsel's concerns are more appropriately addressed in the ongoing stakeholder proceeding was initiated by the Board in February 2019 in Docket Nos. EO19020209 and GO19020210. The Board looks forward to Rate Counsel's ongoing participation in that proceeding which will provide an opportunity for all concerned stakeholders to present their positions for the Board's consideration. However, the Board believes that under the specific facts and circumstances presented here, the Joint Position is appropriate.

Based on its review of the record, the Board **FINDS** that a discounted electric and gas SBC rate is appropriate pursuant to N.J.S.A. 48:3-60(a). The Board further **FINDS** that, for the term specified in the Joint Position, Soundview must continue to pay twenty-five percent (25%) of the electric and gas SBC charges assessed to Soundview by PSE&G.

As noted in the Joint Position, if Soundview elects to apply and then receives significant state-funded assistance for a cogeneration facility or other clean energy project, Soundview has agreed to immediately terminate the discounts for the gas and electric SBC when such cogeneration facility or other clean energy project becomes fully operational. As noted by Rate Counsel, Soundview has made combined electric and gas SBC payments of between \$1.6 million and \$2 million annually from 2007 through 2018. Soundview has obtained approximately \$420,450 in total rebates from the CEP. The Board does not believe it is necessary to impose further limits on its access to SBC funded programs at this time. Regarding Rate Counsel's request that Soundview be required to file a petition to obtain any SBC-related funding for the contemplated cogeneration facility, the Board believes its current application process is sufficient and sees no need to deviate from that. However, the Board **HEREBY DIRECTS** Soundview to notify the Director of the Division of Energy if any application is made.

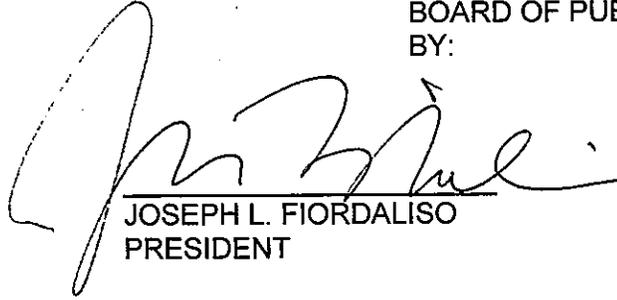
Accordingly, the Board **HEREBY ADOPTS** the Joint Position and **HEREBY INCORPORATES** its terms and conditions as if fully set forth herein, subject to any terms and conditions set forth in this Order.

Therefore, the Board **HEREBY APPROVES** the discounted electric and gas SBC rates applicable to Soundview effective for services rendered on or after October 1, 2019 through December 1, 2022.

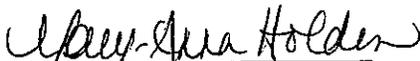
The effective date of this Board Order is September 27, 2019.

DATED: 9/27/19

BOARD OF PUBLIC UTILITIES  
BY:



JOSEPH L. FIORDALISO  
PRESIDENT



MARY-ANNA HOLDEN  
COMMISSIONER



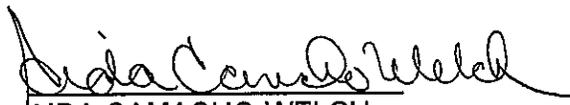
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UPENDRA J. CHIVUKULA  
COMMISSIONER



ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
AIDA CAMACHO-WELCH  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public Utilities.

IN THE MATTER OF THE PETITION OF SOUNDVIEW PAPER COMPANY, LLC TO MODIFY THE  
ELECTRIC AND NATURAL GAS SOCIETAL BENEFITS CHARGE DUE TO CHANGED  
CIRCUMSTANCES  
DOCKET NOS. ER19070812 and GR19070813

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September 13, 2019

Ms. Aida Camacho-Welch, Secretary  
Office of the Secretary  
Board of Public Utilities  
44 S. Clinton Ave., 9th Floor  
Trenton, NJ 08625

*VIA UPS*

**RE: In the Matter of The Petition Of Soundview Paper Company, LLC to Modify the  
Electric and Natural Gas Societal Benefits Charge Due to Changed Circumstances;  
Docket Nos. ER19070812/GR19070813**

Dear Office of the Secretary:

Enclosed for filing, please find a Joint Position ("Joint Position"), which has been executed by Soundview Paper Company, LLC. ("Soundview") and the Staff of the Board of Public Utilities ("Board Staff") in the above-referenced proceeding.

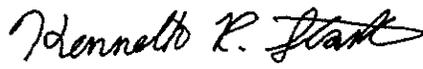
Consistent with N.J.A.C. § 14:1-4.2, hard copies of this filing are being provided to the Board. Please date-stamp one of the copies of this filing and return it to us in the enclosed, postage-paid envelope for our records.

Other parties in this proceeding will receive electronic service of the enclosed document.

Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By   
Kenneth R. Stark (NJ Bar I.D.: 003832012)

Counsel to Soundview Paper Company, LLC.  
Enclosures

c: Service List (via Email)

[www.McNeesLaw.com](http://www.McNeesLaw.com)

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**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES  
OFFICE OF ADMINISTRATIVE LAW**

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IN THE MATTER OF THE PETITION OF  
SOUNDVIEW PAPER COMPANY, LLC TO  
MODIFY THE ELECTRIC AND NATURAL  
GAS SOCIETAL BENEFITS CHARGE DUE  
TO CHANGED CIRCUMSTANCES

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**JOINT  
POSITION**

DOCKET NO. ER19070812

**Kenneth R. Stark and Robert A. Weishaar, Jr.**, McNeese Wallace and Nurick, LLC, for the Petitioner, Marcal Manufacturing, LLC d/b/a Soundview Paper Company, LLC.

**Emma Yao Xiao**, Deputy Attorney General, for the Staff of the New Jersey Board of Public Utilities (Gurbir S. Grewal, Attorney General of the State of New Jersey)

This Joint Position is hereby made and executed as of the dates indicated below, by and among the Petitioner, Marcal Manufacturing, LLC d/b/a Soundview Paper Company, LLC (“Soundview”), and the Staff of the New Jersey Board of Public Utilities (“Board Staff”) (collectively, “Signatory Parties”).<sup>1</sup>

The Signatory Parties hereby join in recommending that the Honorable New Jersey Board of Public Utilities (“Board”) issue an Order approving the Joint Position without modification based upon the following terms:

**BACKGROUND AND PROCEDURAL HISTORY**

On July 12, 2019, Soundview, pursuant to N.J.S.A. § 48:2-40(e), submitted a petition to modify the Board’s existing orders governing the Societal Benefits Charge (“SBC”) paid by Soundview at its Marcal Mill in Elmwood Park, New Jersey for electric and natural gas service

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<sup>1</sup> Public Service Electric and Gas Company (“PSE&G”) and the New Jersey Division of Rate Counsel (“Rate Counsel”) are not signatories to this Joint Position. PSE&G takes no position with respect to the Joint Position.

provided by Public Service Electric & Gas Company (“PSE&G”). Due to a unique change in circumstances – a devastating, ten-alarm fire on January 30, 2019 (“January 2019 Fire”) that destroyed 90% of the Marcal Mill’s revenue generating capacity – Soundview, pursuant to N.J.S.A. -60(a), requested that the Board determine that Soundview has demonstrated good cause to further modify the amount of the SBC associated with Soundview’s electric and natural gas usage. Given the physical and financial circumstances at Soundview’s mill, Soundview sought expedited review by the Board and requested, on a temporary and limited basis, a reduction of at least 90% of the SBC associated with the electric and natural gas distribution service it receives at the Mill. Soundview also requested elimination of the condition in the 2018 Electric SBC Order in Docket No. ER18070706 that restricts Soundview from withdrawing funds from the New Jersey Clean Energy Program (“CEP”) while any SBC discount is in effect.

On July 19, 2019, PSE&G filed a motion to intervene. In its motion to intervene, PSE&G asserted that, because Soundview is a large customer of PSE&G, Soundview’s economic viability is of significant interest to PSE&G.

In response to the Petition, on August 13, 2019, the New Jersey Division of Rate Counsel (“Rate Counsel”) issued 12 discovery requests to Soundview regarding Soundview’s Petition. On August 28, 2019, Soundview served the parties with written responses and documents to Rate Counsel’s discovery requests.

On September 11, 2019, the Board issued an Order granting PSE&G’s Motion to Intervene and Soundview’s motion for admission *pro hac vice* of Soundview attorney Mr. Weishaar.

As a result of settlement discussions, the Signatory Parties reached a Joint Position for resolving this matter.

The Signatory Parties stipulate and agree as follows:

1. Soundview will receive a 75% discount of the total SBC rate that is billed by PSE&G to Soundview for electric service.

2. Soundview's revised SBC rate for electric service will become effective on October 1, 2019, or on a date specified by the Board, and will continue in effect until the conclusion of Soundview's existing 50% electric SBC discount in BPU Docket No. ER18070706 on December 1, 2022. If Soundview determines the need for an uninterrupted extension of the reduced SBC rate based on substantially similar financial conditions underlying Soundview's SBC Petitions before the Board, Soundview will file a new petition in advance of December 1, 2022.

3. Soundview will receive a 75% discount of the total SBC rate that is billed by PSE&G to Soundview for natural gas service.

4. Soundview's revised SBC rate for natural gas service will become effective on October 1, 2019, or on a date specified by the Board, and will continue in effect until the conclusion of Soundview's discounted Contract Gas Service agreement in BPU Docket No. GR15060659 on December 1, 2022. If Soundview determines the need for an uninterrupted extension of the reduced SBC rate based on substantially similar financial conditions underlying Soundview's SBC Petitions before the Board, Soundview will file a new petition in advance of December 1, 2022.

5. Soundview may determine that a new cogeneration facility or other clean energy project would materially improve its ability to successfully restart and maintain business operations following the catastrophic fire of January 30, 2019. As such, the Signatory Parties request the Board to grant Soundview the option to apply for CEP grants, at some point in the future, to assist with the funding of a cogeneration facility or other clean energy project while the

SBC discounts are in effect. If Soundview elects to apply and then receives significant state-funded assistance for a cogeneration facility or other clean energy project, then Soundview will agree to immediately terminate the discounts for the gas and electric SBC when such cogeneration facility or other clean energy project becomes fully operational.

6. The Signatory Parties respectfully request that the Board approve this Joint Position without modification, with the rate modifications set forth herein, effective for service rendered on October 1, 2019, or a date specified by the Board. Upon approval of this Joint Position without modification, the Signatory Parties recommend that the Board close this proceeding.

7. The undersigned parties hereby agree that this Joint Position has been made exclusively for the purpose of resolving the issues in this proceeding. The Signatory Parties also agree that this Joint Position was negotiated and agreed to in its entirety, with each section being mutually dependent on approval of all other sections. Therefore, if the Board modifies any of the terms of this Joint Position, each party is given the option, before implementation of any different rates or terms in this case, to accept the change or to resume the proceeding as if no agreement had been reached. If these proceedings are resumed, each party is given the right to return to the position it was in before this Joint Position was executed.

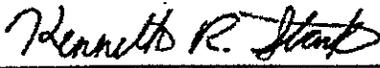
8. The Signatory Parties hereby agree that this Joint Position has been made exclusively for the purpose of this proceeding and that this settlement, in total or by specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of this Joint Position.

9. The Signatory Parties further acknowledge that a Board Order approving this Joint Position will become effective upon the service of the Board Order, or upon such date after service thereof as the Board may specify, in accordance with N.J.S.A. 48:2-40.

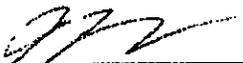
10. It is specifically understood and agreed that this Joint Position represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, Board Staff and Soundview shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein.

IN WITNESS THEREOF, the undersigned Parties do HEREBY AGREE to the form and execution of  
this Joint Position:

**SOUNDVIEW PAPER COMPANY, LLC**

By:   
Kenneth R. Stark  
McNees Wallace and Nurick LLC  
Counsel to Soundview Paper Company, LLC.

**GURBIR S. GREWAL**  
**ATTORNEY GENERAL OF NEW JERSEY,**  
**Attorney for the Staff of the New Jersey Board**  
**of Public Utilities**

By:   
Emma Yao Xiao  
Deputy Attorney General

DATED: September 13, 2019

## SERVICE LIST

In the Matter of The Petition Of Soundview Paper Company, LLC to Modify the Electric and Natural Gas Societal Benefits Charge Due to Changed Circumstances

BPU Docket No. **ER19070812/GR19070813**

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