

**New York Independent System Operator, Inc.** ) **Docket No. ER10-**

The New York Independent System Operator, Inc. (“NYISO”) respectfully submits this request for waivers of certain Federal Energy Regulatory Commission (“Commission”) Open Access Same-Time Information System (“OASIS”) posting regulations,<sup>1</sup> in addition to those that the NYISO has had in place since 1999.<sup>2</sup> The requested waivers would allow the NYISO to more efficiently use its resources and help clarify the scope of its compliance obligations. In addition, the requested waivers would put the NYISO in the same position as the California Independent System Operator Corporation (“CAISO”), which has been granted waivers of the relevant regulations for the same reasons the NYISO is now seeking them.<sup>3</sup> The NYISO requests the Commission approve the waivers without modification, suspension, or hearing.

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<sup>3</sup> See *California Independent System Operator, Corp.*, 126 FERC ¶ 61,260 (2009).

## II. BACKGROUND

### A. Differences Between the NYISO's Financial Reservation Transmission Service Model and the Pro Forma OATT Physical Reservation Transmission Service Model

Under a physical reservation transmission service design, customers expressly reserve transmission service using the available transmission capacity that remains after the needs of a transmission provider's native load is accounted for. To the extent that there is insufficient transmission capacity to support all desired uses of the grid, transmission service is allocated on a first-come, first-served basis, subject to certain priorities based on the firmness and duration of the service requested. When established long-term reservations expire, customers have a right of first refusal to retain the transmission capacity by matching competing offers for it. Physical reservation customers may choose between "Point-to-Point" service that is designed primarily for those who wish to move power from one discrete location to another and "Network Integration" service that is intended for those who want to integrate many generators and many loads at diverse locations.

The NYISO's financial reservation transmission service model for New York Control Area ("NYCA")<sup>4</sup> transactions uses location based marginal pricing ("LBMP") to manage congestion and to operate bid-based spot markets instead of the *pro forma* OATT physical reservation system. Under the NYISO's Commission-approved LBMP framework, the spot markets handle imbalances and set the price for energy and various ancillary services, on both a "day-ahead" and "real-time" basis. Transmission service is provided "implicitly" within customers' submitted bid and offers for energy via the spot markets or schedules for bilateral

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<sup>4</sup> Capitalized terms not defined herein shall have the meaning ascribed to them in the NYISO's Open Access Transmission Tariff Article 1 and Market Administration and Control Area Services Tariff ("Services Tariff") Article 2.

energy transactions. With the exception of Pre-Scheduled Transaction Requests,<sup>5</sup> transactions over Scheduled Lines,<sup>6</sup> and grandfathered transactions, the NYISO's system does not use express reservations of transmission service. Customers may schedule transactions between any two points so long as doing so is not inconsistent with a security-constrained economic dispatch.

In the NYISO's system, all desired uses of the transmission system are scheduled to the extent that customers are willing to pay congestion charges (that can be hedged using financial rights). The NYISO continuously redispatches resources connected to the NYCA grid on a security-constrained least-cost basis. Both the Point-to-Point and Network Integration Transmission Service provisions<sup>7</sup> of the *pro forma* OATT have been substantially revised in the NYISO's Commission-approved tariffs to reflect the fact that the NYISO offers these services in an LBMP context.<sup>8</sup> The NYISO's model, therefore, does not have any of the following features associated with physical reservation transmission service: (1) explicit transmission service requests; (2) transmission service reservations; (3) resales or reassignments of transmission service reservations; (4) redirects; or (5) rollover rights. The Commission has authorized the NYISO to provide financial transmission rights in lieu of

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<sup>5</sup> Pre-Scheduled Transaction Requests can be submitted in the Day-Ahead Market up to 18 months in advance of the Dispatch Day. See Services Tariff Section 4.2.1 at First Revised Sheet No. 87.03. A customer that arranges for a Pre-Scheduled Transaction obtains a priority reservation in the Day-Ahead Market. For the most part the Pre-Scheduled Transaction Request procedure has gone largely unused since its adoption and the NYISO is currently considering initiating a stakeholder process to remove these provisions from its tariffs.

<sup>6</sup> Scheduled Lines allow for Advanced Reservations, but with one exception, other RTOs/ISOs are responsible for Advance Reservation requests over such lines. See Services Tariff Attachment N Section 2 at Third Revised Sheet Nos. 568 and 569.

<sup>7</sup> The Commission accepted tariff revisions to the NYISO OATT that deleted provisions regarding resale and transfer of physical point-to-point transmission reservations because they are not relevant to the NYISO's system of financial reservations of transmission service. *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER09-984 (June 5, 2009).

<sup>8</sup> Network Integration Transmission Service is currently available under the NYISO OATT, but the NYISO has never received a request for such service. The NYISO is currently working through its stakeholder process on a filing to modify its tariff to eliminate those provisions.

physical transmission service for NYCA transactions in NYISO markets.<sup>9</sup> The Commission has found that the NYISO's services are consistent with or superior to the *pro forma* requirements.<sup>10</sup>

## **B. OASIS Regulations and Existing NYISO Waivers**

The Commission added Part 37 to its regulations in Order No. 889.<sup>11</sup> Part 37 establishes OASIS standards and communication protocols that require public utilities owning, controlling, or operating facilities used for the transmission of electric energy in interstate commerce to create or participate in an OASIS website.

As an Independent System Operator ("ISO"), the NYISO is responsible for the reliable operation of New York State's electric transmission grid in an open and transparent manner, and is therefore subject to the Commission's OASIS regulations. However, due to the differences between the NYISO's "financial reservation" based transmission model and the "physical reservation" based transmission model contemplated in Order No. 890, the NYISO requested, and the Commission granted, waivers from many OASIS regulations in 1999.<sup>12</sup>

The Commission found that the LBMP and transmission congestion contract proposals it had approved for the NYISO "differed extensively" from the *pro forma* OATT, because the

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<sup>9</sup> See, e.g., *New York Independent System Operator, Inc.*, 123 FERC ¶ 61,134 at P 13 (2008) (conditionally approving NYISO's Order No. 890 compliance filing and acknowledging the substantial differences between the NYISO's tariffs and the *pro forma* OATT related to the NYISO's use of a financial reservation model). The Commission also recognized that many ISOs and RTOs use the financial reservation models instead of the physical reservation model of the *pro forma* OATT and noted that the Commission did not intend to "upset" those market designs. See *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs., Regulations Preambles ¶ 31,241 at PP 158, 603 (2007) (Order No. 890); *order on reh'g*, Order No. 890-A, FERC Stats. & Regs., Regulations Preambles ¶ 31,261 (2007) (Order No. 890-A); *order on reh'g and clarification*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009) ("Order No. 890").

<sup>10</sup> See, e.g., *New York Independent System Operator, Inc.*, 123 FERC ¶ 61,134 at P 13 (2008) (finding "that NYISO's proposed deviations from the *pro forma* OATT... [are] consistent with or superior to the *pro forma* OATT...."), *New York Independent System Operator, Inc.*, 125 FERC ¶ 61, 274 at P 13 (2008) (same).

<sup>11</sup> *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996), *order on reh'g*, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049, *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

<sup>12</sup> *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,253 (1999) ("1999 Waiver Order").

NYISO's model does not require transmission service reservations but simply asks customers to submit schedules and indicate whether they agree to pay congestion rents to acquire Firm Transmission Service.<sup>13</sup> The Commission granted the NYISO waiver of the OASIS regulations in subsections:

- 37.6(c)(1) (posting prices and summary of the terms and conditions associated with offered transmission products);
- 37.6(c)(3) (posting of discount offers);
- 37.6(c)(4) (posting of various information related to specific transactions, including price, quantity, delivery/receipt points, length and type of service, and other information);
- 37.6(c)(5) (posting of resale offers of transmission capacity);
- 37.6(d)(1) (posting of ancillary services required to be provided or offered under the *pro forma* tariff);
- 37.6(d)(3) (posting of information associated with specific ancillary services transactions, including date/time the agreement was entered into, price, quantity, length, and type of service, etc.);
- 37.6(d)(5) (posting by entities offering ancillary services if required to be offered by the transmission provider); and
- 37.6(e)(1) (posting of all requests for transmission and ancillary services offered by the transmission provider, including requests for discounts).<sup>14</sup>

The NYISO had requested broader exemptions based on the financial nature of its transmission service model. The Commission denied them, in part, because of objections by the Enron Corporation.<sup>15</sup>

Subsequently, the NYISO requested waiver of certain ancillary OASIS regulations, including waivers of specific sections of the Standards and Communications Protocols Documents and the Uniform Business Practices Standards. The Commission largely granted the NYISO's request, finding that the waivers were "necessary to accommodate the distinctive

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<sup>13</sup> 1999 Waiver Order at 61,802-803.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

characteristics of the NYISO previously approved by the Commission.”<sup>16</sup> Most recently, the Commission’s Division of Audits in the Office of Enforcement conducted an audit of the NYISO’s compliance with the OASIS regulations under 18 C.F.R. § 37.6 (2009). The audit confirmed, with minor exceptions that the NYISO has since resolved, the NYISO’s compliance with the OASIS regulations from which it does not have waivers.<sup>17</sup>

The Commission has also granted the NYISO waivers of many inapplicable OASIS related North American Energy Standards Board (“NAESB”) Wholesale Electric Quadrant (“WEQ”) standards.<sup>18</sup>

### **III. REQUEST FOR WAIVERS**

As described above, the Commission has, in several orders, granted the NYISO waivers of OASIS regulations, and related NAESB WEQ standards, that were inapplicable to the NYISO’s operations and transmission service model. Recently, the CAISO requested, and the Commission granted, broader waivers of the OASIS regulations than those the Commission has approved for the NYISO.<sup>19</sup> The CAISO operates a financial reservation based transmission system very similar to the NYISO’s. There does not appear to be any reason why the NYISO should not be eligible for the same broad waivers that have been granted to the CAISO.

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<sup>16</sup> *New York Independent System Operator, Inc.*, 94 FERC ¶ 61,215 at 61,794 (2001) (“2001 Waiver Order”).

<sup>17</sup> *Audit of Open Access Same-Time Information System Requirements at New York Independent System Operator, Inc.*, Docket No. PA08-14-000 (August 22, 2008).

<sup>18</sup> See *New York Independent System Operator, Inc.*, 127 FERC ¶ 61,005 at P 7 (2009) (granting the NYISO’s request for waiver of certain OASIS-related NAESB WEQ standards adopted in Order No. 676-C governing resales and transfers of traditional Point-to-Point transmission reservations); *New York Independent System Operator, Inc.*, 125 FERC ¶ 61,275 at P 15 (2008) (granting NYISO’s request for waiver of various WEQ OASIS standards which were modified by Order No. 676-C, and from which the NYISO had previously been granted waiver); *New York Independent System Operator, Inc.*, 117 FERC ¶ 61,197 at PP 15-17 (2006) (granting the NYISO’s request for waiver of certain WEQ OASIS standards).

<sup>19</sup> See *California Independent System Operator, Corp.*, 126 FERC ¶ 61,260 at P 29 (2009) (finding that “the standards at issue are incompatible with the transmission services provided” under the CAISO’s tariff) (“CAISO Waiver Order”).

Therefore, by this filing the NYISO is requesting broader waivers of OASIS regulations that will put it in the same position as the CAISO, with one exception.<sup>20</sup>

As the NYISO has explained in previous waiver filings, and as the Commission has recognized in the NYISO's Order No. 890 compliance proceeding,<sup>21</sup> the NYISO does not offer *pro forma* OATT physical reservation transmission service. Therefore, many of the OASIS regulations have been found to be inapplicable to the NYISO. As the Commission recently acknowledged in its order granting waivers of a majority of the OASIS regulations to the CAISO, many of these regulations are inapplicable to the financial reservation based transmission service model.<sup>22</sup>

The CAISO operates a financial reservation based system that is modeled closely upon the NYISO's system, and the Commission has found that many of the OASIS regulations are inapplicable to the CAISO's transmission services.<sup>23</sup> For example, like the NYISO, the CAISO's system: (1) schedules energy on a day-to-day basis, with the exception of certain transactions scheduled pursuant to "existing contracts";<sup>24</sup> (2) requires users to schedule their transactions day-ahead; the NYISO does not allow such users to reserve available transmission capacity beyond the day-ahead time frame and has no long term reservations of physical

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<sup>20</sup> Note that while the CAISO requested and was granted waiver of 18 C.F.R. § 37.6(h), requiring the posting of information summarizing the proceeding of "transmission studies," the NYISO is not requesting waiver of this requirement. Although the NYISO's transmission studies and transmission study processes are fundamentally different than those contemplated under the *pro forma* OATT, the NYISO does not require a waiver because the Commission has accepted revisions to the study deadlines in the NYISO OATT that account for these differences. *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER08-1527-000 (November 4, 2008).

<sup>21</sup> See, e.g., *New York Independent System Operator, Inc.*, 123 FERC ¶ 61,134 at P 13 (2008) (conditionally approving the NYISO's Order No. 890 compliance filing and acknowledging the substantial differences between the NYISO's tariffs and the *pro forma* OATT related to the NYISO's use of a financial reservation transmission model).

<sup>22</sup> CAISO Waiver Order at P 29.

<sup>23</sup> *Id.* at PP 14, 29.

<sup>24</sup> *Id.* at P 13.

transmission capacity;<sup>25</sup> and (3) uses a bid-based, security constrained economic dispatch/redispach process to balance real-time control area requirements.<sup>26</sup> Similar to the NYISO, the CAISO's model does not have features typically associated with *pro forma* OATT transmission service, such as transmission service reservations, resales, reassignments, redirects, or rollover rights. The Commission recently granted the CAISO waivers of incompatible OASIS regulations.<sup>27</sup>

To date, the Commission has not granted the NYISO waivers of all OASIS regulations for which the CAISO has been granted waivers. Although the NYISO has complied with the OASIS regulations listed above, the NYISO is requesting expanded waivers consistent with those that have been granted to the CAISO.<sup>28</sup> Given the financial nature of the NYISO's transmission service model and the wealth of information that is posted on the NYISO's website and made available to its customers,<sup>29</sup> the NYISO submits that the effort it expends to comply with posting requirements designed for physical transmission service is not an efficient use of its resources. These waivers will also clarify the scope of the NYISO's compliance obligations as it refines its compliance programs, and maps and documents its requirements.

Therefore, the NYISO requests that the Commission grant it waivers of the following OASIS regulations:<sup>30</sup>

- **18 C.F.R. § 37.2(b)** - The NYISO does not have an explicit transmission service request process, and therefore requests waiver of this provision that requires it to:

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at P 14.

<sup>27</sup> *Id.* PP 14, 29.

<sup>28</sup> *Audit of Open Access Same-Time Information System Requirements at New York Independent System Operator, Inc.*, Docket No. PA08-14-000 (August 22, 2008).

<sup>29</sup> The NYISO submits that it provides all information necessary to its customers on its Market Information System site.

<sup>30</sup> Several of these OASIS regulations for which the NYISO is requesting waivers were adopted by the Commission in Order No. 890.



(1) provide information about available transmission capacity for point-to-point service; (2) provide a process for requesting transmission service; and (3) enable Transmission Providers and Transmission Customers to communicate promptly about requests and responses to buy and sell available transmission capacity under the Transmission Providers' process. Customers' ability to schedule transactions within New York is not limited by a pre-defined amount of available transmission capacity as under the Order No. 890 regime. Instead, the entire capacity of the New York State Transmission System is made available for both firm and non-firm service prior to the start of each day-ahead market cycle.

- **18 C.F.R. § 37.6(a)(1)** - This provision requires the NYISO allow Transmission Customers to: (1) make requests for transmission service offered by Transmission Providers, Resellers and other providers of ancillary services; (2) request the designation of a network resource; and (3) request the termination of a network resource. The NYISO does not have a formal transmission request process and requests waiver of this provision to the extent it requires the NYISO to post information relating to transmission services as contemplated in the *pro forma* OATT that it does not use. For network resources the NYISO requests waiver because while it offers this service, the service has never been used.<sup>31</sup>
- **18 C.F.R. § 37.6(a)(4)** - This provision requires the NYISO to allow Transmission Customers to identify the degree to which transmission service requests or schedules were denied or interrupted. The NYISO does not have a formal transmission request process and requests waiver of this provision.
- **18 C.F.R. § 37.6(a)(5)** - This provision requires the NYISO to allow Transmission Customers to obtain access, in electronic format, to information to support available transmission capability calculations and historical transmission service requests and schedules for various audit purposes. Since the NYISO does not have a formal transmission request process, the NYISO requests partial waiver to the extent it requires posting of information related to historical transmission service requests.
- **18 C.F.R. § 37.6(b)(1), (b)(2)(i) and (ii), and (b)(3)(i)-(iii)** - The NYISO requests waiver of these provisions that require posting firm and non-firm ATC, TTC, CBM, and TRM.<sup>32</sup> The information conveyed by NYISO's ATC postings is different than

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<sup>31</sup> The NYISO is currently working through its stakeholder process to eliminate the Network Integration Transmission Service provisions, as explained in note 8. In this request, the NYISO asks for waiver of the OASIS regulations regarding network services. However, if the Commission finds that waiver is not appropriate until those tariff provisions are eliminated, the NYISO reserves the right to seek a waiver of those provisions in the future, to be effective at the same time as the tariff revisions to eliminate Network Integration Transmission Service.

<sup>32</sup> As FERC has recognized, ATC postings in New York are advisory projections that are, with the exception of certain postings for external interfaces, calculated after the NYISO markets close, and transactions are scheduled, based on calculations performed by the NYISO's day-ahead and real-time market software. *See*, 1999 Waiver Order at 61,803. The NYISO therefore does not calculate ATC for periods further than one day ahead, except to the extent necessary to support Pre-Scheduled Transactions as explained above in note 5.

what is conveyed in traditional systems, as has been recognized by the Commission.<sup>33</sup> The NYISO does not calculate ATC values for various time intervals further in the future than one-day ahead, because the NYISO's FERC-approved market design does not allow customers to schedule transactions, or reserve transmission service, more than one-day ahead. In the NYISO's system, ATC is used only as an instantaneous indication of the existence of uncongested transmission paths. Further, the NYISO does not set-aside transmission capacity as CBM and does not make a deduction for CBM when it calculates Available or Total Transfer Capability.

- **18 C.F.R. § 37.6(b)(2)(iii)** - Waiver of this provision that requires the posting of system planning studies, facilities studies, and specific network impact studies when requested by a customer and the posting of a list of such studies. Waiver is appropriate because the NYISO does not perform such studies in the same manner contemplated under the *pro forma* OATT. Under the NYISO OATT, transmission studies are not performed to determine whether a customer will be able to receive firm transmission service. System Impact Studies and Facilities Studies are unrelated to the availability of firm transmission service and are instead a mechanism for the NYISO to analyze the potential impact of possible customer-funded transmission expansions or transmission expansions that might be constructed at their request to address reliability or operational concerns (e.g., the NYISO may need to evaluate the extent to which a potential transmission expansion could create incremental transfer capability that might result in the award of Incremental TCCs).
- **18 C.F.R. § 37.6(c)(2)** - Partial waiver, to the extent this provision requires posting information related to transmission services as contemplated in the *pro forma* OATT, because the NYISO does not have a formal transmission request model.<sup>34</sup>
- **18 C.F.R. § 37.6(d)(2) and (4)** - The NYISO procures ancillary services through the market, and does not offer discounts or enter into individual transactions. Therefore the NYISO requests waivers of these provisions requiring posting of offers for discounts of ancillary services and other interconnected operations services by Transmission Providers.
- **18 C.F.R. § 37.6(e)(2) and (3)** - The NYISO does not have a formal transmission service request model, and therefore, requests waivers of these provisions requiring posting and denials of transmission service requests and transaction curtailments or interruptions.

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<sup>33</sup> See 1999 Waiver Order at 61,803.

<sup>34</sup> The NYISO is requesting a partial waiver because it posts electronic and downloadable files of its tariffs consistent with 18 C.F.R. § 37.6(2).

- **18 C.F.R. § 37.6(f)** - The NYISO does not have transmission service schedules like those contemplated under the *pro forma* OATT, and therefore requests waiver of this provision requiring the posting of information about transmission service schedules.
- **18 C.F.R. § 37.6(g)(1), (2), (3), and (4)** - The NYISO does not provide the same transmission service contemplated by the *pro forma* OATT, and as an ISO, the NYISO is exempt from 18 C.F.R. Part 358, Standards of Conduct for Transmission Providers. The NYISO, therefore, requests waivers of these provisions that require posting of other transmission-related communications, including want ads, conferencing space, messaging service, communications by third parties, notices of transfers of personnel, and logs related to exercises of discretion.
- **18 C.F.R. § 37.6(i)(1), (2), (3), and (4)** - The NYISO does not have a formal transmission service request process and therefore does not have any grants or denials of service to report. Thus, the NYISO requests waivers of these provisions requiring the posting of data related to grants and denials of service as contemplated in the *pro forma* OATT, including metrics related to transactions by affiliates and non-affiliates.
- **18 C.F.R. § 37.6(j)(1) and (2)** - The NYISO continuously redispatches the transmission system to meet load and support requests for firm transmission service using its bid-based, security-constrained economic dispatch/redispach process and does not offer the more limited redispach services found in the *pro forma* OATT. The NYISO, therefore, requests waivers of these provisions requiring posting of offers by third parties to relieve a specified congested transmission facility and information related to redispach service.
- **18 C.F.R. § 38.2(a)(1), (2), (3), and (11)** - The NYISO requests that the Commission grant partial waivers, as consistent with the Commission's grant of waivers to the NYISO of WEQ OASIS standards, of these provisions that require compliance with Standards WEQ-001, WEQ-002, WEQ-003, and WEQ-013. Those WEQ OASIS standards establish business practices for providing, on OASIS, information related to services contemplated in the *pro forma* OATT. Although the Commission has granted the NYISO waiver from inapplicable WEQ OASIS standards, the NYISO has included these provisions of Part 38 in this request to consolidate the applicability or waiver of all OASIS regulations into one global application. Because the NYISO does not offer transmission services as contemplated under the *pro forma* OATT, the Commission has recognized that many WEQ OASIS standards based on the *pro forma* services are inapplicable to and incompatible with the NYISO's tariffs, and should be waived.

#### IV. SERVICE

This filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com). In addition, the NYISO will email an electronic link to this filing to the official representative of each of its

customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the electric utility regulatory agencies of New Jersey and Pennsylvania. The NYISO will also make a paper copy available to any interested party that requests one.

## **V. CONCLUSION**

Granting the requested waivers will allow the NYISO to clarify its compliance obligations and avoid needless expenditures of its resources to comply with physical transmission service requirements that do not apply to NYISO's financial transmission rights system. Further, if the request is granted, the NYISO will have waivers of OASIS regulations similar to those that have already been granted to the CAISO. Therefore, the NYISO respectfully requests that the Commission grant the requested waivers.

Respectfully submitted,

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