Decision 06-12-018 December 14, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas & Electric Company (U 39 E) for Adoption of Its 2007 Energy Resource Recovery Account (ERRA) Forecast Revenue Requirement and for Approval of Its 2007 Ongoing Competition Transition Charge (CTC) Revenue Requirement and Rates.	Application 06-06-001 (Filed June 1, 2006)

(See Appendix A for List of Appearances)

OPINION APPROVING PACIFIC GAS AND ELECTRIC COMPANY'S 2007 ELECTRIC RESOURCE RECOVERY ACCOUNT FORECAST

1. Summary

In this proceeding, Pacific Gas and Electric Company (PG&E) requested a 2007 Energy Resource Recovery Account (ERRA) forecast revenue requirement of $2.905 billion, 2007 ongoing Competitive Transition Charge (CTC) revenue requirement of negative $4.946 million, and approval of proposed changes to PG&E's generation rate and ongoing CTC for 2007. This overall rate proposal would result in a decrease of customer rates of $50.515 million relative to rates in effect as of June 1, 2006. We will adopt PG&E's updated forecast and require ongoing CTC be allocated on a class-specific basis for municipal departing load (MDL) customers in PG&E's next ERRA forecast proceeding.

2. Background

The purpose of this proceeding is to determine PG&E's 2007 ERRA forecast revenue requirement and ongoing CTC forecast revenue requirement and associated rates. The ERRA records fuel and purchased power billed revenues against actual recorded costs. The process includes a forecast of annual fuel and purchased power and revenue requirements for the upcoming year and a compliance review of a utility company's energy resource contract administration, least cost dispatch, and ERRA balancing account.

This proceeding will adopt estimates of PG&E's costs of (1) fuel for its own generation facilities, (2) its qualifying facilities (QF) and historic purchased power costs associated with contracts in effect prior to December 20, 1995, and (3) its new (post-energy crisis) purchased power costs, so that these costs may be incorporated into PG&E's 2007 ERRA and ongoing CTC revenue requirements and rates for 2007. Ongoing CTC costs are recovered in the Modified Transition Cost Balancing Account (MTCBA) and reflect an estimate of the above market component of PG&E's CTC-eligible contracts, developed by comparing PG&E's eligible contract costs to a "market benchmark" and then adding to that result any other CTC-eligible cost categories, such as those associated with QF restructuring. The remainder of the costs is recovered through ERRA. Ongoing CTC costs are borne by direct access and departing load customers as well as bundled customers. ERRA costs are borne only by bundled customers.

PG&E filed its application on June 1, 2006. Merced Irrigation District & Modesto Irrigation District (The Districts) jointly filed a protest to the application and served testimony. California Manufacturing and Technology Association and California Large Energy Consumers Association (CMTA/CLECA) jointly served testimony. Evidentiary Hearings were held on September 14, 2006. Briefs were filed on September 28, 2006, and reply briefs were filed on October 5, 2006.

PG&E updated the cost estimates it presented in its prepared testimony in this proceeding on November 7, 2006. The proceeding was submitted November 9, 2006.

3. PG&E'S Position

PG&E requests a 2007 ERRA forecast revenue requirement of $2.905 billion, 2007 ongoing CTC revenue requirement of negative $5 million, and approval of proposed changes to PG&E's generation/ongoing CTC rates for 2007. The overall rate proposal results in a decrease of customer rates of $50.515 million relative to rates in effect as of June 1, 2006.

PG&E forecasts its 2007 fuel costs for PG&E's power plants to be $127 million. PG&E's forecasts of its 2007 QF and historic purchased power costs are set forth on Table 4-1 of the application, and are expected to be $1.810 billion. These costs include $20.8 million of QF restructuring costs.

PG&E estimates its total 2007 "ongoing CTC-eligible" QF and historic power purchase agreement costs, including QF restructuring costs, to be $1.886 billion. PG&E has determined (based on the 2006 ERRA forecast proceeding) that the costs associated with five QF contracts are not appropriate for reflection in the MTCBA because they originated after December 20, 1995, or were negotiated in a manner that makes them ineligible for CTC recovery. Thus, PG&E states all costs associated with these contracts should be recovered through the ERRA.

PG&E states its forecast of QF restructuring costs is based on specific contract terms. The forecast is based on two restructured QF contracts that have been approved by the Commission, is the same as was presented for these costs in last year's ERRA proceeding, and is based on contract specific terms.

PG&E estimates its 2007 net new power costs (incorporating anticipated Reliability Must Run [RMR] revenues) to be $1.192 billion. These costs break down into bilateral contract costs, residual market transaction costs, California Independent System Operator (CAISO) costs, and collateral and prepayment costs. In addition, PG&E estimates RMR revenues it receives from the CAISO under agreements between PG&E and the CAISO with respect to the operation of certain of PG&E's power plants to support the reliability of the transmission system.

PG&E updated its estimates and forecasts on November 7, 2006. Under this update, PG&E's forecasted 2007 revenue requirement increases from $2.888 billion to $2.905 billion. The 2007 CTC revenue requirement decreases from $269 million to negative $4.946 million, yielding an ongoing CTC rate of $0.00.

4. The Districts' Position

The Districts contend that PG&E proposes to allocate the ongoing CTC charge for MDL customers differently from how it allocates the ongoing CTC for non-MDL customers. For direct access and bundled customers, PG&E's testimony provides for an allocation of the ongoing CTC charge using typical rate classes. However, for MDL customers, PG&E sets a single charge. The Districts' witness, Mr. Mayer, notes that this allocation impacts MDL customers, leading to "disparate rate treatment for collection of ongoing CTC of PG&E distribution and transmission customers, such as bundled, direct access customers, and community choice aggregation ('CCA') customers, on the one hand, and those who have completely 'departed' from PG&E service, such as MDL customers, on the other."[1]

Mr. Mayer noted that under PG&E's proposal, all MDL customers would pay an ongoing CTC charge of .316 cents per kilowatt hour (kWh), while there would be ten different ongoing CTC charges for PG&E non-MDL customer classes.[2] Large PG&E non-MDL customers would be charged an ongoing CTC charge ranging from .187 to .274 cents per kWh, each of which is lower than the single ongoing CTC charge proposed for MDL customers.[3] The Districts propose that the Commission require PG&E to design the ongoing CTC rate for MDL customers by customer class in this ERRA proceeding. The Districts request the Commission, at a minimum, order PG&E to allocate the ongoing CTC revenue requirement for MDL customers by class in its 2008 ERRA forecast case.

The Districts contend that PG&E failed to provide testimony justifying its projection of QF restructuring expenditures. The Districts note that PG&E had provided a data response disclosing that specific contract terms for more than one QF do exist, and that the information in the referenced testimony is aggregated, meaning it does not disclose those terms. In other words, the Districts believe PG&E's testimony provides the Commission no detail, broken down by project, to support the summary provided by PG&E.

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[1] Exhibit 100, p. 5.

[2] Exhibit 100, p. 5.

[3] Exhibit 100, pp. 5-6.

5. CLECA/CMTA Position

CLECA/CMTA raise a concern that PG&E has proposed to utilize a different market price benchmark for purposes of determining ongoing CTC in this proceeding than was adopted by the Commission for use in determination of the Direct Access cost responsibility surcharge (CRS) indifference fee. CLECA/CMTA urge the Commission to require the use of a consistent benchmark for both purposes. Dr. Barkovich, appearing for CLECA/CMTA, testified that PG&E has, for purposes of calculating ongoing CTC, utilized a market price benchmark based on the renewable portfolio standard market price referent.[4] She noted that in Decision (D.) 06-07-030, the Commission directed the utilities to utilize, for purposes of determining the CRS indifference fee, a market price benchmark based on the price of a one-year strip of forward electricity plus an adder for capacity/resource adequacy. Further, the Commission adopted the parties' joint recommendation that the same benchmark be used for both purposes of calculating the CRS indifference fee and the statutory CTC in the ERRA proceedings.[5]

Second, CLECA/CMTA raise a concern about both the timeliness and accuracy of PG&E's estimates of market prices for natural gas and spot purchases of electricity in the test period. Because these market price estimates or forecasts have an impact on the estimated ERRA revenue requirement, CLECA/CMTA urge the adoption of techniques designed to reduce the risk of using a forward price estimate that proves to be an outlier and to update the estimates at a point in time closer to the start of the test period, once again in an

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[4] Exhibit 300.

[5] See D.06-07-030, at pp. 15-16.

effort to improve the accuracy of the revenue requirement forecast. CLECA/CMTA's witness Dr. Barkovich urged the Commission to require PG&E to utilize an average of prices for 2007 taken over the entire month of October 2006.[6]

6. Discussion

The building blocks of PG&E's 2007 ERRA and ongoing CTC revenue requirements are the expected 2007 (1) costs of fuel for PG&E's own power plants, (2) purchased power costs associated with PG&E's QF and other historic purchased power agreements in effect prior to December 20, 1995, and (3) purchased power costs associated with PG&E's new (post-energy crisis) power purchase agreements. With the exception of PG&E's estimate of its QF restructuring costs, none of PG&E's forecasted cost estimates are contested. PG&E's forecast of its costs for its own power plants and for purchase power contracts costs associated with post-energy crisis power purchase agreements, as updated on November 7, 2006 are adopted.

A. Section 369 Exemption

PG&E and The Districts originally disagreed about whether new MDL served by the Districts qualifies for the Public Utilities Code Section 369 exemption from ongoing CTC charges.

During the course of the proceeding, PG&E and The Districts entered into a stipulation.[7] As a part of that stipulation, PG&E and The Districts agreed not to litigate the Section 369 exemption issue relating to new MDL served by The

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[6] Exhibit 300, at p. 5.

[7] The Stipulation is provided in Exhibit 1.

Districts in this proceeding. Without waiving its position that neither new Merced Irrigation District MDL nor new Modesto Irrigation District MDL qualifies for the section 369 ongoing CTC exemption, PG&E agrees for ratesetting purposes to revise its forecast of new MDL subject to ongoing CTC. The revised forecast is zero kWh.

In light of the stipulation, The Districts request the Commission to reference the stipulation in a finding of fact in the eventual decision, and to include an ordering paragraph that explicitly tracks paragraph B.3 of the stipulation. The Districts suggest the following wording for such an ordering paragraph:

> This decision shall not be taken to constitute a finding, conclusion, order, or any other formal pronouncement by the Commission that new municipal departing load served by the Merced Irrigation District and/or the Modesto Irrigation District is or is not, or can or cannot, be exempt from paying ongoing CTC under Public Utilities Code Section 369.

PG&E does not object to this language. We will adopt the stipulation and honor The Districts' request, as it simply allows the new MDL ongoing CTC exemption issue to be litigated in the future without prejudice.

B. QF Contract Restructuring Costs

In D.05-02-040 (pp. 6-7), we determined that QF restructuring costs should be included in their entirety in ongoing CTC costs. The Districts contend that PG&E failed to provide testimony justifying its projection of QF restructuring expenditures. While The Districts express concern about their access to PG&E's data regarding QF restructuring costs, there is no direct or indirect evidence that PG&E's costs are unreasonable. PG&E bears the burden of proving by clear and convincing evidence the reasonableness of the rates which it seeks. We have reviewed PG&E's forecast of QF restructuring costs in detail and find PG&E's costs to be reasonable. We adopt PG&E's QF cost forecast.

C. Allocation of Ongoing CTC Charge for MDL Customers

PG&E and The Districts disagree on whether the Commission's adopted approach of setting a single ongoing CTC charge for MDL customers should be modified, so that the ongoing CTC charge will vary by customer class. PG&E says it designed the ongoing CTC charge for MDL customers the same way it does for non-MDL customers. However, PG&E proposes an MDL ongoing CTC charge that is not class-specific,[8] but proposes to allocate ongoing CTC for bundled and all other non-MDL customers on a class-specific basis.[9]

PG&E points out that it used the same method that was approved by the Commission in D.05-12-045 to set the ongoing CTC for MDL customers for 2006.[10] The Districts counter that a forecast of MDL should be performed to allow for class-specific MDL ongoing CTC charge. PG&E witness Coyne agreed that such a forecast is "something that can be done"[11] but does not yet exist. Mr. Coyne testified "We could do it if we were so ordered." According to Mr. Coyne, to design class-specific ongoing CTC amounts for MDL customers,

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[8] Exhibit 2, p. 7-4, Table 7-2 shows PG&E proposed an ongoing CTC charge of $0.000 for all MDL customers.

[9] Exhibit 2, p. 7-6, Table 7-3 shows PG&E proposes to allocate ongoing CTC for bundled, DA and CCA customers by class.

[10] The Commission denied rehearing on this issue in D.06-04-041 finding that it is lawful to adopt a single ongoing CTC charge for all classes of MDL customers. The Districts correctly point out that the Commission is free to revisit this rate design issue in this ERRA proceeding.

[11] Tr., 110:24-111:5 (PG&E/Coyne).

PG&E would have to develop a forecast for test year 2007. He testified PG&E could do so for this year assuming PG&E had time from the time the Proposed Decision was issued until the late December annual true-up filing.[12] Thus, as The Districts argue, there is no reason PG&E could not construct a forecast of municipal departing load and use that forecast to allocate ongoing CTC on a class-specific basis. Mr. Coyne posited a "very slight impact"[13] that use of the direct access apportionment would have on non-MDL customers.

We find that while there is no legal requirement to allocate the ongoing CTC charge for MDL customers on a class-specific basis, it is possible and desirable for PG&E to do so. PG&E itself noted that by "paying the average ongoing CTC charge, many MDL customers pay a lower rate than they would if the charge were class-specific."[14] PG&E points out that by paying the class-specific ongoing CTC charge, residential, small to medium commercial, and agricultural customers MDL customers would pay a higher amount than if the charge were averaged over the class.[15] However, large commercial and industrial customers would pay less.[16] We find there is a benefit to providing class-specific ongoing CTC charges to MDL customers, just as PG&E charges class-specific ongoing CTC charges to other customer groups.

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[12] Tr., 111:17-21 (PG&E/Coyne).

[13] Exhibit 3, Ch. 5-3.

[14] PG&E Opening Brief, p. 14.

[15] Exhibit 3, Ch. 5-4.

[16] Districts' Opening Brief, p. 3.

As The Districts and PG&E both point out, there are technical reasons why it is difficult to allocate ongoing CTC rates for this year, and there is no record to allow us to adopt exact class-specific ongoing CTC charges for MDL customers in this proceeding. PG&E currently does not have the class-specific departing load forecasts that would be needed to set class-specific ongoing CTC charges.[17] However, as noted above, PG&E's witness testified that the forecast could be developed. We will require PG&E to design and propose class-specific ongoing CTC charges for MDL customers for use in the 2008 ERRA forecast proceeding.

D. Ongoing CTC Benchmark

PG&E has now agreed to use a consistent benchmark for determining its ongoing CTC rate in this proceeding and for use in determination of the Direct Access cost responsibility surcharge indifference fee, as called for by CLECA/CMTA. In D.06-07-030, the Commission adopted the parties' joint recommendation that the same benchmark be used for both purposes of calculating the CRS indifference fee and ongoing CTC in ERRA proceedings. The ongoing CTC and the indifference fee both relate to the calculation of the CRS for DA customers and certain departing load customers.[18] To this energy price a capacity/reliability cost estimate is added. Dr. Barkovich testified for CLECA/CMTA that, for purposes of determining the CTC rate in this proceeding, the same average of 2007 forward strip prices taken over the course

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[17] PG&E Reply Brief, p. 5.

[18] Pursuant to Decision 06-07-030, for years after 2006, the Commission's Energy Division will compile and average the daily cost quotes for one-year strips reported for the period October 1 through October 31 of the year preceding the test period in question. These power costs will be differentiated between NP 15 & SP 15, with NP 15 applied to PG&E.

of October 2006 should be used. She testified that to this figure should be added a capacity/reliability adder of $4/MWh, the same figure agreed to by the parties in the CRS proceeding. PG&E indicated that it was agreeable to this approach to the development of the ongoing CTC charge here, and utilized this approach when it updated its ERRA and CTC forecasts on November 7, 2006. We will adopt this methodology for use in this proceeding.

E. Market Price Estimates

CLECA/CMTA raised a concern about both the timeliness and accuracy of PG&E's estimates of market prices for natural gas and spot purchases of electricity in the test period. Because these market price estimates or forecasts have an impact on the estimated ERRA revenue requirement, CLECA/CMTA urge the adoption of techniques to reduce the risk of using a forward price estimate that proves to be an outlier and to update the estimates closer to the start of the test period. PG&E responded to this concern with a new proposal for obtaining market price forecasts. PG&E proposed that it use price quotes for natural gas and electricity taken from a single day that is the median price day during the week that is 45 days prior to the filing date. Further, PG&E agreed to update those prices to the single median price day during the week that is 45 days prior to a November 1 update. CLECA/CMTA agrees with PG&E's proposal, and we will adopt it.

F. MTCBA Balancing Account

The purpose of the Modified Transition Cost Balancing Account (MTCBA) is to record the revenues generated from the ongoing CTC charge and ongoing CTC costs associated with electric procurement, employee transition costs and other costs as authorized by the Commission. The MTCBA account is divided into three subaccounts: Bundled/Direct Access; Municipal Departing Load; Customer Generation Departing Load. PG&E proposes to consolidate the MTCBA subaccounts and to amortize MCTBA balances in rates over one calendar year.

In their protest, The Districts urged the Commission to reject PG&E's attempt to eliminate the MDL subaccount in the MTCBA balancing account and to amortize the MTCBA undercollection over three years. In their opening brief The Districts then stated that they take no position on PG&E's proposal to eliminate the subaccounts in the MTCBA balancing account. The Districts are concerned that a one-year amortization will have a greater impact on MDL customers, as compared to a three-year amortization. While a three-year amortization would further reduce the bill impact on customers, we have already considered the impact by amortizing the amount over twelve months instead of requiring a lump sum payment. There is no clear need for a longer amortization. We will adopt PG&E’s proposal.

In the November 7 update, PG&E forecasted the ongoing CTC revenue requirement to be negative, as positive 2007 ongoing CTC costs are more than offset by a forecasted overcollected 2006 MTCBA balance. If there is a final negative ongoing CTC revenue requirement,[19] we must address this issue as we have not done so before under these specific circumstances. PG&E proposed that the ongoing CTC component be set to be negative to amortize the negative revenue requirement. Turlock Irrigation District urges the Commission to clarify this issue, as Turlock believes its MDL customers are the only ones on whose behalf CTC payments have been made to date. Turlock wants to ensure that these customers that have already paid the CTC receive credit for those payments. The Districts do not oppose PG&E's proposal, with the understanding that all customers who are billed for CTC will receive the benefit of PG&E's negative CTC rate. We will clarify PG&E's proposal to include Turlock and The Districts' clarification. With these clarifications, we will adopt PG&E's proposal as a reasonable disposition of this issue.

7. Motion to Seal

On November 7, 2006, PG&E filed a Motion to Seal the Evidentiary Record, seeking to seal the unredacted version of PG&E's November 7, 2006, ERRA update. PG&E's motion is unopposed. We have reviewed the redacted material and grant PG&E's motion consistent with the treatment provided for in the "IOU Matrix" attached to D.06-06-066. Under the "IOU Matrix" confidential forecast information is held confidential for three years. The material PG&E requested be sealed is forecast information. The material shall be placed under seal for three years until November 7, 2009. If PG&E believes further protection is needed after that time, it may file a motion stating the justification for further

[19] It is not yet known whether the final ongoing CTC revenue requirement will be positive or negative. PG&E will file an Annual Electric True-Up Advice Letter at the end of 2006 to show a final ongoing CTC revenue requirement to be used to set 2007 electric rates.

withholding the material from public inspection at least 30 days before the expiration of this order.

8. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and Rule 14.2(a) of the Commission's Rules of Practice and Procedure. Comments were filed on December 4, 2006 by PG&E and the Districts. Reply comments were filed on December 11, 2006 by PG&E, The Districts and Turlock Irrigation District.[20] We have reviewed the comments and made general clarifications suggested by the parties.

9. Assignment of Proceeding

The assigned Commissioner is Michael R. Peevey and the assigned Administrative Law Judge is David M. Gamson.

Findings of Fact

1. PG&E and the Districts entered into a stipulation with respect to the section 369 exemption issues.

2. For 2007, PG&E forecasts $2.905 billion for: 1) costs of fuel for PG&E's owned power plants; (2) purchased power costs associated with PG&E's QF and other historic purchased power agreements in effect prior to December 20, 1995; and (3) purchased power costs associated with PG&E's new (post-energy crisis) power purchase agreements.

3. It is possible for PG&E to allocate ongoing CTC on a class-specific basis for municipal departing load customers.

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[20] Turlock Irrigation District filed a Motion for Party Status on December 11, 2006, for the purpose of filing limited reply comments. The motion is granted.

4. PG&E allocates ongoing CTC charges on a class-specific basis for non-municipal departing load customers.

5. Timely and accurate price quotes for estimates of market prices for natural gas and spot purchases of electricity in the ERRA test period reduce the risk of using a forward price estimate that proves to be an outlier.

6. MTCBA subaccounts can be eliminated and any MTCBA undercollection amortized over one year without unreasonable customer impacts.

7. PG&E's final ongoing CTC revenue requirement may be negative.

Conclusions of Law

1. PG&E's updated 2007 forecast revenue requirement for (1) costs of fuel for PG&E's owned power plants, (2) purchased power costs associated with PG&E's QF and other historic purchased power agreements in effect prior to December 20, 1995, and (3) purchased power costs associated with PG&E's new (post-energy crisis) power purchase agreements is reasonable.

2. PG&E should design and propose class-specific ongoing CTC charges for municipal departing load customers in its next ERRA forecast proceeding.

3. The stipulation between PG&E and the Districts on Section 369 issues should be adopted.

4. It is reasonable to use price quotes for natural gas and electricity taken from a single day that is the median price day during the week that is 45 days prior to the ERRA update.

5. It is reasonable to eliminate any MTCBA subaccounts and amortize the MTCBA undercollection over one year.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company's (PG&E) 2007 forecast revenue requirement for (1) costs of fuel for PG&E's own power plants, (2) purchased power costs associated with PG&E's QF and other historic purchased power agreements in effect prior to December 20, 1995, and (3) purchased power costs associated with PG&E's new (post-energy crisis) power purchase agreements, as updated on November 7, 2006, is adopted.

2. The stipulation between PG&E and The Districts on Section 369 issues is adopted.

3. This decision shall not be taken to constitute a finding, conclusion, order, or any other formal pronouncement by the Commission that new municipal departing load served by the Merced Irrigation District and/or the Modesto Irrigation District is or is not, or can or cannot, be exempt from paying ongoing competitive transition charge (CTC) under Public Utilities Code Section 369.

4. PG&E shall design and propose class-specific ongoing CTC charges for municipal departing load customers for use in its 2008 ERRA forecast proceeding.

5. PG&E shall use price quotes for natural gas and electricity taken from a single day that is the median price day during the week that is 45 days prior to the ERRA update.

6. If the final ongoing CTC revenue requirement is negative, PG&E shall set the CTC component to be negative to amortize the negative revenue requirement, as discussed herein.

7. PG&E shall eliminate the MTCBA subaccounts and amortize the MTCBA undercollection over one year.

8. PG&E's November 7, 2006 Motion to Seal the Evidentiary Record is granted as discussed herein.

9. Application 06-06-001 is closed.

This order is effective today.

Dated December 14, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
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Commissioners

************** SERVICE LIST A0606001 *************
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APPENDIX A

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(END OF APPENDIX A)