



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.

-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 28 of 2023

Thiru R.Ramanujam,
Secretary, Puzhal S&D Lakeside Two
Flat Owners' Association,
Lakeside 2, Puzhal – Ambattur Main Road,
Puzhal, Chennai – 600 066.

. Appellant
(Thiru R.Ramanujam)

Vs.

1. The Assistant Engineer/ Puzhal,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
110/11 KV SS, Puzhal, Chennai-600066.

2. The Assistant Executive Engineer/ Puzhal,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
110/11 KV SS, Puzhal, Chennai-600066.

3. The Executive Engineer/O&M/Avadi,
Chennai Electricity Distribution Circle/West,
TANGEDCO,
229, N.M Road, Avadi, Chennai-600054.

. . . . Respondents
(Thiru M.Dhayanithi, AEE/Puzhal, EE/Avadi (i/c)
Thiru S.Pandiyan, AE/Puzhal)

Petition Received on: 17-04-2023

Date of hearing: 21-06-2023

Date of order: 11-07-2023

The Appeal Petition received on 17.04.2023, filed by Thiru R.Ramanujam, Secretary, Puzhal S&D Lakeside Two Flat Owners' Association, Lakeside 2, Puzhal – Ambattur Main Road, Puzhal, Chennai – 600 066 was registered as Appeal Petition No. 28 of 2023. The above appeal petition came up for hearing before the Electricity Ombudsman on 21.06.2023. Upon perusing the Appeal Petition, Counter affidavit, written argument, and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed for revoking the cancelled application dt. 16-12-23 and effect tariff change as per DSOP and requested for compensation for delay in effecting tariff change and to refund/adjust the excess amount charged under old tariff.

2.0 Brief History of the case:

2.1 The Appellant has submitted an online application to change the tariff for a residential complex comprising 352 dwelling units.

2.2 The Respondent has stated that the application was verified, but they were unable to determine the 25% of the total built-up area for which the tariff change is requested. As a result, the application was cancelled.

2.3 Since the grievance was not settled with the Respondent, the Appellant filed a petition with the CGRF of Chennai Electricity Distribution/West, Circle on 07.01.2023.

2.4 The CGRF of Chennai Electricity Distribution/West issued an order on 10.03.2023. Aggrieved by the order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Chennai Electricity Distribution Circle/West issued its order on 10.03.2023. The relevant portion of the order is extracted below: -

“Order (Operative portion):

As per the above findings, the forum directs the respondent to convert the tariff in service connection No.051-006-3416 in accordance with the tariff clause 6.2.5 of TNERC's Tariff Order issued in Order No. 7 of 2022 in TP No. 1 of 2022, dated 09-09-2022 (effective from 10.09.2022).”

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments in person, a hearing was conducted on 21.06.2023.

4.2 The Appellant Thiru R.Ramanujam attended the hearing and put forth his arguments.

4.3 The Respondents Thiru M.Dhayanithi, AEE/Puzhal, as a EE/Avadi (i/c) and Thiru S.Pandiyan, AE/Puzhal of Chennai EDC/West attended the hearing and put forth their arguments.

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing orders. Further, the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone is discussed here under.

5.0 Arguments of the Appellant:

5.1 The Appellant has stated that their residential complex is fully residential having 352 dwelling units with 12 blocks and another physically segregated building in B Block housing swimming pool, Gym and community hall, indoor games etc and for the purpose of residents only. They are having one LT CT service 09-051-006-3416 under Tariff V among other services under the previous tariff regiment. As per previous Tariff regimen the above services were eligible under Tariff V only for the purpose of sewerage treatment plant, water treatment plant, swimming pool, Gym, community hall, etc., and for the purpose of residents only and accordingly appellant applied for Tariff change.

5.2 The Appellant has stated that as per new Tariff order dt 09-09-2022 and as per provision 6.2.5.1 the licensee had voluntarily changed other common services from Tariff IA to ID as mandated by that order without any request and application from the owners.

5.3 The Appellant has stated that under the same new Tariff order dt. 09-09-2022 and as per the provision in 6.2.5.1 the said service 09-051-006- 3416 under Tariff V is also eligible for Tariff ID. They have applied through online by application no 2000905112222479 dt. 16-12-22 for Tariff Change from Tariff V to ID. But the licensee refused to accept their just and reasonable request which they are fully qualified and cancelled the application on 28-12-22 by artificially and unjustly invoking the provision 6.2.14.3 for the reason known only to them. The Licensee had deprived of their residents the right to enjoy the above said services under Tariff ID as per same new Tariff order which was applicable to changing Tariff IA to ID services but not otherwise. If the same Tariff order is applicable to Change Tariff IA services to Tariff ID services voluntarily and why not it is applicable to the same set of services effected under Tariff V which are now eligible for Tariff ID,

5.4 The Appellant has stated that after their CGRF petition, the Licensee (EE/O&M/Avadi) in his letter D 316/dt 14-02-2023 had not stated any valid reason or regulations to deny their contentions. He had not shown any interest to redress the just and reasonable consumer grievances and evading his responsibility. Hence they requested the Chairman/CGRF/Chennai Electricity Distribution circle/West to kindly accept their contentions and revoke the cancelled application 2000905112222479 dt.16-12-22 and effect tariff change for the above service retrospectively.

5.5 The Appellant further requested to refund the excess amount after effecting tariff change retrospectively as per TNERC supply code 12 (2) and sought compensation for the delay as per DSOP and refund or adjustment of excess amount charged under old tariff for not effecting Tariff change within the DSOP period of 23.12.2022 to the date of actual tariff change 24.3.2023.

6.0 Arguments of the Respondent:

6.1 The Respondent has stated that the Appellant had preferred a complaint before the Consumer Grievance Redressal Forum vide CGRF petition No.CGRF/CEDC/W/No.7/23 dated 07.01.2023 seeking for change of tariff of LT CT common service connection No. 051-006-3416 from Tariff V to Tariff ID which is utilized for purpose of sewerage treatment plant, water treatment plant, swimming pool, Gym and Community hall etc.

6.2 The Respondent has stated that there are 352 flats comprised in 12 blocks in the appellant's apartment. In which each block has a LT CT common service connection under Tariff V which is utilized for common lighting and lift purpose. Considering the amendment in the Order No.7 of 2022 in T.P.No.1 of 2022, the 12 common service connections were changed from Tariff V to Tariff ID. Thereafter, the appellant has made an online application vide application no.2000905112222479 dated 16.12.2022 for change of tariff from Tariff LM51 to Tariff LA1D in existing service connection no. 051-006-3416 which is utilized for purpose of sewerage treatment plant, water treatment plant, swimming pool, Gym and Community hall etc. for the entire apartment i.e., for all the 352 flats.

6.3 The Respondent has stated that in accordance with TNERC order 7 of 2022 dt.09.09.2022 (effect from 10.09.2022), reclassification of tariff issued by TNERC in tariff order, the licensee has to inspect the site and reclassify the tariff as per the above order. However, the petitioner has come forward for tariff change and applied online for tariff change.

6.4 The Respondent has stated that on receipt of the application, as per the application flow process, the documents uploaded on 16.12.2022 along with the application were verified, but it was not able to ascertain the 25% of total built up area for which tariff change is requested. Hence, the application was cancelled and the petitioner got aggrieved and approached the Consumer Grievance Redressal Forum. During the hearing, it was ascertained that the built-up area utilized for common areas is less than 25% of the built-up area and order was issued for tariff

conversion. Based on the order issued by the CGRF, the tariff was converted from LM51 to LA1D on 24.03.2023. Since, the documents uploaded by the petitioner were not in complete shape, the claim of the petitioner for compensation, for delay in effecting tariff change does not arise.

6.5 The Respondent has prayed to dismiss the Appeal Petition No.28 of 2023 as may deem it fit and proper and thus render Justice.

7.0 Rejoinder of the Appellant:

7.1 The Appellant has submitted that they had one LTCT service s/c no 09-051-006-3416 under Tariff V among other services under the previous tariff regimen for the purpose of sewerage treatment plant, water treatment plant, swimming pool Gym and community hall etc and for the purpose of residents only under the new Tariff order dt 09-09-2022 and its provision 6.2.5.1 they had applied Tariff Change from TF V to ID vide app no 2000905112222479 dt16-12-22. The licensee cancelled the application on 28-12-2022 by artificially and unjustly invoking the provision 6.2.14.3. They had requested chairman CGRF/WEST to kindly revoke the cancelled application and effect tariff change to ID and compensate as per DSOP for delay.

7.2 The Appellant has submitted that the CGRF order gave them only partial relief by ordering tariff change without considering the request of revoking the cancelled application and effect tariff change within the purview of DSOP. (i.e. Effecting tariff change within seven days of application and compensation for the delay) And the tariff change should be effected on or before 23-12-2022. They were not given relief as per TNERC regulation and DSOP and they suffered huge loss. It is prayed that this Hon'ble ombudsman revoking the cancelled application 2000905112222479/dt. 16-12-2022 which was cancelled on 28-12-22. Effecting tariff change within seven days of application and compensation for the delay as per DSOP and refund or adjustment of excess amount charged under old tariff for not effecting Tariff change within the DSOP period of 23-12-2022 to the date of actual tariff change 24-03-2023.

7.3 The Appellant has submitted that the respondent in his counter affidavit grossly distorted the fact, in Para 3 he had stated that in our residential complex each block has a LT CT common service connection under Tariff V which is utilized for common for common lighting & lift and one no LT CT service 051-006-3416 under tariff V for the purpose of sewerage treatment plant, water treatment plant, swimming pool ,Gym and community hall etc and for the purpose of residents only which were effected as per the provisions of previous tariff regimen. He again distorted the fact that under the new tariff order dt. 09-09-2022 the 12 nos. common service connections were changed from Tariff V to ID. The actual fact is that the 12 nos. common service connections were under TF IA only and after site visit and the licensee satisfactorily convinced that as per new tariff order and its provisions, their residential complex does not fall under the category of 6.2.5.2 which states that the non residential built up area exceeds 25% of the total built up area and he converted the services to tariff to ID as per the provisions 6.2.5.1 after convinced and admitted that their residential complex is fully residential and does not have non residential area exceeding 25% of total built up area. They obeyed the tariff order and paid the bills accordingly.

7.4 The Appellant has submitted that the respondent in his counter affidavit again grossly distorted the fact and stated that on receipt of our tariff change application dt. 16.12.2022 for the service number 051-006-3416 from TF V to ID he was not able to ascertain that the 25% of total built up area of which tariff change is requested. But the fact was that he had already convinced and admitted that our residential complex did not fall under the category of non residential built up area exceeds 25% of the total built up area and converted the existing 12 nos. TF IA common services into TF 1D during the month of 09/2022 itself. Otherwise he should have converted the TF IA common services to TF V as per the provisions 6.2.5.2 of new tariff order. Therefore, it is obvious the licensee acted in a biased and irresponsible manner and puts his fault on the consumer and he was never given opportunity or in a position to hear out submissions.

7.5 The Appellant has prayed to dismiss the counter affidavit of the respondent as devoid any merit and order the licensee revoking the cancelled application 2000905112222479 dt. 16.12.2022 which was cancelled on 28.12.2022, effecting tariff change within seven days of application retrospectively and compensation for the delay as per DSOP and refund or adjustment of excess amount charged under old tariff for not effecting tariff change within the DSOP period of 23.12.2022 to the date of actual tariff change 24.03.2023 and thus render justice.

8.0 Findings of the Electricity Ombudsman:

8.1 I have heard the arguments of both the Appellant and the Respondent. Based on the arguments and the documents submitted by them the following conclusion is arrived.

8.2 The Appellant has stated that their residential complex consists of 352 dwelling units divided into 12 blocks. Additionally, there is a physically segregated building in Block B that houses facilities such as a swimming pool, gym, community hall and indoor games, exclusively for the residents' use. The Appellant further claimed that they currently have one LT CT service with the SC No. 09-051-006-3416 under Tariff V, along with other services under the previous tariff regimen. According to the previous Tariff regimen, the mentioned service was eligible for Tariff V specifically for purposes such as sewerage treatment plant, water treatment plant, swimming pool, gym, and community hall, all exclusively for the residents.

8.3 The Appellant has stated that according to the new Tariff order dated 09-09-2022, and as per provision 6.2.5.1, the service connection 09-051-006-3416 under Tariff V is also eligible for Tariff ID. Based on this provision, the Appellant claimed that they applied online for a Tariff Change from TF V to ID. However, the licensee refused to accept their just and reasonable request, despite their full qualification, and cancelled the application on 28-12-22 by invoking provision 6.2.14.3, which seems arbitrary and unjust to them. The Licensee has deprived their residents of the right to enjoy the aforementioned services under TF ID, as specified in the same new Tariff order that applies to changing TF IA to ID services.

8.4 The Appellant has submitted that the Respondent, in their counter affidavit, once again distorted the facts. Upon receiving their tariff change application on 16.12.2022 for service number 051-006-3416 from TF V to ID, the Respondent argued that they were unable to determine the 25% of the total built-up area for which the tariff change was requested. However, the fact remains that the Respondent had already acknowledged and admitted that their residential complex does not fall under the category where the non-residential built-up area exceeds 25% of the total built-up area. They had previously converted the existing 12 TF IA common services into TF ID in September 2022 itself. Alternatively, the Respondent should have converted the TF IA common services to TF V as per the provisions 6.2.5.2 of the new tariff order. Therefore, it is evident that the licensee acted in a biased and irresponsible manner, placing the blame on the consumer and claiming that they were never given the opportunity or the means to hear their submissions.

8.5 The Appellant has submitted that the CGRF order provided only partial relief by ordering the tariff change, without considering the request to revoke the cancelled application and effect the tariff change within the purview of DSOP. The Appellant emphasizes that the DSOP requires the tariff change to be implemented within seven days of the application, along with compensation for any delay. It was further requested that the tariff change be effected on or before 23-12-2022. The Appellant claims that they have not been granted relief in accordance with the TNERC regulation and DSOP, resulting in significant losses. They pray that this Hon'ble Ombudsman revokes the cancelled application 2000905112222479, dated 16-12-2022, and considers the effective tariff change within seven days of the application, as well as compensation for the delay as per DSOP. Additionally, the Appellant seeks a refund or adjustment of any excess amount charged under the old tariff for failing to effect the tariff change within the DSOP period from 23-12-2022 to the actual date of tariff change, which is 24-03-2023.

8.6 The Respondent has stated that the appellant's apartment consists of 352 flats distributed among 12 blocks. Each block has a LTCT common service connection under LT Tariff 1A which is used for common lighting and lift purposes.

(However, the same was wrongly mentioned in the counter as Tariff V). In accordance with the amendment in Order No.7 of 2022 in T.P.No.1 of 2022, the 12 common service connections were changed from Tariff 1A to Tariff ID. Subsequently, the appellant submitted an online application with application number 2000905112222479, dated 16.12.2022, requesting a tariff change from Tariff LM51 to Tariff LA1D for the existing service connection number 051-006-3416. This particular service connection is utilized for the sewerage treatment plant, water treatment plant, swimming pool, gym, community hall, and other similar facilities serving the entire apartment complex, including all 352 flats.

8.7 The Respondent has stated that in accordance with TNERC Order 7 of 2022, dated 09.09.2022 (effective from 10.09.2022), which pertains to the reclassification of tariffs, the licensee is required to inspect the site and reclassify the tariff as per the aforementioned order. However, in this case, the petitioner approached for a tariff change and submitted an online application. Upon receiving the application, the Respondent followed the application flow process and verified the documents uploaded on 16.12.2022 along with the application. However, they were unable to determine the 25% of the total built-up area for which the tariff change was requested. As a result, the application was cancelled.

8.8 The Respondent further stated that during the hearing of CGRF on 24.2.2023, it was revealed that the appellant was able to substantiate their claim that the built-up area utilized for common areas is indeed less than 25% of the total built-up area. Consequently, the CGRF issued an order for tariff conversion. Based on this order, the tariff was converted from LM51 to 1D on 24.03.2023. Since the documents uploaded by the petitioner were incomplete, the Respondent argues that the claim for compensation due to the delay in effecting the tariff change does not arise.

8.9 Based on the arguments presented by the Appellant and the counter-arguments by the Respondent, it is necessary to determine whether the Appellant's claim of submitting an application for tariff change from LM51 to ID for Service connection no 09-051-006-3416 on 16-12-22 is valid. The Appellant asserts that this

service connection is utilized for the purpose of sewerage treatment plant, water treatment plant, swimming pool, gym, and community hall, exclusively for the residents of the complex. On the other hand, the Respondent counters that the Tariff change application was cancelled due to insufficient details provided by the Appellant to substantiate that the non-residential built-up area does not exceed 25% of the total built-up area. If it is determined that the non-residential built-up area exceeds 25%, the consumption for such facilities should be charged under LT tariff V.

8.10 From the above, it needs to be determined whether the Appellant is eligible for tariff reclassification according to the revised Tariff order T.O.No. 7 of 2022 dated 09-09-2022 for facilities such as Sewage Treatment plant, water treatment plant, swimming pool, gym, and community hall, etc., in order to transition from the existing Tariff V to Tariff ID. Therefore, I would like to refer para 6.2.5 of Tariff Order for further clarification.

“6.2.5 Low Tension Tariff ID : (Common facilities in Multi –tenements)

6.2.5.1 This tariff is applicable to common lighting, water supply, lift provided to the residents, sewerage treatment plant, water treatment plant, Fire Hydrant facility, Gym, Swimming pool, CCTV camera, Community hall, amphi theater, etc for the purpose of resident only, with separate service connections. This tariff is also applicable to the co-existing additional services as referred in para 6.2.2 .1(a).

Para 6.2.5.2 In respect of multi tenements/multi-storey flats/residential complex having both domestic and non–domestic utilities, common facilities such as common lighting, common water supply, lift will be charged under this tariff only if the non residential built up area does not exceed 25% of the total built up area. If it exceeds 25%, the consumption for such facilities shall be charged under LT tariff V.

From the above provision, it is understood that the Appellant's service connection, which is used for purposes such as Sewage Treatment plant, water treatment plant, swimming pool, gym, and community hall, falls under the category of ID if the non-residential built-up area does not exceed 25% of the total built-up area. However, if the non-residential built-up area exceeds 25%, the consumption for such facilities will be charged under LT tariff V.

8.13 Further I would also like to refer clause 17.2 of T.O.No.7 of 2022, dt. 09-09-2022 which is reproduced below.

“Effecting change in tariff category for a consumer in accordance with this order shall be the responsibility of TANGEDCO. whenever re-classification of tariff arises in respect of any service, necessary intimation must be given to all such consumers within a month and regularized by taking RTR (Revised Test Report) by TANGEDCO. Before that, no inconvenience shall be caused to the consumer by way of taking action under section 126/135 of electricity Act 2003 “

8.14 Based on the appellant's prayer, it is understood that the residential complex consists of 352 dwelling units divided into 12 blocks. Each block has a common service for lifts, and there is an additional physically segregated building in Block B that houses facilities such as a swimming pool, gym, community hall, and indoor games. These amenities are exclusively for the use of the residents of the complex.

8.15 The appellant claims to have submitted a tariff change application on 16-12-2022, requesting a change from Tariff V to Tariff ID. However, according to the respondent, during the application process, they were unable to determine the 25% built-up area for the common areas, which led to the cancellation of the application. The respondent also argues that the appellant did not provide the total area and common area details following the cancellation of the application after 28-12-2022. Therefore, in order to make a decision regarding the exact tariff classification, it is crucial for the respondent to have accurate information regarding the non residential built up area (such as shops, laundry, schools and other non residential activities) which should not exceed 25% of the total built up area. Without these details, the appropriate tariff category for the service connection cannot be determined.

8.16 In view of the above, the appellant does not need to submit a tariff reclassification application for a tariff change. However, the respondent's argument requesting details of the total built-up area and 25% of the non-residential built-up area in order to decide on the reclassification of tariff for the appellant's service connection number 09-051-006-3416, from the current tariff of LT Tariff V to LT Tariff 1D, is deemed valid and appropriate.

8.17 It is noted that subsequent to the appellant's prayer and the hearing held on 24.2.2023, it was clarified in the CGRF order that the appellant's existing service connection no 09-051-006-3416, has a non-residential built-up area of less than 25%. As a result, it was deemed eligible for reclassification under Tariff ID. Based on the CGRF order dated 10-03-2023, the respondent proceeded to change the tariff from LT Tariff V to LT Tariff ID for the said service connection, which is used for the purpose of sewerage treatment plant, water treatment plant, swimming pool, gym, and community hall, among others.

8.18 Based on the above findings, it is observed that the appellant provided the necessary details regarding the non-residential area of their premises during the hearing held on 24-02-2023. Therefore, the appellant's claim to revoke the cancelled application dated 16-12-2022 and effect tariff change on or before 24-02-2023 is not valid. Additionally, the appellant's claim for compensation as per the Distribution Standards of Performance Regulation is not applicable as the appellant did not provide the required details in a timely manner and the information was only ascertained during the CGRF hearing on 24-02-2023.

8.19 However, it is observed that the respondent changed the tariff from LT Tariff V to LT Tariff 1D on 24-03-2023 based on the CGRF order issued on 10-03-2023. Therefore, it is directed, that the tariff change should be implemented from 24-02-2023. If any excess amount collected after 24.02.2023 as a result of the delay in effecting the tariff change, the respondent is directed to refund the amount due in accordance with the provisions of regulation 12(2) of the TNE Supply Code Regulations.

9.0 Conclusion:

9.1 Based on the above findings, it is determined that the appellant's existing service connection no 09-051-006-3416, being used for purposes such as the sewage treatment plant, water treatment plant, swimming pool, gym, and community hall, falls under Tariff LM 51. It has been established that the non-residential built-up area is less than 25% of the total built-up area, as ascertained during the CGRF

hearing. Therefore, the service connection can be reclassified to LT Tariff ID from 24-02-2023. In light of this, the respondent is directed to refund any excess amount due to subsequent tariff reclassification from LT Tariff V to LT Tariff 1D, as per the provisions of TNE Supply Code Regulation 12(2).

9.2 A compliance report shall be sent to the Electricity Ombudsman within 30 days after adjustment of above.

9.3 With the above findings the A.P.No. 28 of 2023 is finally disposed of by the Electricity Ombudsman. No costs.

(N.Kannan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

1. Thiru R.Ramanujam, - BY RPAD
Secretary, Puzhal S&D Lakeside Two
Flat Owners' Association,
Lakeside 2, Puzhal – Ambattur Main Road,
Puzhal, Chennai – 600 066.
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3. The Assistant Executive Engineer/ Puzhal,
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4. The Executive Engineer/O&M/Avadi,
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229, N.M Road, Avadi, Chennai-600054.
5. The Superintending Engineer, - By Email
Chennai Electricity Distribution Circle/West,
TANGEDCO,
Thirumangalam 110/33/11 KV SS Complex,
Anna nagar, Chennai - 600 040.

6. The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai, 144, Anna Salai,
Chennai -600 002.

– By Email

7. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate,
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– By Email

8. The Assistant Director (Computer)
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