UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, **STATE OF CALIFORNIA,** **COMMONWEALTH OF KENTUCKY,** **STATE OF MICHIGAN,** **STATE OF NORTH CAROLINA** **STATE OF OHIO,** **COMMONWEALTH OF PENNSYLVANIA, and** **STATE OF TEXAS,** ***Plaintiffs,*** **v.** **REPUBLIC SERVICES, INC., and** **ALLIED WASTE INDUSTRIES, INC.,** ***Defendants.***	**Civil Action No: 1:08-cv-2076-RWR** **Judge: Richard W. Roberts** **Description: Antitrust**

JOINT STATUS REPORT ON STEPS TAKEN FOLLOWING
ENTRY OF THE HOLD SEPARATE STIPULATION AND ORDER

Pursuant to this Court's Order of April 2, 2009, the United States and the State of California, Commonwealth of Kentucky, State of Michigan, State of North Carolina, State of Ohio, Commonwealth of Pennsylvania, and State of Texas (the "States"), and the Defendants Republic Services, Inc. ("Republic") and Allied Waste Industries, Inc. ("Allied"), hereby file their Joint Status Report identifying the steps taken following this Court's December 4, 2008 entry of the Hold Separate Stipulation and Order ("HSSO"). The United States, the States, and Defendants hereby adopt the definitions of terms used herein as set forth in the proposed Final Judgment ("PFJ") in this action filed on December 3, 2008.

I. INTRODUCTION

On December 3, 2008, the United States and the States filed the Complaint in this matter, alleging that Republic's acquisition of Allied, if permitted to proceed, would combine two of only a few significant providers of small container commercial waste collection or municipal solid waste ("MSW") disposal services in several markets in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. Simultaneously, the United States filed a PFJ and a HSSO signed by the United States, the States, and the Defendants consenting to the entry of the proposed Final Judgment after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) ("APPA " or "Tunney Act").

The PFJ is intended to preserve competition in each of the 15 affected geographic markets. The divestiture provisions of the PFJ will eliminate the anticompetitive effects of the acquisition in small container commercial waste collection or MSW disposal services in each of these areas. The divestiture of these assets to an independent, economically viable competitor will ensure that users of these services in each market will continue to receive the benefits of competition that otherwise would be lost in the areas in which the Divestiture Assets are located.

Since the entry of the HSSO, Republic has made substantial progress in divesting the Divestiture Assets as defined in the PFJ. As of the date of this Joint Status Report, Republic has tendered Acquirers for 12 of the 15 markets to the United States and the States. The United States and the States conducted a thorough review of the Acquirers for the Divestiture Assets in these 12 markets to determine if they would be effective, viable competitors in each of the areas. To date, the United States and the States have formally approved the sale of the Divestiture Assets in 12 of the 15 geographic markets to the proffered Acquirers. Accordingly, Republic has signed Asset

Purchase Agreements for the Divestiture Assets in twelve of the fifteen Relevant Areas, involving the sale of assets worth $411.67 million. Republic and Acquirers have closed on the sale of the Divestiture Assets in ten Relevant Areas. Republic is continuing to work expeditiously to finalize negotiations and close on the sale of the Divestiture Assets in the remaining areas. A chart summarizing the status of Republic's divestiture efforts in each of the Relevant Areas is located below in Part III of this Report.

As described below, Republic has also taken steps in accordance with its obligations under the HSSO to (1) ensure that the Divestiture Assets have remained independent, economically viable and ongoing business concerns uninfluenced by Republic; and (2) to maintain competition in accordance with the terms of the HSSO.

II. BACKGROUND

On June 22, 2008, Defendants Republic and Allied entered into a stock purchase agreement under which Allied would become a wholly owned subsidiary of Republic. Pursuant to 15 U.S.C. § 18a, Defendants filed a notification of the merger with the Federal Trade Commission and the Department of Justice Antitrust Division. The United States conducted an extensive investigation into the competitive effects of the proposed transaction. As part of this investigation, the United States obtained documents and information from the Defendants and others and conducted more than 600 interviews with customers, competitors, and other individuals knowledgeable about the industry. The investigative staff carefully analyzed the information provided and thoroughly considered all of the issues presented. The United States considered the potential competitive effects of the transaction on small container commercial waste collection and MSW disposal services in a number of geographic areas, obtaining information about these services and these areas from market participants. The United States concluded that the combination of the

Defendants would lessen competition in small container commercial waste collection or MSW disposal services in 15 separate geographic markets.

As reflected in the Complaint and the Competitive Impact Statement ("CIS"), the United States concluded that this loss of competition would result in consumers paying higher prices and receiving fewer services for the collection and disposal of MSW. The United States further concluded that, as alleged in the Complaint, the proposed acquisition of Allied by Republic would remove a significant competitor in small container commercial waste collection and MSW disposal services in already highly concentrated and difficult-to-enter markets.

The PFJ is designed to preserve competition in each of the 15 affected geographic markets. It requires the Defendants to divest a total of 87 commercial waste hauling routes, nine landfills and 10 transfer stations, together with ancillary assets and, in three cases, access to landfill disposal capacity. The divestiture of these assets to an independent, economically viable competitor will ensure that users of these services in each market will continue to receive the benefits of competition that otherwise would be lost.

The United States simultaneously filed a proposed HSSO executed by the United States, the States, and the Defendants to this action to ensure that, prior to the divestitures required by the PFJ, the Divestiture Assets remained independent and uninfluenced by Defendants and that competition was maintained during the pendency of the divestitures required by the PFJ. On December 4, 2008, this Court entered the HSSO. On December 5, 2008, Republic and Allied closed the merger. Since then, the Defendants have taken all necessary steps to ensure that they are in compliance with the HSSO, and have proceeded expeditiously to market and sell the Divestiture Assets.

III. STEPS TAKEN TO SELL THE DIVESTITURE ASSETS

Republic has worked expeditiously to market and sell the Divestiture Assets. It has retained the services of Merrill Lynch, as well as outside counsel to assist in this process. Merrill Lynch has provided assistance in contacting prospective Acquirers and coordinating the bid processes for the Divestiture Assets. Since the entry of the PFJ and HSSO, Republic has had contact with approximately 114 potential Acquirers. The table below provides information on the status of the sale of the Divestiture Assets in each of the Relevant Areas:

STATUS OF DIVESTITURE ASSETS				
Relevant Area	**Purchaser**	**Price**	**DOJ Approval Date**	**Status/Closing Date**
Bundled Seven (7) Divestiture Assets				
Denver, Colorado	Waste Connections, Inc.	$311.16 million (as part of Bundled Assets)	March 31, 2009	Closed as of April 1, 2009
Flint, Michigan	Waste Connections, Inc.	$311.16 million (as part of Bundled Assets)	March 31, 2009	Closed as of April 1, 2009
Greenville-Spartanburg, South Carolina	Waste Connections, Inc.	$311.16 million (as part of Bundled Assets)	March 31, 2009	Closed as of April 1, 2009
Houston, Texas	Waste Connections, Inc.	$311.16 million (as part of Bundled Assets)	March 31, 2009	Closed as of April 1, 2009
Los Angeles, California	Waste Connections, Inc.	$311.16 million (as part of Bundled Assets)	March 31, 2009	Closed as of April 1, 2009
Charlotte, North Carolina	Waste Connections, Inc.	$311.16 million (as part of Bundled Assets)	March 31, 2009	TBD
Lubbock, Texas	Waste Connections, Inc.	$311.16 million (as part of Bundled Assets)	March 31, 2009	TBD

Eight (8) Separate Divestiture Assets				
Atlanta, Georgia	Advanced Disposal, Inc.	$12.09 million	March 31, 2009	Closed as of April 1, 2009
Cape Girardeau, Missouri	IESI Corp.	$14.92 million (with Fort Worth Assets)	April 14, 2009	Closed as of May 1, 2009
Fort Worth, Texas	IESI Corp.	$14.92 million (with Cape Girardeau Assets)	April 14, 2009	Closed as of May 1, 2009
Philadelphia, Pennsylvania	Covanta Energy Corp.	$16 million	March 31, 2009	Closed as of May 1, 2009
San Francisco, California	Waste Connections, Inc.	$57.5 million	April 14, 2009	Closed as of April 21, 2009
Cleveland, Ohio	TBD	TBD	TBD	TBD
Lexington, Kentucky	TBD	TBD	TBD	TBD
Northwest Indiana	TBD	TBD	TBD	TBD

A. Bundled Assets

Republic initially marketed as a "bundle" the Divestiture Assets located in ten (10) Relevant Areas, including: Cape Girardeau, Missouri; Charlotte, North Carolina; Denver, Colorado; Flint, Michigan; Greenville-Spartanburg, South Carolina; Houston, Texas; Lexington, Kentucky; Los Angeles, California; Lubbock, Texas; and Northwest Indiana (the "Bundled Assets"). With respect to the Atlanta, Georgia, Cleveland, Ohio, Philadelphia, Pennsylvania, and Fort Worth, Texas areas, the Divestiture Assets in each area were offered for sale to prospective Acquirers separately from the Bundled Assets pursuant to Section IV (A) of the proposed Final Judgment. In addition, Republic undertook to separately market and sell the Potrero Hills Landfill located in the San

Francisco, California area, pursuant to an agreement with the Attorney General for the State of California.

Following the entry of the HSSO, Republic initiated discussions with several qualified, well financed, buyers with extensive solid waste operating experience to assess interest in the Bundled Divestiture Assets. After execution of a Confidentiality Agreement, Republic subsequently distributed to the interested qualified potential buyers of the Bundled Assets a package of information about the Bundled Assets and instructions for submitting bids. After receiving initial bids, Republic narrowed the prospective Acquirers to a subset of bidders based on the timely receipt of the prospective Acquirer's response, the financial offer, the ability of the bidder to obtain financing, and whether the bidder appeared to have the capability of competing effectively in the disposal and/or hauling business in the Relevant Area(s).

Based upon the above criteria, Republic narrowed the prospective Acquirers for the Bundled Assets to Waste Connections, Inc. ("Waste Connections") and Waste Industries USA, Inc. Based on further evaluation of the above criteria, Republic proffered Waste Connections as the proposed Acquirer of the assets in seven of the ten Bundled Asset markets to the United States and executed an Asset Purchase Agreement for these assets on February 6, 2009. Once Republic tendered Waste Connections as the Acquirer, the United States and the States undertook a thorough evaluation of Waste Connections including reviewing its business plans for each of the Divestiture Assets; interviewing company executives about their short-term and long-term plans for the Divestiture Assets; reviewing the company's financial health and its ability to utilize the assets and to become an effective and viable competitor in each of the areas where the Divestiture Assets are located. After careful review and consideration, the United States and the States approved Waste Connections as the Acquirer of the assets in seven of the ten Bundled Asset markets on March 31,

2009. On April 1, 2009, Republic and Waste Connections closed on the sale of the assets in the remaining seven Bundled Asset markets, with the exception of the assets located in Lubbock, Texas and Charlotte, North Carolina. Closing for the Lubbock, Texas Divestiture Assets was delayed because the United States advised that prior to closing, Waste Connections would have to sell its existing Lubbock hauling operations because it already had a significant presence in the area. Closing for the Charlotte, North Carolina Divestiture Assets was delayed because the day before closing, Republic and Waste Connections learned about a local regulatory issue related to the transfer of the operating license that needed to be resolved prior to closing. Republic and Waste Connections continue to work toward closing for the sale of those assets.

B. Separate Divestiture Assets

Following the closing of the merger, Republic responded to inquiries and initiated discussions with potential buyers with solid waste operating experience to garner interest in the individual Divestiture Assets, including: Atlanta, Georgia; Cleveland, Ohio; Fort Worth, Texas; Philadelphia, Pennsylvania; Cape Girardeau, Missouri; Lexington, Kentucky; Northwest Indiana; and San Francisco, California. After execution of a Confidentiality Agreement, Republic subsequently distributed to interested potential buyers a package of information about the individual Divestiture Assets in which they were potentially interested, along with instructions for submitting bids. Republic evaluated initial bids for the individual Divestiture Assets based upon the timely receipt of the prospective Acquirer’s response, the financial offer, the ability of the bidder to obtain financing, and whether the bidder appeared to have the capability of competing effectively in the disposal and/or hauling business in the Relevant Area(s).

Republic and Merrill Lynch conducted conference calls with prospective Acquirers to discuss their respective proposals. Republic then narrowed the bidders in each Relevant Area to two to four bidders based upon the criteria above. The remaining prospective Acquirers in each Relevant Area examined the Divestiture Assets and, in some cases, revised their bids. In each Relevant Area, Republic subsequently decided to proceed with one or two bidders and has either completed the sale of the Divestiture Assets, or is now in the process of completing the sale of the Divestiture Assets. As stated above, once Republic tendered an Acquirer for the Divestiture Assets in these separate areas, the United States and the States conducted a thorough review to determine whether each Acquirer would be an effective, viable competitor in each of the markets. To date, Republic has tendered Acquirers for five of the eight geographic markets being marketed separately from the bundled assets. After a careful review of each separate Acquirer, the United States and the States approved the sale of the Divestiture Assets for the following five of the eight geographic markets: Atlanta, Georgia; San Francisco, California; Cape Girardeau, Missouri; Fort Worth, Texas; and Philadelphia, Pennsylvania. As of today, the Defendants are still in the process of finalizing the bidding process in the following three geographic markets: Cleveland, Ohio; Lexington, Kentucky; and Northwest Indiana. *See supra* the *Status of the Divestiture Assets* Chart at Section III regarding the progress on the sale of the eight separate Divestiture Assets.

C. Affidavits

In compliance with Section X (A) of the PFJ, Republic has continued to deliver periodic affidavits to the United States and the States describing in detail the status and contacts that Republic has had with any party regarding the sale and possible purchase of any of the Divestiture Assets. These affidavits are attached hereto as Exhibit A.

IV. STEPS TAKEN TO MAINTAIN DIVESTITURE ASSETS AS SEPARATE ECONOMIC ENTITIES AND MAINTAIN COMPETITION

Pursuant to the HSSO, Republic is required to maintain the Divestiture Assets as separate economic entities. Republic has taken the actions described below to comply with that obligation.

In conducting its internal planning for compliance with the HSSO, Republic identified two key phases for planning and implementation of the steps to be taken: (1) the enrollment phase, which was defined as the period beginning on the day of the closing of the merger (December 5, 2008) and concluding approximately thirty days thereafter; and (2) the implementation phase, which was defined as the period beginning approximately thirty days after the closing of the merger and ending with the completion of the divestiture of all Divestiture Assets, during which the hold separate management team implements the various plans developed during the enrollment phase.

A. Enrollment Phase Activities

Activities during the enrollment phase included the following: operations planning exercises such as the designation of a hold separate management team; development of initial budgets; preparation of hold separate guidelines; planning for facility and operations segregation; identification of systems; notification to hold separate employees; and education of both hold separate employees and Republic transition teams.

The Divestiture Assets were designated as “hold separate divisions” in accordance with Section V (A) of the HSSO. Republic established a hold separate management team that includes a Management Lead, General Manager, Compliance Manager, Human Resources and Safety Lead, Sales Lead, and Finance Lead in accordance with Section V (J) of the HSSO. These individuals were dedicated full-time to the hold separate operations and were housed in office space segregated from the primary administrative functions of Republic.

The hold separate management team developed site-specific transition plans that included detailed actions for critical operating systems, completed initial operating budgets and capital expenditure budgets, and completed site visits for the purpose of validating action plans and enrolling employees. The team also developed and circulated Guidelines for compliance with the

HSSO by the hold separate division. These Guidelines have been used during the implementation phase described below.

Republic also established a communications plan during the enrollment period. Under this plan, weekly communication protocols were implemented, which were migrated to semi-monthly and monthly management review calls as appropriate. For example, at the time of the merger closing and shortly thereafter, a series of conference calls were held to discuss the HSSO and its impact on operations. Additionally, presentations were conducted for employees affected by the HSSO and the planned divestitures to ensure coordination between Republic transition teams and the hold separate divisions. Employees included in those presentations included the Regional Senior Vice Presidents and Area Presidents of the affected operations, hold separate site managers, controllers, and sales personnel. Employee meetings also were held at the hold separate divisions. During these meetings, site managers discussed the requirements of the HSSO, transition plans, compensation and benefit plans, incentive plans, and operations processes as they related to customers, vendors, and internal systems.

Coordination meetings were also held with Republic's Information Technology ("IT") group, Finance and Accounting group, Internal Audit team, and Transition teams. While reviewing hold separate division operating sites, management team members were available to answer specific questions related to the transition and their employees and operations. Finally, management identified initial staffing requirements for operation of the hold separate divisions.

B. Implementation Phase Activities

During the implementation phase, the hold separate management team is responsible for monitoring various activities to ensure compliance with action plans for hold separate planning and launch. These plans include guidelines for facilities, personnel, customer service, and sales, operations, maintenance, finance and administration, and information technology. Site-specific action plans also were developed for each of the hold separate divisions.

One independent Republic hauling operation that was not among the Divestiture Assets but that resided on a hold separate landfill site was relocated to another Republic facility. The nine hauling divisions subject to the HSSO split their hauling operations into the routes designated to be divested (the "hold separate hauling operations") and the non-MSW routes that would be retained by Republic (the "Republic hauling operations"). Subsequently, either the hold separate hauling operation or the Republic hauling operation in each hold separate hauling division was moved to another site, including trucks, personnel, maintenance shops, and computer systems. Five hold separate hauling operations remained at their existing sites, one smaller hold separate hauling operation was transferred to an interim site, one smaller hold separate hauling operation was moved to vacant space at its existing facility and kept segregated from the Republic hauling operation, and two hold separate hauling operations were moved to another vacated Republic-owned site. At the five sites where the hold separate hauling operations remained at the existing site, Republic moved the Republic hauling operations (not subject to the HSSO) to other sites.

Finance and administration for the hold separate assets were provided by a combination of hold separate personnel and shared services personnel through Republic. Site-specific operating budgets and capital expenditure budgets were prepared and implemented. Hold separate divisions were assigned to a separate line of business or division within the accounting system, and monthly financials were rolled up into a segregated consolidation under the guidance of the Hold Separate Finance Lead consistent with Section V (G) of the HSSO.

Republic provided working capital to fund operations and capital expenditures for the hold separate assets pursuant to Section V (D) of the HSSO. Republic also removed previously pledged assets from their security agreements prior to divestiture. In addition, Republic did not encumber or otherwise dispose of the Assets pursuant to Section V (F) of the HSSO. Republic provided risk management, back office accounting, payroll processing, benefits management, procurement, environmental and engineering, and safety functions to the hold separate divisions on the same basis as it does other divisions of Republic as outlined in the Hold Separate Guidelines. Republic legal staff assigned to the hold separate division provided routine legal services.

Each operation subject to the HSSO was given a designated site manager/operator who reports directly to the hold separate management team. Operating procedures for the hold separate assets were implemented to continue operations of these assets in a way that is consistent with past practices. Equipment used by hold separate divisions was identified and listed within the system pursuant to Section V (G) of the HSSO.

Customer service, sales, and marketing were segregated between the hold separate and Republic operations to maintain competition during the hold separate period. Marketing and sales for hold separate operations are not coordinated by Republic. Hold separate customer service and sales personnel were designated based on their familiarity with the hold separate assets and/or their relevant experience in the Relevant Area. These designated employees report through their local hold separate sales supervisor up to the Hold Separate Manager. The sales resources allocated to the hold separate operations equaled or exceeded the previous levels in order to enable the hold separate group to reasonably maintain and increase sales and revenue in compliance with Section V(C) of the HSSO.

Hold separate customers associated with the routes were identified. The IT group segregated the accounts and relevant information in the system as a hold separate account. Customer service is handled at each hold separate site. At hold separate operations that utilize centralized Republic "call centers" for customer support, Republic customer service personnel have continued to provide support according to past practices for that operation, except that call centers no longer practice direct-selling functions. Instead, information about new business leads and sales calls received by Republic call centers for hold separate operations is recorded and forwarded to the appropriate hold separate salesperson or site manager. All sales inquiries received by receptionists have been routed directly to the hold separate division without going through customer service.

The hold separate divisions were given sole authority over pricing strategies and practices and are not influenced by or shared with Republic. Republic sales personnel cannot accept inquiries about hold separate divisions. Instead, Republic sales personnel are required to forward such inquiries to the appropriate hold separate salesperson or site manager. Access to hold separate customer information and Republic customer information is restricted to designated hold separate personnel and Republic personnel, respectively. Finally, marketing expenditures, under the supervision of the Hold Separate Sales Manager, are budgeted consistent with past practices.

Personnel of the hold separate divisions were notified if they would be considered hold separate employees. Employees primarily responsible for the operations of the hold separate assets were chosen for the hold separate division. These employees are identified in Republic's Human Resource Information System. Pursuant to the Hold Separate Guidelines, hold separate employees maintained their current compensation and benefits levels. A retention bonus plan was also implemented requiring hold separate employees to stay up to 90 says after the divestiture date at the option of the eventual buyer. Hold separate employees who leave of their own volition prior to such date forfeit their retention bonus and furthermore are not eligible for rehire at Republic for a period of time. Unions representing personnel at hold separate locations were notified of the steps taken regarding compensation and retention of hold separate employees.

Maintenance has been provided to hold separate operations on the same basis as it was prior to the closing of the merger. For larger operations, maintenance personnel and facility bays on the existing sites were designated for the hold separate operations. Shop equipment and parts inventory were appropriately isolated. For smaller operations, maintenance is provided to the hold separate divisions by Republic as a third-party vendor. At landfills and transfer stations, on-site maintenance staff has provided routine maintenance, with larger repairs being outsourced to equipment repair companies consistent with past practices. A spending limit authorization process was implemented and the maintenance program has been delivered through adherence to normal repair and maintenance schedules and consistent with past practices.

While Republic has provided safety programs and human resource administration to hold separate operations, the hold separate human resources/safety manager has managed these functions. The hold separate compliance manager is responsible for monitoring compliance with the HSSO. Non-management-related processing of accounting and back office information and systems software may be provided on a short-term basis to eventual buyers to transition the hold separate operations to the buyers' systems.

Republic's IT group, in coordination with the hold separate management teams, has managed the transition of the information systems. Site-specific IT migration plans have been developed and implemented. The hold separate systems remained on the same information system as each division was utilizing prior to the closing of the merger. The IT group is providing appropriate access controls to the accounting information as well as security to prevent electronic tampering, intrusion, and viruses from disabling information systems. Desktop computer hardware has remained the property of the hold separate divisions. Since basic division operating software is available on the open market to any buyer at a reasonable cost, proprietary and licensed software will remain the property of Republic but will be available to use by the hold separate division.

C. Affidavits

In compliance with Section X (B) of the PFJ, the Defendants have delivered periodic affidavits to the United States describing the actions that Defendants have taken and the steps Defendants have implemented to comply with the HSSO and Section IX of the PFJ. These affidavits are attached hereto as Exhibit A.

V. REQUIREMENTS OF THE ANTITRUST PROCEDURES AND PENALTIES ACT

As stated previously, on December 3, 2008, the United States and the States filed the Complaint in this matter. Simultaneously, the United States filed a PFJ and HSSO signed by the United States and the defendants consenting to the entry of the PFJ after compliance with the requirements of the APPA. Pursuant to those requirements, a CIS also was filed with this Court on December 3, 2008. The PFJ and CIS were published in the *Federal Register* on December 16, 2008; and a summary of the terms of the PFJ and CIS, together with directions for the submission of written comments relating to the PFJ, was published for seven days in *The Washington Post* on December 31, 2008 through January 6, 2009.

The 60-day public comment period began on January 7, 2009 and concluded on March 9, 2009. The United States will file the five comments it received and its Response to Public Comments with this Court on or before May 14, 2009. After the public comments and the Response have been published in the *Federal Register*, the United States will have met all the requirements under the APPA, and it will then move the Court for entry of the PFJ.

Under the PFJ, Republic is required within 90 days after the filing of the Complaint, or five (5) days after notice of entry of the Final Judgment by the Court, whichever is later, to divest all

Divestiture Assets in a manner consistent with the Final Judgment to an Acquirer(s) acceptable to the United States in its sole discretion, after consultation with the States. The 90-day period ended on March 4, 2009. Thus, the remaining divestitures must be effectuated no later than five days after entry of the PFJ. Pursuant to Section IV (A) of the PFJ, the United States, in its sole discretion, after consultation with the States, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total to effectuate the remaining Divestiture Assets in the three remaining geographic markets, and shall notify the Court in such circumstances.

Dated: May _4_, 2009

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