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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE NO. 14-M-0101: Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision

Reply Comments on Track 1 Staff Straw Proposal

October 24, 2014

Introduction

Alliance for a Green Economy is pleased to submit these additional comments on the Reforming the Energy Vision Proceeding. We are grateful for the insightful comments on the Staff Straw Proposal submitted by many other parties, including those submitted by Hudson River Sloop Clearwater, Citizens for Local Power, Utility Intervention Unit, Association for Energy Affordability, and Clean Energy Advocates.

We continue to support the Public Service Commission's efforts to address the environmental crises, inefficiency, unaffordability, volatility, and barriers to the development of renewable energy posed by our energy system. The pursuit of systemic change is wholly appropriate. We support the development of new institutions to coordinate the rapid adoption of energy efficiency, storage, and distributed renewables. And we support changes in the roles and responsibilities of utility companies, efforts to empower New Yorkers to participate in building a distributed and renewable energy system, and the creation of new regulations and pricing structures to ensure market behavior that results in conservation and positive environmental, health and social outcomes.

In previous comments we have advocated for the inclusion of the principles of energy democracy, holistic environmental protection, affordability, consumer protection, and economic and racial equity in the goals or REV. We will not reiterate here the points made in our two preceding comments.

Instead, in these reply comments, we focus on two main areas of the Staff Straw Proposal highlighted by Alliance for a Green Economy and other parties as areas for concern about the direction of the REV proceeding so far:

- REV Participation and Complexity of Process
- Identity of the DSP Provider

REV Participation and Complexity of Process

Like many other organizations that submitted comments, we have expressed serious concerns about the lack of opportunities for public participation in this proceeding. While we support systemic changes to the retail energy system, we caution that such dramatic changes to energy policy should be vetted through an open and participatory process.

As an attachment to these comments, we are submitting a letter signed by more than 50 organizations across New York, asking for a number of changes to the REV process to encourage more public participation and involvement by under- or unrepresented constituencies. We hope these recommendations will be welcomed and acted upon.

In addition to the recommendations in the letter, we would like to call attention to the large number of stakeholder processes and ratecases proposed by the Staff Straw Proposal where many critical decisions about the contours of REV could be made.

As has been pointed out by a number of other Parties in their comments, it will be extremely difficult for parties to engage substantively in all of these proceedings.

We agree with the comments submitted by Association for Energy Affordability, which stated that the Straw Proposal "calls for numerous stakeholder processes and provides for much of the implementation of REV to be done on a case-by-case basis for each utility. It will be extremely difficult," they write, "for parties to engage purposefully and regularly in so many groups, and rate cases and notoriously technical time-consuming, and inaccessible to the general public." They go on to say that "if serious policy decisions with significant financial and structural impacts will be made in this fashion, the public will be disadvantaged."[1]

While we understand that some details will be best worked out in specialized stakeholder processes and ratecases, we call on the Commission to bear in mind that most Parties can likely participate in one process at a time. We encourage the Commission to keep the critical policy decisions in a decision-making space that is not splintered into inaccessible rate-cases, and we reiterate our request for generous comment periods.

Identity of the DSP Provider

In addition to our recommendations regarding process, we join many other Parties in strongly recommending the creation of an **Independent Statewide Distributed System Platform Provider**.

Missing in the REV market vision articulated in the Straw Proposal is an institutional vehicle through which ratepayers, their public interest organizations, and their community representatives can participate in market design and exert influence over critical decisions regarding the energy system. Such an institution is necessary if "consumers" are to be treated as full participants in building the distributed, resilient, efficient and renewable energy system envisioned by REV.

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[1] Association for Energy Affordability, September 22, 2014, pg. 6.
http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={10941512-ADB8-4EF2-B717-6047203D23F8}

This is one of the main reasons why Alliance for a Green Economy is calling for a Distributed System Platform Provider (DSP) that is independent from the incumbent utilities.

We respectfully disagree with the rationale for giving this DSP role and responsibility to the incumbent utility companies, even while we understand that it may seem to be the easiest and most expedient option in the short term. We think that in short order, the complexity and inefficiency of having six different DSPs will become apparent. We also think the vision of utility-controlled DSPs is incompatible with the stated desire in the Straw Proposal to put consumers as distributed energy resources providers on a level playing field with utilities and other market actors.

In calling for a Statewide Independent DSP, we echo the excellent points raised by Hudson River Sloop Clearwater, Citizens for Local Power, and Solar City. We also note that Walmart has also called for an Independent DSP or DSPs.

Taken together, the various points raised by parties in their comments on the Staff Straw Proposal present a compelling argument for the Commission to develop a vision for a Statewide Independent DSP so that a fully formed proposal can be considered as an alternative to the current Staff recommendation. For the ease of building a comprehensive record of advocacy for a Statewide Independent DSP, we have compiled the relevant sections of Party Comments here:

Hudson River Sloop Clearwater:

> Clearwater calls for a Statewide Independent Distributed System Platform Provider – NOT the six incumbent distribution utilities recommended in the Straw Proposal. Table 1, page 20 shows some areas of overlap, but also defines distinct functions that can be clearly separated. A single independent statewide DSP can promote standardization and prevent market power abuse by closely coordinating with the utilities, whose information will become increasingly transparent while protecting the interest of consumers and third-party providers and ensuring steady progress to REV, State and Federal goals. The REV market being established by the PSC should not be designed and overseen by industry groups who have a financial state in the outcome of market design. Although we agree that utilities and ESCOs should have input, this market transition should be designed and overseen primarily by people who represent the public interest and policy goals set by the state through a democratic process."
>
> Utility Conflict of Interest:
> We believe that the fact that all utilities in NY are now owned by national or multi-national corporations whose ultimate allegiance is to their shareholders and primary motive is to maximize profit, regardless of societal or environmental impacts, and who may have conflicts of interest with REV, State and Federal energy goals, disqualifies them from serving as the DSP. By way of example, Fortis owns Central Hudson and may have holdings in oil or gas that will benefit from extended reliance on fossil fuel combustion rather than an aggressive transition to renewable energy, energy efficiency and demand response, which, with microgrids and storage, are the key elements of Distributed Energy Resources (DER).[2]

[2] Hudson River Sloop Clearwater, September 22, 2014. Pg. 7-8.
http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={341B225C-8019-4859-B94D-E83EA391CFBD}

Citizens for Local Power:

> Creating a Statewide Independent DSP at the outset is essential. CLP supports the creation of a Statewide Independent DSP as the best way to reduce the tendency of utilities, in their role as regulated monopolies, to discourage other market participants. Equally important, a state - wide platform will best enable the development of a state-wide energy system and market. An independent entity will better ensure technology standardization, will simplify evaluation and tracking of DSP activities, and will make it easier to impose rules and adjust to changes in outside conditions and opportunities. It will also make the energy market in New York considerably more attractive to potential investors in DER. The fact that NY has a single ISO is mentioned as a condition of REV's feasibility in NY. The PSC should build on this insight to create a Statewide Independent DSP. A state-wide approach will both support the development of DER initiatives that have state-wide implications and benefits, and facilitate investment in New York.
>
> …One of the main arguments the Staff Report makes against the case for an independent DSP is the significant costs of separating grid management and market functions without any indication of what those costs might be. Sonoma Clean Power, the Community Choice Aggregator (CCA) in Sonoma County, CA, provides evidence to the contrary. The cost of sharing the necessary data regarding real-time, grid management needed to implement DER resources was approximately $27,000.
>
> The Straw Proposal identifies key functions of the DSP and claims that the majority of them are already being performed by the utilities, but the chart on p. 20 shows that many significant ones are not, particularly market functions. Utilities could be directed to work with a Statewide Independent DSP to share information and provide the necessary data at cost in order for a Statewide Independent DSP to oversee and implement key market functions.[3]

SolarCity:

> In our initial comments on Staffs report, SolarCity stated that truly reforming the energy vision would require an Independent Distribution System Operator (IDSO) that would play the role of the DSP proposed by Staff. New York will only achieve the goals of this proceeding by having an entity, independent of owning the distribution system, fulfill the crucial functions of planning, market facilitation, energy efficiency, and portions of advanced distribution management systems. In its proposal, Staff states that "mandating an independent DSP appears to be an expensive, unwieldy, and incomplete response," but does not cite any examples, analysis, facts or figures to support this assumption. The Commission should not decide such a crucial aspect of this proceeding on conjecture alone, and should require that the costs and implementation of an IDSO be studied.
>
> At a minimum, the Commission should explicitly allow for the possibility of another entity performing the role of DSP provider if the utility does not perform up to set goals and standards. Staff also states that "utility performance as the DSP will need to be monitored and evaluated for operational efficiency, standardization, and exercise e of market power."
>
> If the utilities will initially play the role of DSP, the Commission should require that utilities publicly file and periodically update plans that would transition DSP duties to another entity, which the Commission could commence a proceeding on at its discretion.[4]

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[3] Citizens for Local Power. September 22, 2014. Pg. 5-6.
http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={DAC1665E-EEE1-42EE-A218-B969EB8AC7A1}

[4] SolarCity. September 22, 2014. Pg. 6-7.
http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C3E36DD4-4A34-4085-9366-93647BB5F2A0}

Walmart:

> Given the acknowledged benefits that an independent DSP could have over the utilities performing the same function, and the substantial amount of work left in Track 2, it seems premature for Staff to advocate the utilities' assumption of this role. Moreover, the parties have only had one opportunity to comment on this fundamental REV principle and it is not clear whether additional benefits to an independent DSP were submitted and not reflected in the Straw Proposal. The Commission should refrain from accepting Staff's judgment on this issue. The Commission should thoroughly explore and compare the benefits of an independent DSP before committing to a particular course of action. Lastly, Staff suggests that it may be more feasible to entertain an independent DSP at a later date as DSP markets develop and mature.
>
> Given the fact that even Staff has indicated that an independent DSP is feasible, there is absolutely no reason that it should not be explored now as an option rather than after utilities have expended significant time and resources, possibly at ratepayer expense, to sufficiently staff DSP operations and fully engrain themselves in DSP operations. Staff acknowledges that it could take years to implement REV reforms during which more damage than good may occur. This important issue requires substantially more review than has been conducted to date.[5]

While not explicitly calling for the development of a proposal for an Independent Distributed System Provider, other parties raised concerns over potential outcomes if incumbent utilities are put in the role of DSP. Some, like the Department of State's Utility Intervention Unit and NY Energy Consumers Council, raise questions the DPS Staff and Commission should answer before moving forward with a proposal to embed the DSP role with incumbent utilities. Others, like Clean Energy Advocates and Environmental Defense Fund, call for various safeguards or clear succession plans:

Department of State's Utility Intervention Unit:

> The Straw Proposal recommends the establishment of six utility DSP Providers rather than one independent provider while acknowledging (on page 22) that the utilities do "not currently have all of the capabilities and competencies needed to successfully operate" as DSPs. The Straw Proposal remarks: "Utilities will likely need to hire new staff with different skill sets. In developing the DSP, utilities should consider creating DSP market departments that sit at the same level as other key functional departments, thereby creating clear lines of responsibility and reporting." Overall, the Straw Proposal recommends almost two dozen actions that utilities should pursue. Further exploration of the DSP Provider recommendation as well as the other recommendations are required to assess the costs associated with staffing new departments at the six utilities, as well as the cost recovery mechanism, before the Straw Proposal is adopted. By way of comparison, the NYISO employs more than 500 people and has an annual budget of approximately $150 million. It is possible that creating the equivalent of six utility DSP providers with functions comparable to the NYISO's will introduce redundancies that are not efficient. The UIU requests clarification of how, in the absence of intervenor funding, residential ratepayers will be able to participate meaningfully in the governance of six separate entities.[6]

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[5] Walmart. September 22, 2014. Pg. 4.
http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={77627B9B-2959-466A-90D8-4C4A022C884B}

[6] Utility Intervention Unit, Division of Consumer Protection, NYS Department of State. September 22, 2014. Pg. 8-9.
http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={6BB12054-34A1-4538-9F32-0CDCAAAC81F0}

NY Energy Consumers Council:

> Since the key to success in the hyperconnected 21st century would appear to be this "platform of trust," then any possible exercise of market power created by utility engagement in DER while in the role of DSP must be eliminated by putting into place the appropriate rules to deter such exercise. NYECC is very much in agreement with the NYISO that "vesting the utility with the roles of market manager, distribution utility, DER provider, and DER developer at the same time may stifle the competition and technological advancement the PSC seeks to promote in this proceeding."
>
> Perhaps a single IS0 type of DSPP is preferable to a market system approach so that there is one central market facilitator instead of multiple utilities functioning in this capacity collectively. It is logical that since utilities will be participants in the proposed market, that they not be the collective market facilitator, in order not to give the appearance of any exercise of market power and thereby undermine the "DSP market's platform of trust." It may also be more efficient, and standardization may be more expedited for the DSP market, if there is a single ISO type of DSPP instead of multiple utilities functioning as a collective whole. NYECC does not know yet and recognizes that perhaps it may actually may be that it may be more efficient to have the utilities perform this function collectively although the issue of standardization of platforms, market rules, practices and procedures for administration of DSP markets among the utilities would remain. In addition because of the use of an ISO type organization that is not a utility may raise jurisdictional issues for the Commission, using a utility in the DSPP role may realistically be the only feasible option in the short term.
>
> NYECC believes that Staff and the Commission and the parties to this proceeding, including NYECC need more information and specifically a detailed comparison of the available options (which may include options other than the two discussed herein - for example a single utility functioning as DSPP) before the Commission ultimately and rationally decides who will perform the DSP function consistent with the Commission's responsibility to ensure safe and reliable service at just and reasonable rates. There should not be any rush to judgment one way or the other in the absence of the necessary factual comparison for all key factors which will inform and guide the correct decision by the Commission. Such Commission action will do much to foster the necessary "platform of trust" for the nascent projected DSP market.[7]

Clean Energy Advocates:

> The Clean Energy Advocates also wish to express their concern about public participation in the REV proceeding. Given the Proposal's expressed intent of a utility-driven model, evidenced by utilities potentially taking over New York's EEPS and RPS programs as well as functioning as DSPs, we worry that many of these decisions will take place in highly complex ratemaking proceedings that discourage public participation. To this end, we echo the Moreland Commission's concern that "certain customers or customer groups, who are not in a position to advocate for themselves, may feel marginalized when compared to utility companies and other special interest groups during proceedings before the PSC."
>
> While Clean Energy Advocates support utilities initially acting as DSP, they "maintain doubts about the utilities ability to serve as a disinterested operator. Existing ISO/RTOs demonstrate that 'platforms' quickly become so complicated that almost no one – except those operating the platform – knows what's going on. Within the complexity, the opportunity for subtle "self-dealing" is enormous. The Clean Energy Advocates call for as much separation between these functions as possible, including the separation of DSP and utility revenue streams in ratemaking.

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[7] New York Energy Consumers Council. September 22, 2014. Pg. 4.
http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={4CCABDA2-F9DD-4863-9764-282989C68644}

> The Proposal reflects Staff's belief that the utilities should have the central role in the DSP process. The central concession relies on the hope that ease of implementation, and utility buy - in will accelerate the emergence of the new market. The Clean Energy Advocates, however, do not believe that this concession should be made without a fall-back position in light of the obvious and identified dangers of utility-DSP ownership. The DSIP presents an opportunity to test the hypothesis of utility ownership, while maintaining the possibility of an independent DSP. The Commission's final REV decision should include a fully formed plan for the implementation for an Independent Distributed System Provider (IDSP) in the event the utilities fail to provide a functioning system that is equitable to all users.[8]

Environmental Defense Fund:

> The Commission should proceed with care to ensure that the initial assignment of this task to the utility company that currently holds the distribution franchise does not become a permanent, unchangeable feature of the marketplace. Whatever entity plays the role of DSP at the outset, its ability to play that role should be, as proposed in the SSP, contingent on performance. To avoid an indefinite commitment to any entity that is not performing well, it is imperative that the Commission clarify both the metrics that will be used to evaluate DSP performance and the process by which a DSP could lose its monopoly franchise for non-performance…
> … New York cannot afford to remain off-course in its path to 2050. An otherwise well – functioning electric services marketplace which fails to achieve greenhouse gas ("GHG") reductions in line with what is required by New York policy should be regarded as a failure, and any entity failing to operate the marketplace in a manner that leads to the sought – after reductions actually occurring should not be permitted to continue in that role for long.[9]

Taken together, these comments build a strong case that the DPS staff should engage interested Parties and stakeholders in the development of a vision for a Statewide Independent DSP that can be considered as an alternative to the proposal to embed that market role with the incumbent utilities. In reviewing the comments submitted by other parties, there is a diversity of ideas for the structure and governance of a Statewide Independent DSP that range from the NYISO-like model to a democratically controlled entity. Alliance for a Green Economy advocates for the latter version, with a governance structure that is largely made up of representatives of public interest organizations and New York's communities. We would welcome the opportunity to work with the Staff and other Parties and stakeholders to discuss these options and develop a proposal.

Conclusion

The one-month turnaround time provided for reply comments prevents us from going into more detail in response to many of the other excellent points raised by other Parties. We do wish to note, however, that many other very important issues were raised in Party Comments on the Staff Straw Proposal, including:

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[8] Clean Energy Advocates. September 22, 2014. Pg. 16-17.
http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={8173952D-F0CE-4DE4-A469-E5A7839608AE}

[9] Environmental Defense Fund. September 22, 2014. Pg. 9-10.
http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={2AC173D3-0077-4A76-B0A9-81073E5F51EE}

- The need for clear near-term, mid-term and long-term goals for energy efficiency and renewable energy development and benchmarks for achieving the state's greenhouse gas emission reduction goals. We reiterate here that all greenhouse gases (including methane) and all pollutants (including radioactive and thermal pollution from nuclear reactors) should be considered in environmental goals.

- Caution over the transition to an unproven market-based plan for achieving the state's energy policy goals without retaining the current EEPS and RPS programs in place unless or until REV's intended outcomes come to fruition.

- The need for strong enforcement and penalties for not meeting the regulatory standards set by REV, instead of an over-reliance on incentives for meeting those goals.

- The need to ensure the REV outcomes leave room for and encourage communities to pursue shared renewables and Community Choice Aggregation.

- ESCOs and other market actors need strong regulation and oversight to protect consumers from deceptive marketing practices and predatory financial arrangements.

- There is a need for more clarity in the REV vision around inclusion of low-income ratepayers and communities as participants in building the efficient and distributed renewable system.

We look forward to continuing to comment and engage in this proceeding. We urge the Commission and the DPS Staff to engage more fully with the passionate grassroots organizations and local community leaders who are already deeply engaged in building the sustainable energy system envisioned by REV. We believe that slowing down and opening up of this process to more stakeholders and more public participation can only lead to better and more inclusive outcomes.

Thank you for your consideration.

Sincerely,

/s/ Jessica Azulay
Program Director
Alliance for a Green Economy

-----Attachment-----

Audrey Zibelman
Chair
New York State Public Service Commission
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Albany, NY 12223-1350

October 24, 2014

Re: Opportunities for Public Participation in the Reforming the Energy Vision and Clean Energy Fund Proceedings

Dear Ms. Zibelman:

We, the undersigned organizations and elected officials, request the Public Service Commission's consideration of several suggestions to improving the process underway for advancing the Reforming Energy Vision (REV) initiative. We hope our recommendations will be taken in the spirit that they are intended, as constructive proposals to drive outcomes that most broadly reflect the aspirations of New York's diverse communities and stakeholders to realize a new energy future.

First, we would like to acknowledge the tremendous opportunity presented by the REV proceeding. REV represents a major shift in the way New York approaches energy policy. The transformation of our current energy system to one that accelerates the deployment and penetration of energy efficiency measures as well as renewable and distributed energy is certainly welcomed by signatories to this letter. Perhaps no other action by the Commission has such potentially sweeping and "game changing" impact.

When taken together with its companion proceeding, the Clean Energy Fund, meeting these challenges to secure the state's climate, economic and energy future is a critical imperative that can be called nothing short of enormous.

Energy insecurity, affordability, reliability, resilience, and resource efficiency are but a few of the drivers of the REV proceeding. If REV is conducted with New York's residents at the center of attention, we can better curb the climate crisis, prevent health and safety threats posed by slipshod and dirty energy development in our communities, and achieve electricity affordability for all New Yorkers to live comfortably and work productively.

However, the magnitude of the opportunities presented by these proceedings is only matched by the complexity of interrelated challenges facing New York's energy stakeholders in realizing such an ambitious vision.

In its current form, the process for the Reforming the Energy Vision Proceeding does not lend itself to the broad public participation necessary to arrive at outcomes that reflect the will of all New Yorkers. Most people in New York – even those working on the front lines for a sustainable energy transition – have no idea the proceeding is happening. The documents have been written in a format that is too technical for the average reader and publicity has been minimal. Public hearings have not been

scheduled or held; instead the in-person input format is a technical conference that is inaccessible and daunting for most community residents. Comment deadlines are woefully short given the gravity of the changes being proposed and the complexity and length of the documents put forth for review.

The major proposals at the heart of these proceedings should be subject to a much more open and comprehensive public input process. The Reforming the Energy Vision staff straw proposal released in September proposes unprecedented new roles and responsibilities for the investor-owned utilities, businesses that have little accountability to the public and that have historically stood in the way of progress toward the state's environmental and affordability goals. The proposed transfer of power over the design and implementation of the state's energy efficiency and renewable energy programs from NYSERDA, a public agency, to the utility companies should not be fast-tracked. This warrants major discussion and input from all sectors of New York's society, as well as the serious development and consideration of alternative proposals.

Given the potential impact of these proceedings on our lives and our aspirations for a more sustainable and equitable energy system, we make the following requests and recommendations:

- The Commission should engage in an aggressive mass media and publicity campaign about these proceedings to explain to the public what is at stake and encourage public input.
- At the least, plain-language summaries should accompany all proposals and orders. Preferably, proposals and orders themselves should be written in plain, simplified language, with a minimal use of technical terms and acronyms.
- A simplified and clear one-form online process for becoming a Party to these proceedings should be implemented. It is currently confusing to navigate the DPS website and find all the necessary steps to joining as a Party.
- The Commission should proactively seek input from communities and constituencies that are underrepresented in the Party list of these proceedings.
- Free, accessible, open and well publicized information sessions should be held across the state to explain the major elements of the proposals and answer questions.
- Public hearings should be held across the state at accessible locations and accessible times, and should prioritize communities that are on the frontlines of climate change and environmental injustice.
- The REV proceeding itself should be slowed down and conducted over a longer time period, with comment deadlines on major proposals extended to at least 90 days. Input opportunities on fundamental issues should remain open until details are developed and potential impacts clarified.
- A full schedule for the various Tracks, staff proposals, Commission orders, comment deadlines, and public input opportunities for the REV proceeding should be published and continuously updated in a prominent place on the Public Service Commission website.
- Interrelated proceedings, including REV and Clean Energy Fund should be better integrated with regards to comment deadlines so that parties have enough time to reasonably participate in each and understand each in the context of the other.

- Intervener funds for research and the development of alternative proposals should be made available to Parties to the proceedings.

We would welcome the opportunity to discuss these suggestions further with the Public Service Commission and Department of Public Service staff as soon as possible. We look forward to working with you to open these proceedings to more New Yorkers. Thank you for your consideration.

Sincerely,

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