

April 5, 2019

**VIA COURIER & RESS FILING**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor, Box 2319  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Energy+ Inc. (“Energy+”) 2019 Cost of Service Application;  
Board File No. EB-2018-0028;  
Toyota Motor Manufacturing Canada Inc.; Reply Argument**

We are writing on behalf of Toyota Motor Manufacturing Canada Inc. to file its Reply Argument in the above-noted proceeding. This Reply Argument has been filed through RESS.

Two hard copies are being couriered to the OEB today.

Yours very truly,

Dentons Canada LLP

*original signed by Helen T. Newland*

Helen T. Newland  
HTN/ko  
Encls.

cc: Melody Collis, TMMC  
Bill Fantin, TMMC  
Pete Leonard, TMMC  
Jo Keaton, TMNA  
John Vellone  
Sarah Hughes  
Parties to EB-2018-0028

**ONTARIO ENERGY BOARD**

**IN THE MATTER** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15  
(Schedule B);

**AND IN THE MATTER OF** an application to the Ontario Energy Board by  
Energy+ Inc. pursuant to Section 78 of the Ontario Energy Board Act for  
approval of its proposed distribution rates and other charges effective  
January 1, 2019.

**Toyota Motor Manufacturing Canada Inc.**

**Reply Argument**

**April 5, 2019**

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**A. INTRODUCTION**

1. This is Toyota Motor Manufacturing Canada Inc.'s ("**TMMC**") reply ("**Reply**") to arguments made by Ontario Energy Board Staff ("**Staff**"), Energy+ Inc. ("**Energy+**"), School Energy Coalition ("**Schools**") and the Vulnerable Energy Consumers Coalition ("**VECC**"), all in respect of Energy+'s application for 2019 distribution rates and TMMC's evidence on issues related to cost allocation and rate design.
2. The balance of this Reply responds to the arguments of Energy+, Staff and intervenors regarding the following specific cost allocation and rate design issues: direct cost assignment; the allocation of pooled costs; the establishment of a separate TMMC Large Use ("**LU**") class; and an appropriate standby rate methodology.

**B. DIRECT ASSIGNMENT OF COSTS**

**(a) feeders and capital contribution**

3. Energy+, Staff, Schools and VECC agree with TMMC that the costs of the M24 and M30 feeders and the associated capital contribution of TMMC should be directly allocated to the LU class of which TMMC is a member (as determined by the Board in this proceeding). Their agreement in this regard acknowledges the Board's direction that the costs of identifiable and significant distribution facilities, dedicated to a single rate classification, should be directly assigned.<sup>1</sup> Staff, Schools and VECC also agree with TMMC that no portion of the pooled costs of underground conductor should be allocated to TMMC.

**(b) meters**

4. Schools and VECC do not agree that meter costs should also be directly assigned to the LU class because: (i) meters are not a significant distribution facility;<sup>2</sup> (ii) there is nothing unique about TMMC having dedicated meters because all customers have dedicated meters<sup>3</sup>; and (iii) TMMC's meter costs are not recorded in a separate account or subaccount<sup>4</sup>. In its argument, Energy+ does not address the meter issue specifically, but states that only the costs of the dedicated

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<sup>1</sup> EB-2005-0317, Cost Allocation Review, *Board Directions on Cost Allocation Methodology for Electricity Distributors* at 23 (Sept. 29, 2006) ("**Board's Cost Allocation Direction**") at p.31.

<sup>2</sup> VECC Submission, para. 3.23; Schools Final Argument, para.52.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

feeder and associated capital contributions should be directly assigned to the LU class, the implication being that meters should be excluded from direct assignment.<sup>5</sup>

5. TMMC disagrees with Schools, VECC and Energy+ on this issue for a number of reasons. First, the TMMC meters are identifiable and discrete assets that are dedicated to TMMC; proper cost allocation requires that the identifiable costs of such assets be directly assigned. Second, the costs of the TMMC meters are not in question; they are based on actual records and not on an estimate. Third, although the Board's policy on direct assignment refers to "significant" facilities, it provides no further guidance as to how significance should be judged. In TMMC's submission, a group of four (4) dedicated industrial meters is a significant asset. Fourth, generally speaking, a utility's meter assets will comprise meters of various types and vintages, whose costs are, for the most part, recorded together in accounts which cannot be disaggregated to track use and costs to a particular customer class. In contrast, TMMC's meter costs are discrete, dedicated, identifiable and easily tracked to TMMC.
6. Finally, TMMC submits that in answering the question of which distribution facilities assets should be subject to direct assignment, the Board should consider the whole suite of facilities that serve TMMC exclusively. The costs of discrete and identifiable facilities that, together, are used exclusively to provide service to TMMC, should be directly assigned in accordance with principles of cost allocation, generally, and the Board's Cost Allocation Direction, specifically.

**(c) O&M expense**

7. Each of Energy+ and Schools opposes the direct assignment of O&M expenses related to the dedicated feeders on the basis that Energy+'s O&M estimate has a high margin for error.<sup>6</sup> VECC does not expressly oppose the direct assignment of O&M expenses, but also refers to the alleged high margin for error in the O&M cost estimate. VECC goes on to submit that in light of the uncertainties regarding the costs associated with the directly allocated assets, the Board should revise the R/C ratio range for the Large Use class that has directly allocated costs from 85% - 115% to 80%-120% (similar to that used for the General Service classes) in recognition of the increased cost uncertainty.<sup>7</sup>

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<sup>5</sup> Energy+ Argument-in-Chief, para.61.

<sup>6</sup> *Id.*, para.60; Schools Final Argument, para.53.

<sup>7</sup> VECC Submission, para.3.22.

8. It is ironic that parties oppose the direct assignment of O&M expenses. On average, Energy+'s total OM&A Expense (\$18,210,648)<sup>8</sup> comprises 10% of Energy+ Gross Fixed Assets (\$182,594,277).<sup>9</sup> In contrast, Energy+ attributes O&M expenses of \$93,115 to the dedicated TMMC feeders, or 33.9% of their Gross Fixed Asset value of \$274,493. In other words, a direct assignment of O&M costs would result in a potential over-contribution by TMMC of over 200% ( $\$93,115 \div (\$274,493 \times 10\%) - 1$ ).
9. In light of the above and as an alternative to its proposal that O&M expenses should be directly assigned, TMMC would be content to accept an allocation of pooled O&M expenses, under the one or the two LU class scenario.
10. Finally, with respect to VECC's suggestion that the revenue to cost range for the LU class be expanded to recognize "uncertainties" with respect to directly assigned costs, TMMC simply asks: "what uncertainties?" The costs of the feeders and the meters are known. The proposed O&M assignment of \$93,115 represents a potential over-contribution by TMMC of over 200%. Further, Mr. Pollock's proposal to allocate pooled pole costs to the TMMC LU class, as opposed to directly assigning only the costs of those poles that TMMC actually uses, results in an allocation of costs that is more than four times greater than Energy+'s own cost estimate: \$357,322 vs. \$1,550,000. Further, this assumes that TMMC is solely responsible for the cost of the primary poles supporting the dedicated M24 and M30 feeders. However, as Mr. Pollock stated, these primary poles serve more than the TMMC load. Thus, TMMC would (at most) be allocated 50% or \$178,660, which is only 11% of the allocated pole investment in TMMC's cost allocation model. It is clear that a revenue to cost ratio of 1.15, as proposed by Mr. Pollock, would provide an ample cushion against which to offset cost uncertainties, to the extent that there are any.

**C. ALLOCATION OF POOLED COSTS**

11. Each of Staff, Schools and VECC support Energy+'s proposal to allocate a portion of the pooled costs in its underground conduit and bulk facility accounts to the LU class notwithstanding that neither of the two customers in the existing LU class receive service from such facilities. Mr. Pollock's proposal, on the other hand, does not allocate any bulk or underground investment to the LU class.

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<sup>8</sup> Settlement Agreement, Utility Income, I.4.

<sup>9</sup> *Id.*, Rate Base, I.1.

**(a) underground conduit**

12. Energy+ cites two reasons in support of its proposal to allocate underground conduit to the LU class and opposing Mr. Pollock's proposal. First, the Board's cost allocation model allocates both overhead and underground facilities without considering, on a customer-by-customer basis, exactly what types of assets are used to serve them.<sup>10</sup> Accordingly, Energy+ argues that if such facility costs were not allocated, TMMC would be subsidized by other Energy+ customers who receive service via underground facilities but who also pay for a share of overhead assets as *per* the Board's cost allocation model.<sup>11</sup> Second, Energy+ argues that if underground conduit costs are not allocated to the LU class because class members do not use these facilities, other similarly-situated General Service ("**GS**") customers or customer classes would have to receive the same treatment.
13. In supporting the allocation of pooled underground facility costs to the LU class(es), Staff makes two arguments. First, it relies on a functional equivalency argument, namely, that both poles and underground conduit support conductors. Second, Staff suggests that because all other customers pay a share of both overhead and underground facility costs regardless of how they are served, as *per* the Board's cost allocation model, TMMC should not be permitted to "opt out".<sup>12</sup>
14. Schools also relies on the "model limitation" argument. It submits that because the Board's cost allocation model is not designed to exclude the allocation of facility costs to customer classes that do not use the facility, "it is only appropriate to exclude a pooled asset cost if a similar asset is being directly assigned to the customer class."<sup>13</sup> To do otherwise, it argues, would lead to cross-subsidization by all other customers because the demand allocators used for the allocation include loads from all customers, not just the customers or customer classes who use the asset."<sup>14</sup>
15. VECC argues that Mr. Pollock's cost allocation model is based on an asset-specific approach to establish cost causality which is different from, and inconsistent with, the services or pooling approach that underpins the Board's cost allocation model. VECC goes on to argue that the so-

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<sup>10</sup> Energy+ Argument-in-Chief, para.63.

<sup>11</sup> *Id.*

<sup>12</sup> Staff Submission at p.15.

<sup>13</sup> Schools Final Argument at p.17.

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

called asset-specific approach of Mr. Pollock gives rise to practical difficulties in the cost-allocation exercise, including how to identify which customers use which assets.

16. Dealing first with the argument about the limitations of the Board's cost allocation model: the fact that the Board's cost allocation model does not recognize the different services that are provided to different customers or classes of customers is not a valid justification for ignoring principles of cost causation and allocating underground conduit costs to TMMC. Mr. Pollock's evidence defines two different types of primary services: primary substation service and primary distribution service. Mr. Pollock's cost allocation model recognizes these two types of primary services while the Board's model recognizes only primary distribution service. It is important to appreciate that primary substation service is not a construct that Mr. Pollock developed or made up for the purposes of his evidence in this proceeding. It is a distinct and different service and is recognized as such for cost allocation purposes, by economic regulators in U.S. jurisdictions.<sup>15</sup>
17. As Mr. Pollock's Updated Evidence demonstrates, the costs of providing primary distribution service and primary substation service are different. Recognizing the different costs of the different types of distribution service requires the creation of different cost pools. In the case of Energy+, this means recognizing cost pools for primary distribution service, primary substation service (as defined in Mr. Pollock's evidence) and secondary distribution service. The primary distribution service cost pool would include investments in underground facilities while the primary substation would include the costs of primary poles and all directly assigned costs.
18. A cost allocation model that does not differentiate between different types of primary distribution (and secondary distribution) services, does not properly reflect cost causality principles. The Board acknowledged as much in its decision on Horizon Utilities Corporation's ("**Horizon**") 2014 Custom Incentive Regulation application.<sup>16</sup> In that decision, the Board accepted Horizon's evidence that certain USoA Accounts (including both overhead and underground facilities) do not belong in the cost pool applicable to the Large Use 2 class because these assets were not being used to serve that class.<sup>17</sup> In so doing, how specific assets are or are not used to provide service to a specific class was recognized as relevant in determining whether and how such costs should be allocated to that class.

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<sup>15</sup> TMMC Response to OEB Staff Interrogatory-3(a)(ii); TMMC Response to Technical Conference Undertaking No. JTC1.11.

<sup>16</sup> EB-2014-0002, Decision and Order (January 8, 2015).

<sup>17</sup> Horizon Utilities Responses to Board Staff Interrogatory-7-Staff-19(a) and (b).



19. In expressing support for Horizon's proposed cost allocation approach, Mr. Janigan, counsel for VECC stated as follows:<sup>18</sup>

Let me say at the outset that the constituents represented by VECC are not the customer classes that are the most affected by these changes, but our experience has been, in the past, with cost allocation and rate design, the cost allocation/rate design goes to the very heart of the regulatory experience, and that if the principles that are applied are wrong in one case, very frequently these principles come back to rebound on the other customer classes in other cases, if they are either misconstrued or misapplied, or what we have seen happen both in the case of regulation and energy and in telephony, that the efforts to correct the initial mistakes may cause hardship to other classes in the effort to correct those mistakes.

So in our view, getting it right in cost allocation is something that involves more than the class that's affected by the changes.

First, with respect to the issue of customer classification, VECC believes it is important to separate out the principles and objectives of customer classification from the outcomes. VECC agrees with the evidence from Horizon that the principle underlying customer classification should be cost causality, and that's found at Exhibit 7, tab 1, schedule 3, at page 3, and also in volume 1 of the transcript at pages 48 and 97.

In VECC's view, this means grouping together, in each customer class, those customers that use similar assets and services and impose similar costs on the system by virtue of their use of those assets as determined by their load profiles.

20. In arguing for the allocation of underground conduit costs to TMMC, Energy+ observes that other similarly-situated GS classes or customers would have to be afforded the same treatment. There is no evidence that there are any such GS classes or customers. To TMMC's knowledge, Energy+ has no other customers who receive primary substation service and there is no evidence that any such customers will materialize in the period before Energy+'s next cost-of-service application.
21. Staff's functional equivalency argument does not survive close scrutiny for two reasons. First, if underground conduits, on the one hand, and poles and towers, on the other hand, were intended to be treated as functional equivalents for cost allocation purposes, there would be no need to have separate overhead and underground accounts; namely USoA 1840-4 and 1840-5 for

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<sup>18</sup> EB-2014-0002, 5Tr. at pages.3-4.

underground conduits and USoA 1830-4 and 1830-5 for poles, towers and fixtures. Second, underground service requires conduit and conductors; both are required to deliver service. There is no dispute that Energy+ does not use underground facilities, of any type, to provide TMMC with primary substation service. If the primary substation service that TMMC receives does not require underground conductors, it certainly does not require underground conduits. Common sense and cost-causation principles require that no portion of the pooled costs of either category of underground facilities be allocated to the primary substation service cost pool.

22. Finally, with respect to VECC's argument that Mr. Pollock's cost allocation model allocates costs based on asset use while the Board's cost allocation model allocates costs based on service and that the former creates practical difficulties in the cost-allocation exercise: This is simply incorrect. As described above, Mr. Pollock's cost allocation model explicitly recognizes three types of primary service and allocates costs to the costs pools of each such service.

**(b) allocation of bulk facilities**

23. Energy+, Staff, Schools and VECC submit that TMMC/the LU class should be allocated a share of the pooled costs of bulk facilities. In his CCOSS, Mr. Pollock does not allocate any bulk investment to the LU class because TMMC is directly connected to a Hydro One transformer station and not to an Energy+ station.
24. Each of Energy+<sup>19</sup>, Schools<sup>20</sup> and VECC<sup>21</sup> argue that since the costs of transformation service recovered in the Retail Transmission Service Rates ("RTSRs") are allocated to all customers based on the total load of all customers, regardless of which transformer station serves them, Mr. Pollock's approach results in a cross-subsidy of TMMC by other Energy+ customers. Accordingly, they submit that RTSR charges need to be adjusted to exclude the loads of each customer class that is served from Energy+'s bulk facilities.
25. RTSR-related issues, including the basis on which they are passed through to customers and the costs that they recover from customers, are complex issues that have not been well-litigated, if at all, in this proceeding. Energy+, Schools and VECC have expressed concerns about cross-subsidization of TMMC by other customers and point to an unverified and hypothetical example put to Mr. Pollock in cross-examination as "evidence" of such subsidization. Something more is required before the Board can rely on this argument as the sole basis for denying a proposal that

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<sup>19</sup> Energy+ Argument-in-Chief, para.62.

<sup>20</sup> Schools Final Argument, para.58.

<sup>21</sup> VECC Submission, paras.3.36.

would treat TMMC in the same manner as other similarly-situated customers who do not receive transformation service from Energy+; i.e., the embedded distributors.

**D. ONE LARGE USE CLASS VS. TWO LARGE USE CLASSES**

26. TMMC has requested that the Board establish a separate TMMC LU class in order that key differences between the service received by TMMC and the service received by the other LU customer, and the associated differences in the costs of these services, are recognized for rate-making purposes.
27. TMMC is not proposing a separate TMMC LU class simply because it “wants” a separate class or because “it would like” a separate class or because it wants to shift costs to other Energy+ customers. TMMC is proposing a separate TMMC LU class because separate customer classes are necessary when the per-unit customer or demand-related costs are sufficiently different between identifiable groups of customers to justify different rates. The facts in this case support and justify TMMC’s request that a separate LU class for TMMC be established.
28. In its argument on the one vs. two class issue, VECC acknowledges that the “nature of the facilities” used to serve TMMC and the other LU customer are different. It goes on to say that “if the Board determines that direct allocation of the costs related to the dedicated feeders used to serve TMMC is appropriate, then VECC submits there is a case for two customer classes.”<sup>22</sup>
29. Schools, in its argument, states that it does not take a strong view of the one vs. two class issue because, if cost allocation is undertaken correctly, the decision to establish a TMMC LU class should not impact any other class.<sup>23</sup>
30. Unlike VECC and Schools, each of Energy+ and Staff objects to the two LU class proposal. Energy+’s objections have to do with concerns about unspecified increases in regulatory and administrative costs, problems with customer confidentiality and challenges with respect to deciding which class to apply to future LU customers.
31. Energy+’s concerns about regulatory and administrative burdens should not be determinative of the matter. While such concerns may be taken into account, the principal and overriding determinant of whether Energy+’s cost allocation study is appropriate (Issue 3.2) is whether and to what extent resultant rates are cost-based.

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<sup>22</sup> VECC Submission, para.3.31.

<sup>23</sup> Schools Final Argument, para.61.

32. Staff raises two issues with respect to TMMC's separate class proposal. First, a concern about proliferation of separate classes in the event that specific/unique criteria become a basis for creating a separate rate class.<sup>24</sup> Second, Staff argues that because "equals should be treated as equals" and because the distribution service that TMMC receives is "equal" to the service received by the other LU customer, each LU customer should be charged "equal" rates; (i.e., be in the same LU class). In the result, Staff opposes the two LU class proposal on the basis of "the burden imposed by creating another rate class and the precedent of doing this for a separate customer.
33. Staff's concern about a proliferation of separate customer classes is misplaced and unsupported by any evidence that there are other existing or potential new customers who receive or will receive unique services that warrants their own customer class. Should such a customer emerge at some future time, the Board can decide, at that time, whether the application of cost causality principles to the specific facts support a case for a separate class.
34. With respect to Staff's "equal service, equal rates" argument: TMMC's two LU class proposal recognizes the different distribution services that Energy+'s two LU customers receive. These differences result in significant differences in the cost of serving these two customers. It is not possible to reconcile Staff's "equal service, equal rates" argument with these service and cost differences. Staff's argument fails to address these defining differences in any meaningful way.
35. There is ample evidence on the record of this proceeding that, by virtue of the fact that TMMC receives primary substation service, whereas the other LU customer receives primary distribution service, the costs of providing service to TMMC comprise a unique and separate cost pool, in the same way that the five customers in Horizon's two LU classes comprised a separate cost pool. Staff seeks to distinguish the Horizon case on the basis that the five customers "created a different dynamic and that "in the Horizon case, there was a group of customers with similar concerns and similar characteristics that were requesting to be treated equally. In this case, there is one customer, looking to be treated differently."<sup>25</sup> TMMC submits that this is a an irrelevant distinction.
36. The number of customers who comprise a distinct cost pool corresponding to the type of service they receive should not determine the question of whether a separate rate class is warranted. It is worth noting that there are at least seven Ontario distributors with LU classes comprising only

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<sup>24</sup> Staff Submission at p.18.

<sup>25</sup> Staff Submission at p.18.

one customer.<sup>26</sup> The cases of two of these distributors...EnWin Utilities and Alectra Utilities (previously, Horizon)... are discussed in the record of this proceeding.

37. In the Horizon proceeding, counsel for VECC had this to say about Horizon's two LU class proposal:<sup>27</sup>

Thus in VECC's view there are two alternatives. A, allocate the dedicated feeders to the existing large use class, or, B, Horizon's proposal, which is to separate the existing large use class into two classes, where the distinction is based on whether or not the customers concerned are serviced via dedicated assets.

While a choice between these two alternatives will have a minor impact on Horizon's other customer classes – and you will find that at transcript volume 1, page 109 – the main impact will be on the large use class and whether the benefit from the lower cost of the dedicated assets is shared amongst the entire class, or just those customers actually using the dedicated assets.

It is VECC's view that the preferred approach, consistent with the principles of customer classification outlined earlier, would be to create a second large use 2 class that would include all customers over 5 megawatts that are served via dedicated assets.

#### **E. STANDBY RATE METHODOLOGY**

38. When it comes to the issue of whether or not to approve a Standby rate and methodology, the Board has three options:
- (i) approve Energy+'s Standby proposal;
  - (ii) approve TMMC's Standby proposal; or
  - (iii) approve neither proposal in light of the current and on-going Commercial and Industrial ("C&I") consultation (EB-2015-0043).
39. Schools and VECC support option (iii) because of concerns and issues that they have with both the Energy+ and the TMMC Standby proposals. Staff, on the other hand, supports Energy+'s proposal and does not support TMMC's proposal.

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<sup>26</sup> Ontario Energy Board, 2017 Yearbook of Electricity Distributors(August 23, 2018), pages 77-87.

<sup>27</sup> EB-2014-0002, 5Tr. at pages 5-7.

40. It is notable and disappointing that in supporting Energy+'s proposal and opposing TMMC's proposal, Staff makes no mention of cost causality; nor does it address, at all, Mr. Pollock's detailed critique of Energy+'s proposal that is included in Appendix D-2 of his Updated Evidence. Mr. Pollock's criticisms of the Energy+ proposal have to do with the fact that Energy+'s proposed rate design does not reflect cost-causation principles. For example, the use of the distribution volumetric rate as the applicable Standby rate for each GS class does not reflect the actual cost, to Energy+, of providing Standby service. As Energy+ stated in its Argument-in-Chief, it considered the distribution volumetric rate to be a reasonable estimate of the value (not the cost) of Standby service. There is no evidence that the volumetric rate is a proxy for the cost of providing Standby service. In fact, this proposition is refuted by Mr. Pollock's analysis of the cost of providing Standby service to TMMC.
41. TMMC requests the Board to approve TMMC's Standby methodology for the reasons set out in Mr. Pollock's Updated Evidence. TMMC acknowledges, however, the practical difficulties that would need to be addressed if its proposed methodology were applied to smaller LDG facilities that were not separately metered in the same way as TMMC's LDG facility. This was an issue raised by Staff, Schools and VECC. TMMC acknowledges that there may be practical reasons for the Board to decide not to approve any Standby rate or rate methodology in this proceeding and, instead, await the outcome of the C&I consultation.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 5<sup>TH</sup> DAY OF APRIL 2019.

**DENTONS CANADA LLP**

Per:

*original signed by Helen T. Newland*  
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Helen T. Newland