



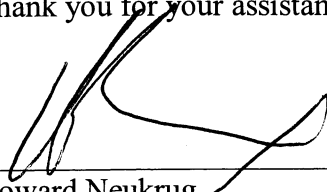
## Memorandum

**To:** Joan Decker, Records Commissioner  
**From:** Howard Neukrug, Water Commissioner  
**Date:** 12/14/2015  
**Re:** **Amendments to the Philadelphia Water Department Regulations – Chapter 3: Rates and Charges**

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Please find attached for filing amendments to the Philadelphia Water Department ("PWD") Regulations. In accordance with Section 8-407 of the City Charter, I am filing these amendments with your Department in order to initiate the public inspection period. Also, please find attached a memorandum from the Law Department approving these amendments.

Thank you for your assistance in this matter.

  
Howard Neukrug  
Water Commissioner

cc: Melissa LaBuda, Deputy Water Commissioner, Finance  
Scott Schwarz, Divisional Deputy City Solicitor

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2015 DEC 15 PM 12:17



## City of Philadelphia

LAW DEPARTMENT  
Water Division  
1101 Market Street  
5<sup>th</sup> Floor  
Philadelphia, PA 19107

# MEMORANDUM

**TO:** Howard M. Neukrug, Commissioner  
Melissa LaBuda, Deputy Commissioner  
Philadelphia Water Department

**FROM:** Scott Schwarz, Divisional Deputy City Solicitor  
Water Division

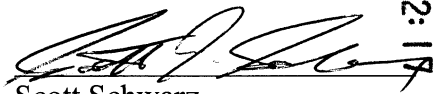
**DATE:** December 14, 2015

**SUBJECT:** AMENDMENT TO PHILADELPHIA WATER DEPARTMENT  
REGULATIONS

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I have reviewed the attached Amendments to Chapter 3 of the Philadelphia Water Department Regulations and find the regulations to be legal and in proper form.

In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may forward this Regulation to the Department of Records where they will be made available for public inspection.

  
Scott Schwarz  
Deputy Divisional City Solicitor

DEPARTMENT OF RECORDS  
2015 DEC 15 PM 12:17

## Proposed Amendments to Current Regulation

### CHAPTER 3 RATES AND CHARGES

#### 300.0 DEFINITIONS.

~~(a) Close of Record: The last day of public input hearings or technical review hearings, whichever is later.~~

~~(ab) Condominium Properties: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership by the owners of those portions.~~

~~(c) Current Rates and Charges: The current rates and charges in the tariffs for water, sewer, and stormwater services provided by the Philadelphia Water Department.~~

~~(bd) Customer: An owner, Tenant or occupant who by operation of law or agreement is responsible for payment of the charges for water/sewer/stormwater service at a Residential, Non-residential or Condominium Property.~~

~~(ce) Department: The Philadelphia Water Department is the operating department of the City of Philadelphia with the duties, powers and obligations set forth in the Home Rule Charter and the Philadelphia Code. For all purposes related to the Rate Change Proceeding, the Department shall be considered to include the Water Revenue Bureau of the Revenue Department. Nothing in these Regulations shall be construed to change, alter, or modify the functions, powers, responsibilities or authority of the Water Revenue Bureau or the Department under the Home Rule Charter or the ordinances of the City of Philadelphia.~~

~~(f) Hearing Officer: The person who shall preside over the Rate Change Proceeding~~

~~and shall have the powers and duties set forth in Section 301.2 of these Regulations.~~

~~(g) Hearing Officer Report: The Hearing Officer's recommended findings of fact, recommended conclusions of law and recommended decision on any proposals concerning any rate, charge, rate structure and/or tariff.~~

~~(dh) Home Rule Charter: The Philadelphia Home Rule Charter, as codified in Pennsylvania First Class City Home Rule Act, April 21, 1949 P.L. 665, 351 Pa. Code §1-100 et seq.~~

~~(ei) Mcf: Thousand cubic feet. The quantity charges in Chapter 3 are expressed in Mcf.~~

~~1 Mcf = 1,000 cubic feet = 7,480 gallons~~

~~(fj) Municipal Stormwater System: City owned and maintained real property, infrastructure or natural feature used or constructed for purposes of transporting, conveying, retaining, detaining, or discharging stormwater runoff.~~

~~(gk) Non-residential Property: Real estate which cannot be classified as either Residential or Condominium. Real estate used exclusively as a cemetery shall not be considered Non-residential property.~~

~~(l) Participant: Any person, corporation or entity affected by the proposed change in rates and charges who provides testimony in public input hearings.~~

~~(m) Party: Any individual, corporation or entity affected by the Department's proposed rates and charges who notifies the Department of Records or the Hearing Officer of a desire to participate fully in the technical review hearings as a Party. A~~

DEPARTMENT OF RECORDS  
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## Proposed Amendments to Current Regulation

~~Party will participate on the same basis as the Department and the Public Advocate.~~

~~(n) Philadelphia City Council: The legislative branch of the government of the City of Philadelphia with the duties, powers and obligations set forth in the Home Rule Charter.~~

~~(hø) Philadelphia Code: The body of laws and regulations enacted by the Philadelphia City Council.~~

~~(ip) Philadelphia Department of Records: An operating department of the City of Philadelphia with the duties, powers and obligations set forth in the Home Rule Charter and the Philadelphia Code.~~

~~(q) Rate Change Proceeding: The process by which a change in rates, charges, rate structure and/or tariff is authorized.~~

~~(r) Rate Determination: The Water Commissioner's final decision as to the proposed changes in rates and charges.~~

(js) Property: Any parcel of real estate identified in the records of the Philadelphia Department of Records.

(k†) Property Owner: The owner of the particular parcel of real estate identified in the records of the Philadelphia Department of Records, or the grantee in a land transfer of record.

(lⓇ) Residential Property: Real estate used exclusively for residential purposes with at least one and no more than four Dwelling Units. Property adjacent to Residential Property owned and utilized exclusively by the Residential Property owner for residential uses. Upon proof submitted to the Department, said properties shall be deemed by the Department to form one

Residential parcel comprised of the Property and the Residential Property.

~~(m̄v)~~ Stormwater Management Practice (SMP): Any man-made structure that is designed and constructed to detain, infiltrate, or otherwise control stormwater runoff quality, rate, or quantity.

~~(n̄w)~~ Surface Discharge: The discharge of stormwater runoff from a property to an adjacent surface water body, without the use of City infrastructure.

~~(ōx)~~ Undeveloped Property: Property classified by the Board of Revision of Taxes as SB, SC, SI, SR, or SS; Undeveloped refers to the status of the property as having no structures and is not related to whether the property has ever been developed.

~~(py)~~ Water Commissioner: The Water Commissioner of the City of Philadelphia who performs the duties and obligations as set forth in the Philadelphia Home Rule Charter and the Philadelphia Code.

### 300.1 Conformity with Existing Law.

Nothing contained in these Regulations shall be deemed to overrule or annul any existing provisions of the Home Rule Charter or the Philadelphia Code.

### 300.2 Severability.

If any provision, paragraph, word or sections of these Regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

## **301.0 PROCESS FOR SETTING WATER, SEWER AND**

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## Proposed Amendments to Current Regulation

### STORMWATER MANAGEMENT SERVICE RATES AND CHARGES

Regulations governing proceedings for setting water, sewer and stormwater management service rates and charges were adopted by the Water, Sewer and Stormwater Rate Board, as authorized by Philadelphia Code §13-101(3)(e), and became effective on December 14, 2015.

#### **301.1 Purpose.**

Pursuant to Section 5-801 of the Home Rule Charter and in order to continue the Water Fund on a self-sustaining basis, the Philadelphia Water Department fixes and regulates rates and charges for supplying water and sewage and stormwater disposal services in accordance with standards set by the Philadelphia City Council. These standards are codified in Sections 13-101 and 13-201 of the Philadelphia Code. Pursuant to these standards and the Philadelphia Home Rule Charter, the Department promulgates the following Regulations to obtain relevant comments and information from any affected person, corporation or entity, regarding proposed changes in rates and charges as established in Sections 302.0, 303.0, 304.0, 305.0, 306.0, 307.0, 308.0 and 309.0 of these Regulations. All other changes to rates and charges may be established consistent with the Home Rule Charter and the Philadelphia Code.

#### **301.2 Hearing Officer.**

(a) Appointment. The Hearing Officer shall be appointed by the Mayor, the President of City Council, and the City Controller within ninety (90) days of the submission of the Department's proposed change in rates and charges to the City Council pursuant to Section 301.5(a) of these Regulations.

(b) Compensation. The Hearing Officer shall receive compensation pursuant to the terms of the contract between the Hearing Officer and the City of Philadelphia.

(c) Duties. The Hearing Officer shall have the duty, power and authority to:

(1) Schedule all public input hearings and technical review hearings including time and locations;

(2) Conduct and preside over all public input hearings and technical review hearings;

(3) Make rulings on any requests for information and resolve any procedural disputes;

(4) Prepare the Hearing Officer Report, which shall be based on the Hearing Record;

(5) Submit the Hearing Officer Report to the Water Commissioner and all Parties and

(6) Make all procedural rulings necessary to conduct a fair, impartial and expeditious hearing process.

(d) The Hearing Officer has no authority, power, or right to make any ruling which is contradictory to these Regulations, the Philadelphia Code, the Home Rule Charter, or the existing laws of the Commonwealth of Pennsylvania.

#### **301.3 Computation of Time.**

(a) In computing any time(s) set forth in these Regulations, the following shall apply:

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## Proposed Amendments to Current Regulation

Day(s): Unless otherwise stated, days shall mean calendar days. If the last day is a Saturday, Sunday or a legal holiday for the City of Philadelphia, the deadline shall be the next regularly scheduled business day.

(b) Regular business hours: This shall mean the business hours of the Department and generally, unless specifically stated differently, means 9:00 a.m. to 4:45 p.m.

### **301.4 Public Advocate.**

#### **(a) Appointment.**

(1) A Public Advocate shall be appointed by the Mayor, the President of City Council and the City Controller upon receiving notice from the Water Commissioner that changes in the current rates and charges are proposed by the Department.

(2) If the City of Philadelphia establishes an Office of Consumer Advocate or a similarly designated office, that office may act as the Public Advocate.

#### **(b) Duties.**

(1) The Public Advocate shall have the responsibility of representing the class of residential customers in the Rate Change Proceedings.

(2) The Public Advocate shall be a Party in the Rate Change Proceedings.

#### **(c) Compensation.**

(1) The Public Advocate shall receive compensation pursuant to the terms of the contract between the Public Advocate and the City of Philadelphia.

(2) Any contract between the City of Philadelphia and the Public Advocate for the Rate Change Proceedings shall not cover any appeal of the Rate Change Determination.

### **301.5 Notification of Proposed Changes in Rates and Charges.**

#### **(a) Notice to City Council.**

The Department's proposed change in rates and charges shall be submitted to the City Council at least thirty (30) days in advance of filing the proposed change in rates and charges with the Department of Records. The submission to City Council shall include full documentation of the projected revenues and expenses of the Department and significant engineering, operating and financial issues which the Department proposes as justification of the proposed changes in rates and charges.

#### **(b) Department of Records**

No sooner than thirty (30) days after the Department's proposed change in rates and charges have been submitted to City Council, the proposed change in rates and charges shall be filed with the Department of Records in accordance with the Home Rule Charter §8-407 and public notice shall be published in accordance with the regulations of the Department of Records and these Regulations.

#### **(c) Public Notice.**

—(1) Upon notice to City Council and thereafter until the close of the hearing record, notice of the Department's proposed changes in rates and charges, including the estimated average percentage residential bill

## Proposed Amendments to Current Regulation

increase, shall be posted in conspicuous locations in all PWD and WRB offices which accept customer payments or which provide direct customer services. This notice shall include the name and telephone number of a Department representative, as well as that of the Hearing Officer and the Public Advocate.

— (2) After submitting notification of the proposed change in rates and charges to the Department of Records, notice of the proposed change in rates and charges shall be advertised one day per week, for three consecutive weeks, in prominent location in at least two newspapers with the largest circulation published in Philadelphia with daily editions. Additional advertisements shall also be published in newspapers with significant community circulation, as the Department deems feasible. The advertisement shall state that the Department's proposed change in rates and charges may be examined at designated locations and shall state an estimate of the average percentage residential bill increase. Financial, engineering and other relevant data upon which the Department's proposed change in rates and charges are based shall be available for public inspection at locations and at times set forth in the public notice.

(3) The times, dates and locations of the pre-hearing conference and all hearings on the Department's proposed change in rates and charges shall be advertised in at least two newspapers with the largest circulation published in Philadelphia with daily editions at least three (3) days before each hearing, except as permitted in Section 301.6(d) of these Regulations. Additional advertisements shall also be published in newspapers with significant community circulation, as the Department deems feasible.

### 301.6 Public Input Hearings.

(a) The purpose of the public input hearings is as follows:

(1) to permit any affected person, corporation or entity to provide relevant information, comments and documents to the Department; and

(2) to assist the Department in the collection of data relevant to its proposed changes in rates and charges; and

(3) to provide public access to Department personnel for explanations and/or answers to relevant inquiries regarding the reasons for the proposed changes in rates and charges.

(b) The public input hearings shall be held after the Department's proposed change in rates and charges has been filed with the Philadelphia Department of Records.

(c) The Hearing Officer shall schedule all public input hearings. A minimum of four (4) public input hearings shall be held. Additional public input hearings may be scheduled at the Hearing Officer's discretion. At least one of these four (4) public input hearings shall be scheduled on a day no sooner than thirty one (31) days after the filing of the Department's proposed change in rates and charges with the Department of Records. The Hearing Officer shall make reasonable efforts to schedule public input hearings at locations and times that are accessible to the general public.

(d) Notice of public input hearings shall be advertised pursuant to Section 301.5(c)(3) of these Regulations, except that once a public input hearing has been convened by the Hearing Officer, the hearing may be

## Proposed Amendments to Current Regulation

continued to another time, date or location by the Hearing Officer without any additional notice under Section 301.5(c)(3) of these Regulations.

### (e) Participation at Public Input Hearings.

~~—— (1) In writing. Members of the public are encouraged to submit their concerns and information in writing. Written submissions provide the Hearing Officer and the Department with clear documentation of the public's concern. No particular form is required, but submissions must be legible, signed and mailed to or delivered to the Hearing Officer at or before the public input hearing at which the document is entered into the record. The Hearing Officer shall make arrangements for all documents to be available to any Participant.~~

~~(2) Oral. Participants may present concerns and information orally at the public input hearings. Time limits for presentations may be established by the Hearing Officer as necessary or desirable.~~

~~(3) Questions. Department representatives will be present at the public input hearings to respond to relevant questions regarding the proposed change in rates and charges.~~

~~(f) Information and comments provided in oral or written form accepted by the Hearing Officer shall be part of the record.~~

~~(g) A stenographic record shall be made of all public input hearings.~~

~~(h) Presentations at the public input hearings shall not be under oath or affirmation.~~

### 301.7 Technical Review Hearings and Reports.

~~(a) The purpose of this section is to permit the Department and other Parties to establish a record supporting their proposals and addressing other proposals submitted in the Rate Change Proceeding.~~

### (b) Technical Review Hearing.

~~(1) The Hearing Officer shall use best and most timely efforts to conform the technical review hearings and related process to the timeframes set forth herein to ensure that the Hearing Officer's Report, based upon a fully briefed record, is submitted 125 days from the submission of proposed changes in rates and charges to City Council.~~

~~(2) Within thirty (30) days of the submission of the Department's proposed changes in rates and charges to City Council, the Hearing Officer shall schedule a pre-hearing conference.~~

~~(3) Within forty five (45) days of submitting its proposed changes in rates and charges to City Council, the Department shall present its representatives for questioning by counsel of the Parties.~~

~~(4) After the conclusion of questioning of Department representatives by other Parties, such other Parties shall file their initial position papers with the Hearing Officer, including all supporting documents and work papers to the extent practicable. This filing shall be made within seventy five (75) days of the Department's submission of proposed changes in rates and charges to City Council.~~

~~(5) Seven (7) days after the filing of post hearing briefs all Parties and the Department may file a reply brief.~~



## Proposed Amendments to Current Regulation

(6) Rebuttal and surrebuttal positions may be submitted for the Hearing Record orally or in writing, and expeditiously questioned thereafter and before filing of post hearing briefs unless all Parties waive such rebuttals.

(7) All hearings shall be completed and the record shall close no later than ninety (90) days after the Department's submission of proposed changes on rates and charges to City Council.

(8) Within fourteen (14) days of the close of the hearing record, all Parties and the Department may file a post hearing brief.

(9) Seven (7) days after the filing of post hearing briefs, all Parties and the Department may file a reply brief.

(10) A stenographic record shall be made of all technical review hearings.

(11) Presentations at the technical review hearings shall not be under oath or affirmation.

### (c) Information Exchange.

(1) Parties shall be granted reasonable information gathering rights so as to permit development of a complete hearing record. Requests shall be streamlined as much as practicable and be consistent with the need for timely decision making by the Hearing Officer.

(2) Information requests may be oral or in writing, and may include but are not limited to: requests for data; documents; answers to questions or informal meetings.

(3) Upon the request of a Party or the Department in the technical review hearings, responses to information requests shall be

included in the Hearing Record upon acceptance by the Hearing Officer.

(4) Responses to information requests shall be provided as soon as available and not more than ten (10) days after requests are made. Any objections to information requests shall be served on all active Parties and the Hearing Officer within five (5) days after receipt of the request.

(5) Information requests shall be ongoing until the commencement of technical review hearings provided, however, that after the beginning of the technical review hearings, data requests not inconsistent with milestones herein described shall be permitted until the close of the Hearing Record.

(6) Promptly following the submission of the Parties' position papers, the Parties' technical experts shall be made available for informal questioning.

(7) The Hearing Officer shall not be bound by formal rules of procedure except as the Hearing Officer has determined and has ruled are appropriate for the purpose of compiling a full record.

(8) Notice of technical review hearings shall be advertised pursuant to Section 301.5 (c)(3) of these Regulations, except that once a technical review hearing has been convened by the Hearing Officer, the hearing may be continued to another time, date or location by the Hearing Officer without any additional notice under Section 301.5(c)(3) of these Regulations.

### 301.8 Hearing Record.

(a) The Hearing Record shall consist of the following:

## Proposed Amendments to Current Regulation

(1) The Department's proposed change in rates and charges.

(2) All financial, engineering and other related data submitted by the Department to City Council and/or the Department of Records.

(3) All information accepted into the record by the Hearing Officer, from both the public input hearings and the technical review hearings.

(4) The stenographic record of the public hearings and technical review hearings.

### **301.9 Decision on Changes in Rates and Charges.**

(a) Within fourteen (14) days of the due date for reply briefs, the Hearing Officer shall submit the Hearing Officer's Report to the Water Commissioner. All Parties shall be sent a copy of the Hearing Officer Report.

(b) The Water Commissioner, in making the Rate Determination on the proposed changes in rates and charges, shall fully consider and give substantial weight to the Hearing Officer's Report and the Hearing Record. The Rate Determination shall make reference to sections of the Hearing Record supporting the conclusions contained in the Rate Determination. The Water Commissioner may accept, reject or modify all or any parts of the Hearing Officer's Report. Should the Water Commissioner have cause to reject or modify all or any parts of the Hearing Officer's Report, the Rate Determination shall state the reasons for the modification or rejection in the Rate Determination, making reference to those portions of the Hearing Record supporting the Rate Determination.

(c) The Rate Determination of the Water Commissioner shall include instructions to the Department to prepare a new tariff incorporating the new rates and charges and any changes in rate structure or terms of service and other issues included in the Rate Determination. The new tariff shall conform to the Rate Determination.

(d) The Rate Determination of the Water Commissioner shall be filed with the Department of Records and shall be sent to all Parties.

(e) The effective date of the changes in the rates and charges shall be the date set in the Rate Determination but shall not be sooner than ten (10) days after the new rates and charges are filed with the Department of Records.

### **301.10 Conformity with Existing Law.**

Nothing contained in these Regulations shall be deemed to overrule or annul any existing provisions of the Home Rule Charter or the Philadelphia Code.

### **301.11 Severability.**

If any provision, paragraph, word or sections of these Regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

## Proposed Final Regulation

### CHAPTER 3 RATES AND CHARGES

#### 300.0 DEFINITIONS.

(a) Condominium Properties: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership by the owners of those portions.

(b) Customer: An owner, Tenant or occupant who by operation of law or agreement is responsible for payment of the charges for water/sewer/stormwater service at a Residential, Non-residential or Condominium Property.

(c) Department: The Philadelphia Water Department is the operating department of the City of Philadelphia with the duties, powers and obligations set forth in the Home Rule Charter and the Philadelphia Code.

(d) Home Rule Charter: The Philadelphia Home Rule Charter, as codified in Pennsylvania First Class City Home Rule Act, April 21, 1949 P.L. 665, 351 Pa. Code §1-100 et seq.

(e) Mcf: Thousand cubic feet. The quantity charges in Chapter 3 are expressed in Mcf.

1 Mcf = 1,000 cubic feet = 7,480 gallons

(f) Municipal Stormwater System: City owned and maintained real property, infrastructure or natural feature used and/or constructed for purposes of transporting, conveying, retaining, detaining, or discharging stormwater runoff.

(g) Non-residential Property: Real estate which cannot be classified as either Residential or Condominium. Real estate

used exclusively as a cemetery shall not be considered Non-residential property.

(h) Philadelphia Code: The body of laws and regulations enacted by the Philadelphia City Council.

(i) Philadelphia Department of Records: An operating department of the City of Philadelphia with the duties, powers and obligations set forth in the Home Rule Charter and the Philadelphia Code.

(j) Property: Any parcel of real estate identified in the records of the Philadelphia Department of Records.

(k) Property Owner: The owner of the particular parcel of real estate identified in the records of the Philadelphia Department of Records, or the grantee in a land transfer of record.

(l) Residential Property: Real estate used exclusively for residential purposes with at least one and no more than four Dwelling Units. Property adjacent to Residential Property owned and utilized exclusively by the Residential Property owner for residential uses. Upon proof submitted to the Department, said properties shall be deemed by the Department to form one Residential parcel comprised of the Property and the Residential Property.

(m) Stormwater Management Practice (SMP): Any man-made structure that is designed and constructed to detain, infiltrate, or otherwise control stormwater runoff quality, rate, or quantity.

(n) Surface Discharge: The discharge of stormwater runoff from a property to an adjacent surface water body, without the use of City infrastructure.

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## **Proposed Final Regulation**

(o) **Undeveloped Property:** Property classified by the Board of Revision of Taxes as SB, SC, SI, SR, or SS; Undeveloped refers to the status of the property as having no structures and is not related to whether the property has ever been developed.

(p) **Water Commissioner:** The Water Commissioner of the City of Philadelphia who performs the duties and obligations as set forth in the Philadelphia Home Rule Charter and the Philadelphia Code.

### **300.1 Conformity with Existing Law.**

Nothing contained in these Regulations shall be deemed to overrule or annul any existing provisions of the Home Rule Charter or the Philadelphia Code.

### **300.2 Severability.**

If any provision, paragraph, word or sections of these Regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

### **301.0 PROCESS FOR SETTING WATER, SEWER AND STORMWATER MANAGEMENT SERVICE RATES AND CHARGES**

Regulations governing proceedings for setting water, sewer and stormwater management service rates and charges were adopted by the Water, Sewer and Stormwater Rate Board, as authorized by Philadelphia Code §13-101(3)(e), and became effective on December 14, 2015.

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