

**CONNECTICUT SITING COUNCIL**  
**DOCKET NO. 337**

IN THE MATTER OF:

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AN APPLICATION OF CELCO PARTNERSHIP d/b/a/ VERIZON WIRELESS  
FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND  
PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND  
OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY OFF  
NORTH STREET (ROUTE 63) IN GOSHEN, CONNECTICUT

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APPLICANT'S POST-HEARING BRIEF

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POST-HEARING BRIEF

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## **I. INTRODUCTION**

On May 8, 2007, Cellco Partnership d/b/a Verizon Wireless (“Cellco” or “Applicant”) filed an application (the “Application”) with the Connecticut Siting Council (“Council”) for a certificate of environmental compatibility and public need (“Certificate”), pursuant to Sections 16-50g *et seq.* of the Connecticut General Statutes (“Conn. Gen. Stat.”), for the construction, maintenance and operation of a wireless telecommunications facility known as the “Goshen North Facility” (the “Facility”). The Facility is proposed to be located on a 233-acre parcel off of North Street, Route 63, in the Town of Goshen (“Goshen”). (Cellco Exhibit 1 (“Cellco 1”) pp. 1-2.) Cellco’s proposed Facility would provide personal communication system (“PCS”) service along the heavily-traveled Route 63 and portions of Route 4, as well as local roads in the central portion of Goshen, thereby allowing Cellco to fill significant PCS coverage gaps between Cellco’s existing Goshen South and Torrington West cell sites. (Cellco 1, pp. 1-2, 7.) The Facility would provide coverage to an overall area of 13.3 square miles, including an approximately 4.5 mile portion of Route 63 and a 1.8 mile portion of Route 4. (Cellco 1, p. 2.) The Facility will allow Cellco to continue to provide high-quality, reliable wireless telecommunications service consistent with its Federal Communications Commission (“FCC”) license and the demands of its wireless telecommunications users. (Cellco 1, pp. 1-2, 7, Tab 5.)

Cellco has presented, for the Council’s consideration, a site that would address its coverage gaps in the Goshen area. To date, no other wireless carriers have committed to share the Facility. (Cellco 8, Resp. No. 17.) The Town of Goshen, however, has expressed an interest in sharing the facility. (Cellco, Resp. No.19.)

The Council conducted a public hearing on the Application on August 9, 2007. (8/9/07 at 3:20 p.m. Transcript (“Tr.”) I, p. 2; 8/9/07 at 7:00 p.m. Tr. II, p. 2.) Prior to the afternoon session of the hearing, the Council and its staff visited the proposed cell site. At the Council’s request, Cellco caused a balloon, with a diameter of approximately 3 feet, to be flown during the site visit at the proposed cell site location starting at 8 a.m. (Cellco 1, p. 13; Tr. I, p. 17.)

This post-hearing brief is filed on behalf of the Applicant pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies (“R.C.S.A.”) and the Council’s directives. (Tr. II, pp. 3-5.) This brief evaluates the Application in light of the review criteria set forth in Section 16-50p of the Connecticut General Statutes.

## **II. FACTUAL BACKGROUND**

### **A. Pre-Application History**

Since acquiring its Personal Communication System (“PCS”) license from the FCC in May of 2003, Cellco has been actively pursuing the expansion of its network in Litchfield County, Connecticut. Currently, Cellco’s coverage in Goshen, extends from existing Cellco facilities at 113 Brush Hill Road in Goshen (“Goshen South”) and at 136 Wright Road (“Torrington West”) in Torrington. (Cellco 1, p. 2, Tab 6.) Route 63, a major north-south thoroughfare in Goshen, extends from Litchfield, to the south to the Town of Cornwall to the north. Route 4, a major east-west thoroughfare in Goshen, extends between Cornwall to the west and Torrington to the east. Cellco currently provides little or no wireless service along Route 4 in Goshen, and limited coverage along Route 63 south of Route 4 from its Goshen South facility. (Cellco 1, pp. 1-2 and 7, Tab 6.)

Cellco conducted a search for an appropriate location for a facility to provide coverage along Route 63 and 4, as well as local roads in Goshen. Neither of the existing adjacent facilities

(Cellco's Goshen South and the Torrington West cell sites) can resolve the existing coverage problems that Cellco is experiencing along Routes 63 and 4 in Goshen. (Cellco 1, p. 7, Tab 6.)

In an effort to avoid the unnecessary proliferation of towers, Cellco explored the shared use of several existing towers in the area. Each of these alternative structures was rejected because they would not adequately fill the existing coverage gaps in the Goshen area. (Cellco 1, pp. 9-10, Tab 8; Cellco 6, Resp. 16; Cellco, Late Filed Exhibits ("Late File"), August, 16 2007.)

Additionally, as discussed at the public hearing, Cellco also has plans to utilize an existing tower site at the junction of Route 7 and 44, in North Canaan, approximately 12.5 miles north of the proposed Goshen North Facility. (Tr. II, pp. 50-51.) Cellco is also currently exploring the installation of at least two new cell sites between the Goshen North Facility and its future North Canaan cell site. As discussed at the hearing, Cellco is in the very early stages of the site development process for these future cell sites. It is possible, therefore, that Cellco could need more site locations to address coverage gaps in Goshen, depending on where the sites are placed and the overall antenna heights achievable at each location. (*Id.*) Cellco will explore the use of the existing towers, steeples and CL&P poles. If a new tower must be constructed, Cellco will attempt to identify sites where the construction of a tower would not be inconsistent with area land uses and/or where the visual impact of the site is reduced to the greatest extent possible.

To minimize the impact of a new tower in this case, Cellco has proposed to camouflage the Goshen North Facility as a pine tree or "monopine." (Cellco 1, p. 2.) The Town of Goshen is opposed to the monopine design and has expressed a preference for a traditional monopole tower. (Tr. I, pp. 7-8, 18-19; Tr. II, p. 7.) Cellco agrees with the Town of Goshen that a conventional tower is the best alternative under the circumstances, and would agree to install a conventional tower. (Tr. I, p. 33.)

B. Local Contacts

On March 2, 2007, Cellco representatives met with Goshen's First Selectman Robert P. Valentine to discuss the proposal. (Cellco 1, pp. 16-17.) First Selectman Valentine received copies technical information summarizing Cellco's plans to establish a telecommunications facility in Goshen. On May 1, 2007, Cellco made a formal presentation on the Goshen North Facility at a joint meeting of the Goshen Board of Selectman and Planning and Zoning Commission. (*Id.*) At this meeting, Goshen confirmed that it would be interested in using the tower for its emergency service and municipal communications antennas.

C. Tower Sharing

Consistent with its practice, Cellco regularly explores opportunities to share its facilities with other wireless service providers. Cellco will design the approved Goshen North tower so that it could be shared by other carriers, known and unknown at the time of the Council's decision. (Cellco 1, p. 10; Cellco 8, Resp. No. 17.) Currently, no other wireless carriers have expressed an interest in sharing the proposed Facility. The Town of Goshen, however, has expressed an interest in sharing the Facility. (Cellco 8, Resp. No. 19.) Cellco has agreed to make space available on the tower for municipal and emergency service antennas at no cost to the Town of Goshen. (Cellco 8, Resp. No. 19, Tab 3.)

D. The Goshen North Proposal

Cellco proposes to construct a tower at a location that would satisfy its RF coverage objectives in the area, and do so with the fewest number of towers necessary. (Cellco 1, pp. 2-3 and 9; Tr. I, p. 7 – Comments of First Selectman Robert Valentine.) The Goshen North Facility would be located within a 100' x 100' leased area in the southwesterly portion of a 233-acre parcel located east of North Street in Goshen ("the Property"). This site is located in the Town's

RA-5 (Residential Agricultural) zone district and is currently vacant wooded land. Cellco proposes to construct a 150-foot self-supporting monopole telecommunications tower. At the top of the tower, Cellco would install a total of twelve (12) panel-type antennas. The top of Cellco's antennas will extend to a height of approximately 153 feet AGL. (Cellco 1, p.2.) Equipment associated with the antennas would be located in a 12'x 30' shelter installed near the base of the tower. Access to the cell site would extend from North Road (Route 63) over a gravel driveway, a distance of approximately 2,075 feet to the cell site. The gravel driveway will follow an existing dirt road on the Property from North Street to the cell site. Widening, regrading and resurfacing of the new access driveway will be required to accommodate Cellco's needs. Both the tower and the leased area will be designed to accommodate additional carriers. (Cellco 1, p. 2, Tab 1.)

**III. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50p FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

Section 16-50p of the Public Utility Environmental Standards Act (the "Act"), Conn. Gen. Stat. §16-50g et seq., sets forth the criteria for Council decisions in Certificate proceedings and states, in pertinent part:

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate . . . The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (1) A public need for the facility and the basis of the need; (2) the nature of the probable environmental impact, including a specification of every significant adverse effect, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish and wildlife; (3) why the adverse effects or

conflicts referred to in subdivision (2) of this subsection are not sufficient reason to deny the application. . . .

Conn. Gen. Stat. § 16-50p(a).

Under Section 16-50p, the Applicant must satisfy two key criteria in order for the Application to be granted and for a Certificate to issue. First, the Applicant must demonstrate that there is a “public need for the facility.” Conn. Gen. Stat. § 16-50p(a)(1). Second, the Applicant must identify “the nature of the probable environmental impact” of the proposed facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(2), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3). The evidence in the record for this docket establishes that the above criteria have been satisfied and that the Applicant is entitled to a Certificate.

A. A Public Need Exists for the Goshen North Facility

The first step in the review of the pending Application addresses the public need for the proposed facility. As noted in the Application, the FCC in its Report and Order released on May 4, 1981 (FCC Docket No. 79-318) recognized a public need on a national basis for technical improvement, wide area coverage, high quality and a degree of competition in mobile telephone service. (Cellco 1, pp. 5-7.) More recently, the Federal Telecommunications Act of 1996 (the “Telecommunications Act”) emphasized and expanded on these aspects of the FCC’s 1981 decision. Among other things, the Telecommunications Act recognized an important nationwide public need for high quality personal wireless telecommunications services of all varieties. The Telecommunications Act also expressly promotes competition and seeks to reduce regulation in all aspects of the telecommunications industry in order to foster lower prices for consumers and to encourage the rapid deployment of new telecommunications technologies. The Council took

administrative notice of the Telecommunications Act in this docket. (Cellco 1, pp. 5-7; Council Adm. Notice 7.)

Cellco currently provides little or no wireless service along Route 4 or the northerly portions of Route 63, and the surrounding local roads in Goshen. What little coverage Cellco provides in Goshen today is limited to portions of Route 63 closest to Cellco's existing Goshen South facility and sparse coverage on Route 4 near the Torrington town line, from its Torrington West facility. (Cellco 1, Tab 6.) The record evidence in this docket clearly demonstrates the need for wireless service and, therefore, a wireless facility in Goshen.

The record in this docket also contains ample written evidence and testimony that Cellco's antennas at the 150-foot level on the proposed tower would allow Cellco to achieve its coverage objectives along Route 63 and 4 in Goshen and maintain high quality wireless telecommunications service without interruption from dropped calls and interference. (Cellco 1, p. 7, Tab 6.) The record in this docket would support a finding by the Council that Cellco antennas are proposed to be located at the lowest possible height needed to satisfy its coverage objectives between its existing Goshen South and Torrington West cell sites. (Tr. II, pp. 43-45; Late File, No.1.) The proposed site would provide adequate overlapping coverage with the Goshen South facility. (Cellco 6, Resp. No. 3.) This evidence and testimony remains unrefuted and would clearly support a finding that there is a need for the proposed facility.

B. Nature of Probable Impacts

The second step in the statutory review procedure addresses the probable environmental impacts of the proposed facility and particularly the following factors:

1. Natural Environment and Ecological Balance

The proposed development of the 233-parcel off Route 63 has eliminated, to the extent possible, impacts to the natural environment. (Tr. I, pp. 23-27.) Cellco intends to use an existing dirt driveway to minimize impacts to wetland and watercourse areas and the natural environment of the area overall. (Cellco 9, Resp. No. 2.) Erosion and sedimentation controls will be installed and maintained during construction to protect these natural resource areas. (*Id.*)

Wetland Crossing Improvements

The access road leading to the Goshen North cell site will cross a forested wetlands corridor and associated intermittent watercourse approximately 150 miles east of North Street. Improvements to this existing crossing are required and will result in an overall improvement to this wetlands and watercourses area.

Initially, improvements to the existing wetland crossing would involve the removal of unsuitable organic material (e.g., rutted fill and “wood bridge”). (Cellco 9, No. 2-3; Tr. I, pp. 23-25.) Cellco would then install a stable road base fill material and topping with 6 inches of 1-inch crushed stone. The existing 12-inch culvert will be replaced with two 24-inch reinforced concrete pipes. The wetland crossing improvements result in the placement of approximately 1,880 square feet of permanent fill within wetlands, primarily associated with improvements to the west half of the existing wetland crossing (currently a disturbed wetland area). (Cellco 9, p. 2.)

The improved intermittent watercourse crossing design complies with the natural stream crossing design standards technical guidelines, avoids flow constriction during normal conditions and creates a stream channel that maintains the natural streambed features through the crossing. The design will alleviate the existing hydraulic condition that created a scour hole at the crossing.

The existing trap rock will be removed from the streambed to reestablish continuity of the stream. (*Id.*)

The improvements to the crossing would not restrict fish or other aquatic organism passage and maintains stream continuity. In particular, the culvert crossing would be designed so as not to restrict the natural bank limits of the intermittent watercourse (the stream is approximately two feet wide and two 24-inch culverts will be used) by setting the culverts 12 inches below the existing stream elevation. In addition, native streambed material will be placed within the culverts to maintain continuity of the aquatic and benthic elements of the stream ecosystem. (*Id.*; Tr. I, pp. 23-25.)

## 2. Public Health and Safety

Cellco has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the proposed facility would be minimal or nonexistent.

First, the potential for the proposed cell site to fall does not pose an unreasonable risk to health and safety. The proposed tower would be designed and built to meet Electronic Industries Association (“EIA”) standards adopted for the State of Connecticut as part of the State Building Code. (Cellco 1, Tab 1, p. 6.) The tower radius remains entirely within the owner’s parcel. (Cellco 1, Tab 1.)

Second, worst-case potential public exposure to radio-frequency (“RF”) power density for Cellco operations at the nearest point of uncontrolled access (the base of each tower) would be 2.46% of the FCC standard for the Facility. (Cellco 1, Tab 1, p. 8.) Power density levels at each site would drop off rapidly as distance from the tower increases. (Cellco 1, p. 14, Tab 1 p. 8.)

### 3. Scenic Values

As noted in the Application, the primary impact of any tower facility is visual. (Cellco 1, p. 12.) Cellco's site search methodology, described in the Site Search Summary, is designed in large part to minimize the overall visual impact of such facilities. (Cellco 1, Tab 9.) As discussed above, wherever feasible, Cellco attempts to avoid the construction of a new tower by first attempting to identify existing towers or other tall non-tower structures in or near its search area. (*Id.*) Cellco considered the two existing tower sites within four miles of the proposed Goshen North Facility; explored the use of the Goshen Congregational Church steeple; investigated using one or more CL&P structures that run parallel to North Street; and considered the existing towers on Mohawk Mountain and Ivy Mountain as part of its site search process. None of these existing structures would satisfy Cellco's coverage objectives in the area. (Cellco 1, Tab 8; Late File, Resp. Nos. 2 and 3.)

As a rule, when Cellco determines that a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the site would be reduced to the greatest extent possible. Visual impact of a tower facility can be further reduced through the proper use of alternative tower structures; so-called "stealth installations." Where appropriate, telecommunications towers camouflaged as, for example, flagpoles, pine trees and church bell towers, can help to reduce visual impacts associated with more traditional telecommunications towers. (Cellco 1, pp. 12-13.) In Goshen, given the significant tree growth and topography of the area, Cellco has asked the Council to consider the use of a stealth tower application, in this case a "monopine" tower. Even though the visual impact of either proposed site is minimal, the stealth application in this instance may further reduce the overall visual impact of this tower. The Town, however, has requested that Cellco install a

traditional monopole rather than a monopine tower. (Tr. I, pp. 7-8, 18-19; Tr. II, p. 7.) Cellco is willing to install a traditional monopole at the Goshen facility, and could utilize either a traditional platform or T-arm mounting system. (Tr. I, p. 19.)

As the record indicates, the location of the proposed tower has allowed Cellco to propose structures at the minimum height required to satisfy its coverage needs in the area while eliminating, to the extent possible, visual impact on the surrounding landscape. (Cellco 1, Tabs 1, 6 and 9.)

#### 4. Historical Values

As it does with all of its tower applications, prior to filing the Application with the Council, Cellco requested that the State Historic Preservation Office (“SHPO”) of the Connecticut Historical Commission (the “Commission”) review the proposed sites. (Cellco 1, Tab 10.) Based on his review of the information submitted by Cellco, the Deputy State Historic Preservation Officer determined that the development of a telecommunications tower at the sites proposed would have “no effect” on historic, architectural or archaeological resources listed on or eligible for the National Register of Historic Places. (Cellco 1, p. 18, Tab 10.) Cellco has no reason to believe that there are any other impacts on historical values not addressed by the Commission’s review that are sufficient to warrant a denial of this Application. There is no evidence in the Docket No. 337 record that would suggest otherwise.

#### 5. Recreational Values

There are no recreational activities or facilities at the Property that would be impacted by the proposed tower development. The tower would not be visible from many of nearby recreational resources, including Ivy Mountain State Park or the Housatonic Scout Reservation. (Cellco 1, Tab 9.) Other more distant recreational resources were also explored. In most cases the Goshen North

Facility tower would not be visible from these locations. Even if direct views of the tower were possible from these distant locations, Cellco submits the impact on the resources would be minimal. (Tr. II, pp. 47-49.) There is no contrary evidence in the record to support a claim that the tower location would adversely impact recreation resources in the immediate or more distant areas.

6. Forests and Parks

There are no State Forests located within a two-mile radius of the cell site location. The proposed towers will have no impact on this State Forest's land or any of the hiking trails located therein. (Cellco 1, Tab 10.)

7. Air and Water Quality

a. Air Quality. The equipment associated with the proposed Goshen North Facility would generate no air emissions under normal operating conditions. (Cellco 1, Tab 1, p. 7.) During power outage events and periodically for maintenance purposes, Cellco would utilize an on-site emergency backup generator to provide emergency power to the facility. The use of the generator during these limited periods would result in minor levels of emissions. Pursuant to R.C.S.A. § 22a-174-3, Cellco will obtain an appropriate permit from the Connecticut Department of Environmental Protection ("DEP") Bureau of Air Management prior to installation of the proposed generator. (*Id.*)

b. Water Quality. There are no lakes, ponds, rivers, streams, wetlands or other regulated water bodies located at the proposed location. The proposed Goshen North Facility would not utilize water, nor would it discharge substances into any surface water, groundwater, or public or private sewage system. (Cellco 1, Tab 1, p. 7.)

As stated above, Cellco plans to make improvements to the existing wetland/watercourse crossings, which will result in an overall improvement to these resources. (Cellco 9, No. 1-3; Tr. I,

pp. 23-25.) Cellco will correct the existing erosion problems (e.g., rutting, sediment deposition, scour hole, etc.) and prevent future erosion with the proposed wetland crossing improvements. The proposed natural stream crossing design will facilitate movement of fish and other aquatic organisms and will result in an improvement over existing conditions. Therefore, the proposed improvements will not result in any long term or adverse impacts to the wetland or watercourse resources but will result in an overall improvement by reestablishing continuity of aquatic and benthic elopements of the stream. (Cellco 9, No.3.)

In addition, Cellco proposes to install a diesel-fuel back-up generator within its equipment building for use during power outages. (Cellco 1, p. 3.) The generator will maintain a “belly” tank installed as an integral part of the generator unit. This tank is double-walled and maintains leak detection alarms. The floor of the generator room itself is recessed and is capable of containing 120% of the capacity of all generator fluids (fuel and oil). The floor of Cellco’s generator room also maintains leak detection alarms. (*Id.*)

The evidence in the record would support a finding that the proposed Goshen North Facility would not impact water quality at the site or in Goshen.

#### 8. Fish and Wildlife

As a part of its National Environmental Policy Act (“NEPA”) Checklist, Cellco received comments on the proposed facility from the U.S. Department of Interior, Fish and Wildlife Service (“USFWS”) and the Environmental and Geographic Information Center of the DEP. Both the USFWS and the DEP have confirmed that no known populations of Federal or State Endangered, Threatened or Special Concern Species occur at the site. (Cellco 1, p. 17, Tab 10.)

C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts

Following a determination of the probable environmental impacts of the proposed facility, Connecticut General Statutes § 16-50p requires that the Applicant demonstrate why these impacts “are not sufficient reason to deny the Application.” Conn. Gen. Stat. § 16-50p(a)(3). The record establishes that the impacts associated with the proposal would be limited and outweighed by the benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application.

As discussed above, the only potential adverse impact from the proposed towers involves “scenic values.” As the record overwhelmingly demonstrates, the proposed tower would have minimal impacts on scenic values in the area. (Cellco 1, pp. 12-13, Tab 9; Tr. I, pp. 52-57; Tr. II, pp. 47-49.) These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of this facility. Unlike many other types of development, telecommunications facilities do not cause indirect environmental impacts, such as increased traffic and related pollution.

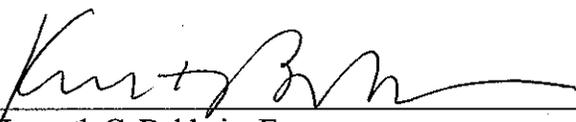
The limited aesthetic and environmental impacts of the proposed facility can be further mitigated by the sharing of the facility. The proposed facility is capable of supporting additional carriers. (Cellco 8, Resp. No. 17.) To date, no other carrier has expressed an interest in sharing the Goshen North Facility. The Town of Goshen, however, has expressed an interest in sharing the tower. (Cellco 8, Resp. No. 19.) Cellco has agreed to make space available on the tower for municipal and emergency service antennas at no extra cost to Goshen. (Cellco 8, Resp. No. 19, Tab 3; Tr. I, pp. 8-9.)

In sum, the potential environmental impacts from the proposed facility would be minimal when balanced against the significant benefits the facility would provide to the public. These impacts do not provide a sufficient basis to deny the Application. The proposed Goshen North Facility, therefore, satisfies the criteria for a Certificate pursuant to Connecticut General Statutes § 16-50p, and the Applicant's request for a Certificate should be granted.

**IV. CONCLUSION**

Based on the unrefuted evidence contained in the record and the arguments presented above, Cellco has satisfied the criteria in Connecticut General Statutes Section 16-50p. Accordingly, the issuance of a Certificate to the Applicant is appropriate and fully consistent with the Act.

Respectfully submitted,  
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WIRELESS

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