

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Call Authentication Trust Anchor
WC Docket No. 17-97

ORDER

Adopted: September 13, 2023

Released: September 13, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) addresses the waiver petitions of facilities-based small voice service providers, Allband Communications Cooperative and Allband Multimedia (Allband), Hamilton County Telephone Co-op (Hamilton), Palmetto Rural Telephone Cooperative, Incorporated, and Palmetto Telephone Communications, LLC (Palmetto), S&T Telephone Cooperative Association, Inc. and ST&T Communications, LLC (S&T), and Vexus Fiber, LLC (Vexus), as well as the petition of gateway provider, Identidad Advertising Development LLC, d/b/a Identidad Telecom, Identidad Technologies, and Infomovil Television and Systems Corp. (Identidad) (collectively, the Petitioners).1 The small voice service provider petitioners sought waivers from the Commission’s requirement that facilities-based small voice service providers fully implement the STIR/SHAKEN call authentication framework in the Internet Protocol (IP) portions of their voice networks by June 30, 2023.2 Allband, Hamilton, Palmetto, and Vexus sought 30 or 45-day waivers,3 while S&T sought an 83-day

1 See Petition of Allband Communications Cooperative and Allband Multimedia (Allband) for Limited Waiver, WC Docket No. 17-97 (filed June 30, 2023) (Allband Petition); Petition of Hamilton County Telephone Co-op (Hamilton) for Limited Waiver, WC Docket No. 17-97 (filed June 30, 2023) (Hamilton Petition); Petition of Palmetto Rural Telephone Cooperative, Incorporated and Palmetto Telephone Communications, LLC (Palmetto) for Limited Waiver, WC Docket No. 17-97, (filed June 30, 2023) (Palmetto Petition); Petition of S&T Telephone Cooperative Association, Inc. and S&T Communications LLC (S&T), for Limited Waiver WC Docket No. 17-97 (filed Aug. 15, 2023) (S&T Petition); Petition of Vexus Fiber, LLC (Vexus) for Limited Waiver, WC Docket No. 17-97 (filed June 30, 2023) (Vexus Petition).

2 47 CFR § 64.6304(a)(1) (providing a STIR/SHAKEN implementation extension for facilities-based small voice service providers until June 30, 2023).

3 While Hamilton and Palmetto both originally sought 30-day extensions, and Vexus and Allband originally sought 45-day extensions, these petitioners subsequently filed ex parte letters explaining that they had come into compliance sooner. See Allband Petition at 1; Hamilton Petition at 1; Palmetto Petition at 1; Vexus Petition at 1; Letter of Coral Olsen, General Manager, Allband, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-97, at 1 (filed Aug. 10, 2023) (stating that Allband had come into compliance as of August 2, 33 days after June 30, 2023); Letter of Robin Davidson, Vexus, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-97 at 1 (filed Aug. 8, 2023) (stating that, as of the date of the letter, Vexus had come into compliance, 39 days after June 30, 2023); Letter of Kevin Pyle, GM/EVP, Hamilton, to Marlene H. Dortch, Secretary, FCC, WC Docket No 17-97 at 1 (filed July 7, 2023) (stating that Hamilton had come into compliance as of July 6, six days after June 30, 2023); Letter of Valerie Ancrum, Regional Affairs Manager, Palmetto, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-97 at 2 (filed July 17, 2023) (stating that Palmetto had come into compliance as of July 13, 13 days after June 30, 2023). Therefore, for the purpose of considering their requests for relief, we treat Allband’s, Hamilton’s, Palmetto’s, and Vexus’ ex parte letters as amending their petitions to shorten their requests for waiver to the 33, six, 13, and 39-day periods, respectively, during which they state they were out of compliance.

waiver.<sup>4</sup> Identidad sought a 60-day waiver of the June 30, 2023 deadline that gateway providers fully implement STIR/SHAKEN in the IP portions of their networks.<sup>5</sup> The Petitioners claim that they cannot comply with the deadlines due to technical or operational difficulties arising in the course of implementation. For the reasons stated below, we deny the Petitioners' waiver requests.

## II. BACKGROUND

2. In March 2020, the Commission adopted the *Caller ID Authentication First Report and Order*, which required voice service providers to implement the STIR/SHAKEN caller ID authentication framework in the IP portions of their voice networks by June 30, 2021.<sup>6</sup> In the Commission's October 2020 *Caller ID Authentication Second Report and Order*, small voice service providers received an extension until June 30, 2023 to meet that obligation.<sup>7</sup> In providing the extension, the Commission found that small voice service providers face high implementation costs relative to the small percentage of total voice subscribers they serve and confront unique equipment availability issues, and concluded that these factors warranted a blanket extension of two years.<sup>8</sup> In December 2021, the Commission adopted the *Small Provider Order*, shortening the STIR/SHAKEN implementation extension provided to non-facilities-based small voice service providers to June 30, 2022, while maintaining the June 30, 2023 deadline for facilities-based small voice service providers.<sup>9</sup>

3. In May 2022, the Commission adopted the *Gateway Order*, requiring gateway providers to apply STIR/SHAKEN caller ID authentication to all unauthenticated foreign-originated Session Initiation Protocol (SIP) calls with U.S. North American Numbering Plan (NANP) numbers.<sup>10</sup> The Commission concluded that gateway providers would have more than 13 months, until June 30, 2023, to implement STIR/SHAKEN, which was a longer period than proposed in the *Gateway Provider Notice*.<sup>11</sup>

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<sup>4</sup> See S&T Petition at 1.

<sup>5</sup> See 47 CFR § 64.6302(c) (June 30, 2023 gateway provider implementation deadline); Petition of Identidad Advertising Development d/b/a Identidad Telecom, Identidad Technologies, and Infomovil Television and Systems Corp. (Identidad), WC Docket No. 17-97, GC Docket No. 17-59 at 3 (filed June 30, 2023) (Identidad Petition).

<sup>6</sup> *Call Authentication Trust Anchor, Implementation of TRACED Act Section 6(a)—Knowledge of Customers by Entities with Access to Numbering Resources*, WC Docket Nos. 17-97 and 20-67, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3241, 3252, para. 24 (2020) (*Caller ID Authentication First Report and Order*).

<sup>7</sup> *Call Authentication Trust Anchor*, WC Docket No. 17-97, Second Report and Order, 36 FCC Rcd 1859, 1876-77, paras. 39-40 (2020) (*Caller ID Authentication Second Report and Order*). In the TRACED Act, Congress required the Commission to assess burdens and barriers to the implementation of STIR/SHAKEN and gave the Commission discretion to extend compliance with the implementation mandate upon a public finding of undue hardship. TRACED Act § 4(b)(5)(A).

<sup>8</sup> *Caller ID Authentication Second Report and Order* at 1877-81, paras. 40-45.

<sup>9</sup> See *Call Authentication Trust Anchor*, Fourth Report and Order, 36 FCC Rcd 17840, 17844, para. 9 (2021) (*Small Provider Order*).

<sup>10</sup> *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Sixth Report and Order, Fifth Report and Order, Order on Reconsideration, Order, Seventh Further Notice of Proposed Rulemaking, Fifth Further Notice of Proposed Rulemaking, FCC 22-37, at 43, para. 103 (2022) (*Gateway Order*).

<sup>11</sup> *Gateway Order* at 26-34, paras. 51-60; *id.* at 28, para. 59 (citing *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Fifth Further Notice of Proposed Rulemaking in CG Docket No. 17-59 & Fourth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, 36 FCC Rcd 14971, 14790, para. 48 (2021) (*Gateway Provider Notice*)).

### III. DISCUSSION

4. We deny the Petitioners' requests for a waiver of the June 30, 2023 STIR/SHAKEN implementation deadlines.<sup>12</sup> Petitioners state that they faced unforeseen technical obstacles beyond their control and need additional time to address difficulties with upgrading both software and hardware necessary to implement STIR/SHAKEN, which they claim are due to third-party partner delays or personnel issues.<sup>13</sup> They argue that granting the requested waivers would be in the public interest because they will "continue to combat the origination of illegal robocalls during the course of the extension by the implementation of [their] robust robocall mitigation program[s]" timely put in place and filed in the Robocall Mitigation Database, and because they are not providers likely to originate illegal robocalls.<sup>14</sup>

5. We disagree with the Petitioners that their stated basis for an extension of the June 30, 2023 deadlines constitutes good cause for granting their waiver requests. When the Commission provided a two-year extension for small voice service providers, it accounted for issues related to costs and resources needed to implement STIR/SHAKEN by the June 30, 2023 deadline.<sup>15</sup> Similarly, in setting the June 30, 2023 deadline for gateway providers, the Commission explained that the 13-month implementation period should be a sufficient amount of time given that "the industry has had much more experience with implementation than when we originally required voice service providers to implement STIR/SHAKEN" and evidence that STIR/SHAKEN implementation costs had dropped since the time the

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<sup>12</sup> The Commission's rules may be waived for "good cause shown." 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166. The Bureau, under delegated authority, may act on requests for waiver of rules. 47 CFR § 0.291(b).

<sup>13</sup> Allband Petition at 1, 3-4 (stating that it faced "unforeseen technical obstacles" due to staff changes and health issues that delayed implementation [which appear to be] related to the cause of hardware issues inhibiting necessary software upgrades); Hamilton Petition at 3 (stating that "it encountered unexpected delays in the form of newly discovered software issues" that prevented it "from full STIR/SHAKEN testing" by the deadline and is working with its vendor to fix them); Identidad Petition at 1-2, 5 (stating that following STIR/SHAKEN implementation on June 19, 2023, it "discovered a technical issue" with its switching platform related to an "identity header software issue"); Palmetto Petition at 3 (stating that "[d]uring STIR/SHAKEN testing, [Palmetto's] vendor . . . found technical issues" with the software configuration "that is inhibiting SIP traffic from being delivered accurately."); S&T Petition at 1 (stating that it seeks a waiver "[d]ue to delays in delivery of the hardware necessary . . . to implement STIR/SHAKEN"); Vexus Petition at 3 (stating that it "encountered unexpected delays by newly discovered hardware issues" that "will require additional equipment costs combined with potential shipping delays due to supply chain constraints" and is "working with its vendor . . . to resolve the hardware issue and complete the software upgrade).

<sup>14</sup> Allband Petition at 4, Hamilton Petition at 4; Palmetto Petition at 4-5; Vexus Petition at 4-5. *See also* Identidad Petition at 3-4 (arguing that good cause exists to grant its request because its requested 60-day extension is less time than the 18 months voice service providers had to implement STIR/SHAKEN" and it has "diligently complied with all of the Commission's robocall mitigation requirements to date"); S&T Petition at 4 (arguing that "[t]he public interest will not be harmed by a grant of the limited extension sought by Petitioners, particularly given the success of their robocall mitigation efforts to date.").

<sup>15</sup> *Caller ID Authentication Second Report and Order*, 36 FCC Rcd at 1877-78, paras. 41-43; *see also Call Authentication Trust Anchor*, WC Docket No. 17-97, Order, DA 22-741, at 3, para. 6 (WCB 2022) (*2022 Waiver Denial Order*) (denying requests for waivers, based on asserted technical difficulties, from the Commission's requirement that non-facilities-based small voice service providers fully implement STIR/SHAKEN authentication frameworks in the IP portions of their voice networks by June 30, 2022).

Commission set the June 30, 2021 implementation deadline for voice service providers.<sup>16</sup> Nothing in the Petitioners' filings persuades us that these were insufficient periods of time to complete the necessary tasks or that the reasons they cite for failing to timely comply were unique or unforeseeable.<sup>17</sup> Critically, several petitioners note that they did not engage vendors and begin work to implement STIR/SHAKEN until well after the orders setting the compliance deadlines, supporting a conclusion that their failures to meet the deadlines were not due to factors outside of their control.<sup>18</sup> The Commission has found that failing to promptly take action to meet a Commission deadline can indicate a lack of diligence that does not warrant a waiver.<sup>19</sup> This includes instances where a failure to comply with the Commission's rules was due to reliance on third-party advice.<sup>20</sup>

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<sup>16</sup> *Gateway Order* at 11, 28, paras. 24, 59 (providing a shorter compliance window because "the industry has had much more experience with implementation than when we originally required voice service providers to implement STIR/SHAKEN" and evidence that STIR/SHAKEN implementation costs had dropped since the time the Commission set the voice service provider compliance deadlines).

<sup>17</sup> See *2022 Waiver Denial Order* at 3, para. 6 ("Petitioners have had two years to complete the work necessary to implement STIR/SHAKEN in their networks, and nothing in their petitions persuades us that was an insufficient amount of time for them to complete the tasks they state are still outstanding."); *Wireline Competition Bureau Performs Required Evaluation Pursuant to Section 64.6304(f) of the Commission's Rules*, WC Docket No. 17-97, Public Notice, DA 22-1342 at 3 (WCB, Dec. 16, 2022) (*2022 Evaluation Public Notice*) ("There is no evidence in the record indicating that facilities-based small voice service providers face burdens that would prevent their implementation of STIR/SHAKEN within the next six months, in furtherance of the Commission's objective to achieve ubiquitous STIR/SHAKEN implementation."). The Petitioners do not adequately explain why their circumstances are different than the hundreds of gateway and voice service providers that certified by the deadlines in the Robocall Mitigation Database that they have fully implemented STIR/SHAKEN.

<sup>18</sup> See Hamilton Petition at 2 (noting that Hamilton only began working to implement STIR/SHAKEN in September 2022, nearly a year after the release of the *Caller ID Authentication Second Report and Order* setting the compliance deadline for small voice service providers); Identidad Petition at 2 (despite knowing as of September 2022 that its switch vendor could implement STIR/SHAKEN, Identidad only requested implementation in March of 2023); Palmetto Petition at 2 (noting that it has been working to implement STIR/SHAKEN only since January 2023); S&T Petition at 2 (attempting to come into compliance beginning in April 2023).

<sup>19</sup> *Commnet Supply LLC et al.*, ULS File Nos. 003818184, 0003805569, Memorandum Opinion and Order, 34 FCC Rcd 11673, para. 2 (2019) (denying a waiver request for failure to meet the Commission's service requirement deadline "not caused by unique circumstances or factors beyond the licensee's control, but rather by its own lack of diligence" in attempting to meet the deadline); *Connect America Fund et al.*, WC Docket No. 10-90, CC Docket No. 01-92, Order, 31 FCC Rcd 12021, 12028, para. 19 (2016) (denying a waiver request "[d]ue to the lack of diligence" in discovering an error close to a deadline that should have been discovered earlier in the normal course of business); *Applications of Montgomery County Media et al.*, MM Docket No. 85-331, Memorandum Opinion and Order, 8 FCC Rcd 2763, 2765, para. 12 (1993) (holding that "an applicant must show that it acted promptly after it discovered, or should have discovered, the potentially disqualifying deficiency" and that "an applicant that sites idly by, either doing nothing or pursuing a course of action that is not likely to resolve the problem expeditiously, lacks diligence"); *Petitions for Waiver of Universal Service High-Cost Filing Deadlines*; Memorandum Opinion and Order, 31 FCC Rcd 7386, 7388, para. 8 (2016) (in denying waiver request, the Commission concluded that "special circumstances" do not include "unique difficulties brought on by redirection of staff"); *Review of the Emergency Alert System et al.*, Order, EB Docket No. 04-296, 28 FCC Rcd 10181, 10183, para. 5 (PSHSB 2013) ("Vendor delay alone does not ordinarily constitute the 'special circumstances' that would justify a waiver . . . the delay must have arisen from some event or events that occurred despite Petitioner's diligent business operations, and not as a result of Petitioner's actions."); *id.* at 10183-84, paras. 6-7 (denying waiver request because petitioners "chose to wait until very close to the deadline to order equipment, and thus any delay in receiving equipment was entirely attributable to each company's business decisions").

<sup>20</sup> S&T argues that its failure to begin implementation until April 2023 was due to reliance on incorrect legal advice from an engineering firm about the applicability of the Commission's rules. S&T Petition at 2 ("Petitioners retained an engineering consulting firm to provide advice on compliance with the STIR/SHAKEN requirements, and that firm advised Petitioners that, . . . because they had a TDM connection in their network, they fell within the scope of

(continued....)

6. We are not persuaded by the Petitioners that implementation of a timely robocall mitigation program justifies a waiver of the STIR/SHAKEN implementation deadlines. The Bureau previously concluded that voice service providers' compliance with robocall mitigation obligations does not obviate the need for those providers to timely implement STIR/SHAKEN or demonstrate that granting a waiver of an implementation deadline would be in the public interest.<sup>21</sup> The Commission requires a multi-faceted effort to effectively combat illegal robocalls, under which all voice service providers must engage in robocall mitigation, file a certification and a description of their mitigation efforts in the Robocall Mitigation Database *as well as* implement STIR/SHAKEN.<sup>22</sup> Furthermore, any gaps or delays in STIR/SHAKEN implementation undermine its effectiveness.<sup>23</sup> For the foregoing reasons, we deny the Petitioners' requests for a waiver.

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the non-IP exemption.”). However, a petitioner’s confusion or ignorance of the Commission’s rules does not constitute “special circumstances” to grant a waiver. *Review of the Decision of the Universal Service Administrator by School Board of Alachua County, Gainesville, Florida*, File No. SLD-266209, Order, 19 FCC Rcd 1004, 1004-05, para. 2 (WCB 2004); *see also Request for Review by St. Mary's Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 12936, 12938, para. 5 (CCB 2001) (denying a waiver request to the extent it relies on a misunderstanding of the program rules). This is so even where the petitioner has relied on the advice of a third party. *See Hispanic Christian Community Network et al.*, MB Docket No. 23-267, Order to Show Cause et al., 2023 WL 5197159, at \*33, para. 94 (MB 2023) (“[L]icensees have a duty to know and comply with the Commission’s rules and the Act. Moreover, efforts to shift blame to agents . . . do not excuse a licensee’s failure to observe the Rules or statutory obligations.”); *Universal Service Contribution Methodology Petition for Waiver of Universal Service Fund Rules by Outfitter Satellite, Inc.*, WC Docket 06-122, 28 FCC Rcd 13358, 13361-62, para. 12 (WCB 2013) (“The Commission has held that businesses are responsible for the conduct of their employees and third party contractors and the consequences that flow from such conduct; mistakes or negligence by employees or third party contractors are not grounds for waiver of Commission rules.”); *LMDS Ventures, Attn: Reynard L. Bockart*, File Nos. 0004207852, 000407845, Letter, 27 FCC Rcd 2827, 2829 at 2 (WTB 2012) (in denying a waiver request, concluding that “[t]he Commission has held that a licensee cannot rely on a third party’s failure to perform as justification for a failure to meet regulatory requirements.”); *RKO Gen., Inc. v. FCC*, 670 F.2d 215, 231 (D.C. Cir. 1981) (“[A]dvice of counsel cannot excuse a clear breach of duty by a licensee.”).

<sup>21</sup> *2022 Waiver Denial Order* at 3, para. 6.

<sup>22</sup> *Call Authentication Trust Anchor*, WC Docket No. 17-97, Sixth Report and Order, FCC 23-18, at 16-7, paras. 29-30 (2023) (concluding that mitigation and STIR/SHAKEN implementation are complimentary, and both are necessary for all providers to protect against illegal robocalls); *see also Gateway Order* at 44, paras. 104-105 (same conclusion with respect to gateway providers specifically).

<sup>23</sup> *Gateway Provider Order* at 27, para. 58 (“Expanding the scope of providers subject to the STIR/SHAKEN regime will increase the overall benefits of the standard and its future reach. . . . STIR/SHAKEN has beneficial network effects, and the more steps we take to increase its use, the greater the overall benefit for those providers that have already implemented the standard and those providers’ customers.”); *2022 Evaluation Public Notice* at 5 (in deciding not to further lengthen the implementation extension for facilities-based small voice service providers, concluding that the end of the extension “will be a significant step towards achieving full participation in STIR/SHAKEN”). Although Palmetto states that “less than one percent of [its] traffic is IP, while the remaining is TDM,” Palmetto Petition at 5 (emphasis added), it does not make clear what portion of its network is IP capable and therefore able to implement STIR/SHAKEN. As a result, we cannot evaluate the relevance of the relative proportion of Palmetto’s IP traffic in determining whether the requested waiver is in the public interest.

**IV. ORDERING CLAUSES**

7. Accordingly, IT IS ORDERED THAT pursuant to the authority contained in sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, the Petitions for Limited Waiver filed by Allband, Hamilton, Palmetto, S&T and Vexus, and the Petition for Waiver filed by Identidad are DENIED. This Order shall be effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader  
Chief  
Wireline Competition Bureau