

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Waiver by)	CC Docket No. 95-155
)	
Somos, Inc.)	
)	
Toll-Free Number Administration)	

PETITION FOR WAIVER--EXPEDITED ACTION REQUESTED

Pursuant to section 1.3 of the rules of the Federal Communications Commission (“FCC” or “Commission”) and the Communications Act of 1934, as amended (“Communications Act”), Somos, Inc. (“Somos,” formerly known as SMS/800, Inc.), hereby petitions the Commission to grant a limited waiver of the “first-come first-served¹” rule governing the administration of Toll-Tree Numbers (“TFNs”) to permit Somos, Inc. to establish a system of fair allocation for a large quantity of 800 area code TFNs that are currently controlled by the Somos Help Desk (“Help Desk”).

BACKGROUND

Somos operates the SMS/800 platform for TFN administration for the North American Numbering Plan (the “SMS/800”). Pursuant to the Commission’s Order in the Order in CC Docket No. 95-155, WC Docket No. 12-260,² Somos is also the Toll-Free Neutral Administrator. Pursuant to 47 CFR 52.111, Somos is required to make TFNs available “on a first-come, first-served basis unless otherwise directed by the Commission.”

¹ 47 C.F.R. 52.111. “Toll free numbers shall be made available on a first-come, first-served basis unless otherwise directed by the Commission.”

² *Toll Free Service Access Codes*, CC Docket No. 95-155 and *Petition to Change the Composition of SMS/800, Inc.*, WC Docket No. 12-260, Order, 28 FCC Rcd 15328 (2013).

The Commission has granted a waiver of the first-come first-served rule when circumstances so require, such as new Toll-Free area code openings. For example, during the 844 and 855 Toll-Free area code openings, the Commission waived Section 52.111 to allow Somos to limit the quantity of TFNs any one Responsible Organization (“Resp Org”)³ could obtain during a limited period.⁴ In those instances, Resp Orgs were limited to 100 numbers per day in the newly released Toll-Free area codes, and the allocation period ran for 30 days.

Somos is currently confronted with a situation that presents challenges similar to those presented by a code opening. On January 14, 2016, Somos disconnected a Resp Org for non-payment. Pursuant to Somos procedures, during that week, Somos transferred all the TFNs the Resp Org controlled to the Help Desk. At the time, the Resp Org controlled more than 400,000 TFNs, of which approximately 96,000⁵ are in the 800 area code. The 800 area code is, by far, the most sought after area code for TFN subscribers. It is 100% subscribed and when 800 numbers become available in the Somos system, they are immediately reserved.⁶

DISCUSSION

Because of the widespread and intense interest in these 800 numbers, Somos proposes that the Commission waive 52.111 and permit Somos to conduct a limited release of these numbers, limiting Resp Orgs to 100 800 numbers per day, for a period of five days. In the absence of some allocation system, prior experience suggests that a small number of entities will

³ A Resp Org is define in 47 CFR 52.101 (b) as, “The entity chosen by a toll free subscriber to manages and administer the appropriate records in the toll free Service Management System for the toll free subscriber.”

⁴ See, *Toll Free Service Access Codes*, CC Docket 95-155, Order, 28 FCC Rcd 16139 (Wireline Comp. Bur. 2013) (“844 Code Opening”), and *Toll Free Service Access Codes*, CC Docket 95-155, Order, 25 FCC Rcd 13687 (Wireline Comp. Bur. 2010) (“855 Code Opening”).

⁵ It appears that a significant majority of the Resp Org’s numbers were used by Resp Org itself for marketing and analytics, and therefore there are no other subscribers for those numbers.

⁶ While it can vary widely day-to-day, on average around one hundred and fifty (150) 800 numbers are spared every day. No matter how many are spared, all are reserved within seconds.

be able to reserve the lion's share of these numbers. This is similar to the type of limitations that have been imposed during the previous code openings to ensure fair and equitable distribution of TFNs.

Prior experience confirms that an allocation system is warranted in this situation. It has been eight years since a significant quantity of 800 numbers has been available in the SMS/800. In 2008, the FCC released portions of some reserved 800-NXXs. At that time, SMS/800 released a batch of TFNs every 15 minutes until they were exhausted. Out of more than 23,000 numbers released, 21 entities obtained 800 numbers, but two entities dominated the release, obtaining more than 70% of all available 800 numbers. Therefore, a limitation, similar to a code opening, will result in a wider and fairer distribution of these valuable 800 numbers than the method used in 2008.

We propose that Somos conduct a limited release of these numbers as follows:

- Use a limited allocation method whereby each Resp Org can obtain up to one hundred (100) 800 TFNs each day during the allocation period.⁷
- The allocation period will run for five days.
- If there are 800 numbers still available after five days, they will be released using ordinary sparing methods following the last day's allocation.
- Any 800 numbers that are returned to spare from other sources during the allocation period will be added to the numbers available through the limited allocation.

This will apply only to 800 numbers. All other numbers will have no allocation limitations. We will not be able to accept new Resp Orgs in the system during the five days of limited allocation. And, in order to avoid putting unnecessary strain on the normal operations of the system, the

⁷ Note that Somos is not proposing an affiliation rule similar to what is being sought for the 833 code opening. That type of change in the system takes many months to program and test.

allocation will be open at a time during the day that is not Somos's usual sparing time.

We propose to start the limited allocation period on Monday, June 6 and running for five days. The start date is very important. The numbers have been under the control of the Help Desk since the week of January 14, 2016⁸ and were disconnected the week of February 15. Therefore, the numbers will begin automatically returning to the spare pool on or around June 13; hence, the limited allocation period must end before June 13.

In order to be ready for June 6, Somos respectfully requests that the Commission review this waiver petition on an expedited basis since much work has to be done between now and June 6 to prepare for the proposed limited release and give Resp Orgs the opportunity to make any adjustments to their systems in order to best participate in this limited allocation opportunity. Somos will continue to work to ensure that it is ready for this limited allocation.

Somos proposes the 100 per day and five day limited allocation period based on the experience in the 844 and 855 code openings. In the 844 code opening, 178 Resp Orgs participated and in the 855 code opening, 189 Resp Orgs participated. If 190 Resp Orgs participate in this proposed limited release and take 100 numbers each, then 95,000 TFNs will be reserved over the five day period. Participation could be less or it could be more. If participation is more, the pool of 800 numbers could exhaust before the end of the five days. If participation is less, the rest of the 800 numbers will be available on the usual first-come, first-served basis at the end of the allocation period.

⁸ Due to the large amount of numbers, these were moved to the Help Desk in batches over five days.

The Commission has the authority to waive any provision of its rules for good cause shown.⁹ “The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest.”¹⁰ Somos believes this is one such situation that calls for a limited waiver of the Commission’s rules.

CONCLUSION

For the foregoing reasons, Somos respectfully requests that the Commission issue a limited waiver of 47 CFR 52.111 requiring Toll-Free Numbers to be allocated on a first-come, first-served basis, to permit Somos to execute a limited release of the 800 area code numbers as described above. Further, for the foregoing reasons, we ask that the Commission render its decision concerning this petition on an expedited basis.

Respectfully Submitted,

Somos, Inc.



Joel Bernstein
Vice President, Regulatory and Public Policy
Somos, Inc.
jbernstein@somos.com
2411 Dulles Corner Park
Suite 250
Herndon, VA 20171
844-HEY-JOEL (844-439-5635)

⁹ See 47 C.F.R. § 1.3 (“The provisions of this chapter may be suspended, revoked, amended or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”).

¹⁰ *844 Code Opening* at 16142, citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).