

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

In the Matter of	)	
	)	
Toll Free Assignment Modernization	)	WC Docket No. 17-192
	)	
Toll Free Service Access Codes	)	CC Docket No. 95-155
	)	
Auction of Toll Free Numbers in the 833 Code	)	AU Docket No. 19-101

**REPORT**

**Adopted: January 15, 2021**

**Released: January 15, 2021**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. When the Commission established the 833 Toll Free Number Auction (833 Auction) in 2018,<sup>1</sup> it tasked the Wireline Competition Bureau (Bureau) with drafting a report to examine various aspects of this toll free number assignment experiment, including lessons learned, examination of auction outcomes, and recommendations for future toll free number assignment. Today, the Bureau submits to the Commission and the public its report on the 833 Auction. We conclude that the 833 Auction was a successful experiment that provided invaluable experience and data that can facilitate further Commission efforts to continue to modernize toll free number allocation in the future.

**II. BACKGROUND**

2. *History of Toll Free Numbers.* Toll free numbers, for use where the call recipient rather than the calling party pays for the call, have been available since 1967, when AT&T established the 800 code to facilitate toll free calling.<sup>2</sup> In addition to shifting the charge for a call, toll free numbers differ from local telephone numbers in that they are not bound by geographic location.<sup>3</sup>

3. Today, toll free numbers continue to play an important role in our nation's numbering system. Although the advent of affordable all-distance telephone plans has all but rendered the original purpose of toll free calling obsolete, toll free numbers still play an important role in business branding and advertising.<sup>4</sup> Toll free numbers also are integral to non-profit and public service organizations in reaching

<sup>1</sup> *Toll Free Assignment Modernization, Toll Free Service Access Codes*, WC Docket No. 17-192, CC Docket No. 95-155, Report and Order, 33 FCC Rcd 9274 (2018) (*2018 Toll Free Assignment Order*).

<sup>2</sup> 47 CFR § 52.101(f); *see also Provision of Access for 800 Service*, CC Docket 86-10, Report and Order, 4 FCC Rcd 2824, 2825, para. 4 (1989) (*1989 Access Order*).

<sup>3</sup> 47 CFR § 52.101(f); *see also Toll Free Service Access Codes, et al.*, CC Docket 95-155, Second Report and Order, 12 FCC Rcd 11162, 11166, para. 4 (1997) (*1997 Service Access Codes Order*).

<sup>4</sup> *8YY Access Charge Reform*, WC Docket No. 18-156, Report and Order, FCC 20-143, at 2-3, para. 5 (WCB Oct. 7, 2020); *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9275, para. 2; *see also, e.g., Are 800 Numbers Outdated? No, Not Even Close!* 800Response, <https://800response.com/blog/are-800-numbers-outdated/> (Jul. 12, 2017); *The Seven Powers of Toll-Free*, Somos (Aug. 8, 2018), <https://www.somos.com/toll-free-university/seven-powers-toll-free>, (noting that there is a projected 75% increase in companies procuring toll free numbers, including for measuring marketing effectiveness, deploying text messages, and improving sales performance); *How a Honda*

(continued....)

the public for health and safety services.<sup>5</sup> Entities that use toll free numbers particularly value numbers that spell memorable words and phrases and “repeaters” (e.g., 8YY-888-8888), all of which are easy for callers to remember.<sup>6</sup>

4. *Toll Free Number Assignment History.* Toll free numbers, like all telephone numbers, are a limited public resource.<sup>7</sup> To that end, Congress tasked the Commission with making “numbers available on an equitable basis.”<sup>8</sup> During the 888 toll free code opening, the Commission interpreted “on an equitable basis” to consist of two aspects: “orderly and efficient” and “fair.”<sup>9</sup> The Commission interprets “orderly” to mean that an assignment methodology “will simplify the administrative requirements necessary to assign toll free numbers and avoid the need to resolve competing claims among subscribers to particular numbers.”<sup>10</sup> It interprets “efficient” to mean an assignment mechanism will minimize exhaust of toll free numbering resources.<sup>11</sup> And it interprets “fair” to mean that a toll free assignment methodology gives “[a]ll subscribers . . . an equal opportunity to reserve desirable toll free numbers as new codes are opened.”<sup>12</sup>

5. Section 251(e)(1) of the Communications Act of 1934, as amended (the Act), requires the Commission to designate an impartial toll free numbering administrator (Administrator),<sup>13</sup> which currently is Somos, Inc. (Somos).<sup>14</sup> The Administrator manages access to the Toll Free Number Database, “[t]he administrative database system for toll free numbers.”<sup>15</sup> Responsible Organizations (RespOrgs) obtain toll free numbers on behalf of subscribers from a pool of available numbers.<sup>16</sup> RespOrgs “have total responsibility for the account management of a particular toll free number,

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*Dealership Increased Call Volume and Sales with the Power of Toll-Free*, Somos, <https://www.somos.com/insights/see-how-honda-dealership-increased-call-volume-and-sales-power-toll-free> (Nov. 14, 2019) (describing how a Honda dealership with an existing toll free number partnered with an ad agency and significantly increased customer traffic and sales).

<sup>5</sup> *Toll Free Assignment Modernization, Toll Free Service Access Codes*, WC Docket 17-192, CC Docket 95-155, Notice of Proposed Rulemaking, 32 FCC Rcd 7885, 7886, para. 1 (2017) (*2017 Toll Free Assignment NPRM*).

<sup>6</sup> See, e.g., *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9277, para. 9.

<sup>7</sup> *Id.* at 9275, para. 2.

<sup>8</sup> 47 U.S.C. § 251(e)(1); 47 CFR § 52.111; see also *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9275, para. 4.

<sup>9</sup> *Toll Free Service Access Codes*, CC Docket 95-155, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058, 9068, para. 12 (1998) (*877 Code Opening Order* or *1998 Toll Free Order*); *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9275, para. 4.

<sup>10</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9280, para. 16 (citing *1998 Toll Free Order*, 13 FCC Rcd at 9065, para. 12).

<sup>11</sup> *Id.* at 9280, para. 16 (citing *1998 Toll Free Order*, 13 FCC Rcd at 9065, para. 12).

<sup>12</sup> *Id.* (citing *1998 Toll Free Order*, 13 FCC Rcd at 9069, para. 25).

<sup>13</sup> 47 U.S.C. § 251(e)(1); see also 47 CFR § 52.101(a).

<sup>14</sup> *2017 Toll Free Assignment NPRM*, 32 FCC Rcd at 7887-88, para. 4.

<sup>15</sup> 47 CFR § 52.101(d). While our rules refer to the Toll Free Database as the “Service Management System Database” (SMS Database), the current Toll Free Numbering Administrator, Somos, rebranded the Database to the “TFN Registry.” See *800 Service Management System (SMS/800) Toll-Free Number Registry (TFN Registry) Functions Tariff*, Somos, Inc., Tariff F.C.C. NO. 1 at 2.7 (Apr. 2020) (*Somos Tariff*). Somos changed its name from SMS/800, Inc. to Somos in 2015. *SMS/800, Inc. Changes Name to Somos, Inc.*, Somos, <https://www.somos.com/insights/sms800-inc-changes-name-somos-inc>, (Oct. 27, 2015).

<sup>16</sup> 47 CFR § 52.101(b); *Somos Tariff* at 2.3.1(A)(1). A toll free number can only be assigned to one subscriber at a time. *Somos Tariff* at 2.3.1(A)(7) (noting that subscribers do not have ownership interests in the assigned toll free number).

including maintaining its customer record” in the Toll Free Number Database.<sup>17</sup> This responsibility also includes updating the Toll Free Number Database with the toll free subscriber record and the call routing information associated with all the toll free numbers the RespOrg manages.<sup>18</sup>

6. From the 888 code opening in 1996 until the recent 833 Auction, the Commission largely assigned toll free numbers on a straightforward first-come, first-served basis.<sup>19</sup> During that time period, the Commission determined that the first-come, first-served rule constituted number assignment on an equitable basis because it was both orderly and efficient as well as fair.<sup>20</sup> Specifically, the Commission noted the low cost and simplicity of the first-come, first-served methodology as support of the determination that it was orderly and efficient.<sup>21</sup> And the Commission opined that the first-come, first-served rule was fair because “it did not discriminate on its face against any potential subscribers.”<sup>22</sup>

7. While the first-come, first-served rule has worked for several decades, questions arose as to whether it remained an equitable assignment methodology for toll free numbers.<sup>23</sup> Certain RespOrgs developed enhanced connectivity to the Database, enabling them to quickly reserve desirable numbers.<sup>24</sup> The Bureau sought to address this concern in the 855 and 844 toll free code openings by directing the Administrator to limit the quantity of numbers a RespOrg could reserve at a time.<sup>25</sup> Relatedly, the enhanced connectivity of certain RespOrgs raised concerns over warehousing.<sup>26</sup> While the Commission’s rules prohibit warehousing, the Bureau acknowledged “that certain RespOrgs may still engage in this practice.”<sup>27</sup> The Bureau designed the daily allocation limits that it directed the Administrator to enact at the 855 and 844 code openings to deter warehousing and to promote equitable assignment of toll free numbers at new code openings.<sup>28</sup>

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<sup>17</sup> *Id.* at 2.7.

<sup>18</sup> *Id.* at 2.1.

<sup>19</sup> See *2017 Toll Free Assignment NPRM*, 32 FCC Rcd at 7887, para. 2 n.10 (citing the then unamended 47 CFR § 52.111 (“Toll free numbers shall be made available on a first-come, first-served basis unless otherwise directed by the Commission”). The Commission amended section 52.111 of its rules for the 833 Toll Free Number Auction in 2018. See *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9309, 9312, para. 100, Appx A; see also *877 Code Opening Order*, 13 FCC Rcd at 9078, Appx A (codifying the first-come, first-served methodology for toll free number assignment).

<sup>20</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9275, para. 4 (citing *877 Code Opening Order*, 13 FCC Rcd at 9065, para. 12).

<sup>21</sup> *Id.* at 9275, para. 4 (citing *877 Code Opening Order*, 13 FCC Rcd at 9068-69, paras. 24-25).

<sup>22</sup> *Id.* (citing *877 Code Opening Order*, 13 FCC Rcd at 9068-69, paras. 24-25).

<sup>23</sup> *2017 Toll Free Assignment NPRM*, 32 FCC Rcd at 7889, para. 8.

<sup>24</sup> *Id.*

<sup>25</sup> *Toll Free Service Access Codes*, CC Docket 95-155, Order, 32 FCC Rcd 3153, 3154, para. 5 (WCB 2017) (*833 Code Opening Order*) (citing *Toll Free Service Access Codes*, CC Docket 95-155, Order, 25 FCC Rcd 13687, 13687, para. 1 (WCB 2010) (*855 Code Opening Order*); *Toll Free Service Access Codes*, CC Docket 95-155, Order, 28 FCC Rcd 16139, 16139, para. 1 (WCB 2013) (*844 Code Opening Order*)). With the 855 and 844 code openings, the Bureau directed the Administrator to limit RespOrg toll free number reservations to 100 per day for the first 30 days. *855 Code Opening Order*, 25 FCC Rcd at 13687, para. 1; *844 Code Opening Order*, 28 FCC Rcd at 16139, para. 1.

<sup>26</sup> “Warehousing” occurs when a RespOrg reserves toll free numbers without having a toll free subscriber on whose behalf it is acting. 47 CFR § 52.105(a).

<sup>27</sup> *855 Code Opening Order*, 25 FCC Rcd at 13688, para. 3.

<sup>28</sup> *Id.*

8. *833 Auction.* As part of the 833 pre-code opening process, the Bureau directed Somos to poll RespOrgs about which toll free numbers they would request to reserve.<sup>29</sup> Nearly 150 RespOrgs participated, requesting over 72,000 numbers.<sup>30</sup> The Bureau then directed Somos to identify “mutually exclusive” numbers with multiple RespOrg requests.<sup>31</sup> Somos identified 17,638 mutually exclusive numbers.<sup>32</sup> At the Bureau’s direction, Somos placed these numbers in “unavailable” status pending the outcome of the proceeding.<sup>33</sup>

9. Based on the opportunity afforded by a new toll free code opening and the results of the 833 pre-code opening process, the Commission revised its rules to permit competitive bidding—i.e., auctions—as an assignment method for toll free numbers.<sup>34</sup> In the rationale for its decision, the Commission evaluated competitive bidding and determined that it was orderly, efficient, and fair for toll free number assignment.<sup>35</sup> It concluded that using an auction to assign numbers is orderly because “any entity interested in a toll free number can, through an auction, express the value it places on a particular number, in a clear, transparent, and relatively simple manner.”<sup>36</sup> The Commission reiterated that an auction assignment methodology for toll free numbers is fair because all interested toll free subscribers would have “an equal opportunity to reserve desirable toll free numbers as new codes are opened.”<sup>37</sup> The Commission noted that the results from the pre-code opening process demonstrated a “demand for certain mutually exclusive numbers” and that an auction of these numbers could be a viable assignment mechanism,<sup>38</sup> and certainly the “experimental use of an auction for mutually exclusive 833 toll free

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<sup>29</sup> *833 Code Opening Order*, 32 FCC Rcd at 3154-55, para. 6.

<sup>30</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9277, para. 9.

<sup>31</sup> *833 Code Opening Order*, 32 FCC Rcd at 3154-55 para. 6. Mutually exclusive numbers are toll free numbers that received two or more requests for assignment. See *2017 Toll Free Assignment NPRM*, 32 FCC Rcd at 7886, para. 1 n.5 (citing *833 Code Opening Order*, 32 FCC Rcd at 3154-55 para. 6).

<sup>32</sup> Letter from Joel Bernstein, Vice Pres., Regulatory and Public Policy, Somos, Inc., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-155, at 1 (filed Aug. 31, 2017) (*Somos Ex Parte Letter*). Furthermore, 10 or more RespOrgs requested over 1,800 mutually exclusive numbers and 65 or more RespOrgs requested the 10 most popular numbers. *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9277, para. 9. 85 RespOrgs, or 58% of all participating RespOrgs, requested the top mutually exclusive toll free number—833-333-3333. *Somos Ex Parte Letter* at 2.

<sup>33</sup> *833 Code Opening Order*, 32 FCC Rcd at 3154-55, paras. 6-7; *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9276-77, paras. 8-9 (2018). “Unavailable” status means the “toll free number is not available for assignment due to an unusual condition.” 47 CFR § 52.103(a)(8).

<sup>34</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd 9274; 47 CFR § 52.111 (“Toll free telephone numbers must be made available to Responsible Organizations and subscribers on an equitable basis. The Commission will assign toll free numbers by competitive bidding, on a first-come, first-served basis, by an alternative assignment methodology, or by a combination of the foregoing options.”).

<sup>35</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9280, para. 16.

<sup>36</sup> *Id.* at 9280, para. 17.

<sup>37</sup> *Id.* at 9281, para. 19.

<sup>38</sup> *2017 Toll Free Assignment NPRM*, 32 FCC at 7888-89, para. 7. The Commission rejected the idea of a secondary market for toll free numbers, noting that it would be “inequitable for a RespOrg or subscriber to get a valuable public resource for free, but then later be able to profit from it even when others would have paid for it initially.” *Id.* at 7888-89, para. 7; see also CenturyLink Comments at 4-5 (filed Nov. 13, 2017) (CenturyLink Comments) (asserting that a secondary market could incentivize hoarding and warehousing); Alliance for Telecommunications Industry Solutions Comments at 5 (filed Nov. 13, 2017); 800 Response Information Services LLC Reply at 2 (filed Dec. 12, 2017) (800 Response Reply). All citations in this Report to comments or replies are to such filings in WC Docket No. 17192 and CC Docket No. 95-155.

numbers . . . will yield additional insight in whether auctions are the best methodology for assigning toll free numbers[.]”<sup>39</sup>

10. In light of these considerations, the Commission established the 833 Auction as an experiment to “analyze the most efficient way to use competitive bidding as a toll free number assignment method.”<sup>40</sup> This experiment would permit the Commission to “study the impact of this new allocation method and make any necessary changes to serve the public interest.”<sup>41</sup> Further, data from the 833 Auction will inform the Commission about the best method to use for future toll free number assignment, and how best to use market-based approaches to facilitate the effective assignment of these valuable public resources.<sup>42</sup>

11. For the general framework of the 833 Auction, the Commission adopted a Vickrey single round, sealed-bid auction design.<sup>43</sup> In a Vickrey auction, the amount paid by the winning bidder is determined by the second highest bid.<sup>44</sup> To increase participation, the Commission determined that any interested party could participate—RespOrgs and potential toll free subscribers alike.<sup>45</sup> The Commission designated Somos as the auctioneer, citing Somos’s experience with toll free number assignment as a basis for the decision.<sup>46</sup> At the Commission’s direction, Somos established infrastructure and software to facilitate the 833 Auction, as well as education and outreach mechanisms.<sup>47</sup>

12. Leading up to the 833 Auction, the Commission sought comment on,<sup>48</sup> and established procedures for the registration, application, bidding, and payment processes for the 833 Auction.<sup>49</sup> The window to submit an application to participate in the 833 Auction was open from October 7, 2019 through October 18, 2019.<sup>50</sup> Somos notified applicants on November 13, 2019, of the status of their applications.<sup>51</sup> Those whose applications were deemed to be incomplete had an additional opportunity to

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<sup>39</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9281-82, para. 19 n. 55.

<sup>40</sup> *Id.* at 9284, para. 25.

<sup>41</sup> *Id.* (citing CenturyLink Comments at 1-2, 6-7).

<sup>42</sup> *Id.* at 9284-85, paras. 25, 27.

<sup>43</sup> *Id.* at 9285, para. 30.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 9288, para. 38.

<sup>46</sup> *Id.* at 9294, para. 58. The Commission also found the role of auctioneer “commensurate with [Somos’s] present statutory and regulatory duties and its responsibilities” as Administrator. *Id.*

<sup>47</sup> *Id.* at 9294, para. 59.

<sup>48</sup> *Auction of Toll Free Numbers in the 833 Code, Comment Sought on Competitive Bidding Procedures*, WC Docket 18-100, Public Notice, 34 FCC Rcd 3500 (2019) (*Auction Procedures Public Notice*).

<sup>49</sup> *Id.* at 6565, para. 11.

<sup>50</sup> *Id.*

<sup>51</sup> Somos, *Auction of Toll Free Numbers in the 833 Code, Status of Auction Applications* (Nov. 13, 2019), [https://auction.somos.com/sites/default/files/2019-11/833\\_Auction\\_Status\\_PN\\_with\\_attachments\\_FNL.pdf](https://auction.somos.com/sites/default/files/2019-11/833_Auction_Status_PN_with_attachments_FNL.pdf) (Somos Status Public Notice); *Auction of Toll Free Numbers in the 833 Code, Somos Announces Applicants’ Initial Application Status and Opportunity for Minor Modifications*, AU Docket No. 19-101, Public Notice, 34 FCC Rcd 10439 (WCB/OEA 2019). Applicants could make minor modifications to correct deficiencies until November 27, 2019. See Somos Status Public Notice at 1, para. 3. Upfront payments for the auction were also due on the same date. *Auction Procedures Public Notice*, 34 FCC Rcd at 6565, para. 11.

correct deficiencies.<sup>52</sup> Somos released a public notice identifying qualified bidders on December 10, 2019<sup>53</sup> and held a mock auction on December 13, 2019.<sup>54</sup>

13. The 833 Auction occurred on December 17, 2019, with one day of bidding.<sup>55</sup> On December 20, 2019, Somos announced the winning bidders.<sup>56</sup> On January 16, 2020, at the Commission's direction, Somos publicly released 833 Auction application and bidding data.<sup>57</sup> On March 13, 2020, the Bureau sought public comment on the 833 Auction to inform the Bureau's report on the outcomes of the auction, lessons learned, and recommendations for future toll free number assignment methodologies.<sup>58</sup> The Bureau received comments from participants, RespOrgs, subscribers, individuals, and small businesses.

14. On December 16, 2019, the Bureau directed the North American Numbering Council's (Council) Toll Free Number Assignment Modernization working group to provide a written report and recommendation on the 833 Auction from the perspective of participants.<sup>59</sup> The working group submitted its final report to the Council on June 15, 2020,<sup>60</sup> which approved the report on July 14, 2020.<sup>61</sup>

15. *Bureau Report.* In the *2018 Toll Free Assignment Order*, the Commission directed the Bureau to "issue a report outlining the outcomes of the 833 Auction, lessons learned, and future recommendations for toll free number assignment methodologies" following completion of the auction.<sup>62</sup> The Commission also provided specific guidance as to what the report should include. First, the Commission indicated the report should "address the success of the Vickrey single round sealed-bid auction methodology, and compare it to alternative methodologies."<sup>63</sup> The Commission also expected the report to "address the auction's effectiveness, and to recommend whether any of the measures [the Commission] declined to adopt in the Report and Order—including package bidding—could be useful in

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<sup>52</sup> Somos Status Public Notice at 2, para. 5.

<sup>53</sup> Somos, *Auction of Toll Free Numbers in the 833 Code, 44 Applicants Qualified to Bid in the 833 Auction* (Dec. 10, 2019), [https://auction.somos.com/sites/default/files/2019-12/Somos\\_833\\_Auction\\_QB\\_PN\\_Attach\\_A\\_Attach\\_B.pdf](https://auction.somos.com/sites/default/files/2019-12/Somos_833_Auction_QB_PN_Attach_A_Attach_B.pdf); *Auction of Toll Free Numbers in the 833 Code, Somos Announces 44 Applicants Qualified to Bid in the 833 Auction*, AU Docket 19-101, Public Notice, 34 FCC Rcd 11986 (WCB/OEA 2019) (*Qualified Applicant Public Notice*).

<sup>54</sup> *Auction Procedures Public Notice*, 34 FCC Rcd at 6565, para. 11.

<sup>55</sup> *Id.* at 6561, para. 1; see also *Wireline Competition Bureau Invites Comments on the Auction of Toll Free Numbers in the 833 Code*, WC Docket 17-192, CC Docket 95-155, Public Notice, 35 FCC Rcd 2086 (2020) (*Post-Auction Comment Public Notice*).

<sup>56</sup> *Auction of Toll Free Numbers in the 833 Code, Somos Announces Winning Bidders for the 833 Auction*, AU Docket 19-101, Public Notice, 34 FCC Rcd 12501 (2019). In the same notice, Somos announced final payments were due on January 8, 2020 and late payments by January 15, 2020. *Id.*

<sup>57</sup> The data is available in searchable form at <https://auction.somos.com/search/>.

<sup>58</sup> *Post-Auction Comment Public Notice*, 35 FCC Rcd at 2086.

<sup>59</sup> Letter from Kris Monteith, Chief, Wireline Competition Bureau, to Jennifer McKee, Chair, North American Numbering Council, (Dec. 16, 2019), <https://docs.fcc.gov/public/attachments/DOC-361478A1.pdf>.

<sup>60</sup> Perspectives on the December 2019 Auction of Numbers in the 833 Numbering Plan Area, North American Numbering Council, Toll Free Assignment Modernization (TFAM) Working Group (Jun. 15, 2020), [http://nanc-chair.org/docs/TFAM2020WGFinalReport%206\\_15\\_20.pdf](http://nanc-chair.org/docs/TFAM2020WGFinalReport%206_15_20.pdf). (Council Report).

<sup>61</sup> North American Numbering Council Meeting Agenda, (Jul. 14, 2020), <https://docs.fcc.gov/public/attachments/DOC-365562A1.pdf>; see also LiveStream Recording of the North American Numbering Council Meeting (Jul. 14, 2020), <https://www.fcc.gov/news-events/events/2020/07/north-american-numbering-council-meeting>.

<sup>62</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9284, para. 26.

<sup>63</sup> *Id.* at 9288, para. 37.

deciding on future toll free assignment methods.”<sup>64</sup> Finally, the Commission directed the Bureau to assess the performance of Somos as the auctioneer, including Somos’s “technical execution and cost-effectiveness in conducting the auction.”<sup>65</sup>

### III. DISCUSSION

#### A. Auction Outcomes and Lessons Learned

16. The Commission established the 833 Auction as an experiment to explore the use of competitive bidding for the assignment of toll free numbers. The auction was successful in meeting this central goal. Somos received 60 applications to participate in the auction, and 44 applicants became qualified bidders.<sup>66</sup> Of the 44 applicants deemed qualified, 39 applicants submitted bids.<sup>67</sup> These applicants bid on a total of 1,659 toll free numbers, with 1,405 of those numbers receiving one bid.<sup>68</sup> Thirty-five of the 39 bidders won one or more numbers.<sup>69</sup> The total gross value of the winning bids amounted to \$6,819,035, and the actual amount owed by the 833 Auction winning bidders totaled \$285,075.<sup>70</sup>

17. The 833 Auction successfully provided lessons about the benefits and disadvantages of using this method of assigning toll free numbers. Over 60 entities applied to participate in the auction process, the vast majority of which became qualified bidders. Nearly all of these qualified bidders were assigned at least one toll free number. Somos performed competently as auctioneer, under the direction of Commission staff, carrying out extensive outreach and education efforts and effectively executing the auction, which ran smoothly.<sup>71</sup> However, as is to be expected following an initial experiment, our experience with the 833 Auction suggests that the Commission could consider some possible changes to the auction process that might better achieve the objective of assigning toll free numbers on an “orderly and efficient” and “fair” basis.<sup>72</sup>

#### 1. Auction Design and Effectiveness

18. The design of the 833 Auction as a Vickrey single round, sealed-bid auction proved to offer a number of benefits. As anticipated, the single-round, sealed-bid auction appeared to be “simple

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<sup>64</sup> *Id.* at 9293, para. 56.

<sup>65</sup> *Id.* at 9295, para. 64.

<sup>66</sup> *Qualified Applicant Public Notice*, 34 FCC Rcd 11986; Public Notice, Somos, Inc., Auction of Toll Free Numbers in the 833 Code, 44 Applicants Qualified to Bid in 833 Auction at 1, para. 2 (Dec. 10, 2019), [https://auction.somos.com/sites/default/files/2019-12/Somos\\_833\\_Auction\\_QB\\_PN\\_Attach\\_A\\_Attach\\_B.pdf](https://auction.somos.com/sites/default/files/2019-12/Somos_833_Auction_QB_PN_Attach_A_Attach_B.pdf). Although certain disqualified applicants filed comments complaining about the decision, the comments did not address the merits of Somos’s decision—that the applicants had not complied with the auction rules. *See, e.g.*, Bill Quimby and Cliff Killingsworth Comments (filed Dec. 11, 2019); Bill Quimby Comments (filed Apr. 13, 2020) (consolidating customers’ feedback on the auction, with many expressing concern that they were not able to bid on numbers in the auction because their RespOrg was disqualified); Charles Harding Comments (filed Apr. 13, 2020); Andrei Mincov Comments (filed Apr. 10, 2020); Scott London Comments (filed Apr. 8, 2020).

<sup>67</sup> *See* information available at Somos, Inc., *833 Auction*, <https://auction.somos.com>. Applicants that qualified were not required to place bids in the auction, and five of the qualified applicants chose not to bid.

<sup>68</sup> Public Notice, Somos, Inc., Auction of Toll Free Numbers in the 833 Code, Winning Bidders Announced for 833 Auction (Winning Bidders Public Notice), Attach. A, [https://auction.somos.com/sites/default/files/2019-12/Somos\\_833\\_Auction\\_Winning\\_Bidder\\_PN\\_with\\_Attachments.pdf](https://auction.somos.com/sites/default/files/2019-12/Somos_833_Auction_Winning_Bidder_PN_with_Attachments.pdf).

<sup>69</sup> *Id.* In the public notice, Somos mistakenly stated that there were 39 winning bidders.

<sup>70</sup> Council Report at 3.

<sup>71</sup> *See id.* at 9.

<sup>72</sup> *See generally* 1998 Toll Free Order; 2018 Toll Free Assignment Order.

and cost-effective” as compared to auctions with multiple rounds.<sup>73</sup> The Commission was therefore correct in its prediction that compared to multiple round auctions, a single round auction would be “relatively easy for both the auctioneer (to implement) and participants (to participate in),” “completed more quickly,” and conducted “at a lower cost to the auctioneer and participants.”<sup>74</sup> The Council agreed that “[t]here seems to be little question that the use of a single-round sealed bid auction is superior to multi-round public bidding for use with number assignment.”<sup>75</sup> This was the opinion of Council members, commenters, and “virtually all of those respondents that provided feedback” to the working group.<sup>76</sup>

19. Despite the benefits of a single round, sealed-bid auction, however, the Commission has acknowledged that “an open auction such as a simultaneous multi-round auction used by the Commission for our spectrum auctions,”<sup>77</sup> in some cases, “may perform better than a sealed-bid auction.”<sup>78</sup> In addition, one commenter believed that open auctions were a superior option for participants with fewer financial resources.<sup>79</sup> Single-round sealed-bid auctions, however, “are relatively easy to implement and to bid in and, therefore, less costly to both the auctioneer and participants” than more complex auctions.<sup>80</sup>

20. One of the main advantages of a second price, or Vickrey, auction is that it encourages bidders to bid their true valuations rather than to bid just above their estimates of valuations of competitors’ bids.<sup>81</sup> As the Commission explained:

A Vickrey auction can yield an equitable and efficient assignment of mutually exclusive toll free numbers as it incentivizes bidders to bid their true valuation. In particular, the amount paid by the winner (i.e., the bidder with the highest bid) is determined by the second highest bid and does not depend on the exact amount of the winner’s own bid. This payment rule results in the winning bidder essentially receiving what it might view as a “surplus,” i.e., the difference between its own bid and the second highest bid. A Vickrey auction thus encourages bidders to bid the true maximum they are willing to pay, while at the same time efficiently assigns the numbers to the bidders who have the highest valuations for the number.<sup>82</sup>

And as the Council stated, in Vickrey auctions, “the primary focus is being the highest bidder and winning the item with less concern for facing any penalty for over-bidding.”<sup>83</sup>

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<sup>73</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9286, para. 32; *see also* Anthony L. Jones Comments at 1 (filed Mar. 15, 2020) (Anthony Jones Comments) (stating that single round format is a “quick and easy method of assigning toll-free numbers”).

<sup>74</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9286, para. 32.

<sup>75</sup> Council Report at 21; *see also* Daniel A. Lyons Comments at 4 (filed Jan. 18, 2018) (Daniel Lyons Comments) (The single-round auction is much cheaper than a traditional multi-round auction” because “the upfront administrative costs of the auction are minimal.”).

<sup>76</sup> Council Report at 21 n.16; *see also* Daniel Lyons Comments, Attach. at 4; Anthony Jones Comments at 1.

<sup>77</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9288, para. 34 n.88.

<sup>78</sup> *Id.* at 9288, para. 37 n.97.

<sup>79</sup> 800 Response Information Services Reply at 5 (asserting that open auctions benefit participants with fewer financial resources because they enable such participants to “study what is transpiring in all of the auctions in which [they are] participating, drop out of some, and concentrate [their] resources on others to assure that that [they obtain] one or more numbers which meet [their] needs”).

<sup>80</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9274, 9286, paras. 1, 32.

<sup>81</sup> *Id.* at 9286-87, paras. 31, 33.

<sup>82</sup> *Id.* at 9285-86, para. 30.

<sup>83</sup> Council Report at 22.

21. The Council, however, identified some disadvantages to the Commission's implementation of the Vickrey auction format. First, it stated that "for some 833 numbers that received more than one bid the gap between the first and second bid price were quite large."<sup>84</sup> Second, it criticized the Commission's decision to award numbers that received only one bid to the sole bidder for free, i.e., treating the second-highest bid amount as zero.<sup>85</sup> While one commenter feared that "the Vickrey auction favors participants with strong financial resources,"<sup>86</sup> there was no evidence that participants with fewer financial resources were disadvantaged in this way—and Vickrey auctions are generally thought to encourage bidders to bid their true valuations.<sup>87</sup>

## 2. Somos' Performance as Auctioneer

22. In the *2018 Toll Free Assignment Order*, the Commission directed the Bureau, following the 833 Auction, to "evaluate Somos' performance as the auctioneer, including its technical execution and cost-effectiveness in conducting the auction."<sup>88</sup> Somos' responsibilities as auctioneer included:

performing bidder education and other outreach; accepting and reviewing applications to participate in the auction; accepting upfront payments; announcing qualified bidders and those not qualified to bid; accepting bids during a single round of bidding; accepting final payments for winning bids and distributing refunds for any upfront payments not applied to winning bids; activating in the toll free database the numbers won at auction and for which final payment has been made; and undertaking any further tasks in furtherance in the 833 Auction that the Commission deems appropriate and as elaborated in the Auction Procedures Public Notice.<sup>89</sup>

23. The Bureau and the Auctions Division, in the Commission's Office of Economics and Analytics, were satisfied with the auction process, including education and outreach efforts, and with Somos as the auctioneer.<sup>90</sup> In particular, the Bureau and Auctions Division staff were pleased with Somos' software development team and its auction management team.<sup>91</sup> Somos was readily available to respond to questions and worked collaboratively with Commission staff.<sup>92</sup>

24. For their part, auction participants generally "applauded" Somos's "extensive" outreach and education efforts, although a few participants found communications from Somos to be too detailed

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<sup>84</sup> *Id.* at 21. Such large gaps can be expected in Vickrey auctions. *See, e.g.*, Power Auctions Comments at 3-4 (citing an example of a Vickrey auction in New Zealand where the highest bid was NZ\$100,000 and the second highest bid was NZ\$6 in one instance and the highest bid in another instance was NZ\$7 million, with the second highest bid being NZ\$5,000); 800 Response Information Services Reply, Attach. at 3 ("The Vickrey Auction's simplifying monotonicity assumption is very sensitive to the number of bidders and their bidding behaviors, and creates opportunities for auction revenues to skyrocket or to drop to zero."). However, second-price payment rules are frequently employed in auction design because of the strong incentives they provide to bidders to bid their true valuations, and their robustness to strategic speculation and counter-speculation. *See 2018 Toll Free Assignment Order*, 33 FCC Rcd at 9285-86, paras. 31, 33.

<sup>85</sup> Council Report at 21.

<sup>86</sup> 800 Response Information Services Reply at 4 (asserting that this format constrains participants without strong financial resources who "cannot risk bidding significantly more than the total amount [they are] able to spend").

<sup>87</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9286-87, paras. 31, 33.

<sup>88</sup> *Id.* at 9294, para. 64.

<sup>89</sup> *Id.* at 9294, para. 59.

<sup>90</sup> Council Report at 9.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

or confusing.<sup>93</sup> Some auction participants complained of a lack of information available before and during the bidding process.<sup>94</sup> Moreover, some participants observed that Somos did not complete the verification process for non-RespOrg applicants as quickly as for RespOrgs,<sup>95</sup> but this likely can be explained by the fact that Somos, as the Administrator, already had relationships with RespOrgs. Without these same relationships with non-RespOrgs, Somos had to verify such applicants' identities through video calls.<sup>96</sup>

25. Overall, Somos met each of the auctioneer's responsibilities established by the Commission in advance of the 833 Auction with no significant problems to our knowledge. Moreover, 35 entities successfully acquired the rights to one or more toll free numbers through the 833 Auction. Based on the consensus described above, the Bureau concludes that Somos executed the 833 Auction efficiently and effectively, demonstrating its capability in performing the role of auctioneer.

## **B. Recommendations for Future Toll Free Number Assignment Methodologies**

26. After careful and thorough consideration of the 833 Auction and the record developed from commenters and other interested parties in response to the auction, the Bureau, in coordination with the Office of Economics and Analytics, has several recommendations for the Commission to consider for future assignments of toll free numbers.

### **1. Auctions**

27. If the Commission decides to conduct an auction for future toll free number assignments, the Bureau recommends that the Commission retain the single round, sealed-bid Vickrey auction format but consider several enhancements, outlined below, to the design and process used for the 833 Auction. By using the same auction design,<sup>97</sup> with the enhancements proposed below, the Commission would avoid certain new auction development costs (e.g., software) and implementation delays. Doing so would allow the Commission to more quickly assign toll free numbers to users cost-efficiently than would be possible with a significantly different auction design.<sup>98</sup> Further, assigning toll free numbers solely by auction will prevent the misalignment of incentives that would result from a hybrid or other approach (e.g., using a first-come, first-served approach for any toll free numbers that do not receive bids in an auction).<sup>99</sup>

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<sup>93</sup> *Id.* at 7; *see also* Charles Harding Comments (filed Apr. 13, 2020) (contending that many companies found the process "too unwieldy" to even submit applications).

<sup>94</sup> Council Report at 7.

<sup>95</sup> *Id.* at 12.

<sup>96</sup> *Id.* A number of would-be participants complain that Somos disqualified their RespOrg at the last minute without leaving them sufficient time to find a new RespOrg or place their own bid, and as a result, they were unable to participate in the auction. *See, e.g.*, Bill Quimby Comments (filed Apr. 13, 2020) (consolidating customers' feedback); Charles Harding Comments (filed Apr. 13, 2020); Andrei Mincov Comments (filed Apr. 10, 2020); Scott London Comments (filed Apr. 8, 2020). They do not show, however, that the RespOrg in question was qualified or that Somos acted improperly.

<sup>97</sup> *See* Anthony Jones Comments at 1 (noting that while many may regard toll-free numbers as invaluable marketing instruments, they are not as critical an asset as spectrum; that the single round, second-best-price format is reasonable as a quick and easy method of assigning toll-free numbers sought by many competing individuals and businesses, and is also a method of saving bidders from their own "over-zealousness").

<sup>98</sup> *See 2018 Toll Free Assignment Order*, 33 FCC Rcd at 9285-86, para. 31 ("A Vickrey auction can yield an equitable and efficient assignment of mutually exclusive toll free numbers as it incentivizes bidders to bid their true valuation.").

<sup>99</sup> *See id.* at 9281, para. 19 (finding that "we are more likely to achieve our stated objective of assigning mutually exclusive toll-free numbers on an equitable basis by allowing all qualified bidders the same opportunity to express their value for a number and assigning the numbers to the party that values it the most, than if we use a method by which a number is assigned to the party that employs the most advanced access system."). *But see id.* at 9283, para.

(continued....)

Bidders may not have an incentive to make the best bid (or, in some cases, any bid) for a toll free number if they know that any numbers lacking bids will be assigned for free after the auction.

28. *Reserve Price.* The Bureau recommends the Commission consider establishing a reserve price (minimum bid) for all numbers that are assigned in a future auction. Should the Commission decide to keep the same single-round sealed-bid second-price design for auctioning toll free numbers, the establishment of a reserve price would yield revenue for each toll free number, even if it receives only a single bid.<sup>100</sup> Establishing a reserve price would help to discourage bidders who mainly seek to speculate in free items. A reserve price would help to defray the administrative costs of administering the assignment of toll free numbers.<sup>101</sup> The Bureau also recommends establishing a low reserve price—under the \$100 per number deposit required in the 833 Auction<sup>102</sup>—to encourage participation. Setting the reserve price for each toll free number at such an amount would ensure that the bidder has a bona fide desire for the number as evidencing by a willingness to pay.

29. *Round Zero.* The Bureau, in consultation with the Office of Economics and Analytics, also recommends that the Commission consider implementing a “round zero” process where toll free numbers receiving only one bid at the reserve price during the registration stage are excluded from the auction inventory and assigned directly to the bidder for the reserve price specified in the auction rules. In the 833 Auction, over 90% of the auction inventory did not receive any bids, and less than 10% of the auction inventory received one or more bids, with most of these receiving only one bid.<sup>103</sup> In our recommendation, only toll free numbers that receive more than one bid at the reserve price would be included in the auction inventory. This approach would (1) conserve Commission resources in administering the auction; (2) create an auction inventory that includes only toll free numbers that are likely to receive multiple bids; and (3) make it easier for bidders to manage their budgets and substitute among toll free numbers, because the assignment of toll free numbers occurs in two consecutive stages.

30. A round zero would require bidders to make binding commitments (bids) that indicate whether they are willing to pay the reserve price for the toll free numbers in which they are interested. Toll free numbers with no bids in round zero would not be included in the auction inventory, nor be assigned in the same period with the numbers that received at least one bid.

31. A round zero could offer some of the advantages of a multiple round auction with fewer development costs because bidders can update their bidding strategies with information and results from round zero. Implementation of a round zero would involve limited development costs, and the Bureau anticipates any additional cost associated with exclusion of numbers from the auction inventory would be significantly offset by the reduction in application review costs.

32. *Improvements to Application Process.* The Bureau, in consultation with the Office of Economics and Analytics, recommends that the Commission consider whether there are any changes to the auction application process that could increase auction participation or enhance auction participants’ understanding of the auction process. Some of the aspects of the auction process that the Commission could reconsider are: (1) whether potential subscribers would benefit from an opportunity to choose a new RespOrg to bid on their behalf or to bid on their own, if their initially chosen RespOrg does not become a qualified bidder; and (2) whether there are additional ways that the auctioneer can facilitate

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22 (stating that “first-come, first-served assignment may be appropriate for less desirable numbers, or in instances where numbers made available via an auction are not assigned thereby”).

<sup>100</sup> Council Report at 23; *see also* Power Auctions Comments at 5-6.

<sup>101</sup> The Council recommended “a standard floor of \$1000 or some other amount per number.” Council Report at 23.

<sup>102</sup> In the 833 Auction, the upfront payment required of each bidder was \$100 per toll free number identified on its application. *See Auction Procedures Public Notice*, 34 FCC Rcd at 6589, para. 102.

<sup>103</sup> *See* Council Report at 20; *see also Auction Procedures Public Notice*, 34 FCC Rcd at 6561-62, para. 1; *Winning Bidders Public Notice*, Attach. A.

auction applicants' understanding of the application requirements to maximize their ability to cure any deficiencies in their auction applications.

33. As the Council points out, some potential subscribers who chose to bid through a RespOrg were precluded from submitting bids because their responsible organization failed to become a qualified bidder in the auction. These potential subscribers could not arrange for another qualified RespOrg to bid on their behalf or apply to bid on their own after the application deadline.<sup>104</sup> The Bureau recommends continuing to allow potential subscribers to apply to bid on their own or designate a RespOrg applicant to bid on their behalf.<sup>105</sup> The Bureau recommends the Commission consider whether there are changes to the application process that should be made to minimize the possibility that a potential subscriber could be precluded from bidding based on the non-qualified status of its chosen RespOrg. Alternatively, the Commission might consider whether this risk can be mitigated by using the auction education and outreach process to increase prospective subscribers' awareness of their ability to submit their own auction application or the need to take care to enter into bidding agreements with RespOrgs that provide them with adequate protection against such a scenario.<sup>106</sup>

34. The Council also addressed the application resubmission process in its report, and suggested that the auctioneer provide more detailed assistance to applicants in their efforts to cure the deficiencies in their applications or allow for multiple rounds of resubmissions.<sup>107</sup> Accordingly, the Bureau recommends the Commission consider whether there are additional approaches that the auctioneer can take in the application review process that would better assist auction applicants in understanding what is needed to cure their application deficiencies and become a qualified bidder.

35. In considering any potential changes to the application process for any future toll free number auction, the Commission should consider the possible impact on Commission policies, rules, and precedent regarding the application processes for other Commission auctions (e.g., spectrum auctions and universal service support auctions). The Bureau also recognizes that technical aspects to the application and bidding systems, such as software development, must be taken into account. The Bureau recommends examining these considerations in consultation with the Office of Economics and Analytics.

36. *Better-Targeted Education and Outreach.* The Bureau recommends improved education and outreach efforts to auction participants, to include (1) an agency website for the toll free number auction; (2) the auctioneer providing more bidding information to participants earlier in the auction process; and (3) the creation by the auctioneer, in consultation with the Bureau, of an on-demand webinar that participants can reference during the registration process.

37. The Council Report noted that Somos, as auctioneer, "did an extensive amount of education and outreach (perhaps too much) through its website, webinars, conference presentations and making itself available for questions . . . . Most of the feedback applauded the information and efforts provided to applicants and interested parties."<sup>108</sup> However, some of the 833 Auction participants had the following recommendations for a future toll free numbering auction: (1) reduce the amount of detail in

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<sup>104</sup> See *id.* at 11-12; see also Charles Harding Comments at 1 (describing a "last minute" disqualification of designated RespOrgs and inability to participate in the 833 Auction); Jillian Alexander Comments at 1 (noting disqualified designated RespOrg and inability to obtain use of desired toll free number from 833 Auction).

<sup>105</sup> See *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9276, para. 7.

<sup>106</sup> The Council also suggested that the Commission consider pre-qualifying RespOrgs prior to the auction application process, so that a potential subscriber could be assured that the RespOrg it selects to bid on its behalf will become a qualified bidder. See Council Report at 11, 13. However, prequalification of a RespOrg would not guarantee a potential subscriber that it could submit its bid where the RespOrg does not become a qualified bidder for a reason unrelated to the content of its application, such as a failure to timely submit an upfront payment or a violation of the Commission's rules.

<sup>107</sup> *Id.* at 11-12, 24.

<sup>108</sup> Council Report at 7.

communications, the volume of emails, and confusing communications; (2) as with other Commission auctions, have the Commission maintain an auction page to inform auction participants; and (3) provide a trial run-through or mock auction at the beginning of the process that is then available via video on demand.<sup>109</sup>

38. While the Bureau views it as essential to provide as much timely information as possible to help participants navigate the auction process, it recommends that the auctioneer look for ways to simplify and streamline the information provided to participants. In addition, the Bureau recommends that the auctioneer provide general bidding information earlier in the process to assist participants in knowing what to expect during the actual auction. As the Council notes, “unless participants were familiar with a Commission auction (e.g., spectrum auctions), some participants seemed a bit caught off-guard as they seemed to be expecting something more akin to an eBay auction.”<sup>110</sup> More information about how the bidding will occur provided earlier in the auction process (e.g., before the application window), and other helpful outreach efforts, would lead to greater auction participation. In that same vein, the Bureau also recommends that the auctioneer again conduct, as it did with the 833 Auction, an on-demand webinar that participants can reference during the registration process and throughout the auction that helps explain the application and auction processes.<sup>111</sup>

39. *Emphasize Simplicity.* Based on the experience of the 833 Auction, the Bureau continues to agree with the Commission’s conclusion in the *2018 Toll Free Assignment Order* that “the relatively modest nature of the items to be auctioned—the rights to use toll free numbers, as opposed to spectrum licenses or Universal Service Fund support—seems at this juncture to warrant a less complex and costly type of auction.”<sup>112</sup> As such, if the Commission decides to continue assigning toll free numbers via auction, the Bureau does not recommend the inclusion of such high-dollar-value auction features as multiple-round auction bidding,<sup>113</sup> package bidding,<sup>114</sup> and bidding credits.<sup>115</sup> In the 833 Auction, 35 winning bidders won a total of 1,659 toll free numbers, of which only 254 numbers had more than one bid, for a total payment to the Commission of \$285,075.<sup>116</sup> The relatively modest size of the auction reinforces the Commission’s earlier conclusions that auctioning toll free numbers warrants a quicker, less

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<sup>109</sup> *Id.*; see also Bill Quimby Comments at 6-9 (Apr. 3, 2020) (asserting that the extensive education conducted by Somos was necessary the process was complicated and discouraged participation); YODD Comments, CC Docket No. 95-155 (filed Apr. 10, 2020) (asserting that the auction process “was excessively complex for the common entrepreneur”); Charles Harding Comments (filed Apr. 13, 2020) (asserting that the process was too unwieldy).

<sup>110</sup> Council Report at 8 (“Somos held a mock 833 Auction for qualified bidders a few days prior to the actual auction. The [Toll Free Assignment Modernization] working group suggests that any future toll free auctions include a mock auction at the *beginning* of the process or available via a recorded video accessible at any time, that way potential participants may not be deterred from applying and could lead to more participation.” (emphasis in original)).

<sup>111</sup> See <https://auction.somos.com/>.

<sup>112</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9287, para. 34.

<sup>113</sup> *Id.* at 9287, para. 36 (“The Commission recognized, however, that while multiple round auctions are preferable, if the value of the licenses or the number of bidders would be so low that the administrative costs of a multiple round auction may exceed its benefits, other auction methods are available.”); see also Anthony L. Jones Comments at 1 (advocating for a single round Vickrey auction in the future); Council Report at 21 (“There seems to be little question that the use of a single-round sealed-bid auction is superior to multi-round public bidding for use with number assignment.”). The recommendation for a “round zero” is not inconsistent with the recommendation to exclude multiple-round auction bidding as the “round zero” is done prior to the actual auction.

<sup>114</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9293, para. 56.

<sup>115</sup> *Id.* at 9293, paras. 53, 56. *But see* 800 Response Information Services Reply at 5-6 (citing to the utility of bidding credits “to reduce the chances that the dominant players would be unduly enriched, and to provide underserved consumers with competitive offerings”).

<sup>116</sup> Council Report at 3.

costly type of auction, without investing the additional time and financial resources to develop an auction with procedures for multiple-round bidding, package bidding, and bidding credits.

## 2. Other Allocation Methods

40. If the Commission decides to assign toll free numbers using the first-come, first-served method that was in place prior to the 833 Auction,<sup>117</sup> then the Bureau recommends several modifications to that approach to ensure that the assigned toll free numbers are put to their best and highest use.<sup>118</sup> As noted in the *2018 Toll Free Assignment Order*, “first-come, first-served assignment has rewarded actors that have invested in systems to increase the chances that their choices are received first in the Service Management System Database (the Toll Free Database); and, by assigning numbers at no cost, it has allowed accumulation of numbers without ensuring those numbers are being put to their most efficient use.”<sup>119</sup> To satisfy the statutory mandate that toll free numbers be assigned on an equitable basis,<sup>120</sup> we recommend imposing conservation methods to ensure an efficient, fair, and equitable way of assigning toll free numbers through the first-come, first-served method.<sup>121</sup> For example, for the 855 and 844 toll free code openings, the Bureau directed the Administrator to limit the quantity of toll free numbers a RespOrg may reserve to 100 per day for the first 30 days—otherwise, “larger RespOrgs with enhanced connectivity to the [toll free] database” would be able to more quickly reserve sought-after numbers than smaller RespOrgs without enhanced connectivity.<sup>122</sup> Similar number conservation methods might help alleviate the Commission’s concern that “the first-come, first-served approach has not always resulted in an orderly and efficient distribution of highly-valued—i.e., mutually exclusive—numbers.”<sup>123</sup>

41. While other options exist for assigning toll free numbers beyond auctions and first-come, first-served, the Bureau does not recommend adoption of them at this time. For example, the Bureau does not recommend a lottery for toll free number assignment. Under that process, toll free numbers would not go to those who value them the most and thus is inconsistent with the 1997 Congressional termination of the Commission’s authority to use lotteries to assign spectrum licenses.<sup>124</sup>

## IV. CONCLUSION

42. The Bureau wishes to thank the bidders and RespOrgs for their participation in the first-of-its-kind 833 Auction, our colleagues in the Office of Economics and Analytics for their collaboration in conducting the auction, Somos for its performance as auctioneer, and the North American Numbering Council and commenters for their invaluable feedback on the auction process. The Bureau finds that the auction was a successful experiment that will facilitate ongoing improvements and continued innovation in toll free number allocation.

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<sup>117</sup> See *877 Code Opening Order*, 13 FCC Rcd 9058.

<sup>118</sup> As currently configured, the first-come, first-served approach to the assignment of toll free numbers results in “the number going to whichever entity happens to be first in the door (thereby preventing others, who may value it more, from getting it) . . .” *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9284, para. 23.

<sup>119</sup> *Id.* at 9276, 9280, paras. 7, 17.

<sup>120</sup> 47 U.S.C. § 251(e)(1).

<sup>121</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9282, para. 21 (“In the absence of conservation controls, the Bureau has seen evidence of unfair access following new toll free code openings.”).

<sup>122</sup> *Id.*; see also *Power Auctions Comments* at 2.

<sup>123</sup> *2018 Toll Free Assignment Order*, 33 FCC Rcd at 9280, para. 17 (“Since the Commission’s adoption of this approach in the *1998 Toll Free Order*, the Bureau has intervened to withhold or ration highly desired numbers in subsequent code openings due to concerns with the first-come, first-served assignment process. The Bureau, expressing concern that RespOrgs were inefficiently warehousing numbers, implemented conservation plans for four out of the seven presently available toll free number codes.”).

<sup>124</sup> See *Balanced Budget Act of 1997*, Pub. L. No. 105-33, 111 Stat. 251 (1997) §3002(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

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