

Decision No. C03-0441

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 98S-363T

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY NOW COMMUNICATIONS, INC., WITH ADVICE LETTER NO. 3 AND ITS AMENDMENT, TO IMPLEMENT INITIAL TARIFF.

DECISION APPROVING REFUND PLAN

Mailed Date: April 29, 2003
Adopted Date: April 23, 2003

I. BY THE COMMISSION

A. Statement

1. By Decision Nos. C03-0071 and C03-0197, on remand from the Colorado Supreme Court, we ordered NOW Communications, Inc. (NOW), to make certain refunds to its customers. We concluded that rates for residential basic local exchange service under the NOW tariff should not have exceeded \$14.74 for the recurring charge, \$2 for any toll restriction feature, and \$35 for the non-recurring charge. Charges in excess of these amounts were to be refunded to customers. Additionally, any difference in custom calling charges to NOW customers, both residential and business, were found to be unlawfully discriminatory. NOW was directed to make appropriate refunds to NOW customers based upon the difference between the NOW's custom calling rates and such rates of other carriers.

2. We ordered NOW to file a report explaining its refund plan in this docket. The report was due 30 days after the effective date of Decision No. C03-0197. Staff of the Commission (Staff) and the Office of Consumer Counsel (OCC) were given the opportunity to

file a response or comments to the report within 14 days of its filing with the Commission. The Commission retained its jurisdiction to modify NOW's proposed refund plan.

3. On March 21, 2003, NOW filed its Refund Report. In this report, NOW indicates that the refund per customer averages to \$154.85. NOW proposes to start making the refund within 60 days after we approve its report and complete the refund within 120 days of the approval of the report.

4. NOW indicates that it will mail, first-class with postage prepaid, refund checks to the affected subscribers' last known addresses, and the checks will be void if not presented for payment within 180 days of the approval of the plan. The refund checks that are returned to NOW due to the postal service's inability to deliver will be cancelled and the amounts for each customer will be returned to the state as unclaimed property.

5. Neither Staff nor the OCC filed a response to this report.

6. We approve the Refund Report in its entirety. NOW should begin the process of mailing the stated refund amounts to its affected subscribers.

II. ORDER

A. The Commission Orders That:

1. The Commission approves NOW Communications, Inc.'s Refund Report, as filed.
2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 23, 2003.**

(S E A L)



ATTEST: A TRUE COPY

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners