

**ORIGINAL**

Decision No. 60277

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

C & M HOMES, a California  
corporation,

Complainant,

vs.

Case No. 6392

SUBURBAN WATER SYSTEMS, a  
corporation,

Defendant.

Earle W. Favor for complainant.

Arthur D. Guy, Jr., and John C. Luthin, for  
defendant.

C. O. Newman and R. Entwistle for the Commission staff.

O P I N I O N

A public hearing was held on April 25, 1960, before Examiner Grant E. Syphers, in Los Angeles, at which time evidence was adduced and the matter submitted.

The complainant is a builder and subdivider who has advanced to the defendant the following sums for installation of water systems in the tracts indicated:

<u>Tract No.</u>	<u>Amount</u>
20977 (Lots 1 through 47)	\$12,850
20945 (Lots 1 through 37)	9,650
19477 (Lots 1 through 65)	9,450

The foregoing monies were advanced under refund agreements, according to the terms of the first two of which 22 percent of the

revenue derived from Tracts Nos. 20977 and 20945 is to be paid annually to the subdivider for a period of twenty years, or until the initial advance has been refunded, whichever event comes first. The third contract, relating to Tract No. 19477, provides for a refund of 35 percent over a period of ten years, with other provisions being similar to those in the first two contracts.

In this complaint it is alleged that the defendant is delinquent in making these refund payments. There was no dispute as to this fact, and a stipulation was entered into setting out that as of November 1, 1959, the following amounts were due and payable:

<u>Tract No.</u>	<u>Amount</u>
20977	\$ 164.63
20945	398.86
19477	1,114.75

The position of the company is that it does not dispute these payments are due but it contends it does not have the money to make them. It took the position that it has had such a rapid growth that all of the money necessary to pay its refunds cannot come out of the earnings but must come out of additional financing. It further contends that it is attempting to obtain additional financing.

The position of the complainant is that the foregoing monies are now due and owing and, further, that as time goes on additional amounts will be due and owing. Therefore, the complainant requests that an order of investigation be instituted to inquire into the practice of the company in this connection.

In the light of this evidence we now find that Suburban Water Systems is obligated to the complainant herein in the sum of \$1,678.29 on duly executed refund contracts. This obligation arises as a result of the provisions of the tariff schedules of this company and, in particular, its present Rule No. 15, its previous revised

Rule and Regulation No. 19 and the original Rule and Regulation No. 19 of the predecessor utility, all pertaining to water main extensions and also as a result of the contract obligation (Rosenberg vs. Suburban Water Systems, Decision No. 60064, dated May 9, 1960, in Case No. 6375 and Case No. 6386).

O R D E R

A complaint as above entitled having been filed, an answer thereto having been filed, public hearing having been held thereon, and the Commission being fully advised in the premises and having made the foregoing findings,

IT IS ORDERED that Suburban Water Systems, a California corporation, be and it hereby is directed to comply with its water main extension rules and regulations and its contract obligations to the complainant, C & M Homes, a California corporation.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 20<sup>th</sup> day of June, 1960.

Carroll D. Love  
President  
George E. McElroy  
William J. Deal  
E. Lynn Fox  
Theodore J. Janner  
Commissioners