

ORIGINAL

Decision No. 62588

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DYKE WATER COMPANY
a corporation
for authority to issue evidence of
indebtedness and encumber property

Application No. 43684
Filed August 21, 1961

O P I N I O N

In this proceeding Dyke Water Company, a corporation, seeks authorization to execute a deed of trust and a mortgage of chattels and to issue a note in the principal amount of \$1,000,000.

The proposed note will bear interest at the rate of not to exceed 7 per cent per annum and will be payable, principal and interest, in installments of not less than \$6,250 on the 15th day of each and every month, beginning November 15, 1961 and continuing until the full amount is paid. The note will be issued to Farmers and Merchants Bank of Long Beach to refinance existing short-term unsecured notes of like amount which are presently outstanding and which are held by said bank.

The proposed financing will not increase applicant's present indebtedness; it will merely transform current obligations to a long-term obligation which, in the absence of other commitments, apparently could be serviced by the present operations of the utility at prevailing rates. We are concerned, however, with the impact of the proposed financing on the ability of the utility to perform its public service obligations.

Heretofore, the Commission, by Decision No. 59828, dated March 22, 1960, fixed certain rates for applicant and thereafter, on May 16, 1960, issued an order staying the effective date of Decision No. 59828 during the pendency of a review proceeding before the Supreme Court of the State of California respecting said Decision No. 59828. In said order of May 16, 1960, the Commission -

. . . "further ordered and directed that Dyke Water Company forthwith set up and maintain a special reserve account entitled 'Reserve and Revenue Adjustment' to which it shall credit from time to time an amount representing the difference between revenues accruing on and after the effective date of this order under rates authorized by Interim Decision No. 56003 dated December 17, 1957, and those accruing under rates authorized by Decision No. 59828 dated March 22, 1960, the effective date of which is stayed herein. In addition thereto Dyke Water Company shall designate as special trustee a bank authorized to do business in the State of California, in which bank it shall open a special trust account and maintain on deposit therein a sum of money equal to the balance in the special reserve account created under the provisions of this order."

Subsequently, the company filed a Declaration of Trust dated March 16, 1961, which indicated that it had established, in trust, with the Farmers and Merchants Bank of Long Beach the sum of \$208,800 for the purpose of making refunds to customers of all moneys collected in excess of those due under the provisions of Decision No. 59828. Thereafter, the Supreme Court of California affirmed said Decision No. 59828.

Despite the filing of this Declaration of Trust with respect to the amounts subject to refund to ratepayers, the company's balance sheet of June 30, 1961, which is annexed to the present application, does not show the existence of such a trust fund nor the appropriation of earnings to a special reserve. There is nothing before the Commission at this time to indicate where the company can obtain the more than \$200,000 which it will need to make the required refunds to the ratepayers and for this reason we cannot give unqualified approval of financing arrangements which, by creating a first lien on applicant's assets and earnings, could threaten to interfere with, or impair, the ability of the company to finance its other requirements and to meet its obligations to its ratepayers.

Upon a full review of the record, we find and conclude that the public interest requires applicant, as a condition precedent to the creation of a first mortgage encumbrance, as herein proposed, to make satisfactory arrangements for the

discharge of its refund obligations to its customers. The order herein will authorize the issue of the note but will make provision for this required protection.

The authorization herein granted is for the purpose of this proceeding only and is not to be construed as indicative of amounts to be included in a future rate base for the purpose of determining just and reasonable rates.

O R D E R

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary; that the application should be granted only to the extent and under the conditions set forth herein; that the money, property or labor to be procured or paid for by the issue of the note herein authorized is reasonably required for the purpose specified herein; and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS ORDERED that -

1. Dyke Water Company, a corporation, on or after the effective date hereof and on or before December 31, 1961, may issue a note in the principal amount of not to exceed \$1,000,000 for the purpose of paying, or refunding, presently outstanding indebtedness of like amount, and may execute a deed of trust and a mortgage of chattels, which note, deed of trust

and mortgage of chattels shall be in, or substantially in, the same form as those filed in this proceeding as Exhibit I, Exhibit II and Exhibit III, respectively, provided, however, that the authorization herein granted shall not become effective until -

- a. Dyke Water Company has created the reserve and the trust fund directed by the Commission in its Order of May 16, 1960, and has presented a plan satisfactory to the Commission for paying the refunds to customers for collection of revenues under rates in excess of those found reasonable by the Commission in its Decision No. 59828, and the Commission, by subsequent order, has found and determined that the provisions of this paragraph have been complied with, and
- b. Dyke Water Company has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$1,000.

2. Dyke Water Company, a corporation, shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

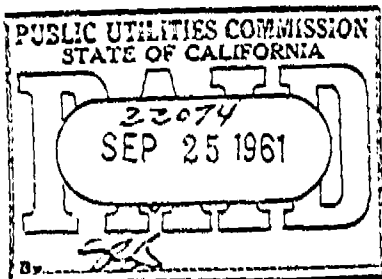
Dated at San Francisco, California, this 25th day of SEPTEMBER, 1961.

[Signature]
President

[Signature]
Secretary

[Signature]
Commissioner

[Signature]
Commissioner



Commissioners

Peter E. Mitchell
Commissioner being necessarily absent, did not participate in the disposition of this proceeding.