

ORIGINAL

Decision No. 6332

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

NORMAN E. ANDREWS,

Complainant,

vs.

DYKE WATER COMPANY, a  
corporation,

Defendant.

Case No. 7211

Norman E. Andrews, complainant.

Chris S. Rellas, for Dyke Water Company,  
defendant.

Donald B. Steger, for the Commission staff.

O P I N I O N

Public hearing in this matter was held on February 8, 1962, before Examiner F. Everett Emerson in Los Angeles, at which time evidence was adduced and the matter was submitted.

The complainant is the assignee of a certain contract between Ajax Palos Verdes Corp. and Dyke Water Company, entered into on April 18, 1955, which contract by its terms provides, among other things, for the refunding of an advance payment of \$16,703.69 made for the extension of water mains into Tract No. 2182, Orange County, on the basis of 35 percent of the gross revenues collected by Dyke from the water consumers in said tract. The refund payment is made annually in July and covers the immediately preceding 12-month period. Complainant has heretofore received all of the annual refund payments due under the terms of the contract except the payment due in July 1961.

Defendant admits that it has not made the refund payment due in July 1961. Defendant has made no defense but the statement of its counsel, in essence, is that defendant collected gross revenues of \$4,801.24 from said tract during the period July 1, 1960 to June 30, 1961, and that 35 percent of such amount, or \$1,680.43, is owing the complainant but that defendant does not have funds from which to pay complainant.

The contract which gives rise to the cause of action herein was entered into in conformity with the filed water main extension rule of Dyke Water Company in effect at the time of the execution of said contract, said rule being a part of defendant's tariffs on file with this Commission.

The Commission finds as a fact that Dyke Water Company has obligated itself by contract and by the provisions of its filed tariffs to make refund to the complainant herein of the sum of \$1,680.43 as of July 1961 on a duly executed refund contract of which complainant is the assignee.

O R D E R

Complaint having been made and answer thereto having been filed, public hearing having been held thereon and the Commission having made the foregoing finding of fact,

Now, Therefore, IT IS ORDERED that Dyke Water Company, a California corporation, be and it is hereby directed to comply with its Main Extension Rule No. 15 (Cal. P.U.C. Sheet No. 23-W)

in effect on April 18, 1955, and its contract obligations and to make refund to the complainant Norman E. Andrews in the amount of \$1,680.43.

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 MARCH, 1962.

Everett L. Page  
President  
John E. Ditchell  
George B. Grover  
Frederick B. Hildhoff

Commissioners

Commissioner C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.