

**ORIGINAL**Decision No. 63567

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IRVING &amp; SYLVIA CASSELL, )

Complainants, )

vs. )

Case No. 7259

DYKE WATER COMPANY, a  
corporation, )

Defendant. )

OPINION AND ORDER

Complainants are the assignees of an agreement between Lincoln-Western Company and Dyke Water Company, entered into on December 5, 1954, which agreement by its terms provides, among other things, for the refunding of advance payments made for construction of water mains in Tract No. 2611, 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. With respect to this agreement, gross revenues of \$7,240.15 were received by defendant from said tract during the 1960 - 1961 period and defendant admits that on July 20, 1961, \$2,534.05 were due the complainants in accordance with the terms of the agreement.

Complainants are also the assignees of an agreement between Prospect Investment Co., Inc., and Dyke Water Company, entered into on March 31, 1955, which agreement by its terms provides, among

other things, for the refunding of an advance payment of \$12,303.90 made for the extension of water mains into Tract No. 2400, 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. The agreement also provides that the sum of \$1,950, covering costs expended by Dyke for land and off-site improvements, shall be repaid in an amount of \$195 annually. With respect to this agreement, gross revenues of \$2,831.49 were received by defendant from said tract during the 1960 - 1961 period and defendant admits that on July 20, 1961, \$991.02 were due complainants in accordance with the terms of the agreement. Defendant further admits that the payment of \$195 due complainant in 1961 has not been made.

The contracts which give rise to the cause of action herein were 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 contracts, 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 complainants herein of the amounts hereinabove set forth, which amounts total \$3,720.07 as of July 1961, on duly executed refund contracts of which complainants are the assignees.

In view of the pleadings and answer at hand, the latter acknowledging the indebtedness hereinabove described, the Commission finds that public hearing in the matter is not necessary.

Good cause appearing therefor,

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 in effect on the dates of December 5, 1944 and March 31, 1955, and its contract obligations and to make refund forthwith to Irving and Sylvia Cassell in the amount of \$3,720.07.

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

Dated at San Francisco, California, this 17<sup>th</sup> day of April, 1962.

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President

*John E. Mitchell*

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*E. J. Fox*

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*George T. Hoover*

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*Fredrick B. Hallock*

Commissioners

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