

ORIGINAL

Decision No. 64393

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

L. EARLE PHILLIPS,)
 Complainant,)
 vs.)
DYKE WATER COMPANY, a corporation,)

Case No. 7334
(Filed May 9, 1962)
(Amended August 22, 1962)

OPINION AND ORDER

Complainant is the assignee of a 25 percent interest in an agreement between Henry C. Cox and Dyke Water Company, entered into on March 27, 1953, which agreement provides, among other things, for the refunding of advance payments made for construction of water mains in Tract 1692, Orange County, on the basis of \$1.25 per domestic user per month from revenues collected by Dyke from the water consumers in said tract.

Complainant is also the assignee of a 25 percent interest in an agreement between Harbor Homes, a partnership, and Dyke Water Company, entered into on October 25, 1956, which agreement provides, among other things, for the refunding of advance payments made for construction of water mains in Tract 2520, Orange County, on the basis of 22 percent of the gross revenues collected by Dyke from water consumers in said tract.

Refund payments for each of these tracts are made annually in July and cover the immediately preceding 12-month period. With respect to Tract 1692, the agreement entitles complainant to a refund of \$210.94 for the period 1960-1961 and of \$244.06 for the

period 1961-1962. With respect to Tract 2520, complainant has an entitlement to 25 percent of 22 percent of gross revenues of \$1,172.50 (\$293.12) collected in the 1960-1961 period and of \$1,157.73 (\$289.43) collected in the 1961-1962 period. These amounts total \$1,036.55 and defendant admits that such total is due in accordance with the terms of the agreements.

The contracts which give rise to the causes of action herein were entered into in conformity with the filed water main extension rule of Dyke Water Company, or as authorized and directed by this Commission's Decision No. 61642, said rule being a part of defendant's tariffs on file with the Commission.

The Commission finds as a fact that Dyke Water Company is obligated by contract, by its filed tariffs and by the aforesaid Commission decision to make refunds to complainant of the amounts hereinabove set forth, to a total of \$1,036.55 on duly executed refund contracts of which complainant is the assignee as above stated.

In view of the pleadings, and the stipulations of counsel entered at a prehearing conference held before Examiner F. Everett Emerson on September 12, 1962 at Los Angeles, 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, its contract obligations and the aforesaid

Decision No. 61642 and to make refund payment forthwith to L. Earle Phillips in the amount of \$1,036.55.

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

Dated at San Francisco, California, this 16th day of OCTOBER, 1962.

George T. Grover
President

[Signature]

[Signature]

[Signature]

Fredrick B. Holshoff
Commissioners