

ORIGINAL

Decision No. 64395

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RUSS BOOREY,

Complainant,

v.

DYKE WATER COMPANY, a corporation,

Defendant.

Case No. 7336
(Filed May 9, 1962)
(Amended August 22, 1962)OPINION AND ORDER

Complainant is the assignee of (1) a 3½ percent interest in an agreement between Harbor Park Estates, a corporation, and Dyke Water Company entered into on March 25, 1955, (2) a 3½ percent interest in an agreement between Harbor Park Estates #2 and Dyke Water Company entered into on March 25, 1955, and (3) a 26 percent interest in an agreement between Harbor Park Homes, a corporation, and Dyke Water Company entered into on June 2, 1954, which agreements by their terms provide, among other things, for the refunding of advance payments made for construction of water mains in subdivision tracts. As related to the above-identified agreements, the tracts involved are Tract 2410, Tract 2470 and Tract 2148, respectively, of Orange County. In each instance, the refund is on the basis of 35 percent of the gross revenues collected by Dyke from the water consumers in the respective tracts and the refund payment is made annually in July and covers the immediately preceding 12-month period.

Defendant admits that the refund payments due in July 1961 and July 1962 have not been made and that the amounts due are as follows:

<u>Tract No.</u>	<u>July 1961</u>	<u>July 1962</u>
2410	\$35.56	\$ 35.46
2470	36.55	36.55
2148	406.46	405.94

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 in effect at the times of execution thereof, 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 complainant of the amounts hereinabove set forth, which amounts total \$956.52, on duly executed 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 in effect on the dates of the respective agreements hereinabove identified and its contract obligations pertaining thereto and to make refund forthwith to Russ Boorey in the amount of \$956.52.

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

Robert S. Mitchell

James F. [unclear]

Carroll W. [unclear]

Fredrick B. Hallock
Commissioners