

Decision No. 64396**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

J. RAY CONSTRUCTION CO., INC.,
 Complainant,
 v.
 DYKE WATER COMPANY, a corporation,
 Defendant

Case No. 7338
 (Filed May 9, 1962)
 (Amended August 30, 1962)

OPINION AND ORDER

Complainant is the assignee of a 60 percent interest in an agreement between Trask Terrace Homes, a corporation, and Dyke Water Company, entered into on April 14, 1955, which agreement provides, among other things, for the refunding of advance payments made for construction of water mains in Tract 2097, 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 \$3,096.02 were collected by Dyke in the 1960-1961 period and \$3,073.88 were collected during the 1961-1962 period. Complainant's entitlement to refunds thereon become \$650.17 for the 1960-1961 period and \$645.52 for the 1961-1962 period. Defendant admits that these amounts, totaling \$1,295.69 are due complainant and that they have not been paid.

The contract which gives rise to the cause of action herein was entered into in conformity with the filed main extension rule of Dyke Water Company in effect at the time of the 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 refunds to complainant, of the amounts hereinabove set forth, on a duly executed refund contract of which complainant is an 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 April 14, 1955, and its contract obligations and to make refund payment forthwith to J. Ray Construction Co., Inc., in the amount of \$1,295.69.

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. Hoover
President
Arthur L. B. ...
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...
Fredrick B. Halbach
Commissioners