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ORIGINAL

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

R. W. SMITH,  
 Complainant,  
 v.  
 DYKE WATER COMPANY, a corporation,  
 Defendant.

Case No. 7339  
 (Filed May 9, 1962)  
 (Amended August 22, 1962)

OPINION AND ORDER

Complainant is the assignee of a 20 percent interest in an agreement between Harbor Park Homes, a corporation, and Dyke Water Company entered into on June 2, 1954, which agreement, among other things, provides for the refunding of advance payments made for construction of water mains in Tract 2148, 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 \$1,563.32 were collected by Dyke during the 1960-1961 period and \$1,561.31 were collected during the 1961-1962 period. Complainant's entitlement to refunds thereon become \$312.66 for the period 1960-1961 and \$312.26 for the period 1961-1962. Defendant admits that these amounts, totaling \$624.92, are due complainant and that payments thereof have not been made.

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 the 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 \$624.92, on a duly executed refund contract 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 June 2, 1954, and its contract obligations and to make refund payment forthwith to R. W. Smith in the amount of \$624.92.

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

Dated at San Francisco, California, this 23rd day of OCTOBER, 1962.

George H. Hoover  
President

Walter L. ...

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Fredrick B. Halbach  
Commissioners