

ORIGINALDecision No. 64433

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AL BARKER,

Complainant,

v.

DYKE WATER COMPANY, a corporation,
Defendant.Case No. 7343
(Filed May 9, 1962)
(Amended August 22, 1962)OPINION AND ORDER

Complainant is the assignee of a 9 percent interest in an agreement between Harbor Park Estates, a corporation, and Dyke Water Company entered into on March 25, 1955, which agreement provides, among other things, for the refunding of advance payments made for construction of water mains in Tract 2410, Orange County, on the basis of 35 percent of the gross revenues collected by Dyke from the water consumers in said tract.

Complainant is also the assignee of a 9 percent interest in an agreement between Harbor Park Estates #2 and Dyke Water Company entered into on the same date, which agreement, like the first described, provides for refunding of 35 percent of the revenues from Tract 2470, Orange County.

The refund payment, in each instance, is made annually in July and covers the immediately preceding 12-month period. Defendant admits that in July 1961, payment of refunds to complainant in the amounts of \$91.43 for Tract 2410 and \$93.99 for Tract 2470 were due but are unpaid. Defendant further admits that in July 1962 payment of refunds to complainant in the amounts of \$91.17 for

Tract 2410 and of \$93.99 for Tract 2470 were also due and are as yet unpaid.

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 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 complainant herein of the amounts hereinabove set forth, which amounts total \$370.58, 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 Al Barker in the amount of \$370.58.

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 W. Hoover
President
J. R. DeWitt
E. L. Fox
Walter H. DeWitt
Frederick B. Hoffhoff
Commissioners