

**ORIGINAL**

Decision No. 64467

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

C. MICHAEL, INC., a  
corporation,

Complainant,

vs.

DYKE WATER COMPANY, a  
corporation,

Defendant.

Case No. 7368  
(Filed May 29, 1962)

OPINION AND ORDER

Complainant is the assignee of an agreement between Henry C. Cox and Affiliated Companies and Dyke Water Company entered into on June 2, 1955, which agreement provides, among other things, for the refunding of advance payment made for construction of water mains in Tract 2289, Orange County, on the basis of 35 percent of the gross revenues collected by Dyke from the water consumers in said tract.

Complainant and Dyke Water Company entered into an agreement on April 26, 1957, which agreement provides, among other things, for the refunding of advance payment made for the construction of water mains in Tract 3170, Orange County, on the basis of 22 percent of the gross revenues collected by Dyke from the water consumers in said tract.

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 \$2,431.55 for Tract 2289 and of \$661.34 for

Tract 3170 were due but are unpaid. For the period 1961-1962, defendant admits that a refund of \$2,430.40 is due for Tract 2298 and one of \$660.39 is due for Tract 3170.

The contracts which give rise to the causes of action herein were entered into in conformity with the provisions of filed water main extension rules of Dyke Water Company in effect at the times of the execution thereof, said rules 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 by the provisions of its filed tariffs to make refund to the complainant herein of the amounts hereinabove set forth, which amounts total \$6,183.68, on duly executed contracts of which complainant is the assignee or the principal 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 C. Michael, Inc., in the amount of \$6,183.68.

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

Dated at San Francisco, California, this 25<sup>th</sup> day of OCTOBER, 1962.

George G. Grover  
President

[Signature]

[Signature]

[Signature]

Frederick B. Harbison  
Commissioners