



depreciation reserve related thereto. The present level of unrefunded advances on the two main extension agreements related to this plant is approximately \$17,000.

Purchaser does not propose to assume the liability for refund of advances for construction. Instead, seller intends to pay all of said obligations as they become due, out of funds derived from the sale of the system and deposited in a trust impound account with the Farmers & Merchants Bank of Long Beach. Seller proposes to deposit only \$8,000 in the trust impound account because it anticipates that the balance will be substantially reduced by expiration of the contracts. A summary of information relating to the two contracts for Tracts Nos. 2416 and 2699, furnished by applicant and hereby made a part of the record as Exhibit No. 2, shows that \$8,280 of the original advances of \$25,147 have been refunded during the first 8½ years of the contracts' 20-year terms. It thus appears that the full remaining amount of \$16,867 could become refundable before the contracts expire. Seller will be required to deposit \$16,867 in the trust impound account, pending a showing that interest payable by the bank, or other factors, would justify a lesser amount.

Purchaser is not required by its agreement with seller to provide data on revenue produced from the two tracts, for computing refunds due under the aforementioned main extension contracts. However, by letter dated June 12, 1964, to this Commission, which letter is hereby made a part of the record as Exhibit No. 3, purchaser has agreed to provide such data.

The purchase agreement provides that seller shall pay over to the persons entitled thereto the amount of any refundable

deposits held by the company and made by customers to guarantee payment of bills.

The Commission finds that:

1. The proposed transfer, as hereinafter conditioned, is not adverse to the public interest.

2. The public interest requires that seller establish a trust impound account in the initial amount of \$16,867, for settlement of its refund obligations related to outstanding advances for construction in the area served by the system to be transferred.

3. The public interest requires that seller refund all deposits for the establishment of credit made by customers in the area served by the system to be transferred.

The Commission concludes that the proposed transfer should be authorized, subject to the conditions set forth in the following order.

The action taken herein is not to be construed as a finding of the value of the properties to be transferred. A public hearing is not necessary.

IT IS ORDERED that:

1. Within one year after the effective date hereof, Dyke Water Company (seller) may transfer to the City of Huntington Beach (purchaser) the portion of the public utility water system described herein, substantially in accordance with the terms of the agreement incorporated herein as Exhibit No. 1, and subject to the conditions hereinafter imposed.

2. On or before the date of actual transfer, seller shall refund all deposits for the establishment of credit made by customers in the area served by the system to be transferred.

3. On or before the date of actual transfer, seller shall deposit in escrow with a suitable bank, the sum of \$16,867, to be disbursed only to settle refund obligations related to outstanding advances for construction in the area served by the system to be transferred, except that any excess amount remaining in the account upon expiration or termination of all said refund obligations shall become payable to seller.

4. Seller shall file in this proceeding written notification of the establishment of escrow required herein for refunding advances. A true copy of the escrow agreement shall be attached to the written notification.

5. Within ten days after the date of actual transfer, seller shall file in this proceeding written notification of the refunding of deposits required herein, written notification of the date of transfer, and written notification of the date upon which purchaser shall have assumed operation of the water system herein authorized to be transferred.

6. Within thirty days after the date of actual transfer, seller shall file revised tariff sheets, including tariff service area maps clearly indicating the boundaries of the service area, to discontinue the application of its present tariff schedules to the area served by the transferred properties. Such filing shall comply with General Order No. 96-A, and the revised sheets shall become effective on the fourth day after the date of filing.

7. Seller shall account for the transfer herein authorized in accordance with Utility Plant Accounts Instruction 12.F., Utility Plant Sold, of the Uniform System of Accounts for Water Utilities (Class A, Class B and Class C) prescribed by this

Commission and, within sixty days after the date of actual transfer, shall file in this proceeding a copy of the journal entry or entries used to record the transfer.

8. Upon compliance with all of the conditions of this order seller shall stand relieved of all of its public utility obligations, except refund of advances for construction, in the area served by the transferred system, and may discontinue service concurrently with the commencement of service by purchaser.

This order shall become effective upon further order of the Commission, to be issued after receipt of the notification required by Paragraph 4 of this order.

Dated at San Francisco, California, this 28<sup>th</sup> day of July, 1964.

Fredrick B. Holahoff  
President

Wesley W. King

George J. Grover

Commissioners

I will file a dissent  
Paul E. Zytner

COMMISSIONER PETER E. MITCHELL DISSENTING:

A public hearing should be held on this application. I have no objection to the agreement for the sale of the water system serving Tracts Nos. 2416 and 2699 by the Dyke Water Company to the City of Huntington Beach. Nonetheless, a full record should be compiled in the interest of the water consumers in Orange County.

This Commission's Decision No. 67497, dated July 10, 1964, states: "The metering requirement imposed by Decision No. 59828 was, and is, of great importance to the water supply and conservation programs of all of Orange County".

The instant decision does not indicate whether the two tracts, 2416 and 2699, are metered or will be metered (my understanding is they are not metered and in a critical area). As indicated supra, this Commission has an obligation to assist in the conservation program in Orange County. Certainly, every effort should be expended by the Commission to pursue this laudable goal. Any water system in Orange County that is not presently metered, should be metered. Funds, available to either a privately-owned utility or a publicly-owned utility, should be utilized in this achievement. The majority decision fails to give recognition to this most important need.

Other factors, of less significance, but pertinent to the public interest, support a public hearing of this application.

  
Peter E. Mitchell, Commissioner

San Francisco, California

July 31, 1964

at

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
DYKE WATER COMPANY, a corporation,  
to sell a portion of its water  
system known as the Huntington Beach  
system and consisting of Tracts Nos.  
2699 and 2416 in Orange County to the  
City of Huntington Beach under pro-  
visions of Section 841 of the Public  
Utilities Code.

Application No. 46608  
(Filed May 5, 1964)

BENNETT, William M., Commissioner, Dissenting Opinion:

I would permit the transfer without intruding the majority concept of the public interest upon the relationship between the selling public utility water corporation and subdividers. Money claims for the benefit of subdividers are matters committed to their decision to protect or not. Accordingly, I would permit the transfer without the special trust account. The Commission here is determining that a liability exists between the utility and subdividers, without public hearing, and ignorant of any defenses to such claims.

  
WILLIAM M. BENNETT  
Commissioner

Dated at San Francisco, California, this 31st day of July, 1964.