

ORIGINAL

Decision No. 69636

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of
DYKE WATER COMPANY, a corporation,
for authorization to increase its
rates charged for water service.

Application No. 39303

Investigation on the Commission's
own motion into the rates, rules,
regulations, contracts, operations
and practices pertaining to and
involving water main extensions
of DYKE WATER COMPANY, a public
utility water corporation.

Case No. 5841
Order to Show Cause
(Contempt)

ORDER MODIFYING DECISION NO. 67497

Dyke Water Company, by a petition filed August 30, 1965, requests an order modifying Ordering Paragraph 7(C) of Decision No. 67497 herein, to the extent that the company be relieved of the requirement of installing water meters in its remaining water system during the month of September, 1965, and that upon transfer of its total remaining water system to the City of Westminster on or before October 1, 1965 petitioner be relieved of the metering requirement permanently. Petitioner further requests that the Commission rescind that part of Ordering Paragraph 7(C) which imposes the additional penalty of imprisonment for its officers, for the reason that substantial compliance with the metering condition in Paragraph 7(C), petitioner alleges, has been achieved.

Ordering Paragraph 7(C) of Decision No. 67497 imposes the penalty of imprisonment on officers of Dyke Water Company, in addition to fines imposed in another portion of Ordering Paragraph 7, for contempt of the Commission in failing and refusing to institute a metering program and install meters as directed by Decision

No. 59828 herein, dated March 22, 1960 (Decision No. 67497, Ordering Paragraph 2 - Second Offense); provided that if Dyke Water Company, in addition to metering all new service connections, should install not less than 100 meters per month for ten consecutive months commencing with the month of August, 1964, then the Commission, upon the filing of periodic satisfactory evidence of such installation, would by further order rescind the additional punishment imposed by Ordering Paragraph 7(C).

The contempt order was stayed pending unsuccessful proceedings by the company, concluded April 26, 1965, to have the order reviewed by the Supreme Courts of California and the United States. The fines imposed by that order have been paid.

Petitioner alleges that its requests are warranted because the major portions of its water system affected by the original metering order and by the provisions of Ordering Paragraph 7(C) have been acquired by the Cities of Anaheim and Garden Grove, pursuant to Commission authorization, and the two cities have taken over the responsibility of metering all services in the systems so acquired.

Petitioner further alleges that: prior to expiration of stays of Decision No. 67497 it launched a metering program, commencing in February, 1965, to install 100 meters per month on its remaining flat rate services; it installed 96 meters on such services in February, 104 in March and 100 each month since March; by September 1, 1965 a total of 700 of the 1,000 meters directed to be installed under Ordering Paragraph 7(C) will have been installed on the remaining portion of its system in the Westminster area, which serves 4,233 customers of which 1,963 will have been metered as of September 1, 1965.

Petitioner alleges that the City of Westminster, because of incompatibility of Dyke Water Company's meter installations with

those planned by the City and having in mind its impending acquisition of the Dyke system, desires petitioner to defer further installation of meters on existing flat rate services until transfer of the system can be effected, at which time the City will take over responsibility for metering. The City of Westminster, by a letter to Dyke Water Company, dated August 27, 1965 (Petition, Exhibit 1), has indicated that it proposes to complete the acquisition by October 1, 1965 and that it would be advantageous to defer further meter installations until the purchase has been completed.

Petitioner also alleges that the Orange County Water District, which has long been concerned with the metering issue in Dyke Water Company proceedings before the Commission, has indicated that it has no objection to the proposed deferment of metering by Dyke during the month of September, in view of the impending acquisition of the system by the City of Westminster. A letter to Dyke Water Company from the District, dated August 30, 1965, while consistent with petitioner's allegation, concludes with the statement that it is understood "that in the event the transfer is not completed, Dyke Water Company will resume on or before October 1, 1965 the metering program as ordered by the Public Utilities Commission." (Petition, Exhibit 2.)

We find and conclude that the requested deferment of Dyke Water Company's meter installation program for the month of September, 1965 is reasonable in view of the apparent incompatibility of the utility's current installations with those contemplated by the City of Westminster and the imminent likelihood of the acquisition of Dyke Water Company's remaining properties by the City on or before October 1, 1965.

The petition will be granted to the extent provided by the ensuing order.

A public hearing is not necessary.

O R D E R

IT IS ORDERED that Ordering Paragraph 7(C) of Decision No. 67497 herein is modified to the extent only that the condition therein for installation by Dyke Water Company of not less than 100 meters per month for ten consecutive calendar months, commencing with the month of August, 1964, is abrogated during the calendar month of September, 1965; in all other respects the provisions of said Ordering Paragraph 7(C) shall be and remain in full force and effect until further order of the Commission.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 8th day of SEPTEMBER, 1965.

Fredrick B. Holloft
President
John C. Mitchell
George T. Trover
Augustin
William W. Bennett
Commissioners