

Decision No. 83937

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Arthur H. Burnett,

Complainant,

vs.

California Cities Water Company,  
a corporation,

Defendant.

Case No. 9755  
(Filed June 17, 1974)

O P I N I O N

This is a complaint by Arthur H. Burnett against California Cities Water Company. The complaint involves the payment of refunds under the Main Extension Rule.

The complaint alleges the existence of certain water main extension contracts with defendant; that complainant has been assigned all the right, title, and interest in these agreements; that the annual refund for the year 1973 was due and payable in January 1974; and that defendant had failed to make the payments required under the contracts.

After the complaint was filed, defendant paid the refunds required by the contracts. The matter is not moot, however, because there still is a dispute between the parties over when the refunds are due and payable. Complainant takes the position that the refunds based on 22 percent of the annual revenues from services installed under main extension contracts are due and payable in January of the year following the year in which such revenues were collected.

Defendant contends that the Main Extension Rule does not require payment in January and that it needs a period of time in which to close its books and calculate the refunds. Defendant contends that it should be permitted to make refunds within 90 days after the closing of its books. The defendant alleges that its books for the calendar year are closed and audited by April 1st of the next year.

The material issue presented in this complaint is what constitutes a reasonable period of time in which defendant should make refunds under the main extension contracts here involved?

Defendant has adopted as its Rule 15, the Main Extension Rule required by Decision No. 64536 in Case No. 5501, as amended. The rule provides in part that:

"[C.]2. Refunds

- "a. The amount advanced under Sections C.l.a., C.l.b. and C.l.c. shall be subject to refund by the utility, in cash, without interest, to the party or parties entitled thereto as set forth in the following two paragraphs. The total amount so refunded shall not exceed the total of the amount advanced. Except as hereinafter provided, the refunds shall be made in annual, semiannual or quarterly payments, at the election of the utility, and for a period not to exceed 20 years after the date of the contract."

While the rule provides for annual, semiannual, or quarterly payments, it does not specify when such payments should be made. We construe it to be a reasonable period of time. What is a reasonable period of time may vary among different utilities. We consider what is reasonable in these circumstances.

Defendant indicates that its books for a calendar year are closed and audited by April 1st of the following year. By that time substantially all of the collectable revenues for the previous calendar year will have been received by defendant. April 1st is a reasonable date by which defendant should be ordered to make its main extension refunds.

The Commission makes the following findings and conclusion.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. Pursuant to Decision No. 64536 in Case No. 5501, as amended, defendant has adopted the Water Main Extension Rule as its Rule 15.
3. Defendant operates on a calendar year. Its books and records for a calendar year are closed and audited by April 1st of the following year.
4. April 1st is a reasonable time in which refunds under the Main Extension Rule should be made for the previous calendar year.
5. Complainant owns all the right, title, and interest in various main extension contracts executed with defendant.

Conclusion of Law

Defendant should be ordered to make refunds under its main extension contracts by April 1st of the year following the calendar year in which revenue derived from the extension is collected.

O R D E R

IT IS ORDERED that when a refund is payable under the provisions of defendant's Water Main Extension Rule, defendant shall make such refund in accordance with the main extension contract by April 1st of the year following the calendar year in which revenue derived from the extension is collected.

The Secretary is directed to make service of this order on the parties by certified mail.

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

Dated at San Francisco, California, this 30th  
day of DECEMBER, 1974.

Leon L. Stryker  
President  
William J. Symons Jr.  
Thomas Moran  
Robert E. McIlhenny  
Commissioners