

ORIGINAL

Decision No. 77463

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 GLENN J. and MELVIN L. LUKINS, dba )  
 the Lukins Brothers Water Company )  
 under Section 1002 and 1005 of the )  
 Public Utilities Code for a certif- )  
 icate of public convenience and )  
 necessity for authorization to )  
 exercise franchise rights. )

Application No. 51927  
 (Filed May 28, 1970)

O P I N I O N

This is an application by Glenn J. and Melvin L. Lukins, doing business as Lukins Brothers Water Company seeking authority to exercise the rights and privileges granted them by the City of South Lake Tahoe.

Applicants presently are engaged in the distribution and sale of water within portions of the City of South Lake Tahoe pursuant to authority issued by this Commission. The verified application states that the City Council of the City of South Lake Tahoe enacted Ordinance No. 53 which grants applicants a franchise for 50 years to conduct their water business within the city.

Ordinance No. 53 is attached to the application as an exhibit. Examination of the ordinance indicates that the franchise granted therein is of the standard type between water utilities and cities. It provides for a payment of 2 percent of applicants' annual gross receipts, arising out of the use, operation or possession of the particular franchise, provided however, that such payment shall in no event be less than 1 percent of the gross annual receipts of the applicant derived from the sale of water within the city limits.

The Commission is of the opinion that the application should be granted. No other points require discussion.

The Commission makes the following findings and conclusions in this matter.

Findings of Fact

The Commission finds that:

1. A public hearing is not necessary in this matter.
2. Public convenience and necessity require the exercise by Glenn J. and Melvin L. Lukins, doing business as Lukins Brothers Water Company, of the rights and privileges granted in the franchise conferred by Ordinance No. 53 of the City Council of the City of South Lake Tahoe.

Conclusions of Law

The Commission concludes that:

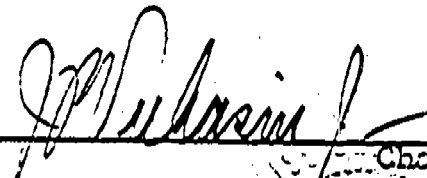
1. The application should be granted.
2. The certificate of public convenience and necessity issued herein is subject to the following provisions of law:
  - a. The Commission shall have no power to authorize the capitalization of the franchise involved herein or this certificate of public convenience and necessity, or the right to own, operate or enjoy such franchise or certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the issuance of such franchise, certificate of public convenience and necessity or right.
  - b. The franchise involved herein shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the municipality therefor at the time of the acquisition thereof.

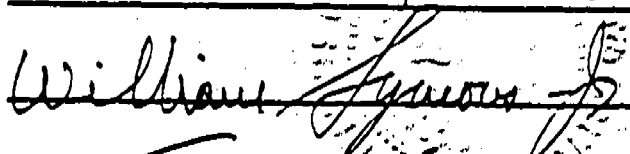
O R D E R


IT IS ORDERED that a certificate of public convenience and necessity is granted to Glenn J. and Melvin L. Lukins, doing business as Lukins Brothers Water Company, to exercise the rights and privileges conferred by the franchise issued pursuant to Ordinance No. 53 of the City Council of the City of South Lake Tahoe.

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

Dated at San Francisco, California, this 7th  
day of JULY, 1970.

  
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Chairman

  
\_\_\_\_\_  
Commissioners

  
\_\_\_\_\_  
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.