

LUKINS BROTHERS WATER COMPANY

2031 West Way, So. Lake Tahoe, CA 96150

Telephone (530)541-2606

February 4, 2020

Advice Letter No. 82-W

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Lukins Brothers Water Company (LUKINS) hereby transmits for filing one original and one copy of this advice letter and the following tariff sheets which are enclosed:

<u>NEW SHEET #</u>	<u>TITLE</u>	<u>CANCELLING SHEET #</u>
528-W	Preliminary Statement	91-W
529-W	Schedule No.1, General Metered Service	501-W
530-W	Schedule No. 2A, Annual Flat Rate Service	502-W
531-W	Table of Contents	527-W

REQUEST

By Advice Letter (AL) No. 82-W, LUKINS requests Commission authorization to establish a Water Contamination Litigation Expense Balancing Account (WCLEBA), and a monthly surcharge to amortize the balances previously recorded in its Water Contamination Litigation Expense Memorandum Account (WCLEMA), as authorized in Commission Decision 10-10-018, section 792.5 of the Public Utilities Code and GO 96-B. As of December 31, 2019. The WCLEMA has a total balance of \$102,604.07. This amount is equal to 12.83% of gross annual revenues adopted for the most recent general rate case, test year 2015, Resolution W-5026, March 26, 2015 and 12.58% from LUKINS' present rates. The present rates became effective on February 19, 2019, by Advice Letter 78-W, which authorized a Consumer Price Index (CPI) rate increase of \$15,686, or 1.90%.

LUKINS requests a monthly surcharge of \$2.91 for metered customers and flat rate customers for three years or until \$102,604.07 has been collected.

BACKGROUND

In 2014, LUKINS discovered PCE above the regulatory limit in its Wells 2&5, which were two of the three remaining active wells operating at the time. To protect customers, LUKINS immediately shut the wells down. Since that time, LUKINS has operated its system through its remaining well and emergency intertie with neighboring water system, South Tahoe Public Utility District.

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The California Regional Water Quality Control Board- Lahontan Region (Regional Board) is engaged in ongoing enforcement actions with potential responsible parties. As of the date of this filing, the Regional Board has not issued any replacement water orders to responsible parties.

LUKINS has retained the services of Robins Borghei LLP, to represent Lukins in relation to the PCE groundwater contamination that has been impacting LUKINS' water supply. On July 3, 2017, LUKINS filed a lawsuit against those parties that LUKINS believes are legally responsible for causing the contamination. A copy of LUKINS' legal complaint is enclosed.

Robins Borghei LLP, a law firm located in San Francisco, specializes in representing water utilities in groundwater contamination litigation. The firm has represented dozens of public water suppliers throughout California. Robins Borghei LLP is a preferred provider through the California Rural Water Association, of which Lukins is a member. Lukins is confident that it has selected the best possible legal team to represent its case.

Per Resolution W-4094 effective March 28, 1998, Lukins was granted the authority to establish the Water Contamination Litigation Expense Memorandum Account. Since litigation began for the PCE contamination during July 2017, Lukins has been recording legal expenses associated with this litigation into the Memorandum Account. Lukins is requesting authority to establish a Water Contamination Litigation Expense Balancing Account (WCLEBA) and transfer the Water Contamination Litigation Expense Memorandum Account balance of \$102,604.07 (as of 12/31/2019) to the WCLEBA. Lukins requests authority to amortize the balance over a three years period, with a surcharge of \$2.91 every month. Attached are work papers supporting the balancing accounts accruals.

The proposed surcharge in this AL will only recover the amounts already recorded through December 31, 2019 in Lukins' WCLEBA will not provide any additional net revenue for LUKINS and will not result in any increase in its authorized rate of return.

By pursuing litigation against the parties responsible for the PCE contamination, Lukins seeks to recover damages and expenses incurred as a result, and to seek remediation of said contamination ensuring the safety of its water and its customers.

Per Commission Decision D.10-10-018, issued on October 18, 2010, Ordering Paragraph 5 and 6 state,

"5. If an investor-owned water utility receives proceeds from any of the funding sources identified in Ordering Paragraph 1 after the contaminated plant is replaced or remediated and all costs have been determined, the remaining amount of proceeds ("net proceeds" as defined in Ordering Paragraph 6) may be shared between ratepayers and shareholders upon Commission approval where circumstances warrant and on the basis of factors relevant to the individual case, including factors set out in Appendix D to this

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decision.

6. *"Net Proceeds" are hereby defined as:*

Gross proceeds received minus all (1) reasonable legal expenses related to litigation, (2) costs of remedying plants, facilities, and resources to bring the water supply to a safe and reliable condition in accordance with General Order 103-A standards, and (3) all other reasonable costs and expenses that are the direct result and would not have to be incurred in the absence of such contamination, including all relevant costs already recovered from ratepayers (for which they have been, or will be, repaid or credited)."

If any award results from contamination litigation, any net proceeds will be handled as per Commission Decision 10-10-008.

LUKINS respectfully requests expedited handling of this advice letter.

TIER DESIGNATION AND REQUESTED EFFECTIVE DATE

This AL and enclosed tariffs are submitted pursuant to Water Industry Rule 7.3.3(5) of General Order (GO.) 96-B and this AL is designated as a Tier 3 filing.¹ This advice letter will become effective upon approval through a Commission Resolution.

NOTICE

In compliance with Section 4.3 of GO. 96-B, a copy of this AL has been served to all parties listed on the enclosed service list.²

This filing will not cause withdrawal of service nor conflict with any other schedule or rule.

RESPONSE OR PROTEST³

Anyone may respond to or protest this advice letter. A response supports the filing and may contain information that proves useful to the Commission in evaluating the advice letter. A protest objects to the advice letter in whole or in part and must set forth the specific grounds on which it is based. These grounds are:

1. The utility did not properly serve or give notice of the advice letter;
2. The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
3. The analysis, calculations, or data in the advice letter contain material error or omissions;
4. The relief requested in the advice letter is pending before the Commission in a formal proceeding; or

¹ GO. 96-B, Water Industry Rule 7.3.3

² GO. 96-B, Water Industry Rule 4.2

³ GO. 96-B, General Rule 7.4.1

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5. The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
6. The relief requested in the advice letter is unjust, unreasonable, or discriminatory (provided that such a protest may not be made where it would require relitigating a Prior order of the Commission).

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A protest shall provide citations or proofs where available to allow staff to properly consider the protest. A response or protest must be made in writing or by electronic mail and must be received by DWA within 20 days of the date this advice letter is filed. The addresses for submitting a response or protest are:

Mailing Address:

California Public Utilities
Commission
Water Division, 3rd Floor
505 Van Ness Avenue San
Francisco, CA 94102

Email Address:

Water.Division@cpuc.ca.gov

On the same day the response or protest is submitted to DWA, the respondent or protestant shall send a copy of the protest to Lukins at:

Mailing Address:

Lukins Brothers Water Co.
2031 West Way
South Lake Tahoe, CA 96150

Email Address:

jennifer@lukinswater.com

Cities and counties that need Board of Supervisors or Board of Commissioners approval to protest should inform DWA, within the 20-day protest period, so that a late filed protest can be entertained. The informing document should include an estimate of the date the proposed protest might be voted on.

REPLIES

The utility shall reply to each protest and may reply to any response. Each reply must be received by DWA within five business days after the end of the protest period and shall be served on the same day to the person who filed the protest or response.⁴

⁴ GO. 96-B, General Rule 7.4.3

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CERTIFICATE OF SERVICE

I hereby certify that the service list from Advice Letter 82-W had been served a copy of this AL on February 4, 2020.

Executed in South Lake Tahoe, California on February 4, 2020.

LUKINS BROTHERS Water
Company

By: /S/ JENNIFER L LUKINS
Jennifer Lukins
Manager

Enclosures