

1963
*May 8, 9
May 9

THE CITY OF KELOWNAAPPELLANT;

AND

THE PUBLIC UTILITIES COM-
MISSION AND THOMAS JOSEPH } RESPONDENTS.
FAHLMAN }

ON APPEAL FROM THE COURT OF APPEAL FOR
BRITISH COLUMBIA

Municipal corporations—Water service outside city limits—Whether municipality acquired status of a public utility—Public Utilities Act, R.S.B.C. 1960, c. 323.

By a decision of the Public Utilities Commission, the city was required to provide water service to the property of the respondent which

*PRESENT: Cartwright, Abbott, Martland, Judson and Ritchie JJ.

was outside the city limits. An appeal to the Court of Appeal was dismissed. The city appealed to this Court against the ruling of the Court of Appeal that once a municipal corporation undertook the supply of water services to any property situate beyond its boundaries it became a public utility.

1963
CITY OF
KELOWNA
v.
PUBLIC
UTILITIES
COMMISSION
et al.

APPEAL from a judgment of the Court of Appeal for British Columbia¹, dismissing an appeal from a decision of the Public Utilities Commission.

A. D. McEachern and B. C. Weddell, for the appellant.

G. W. Burke-Robertson, Q.C., for the respondent Public Utilities Commission.

P. D. O'Neil, for the respondent Fahlman.

At the conclusion of the argument of Counsel for the appellant, the following judgment was delivered orally.

THE COURT:—Mr. McEachern has said all that could be said in support of this appeal but we are all of opinion that the appeal fails.

We were invited to over-rule the judgment of the Court of Appeal for British Columbia in *City of Vernon v. Public Utilities Commission*², but we agree with the interpretation of the phrase “public utility”, as defined in s. 2 of the *Public Utilities Act*, in the reasons of the majority of the Court in that case and in the reasons of the Court of Appeal in the case at bar.

The appeal will therefore be dismissed. Both of the respondents are entitled to their costs in this Court.

Appeal dismissed with costs.

Solicitors for the appellant: Weddell, Horn & Lander, Kelowna.

Solicitors for the respondent Public Utilities Commission: Ellis, Dryer & McTaggart, Vancouver.

Solicitor for the respondent Fahlman: P. D. O'Neil, Kelowna.

¹(1962), 40 W.W.R. 547.

²(1953), 9 W.W.R. (N.S.) 63.