

Decision 09-01-018 January 29, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Hillview Water Company, a California corporation, to Modify Decision 05-09-031 (U194W).

Application 08-11-018
(Filed November 21, 2008)

**DECISION GRANTING REQUEST FOR MODIFICATION OF
DECISION 05-09-031**

1. Summary

At the request of Hillview Water Company (Hillview), the Commission modifies Decision (D.) 05-09-031 to authorize changes to the previously approved refinancing of the utility's short- and long- term debt. The modifications substitute a new lender, Excel National Bank, reduce the total loan amount (from \$1,800,000 to \$1,623,100) and provide better repayment terms for Hillview ratepayers.

2. Background

Hillview is a Class C water utility that serves slightly fewer than 1,400 customers in the foothills of eastern Madera County, southwest of Yosemite National Park.¹ As relevant here, D.05-09-031 approved a Settlement Agreement between Hillview and the Audit Branch of the Commission's Water Division that recommended Hillview be allowed to borrow

¹ A Class C water utility is one with more than 500 service connections but fewer than 2,000.

\$1.8 million from Oro Financial of California, Inc. (Oro Financial) to pay off its existing debt.

3. Procedural History

By Resolution ALJ 176-3226 (December 4, 2008), the Commission preliminarily designated this application as a ratesetting proceeding and determined that hearings likely would not be necessary. No protests have been filed.

4. Discussion

The verified application states:

After issuance of Decision 05-09-031 on September 22, 2005, Hillview contacted Oro Financial to complete the loan funding process. Oro proved unable to perform and was not able to make the loan to Hillview. It has taken Hillview since late 2005 to obtain a reliable loan commitment from a different lender to replace the funding originally offered by Oro Financial. On September 4, 2008, Excel National Bank provided Hillview with a commitment to refinance Hillview's existing business debt in the place of Oro Financial. (Application, 4.)

Excel National Bank's commitment letter, appended to the application as Exhibit A, provides that the bank will lend Hillview \$1,623,100 at a starting rate of 7.50% to be adjusted every calendar quarter. Quarterly adjustments will be based upon the Wall Street Journal Prime Rate Index plus a margin of 2.50% (the initial interest rate consists of a 5.00% index rate + the 2.50% margin).

D.05-09-031 approved a refinancing package totaling \$1,800,000 at an interest rate of 10.5%.²

² As discussed in the Settlement Agreement attached to D.05-09-031 and approved by the decision, Hillview was authorized to recover only 9.6% (of the 10.5%) in interest

Footnote continued on next page

The refinancing terms provided by Excel National Bank are more favorable to Hillview and its ratepayers than those approved by D.05-09-031. It is reasonable to modify D.05-09-031 to approve the revised refinancing package by authorizing Hillview to borrow \$1,623,100 from Excel National Bank under the terms set out in the commitment letter dated September 4, 2008. As Hillview recognizes, it will continue to remain bound by all other terms of the Settlement Agreement approved by D.05-09-031.

5. Waiver of Comment Period

This is an uncontested matter. Accordingly, pursuant to Pub. Util. Code § 311(g)(3), the 30-day period for public review and comment period does not apply.

6. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Jean Vieth is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The refinancing terms provided by Excel National Bank are more favorable to Hillview and its ratepayers than those approved by D.05-09-031.
2. As Hillview recognizes, it will continue to remain bound by all other terms of the Settlement Agreement approved by D.05-09-031.

from customers, because of interest limitations imposed by prior borrowing from the National Bank of Cooperatives - Hillview was required to repay the difference from other shareholder sources.

Conclusions of Law

1. The modifications of D.05-09-031 described herein are reasonable and D.05-09-031 should be modified as requested.
2. This decision should be made effective immediately to enable Hillview to obtain refinancing of its short- and long-term debt without further delay.

O R D E R

IT IS ORDERED that:

1. Decision (D.) 05-09-031 is modified to authorize Hillview Water Company (Hillview) to borrow \$1,633,100 from Excel National Bank pursuant to the terms of the September 4, 2008 commitment letter attached as Exhibit A to Application (A.) 08-11-018.
2. Hillview remains subject to all other provisions of D.05-09-031 and the Settlement Agreement appended to D.05-09-031 as Appendix A.
3. A.08-11-018 is closed.

This order is effective today.

Dated January 29, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners