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Mailed:
7/23/97

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the operations,)
 practices, rates and charges of the)
 Hillview Water Company, Inc.,)
 a corporation, and Roger L. Forrester,)
 the principal shareholder and president,)
)
 Respondents.)
)

ORIGINAL
FILED
PUBLIC UTILITIES COMMISSION
JULY 16, 1997
SAN FRANCISCO OFFICE
1.97-07-018

ORDER INSTITUTING INVESTIGATION

The Hillview Water Company, Inc. (Hillview) is a public utility water company under this Commission's jurisdiction. The staff of the Water Division has conducted an audit and review of the utility's operations with particular emphasis on whether the utility has complied with past Commission orders and regulations generally in connection with the statement of utility investment in plant, dealings with customers obtaining water service and the accuracy of information supplied to the Commission. The Water Division requested that the Consumer Services Division (CSD) pursue formal enforcement action in light of the findings of the audit and review of operations, and CSD has requested the initiation of an investigatory proceeding.

The CSD staff believes that it can demonstrate that Hillview and/or its principal shareholder and president, Roger L. Forrester, have violated a number of basic regulatory requirements and have submitted falsified documents or inaccurate information to the Commission. The allegations, listed below, are serious. If they are proven, there are logically issues about the management of this

utility and whether it is so far from having the potential for rehabilitation that other options must be adopted.

Today's order initiates an investigatory proceeding and places the respondents on notice about alleged violations. We are aware that the Department of Justice is also investigating the respondents, and although that is a separate matter reviewing possible criminal activity, we expect our staff to fully cooperate. Our investigation focuses on reviewing alleged violations of statutes and regulations, which we enforce using our forum, and exercising our jurisdiction to impose sanctions, order refunds and establish rates. We order Hillview's rates to be subject to refund from today, a measure to protect customers who may be being overcharged by an excessive revenue requirement.

The CSD staff alleges the following:

1. Hillview/Forrester violated the terms of prior Commission orders and instructions to water utilities on how utilities are to extend service to new customers. Violations of Commission orders can subject the respondents to fines under Public Utilities (PU) Code section 2107, and, separately, charging customers more than allowed by applicable tariffs violates sections 532, 454(a) and 491. In addition to fines and sanctions for alleged violations, the Commission will review whether any unlawful terms in Hillview's main extension contracts should be vacated and the contracts reformed to comply with Commission orders and requirements.
2. Hillview/Forrester submitted to the Commission staff copies of service extension contracts entered with customers which had pertinent information blocked out during reproduction. The submission of falsified contracts or information in response to a request from the Commission can violate section 581 and the Commission's Rule 1, both subject to fines under section 2107.
3. Hillview/Forrester charged customers unauthorized fees for the connection of service and, in turn, rebated the amounts in contravention of tariff and service extension requirements to

shopping center developers – affected customers include: Von's Companies, Inc., Long's Drug Stores, Inc. and Taco Bell. If proven, these can be violations of section 532, 454(a) and 491, and fines could be imposed under section 2107.

4. Hillview/Forrester diverted revenue collected expressly, to repay a SDWQA loan, from the special account and applied to funds for other purposes, including personal business uses by Forrester, in violation of D. 91560 and D.87-09-029. Violations of these and other orders on the accounting and use of these surcharge revenues is punishable under section 2107. Also, staff alleges that Hillview submitted Advice Letter 53 for additional authority to expand facilities and to increase indebtedness and in it misstated the level of the special fund account due to the diversion of funds which was prohibited under Commission orders. (Misrepresentations to the Commission in connection with securing permission to enter into indebtedness can be punishable as a criminal matter under section 827, and if information was submitted under penalty of perjury, it can be punishable in the criminal courts under section 2114.)
5. Hillview/Forrester have overstated long term debt and the utility's plant account by showing loans secured by Forrester for personal business as utility purpose indebtedness and for expenditure on plant used by the water utility. This can violate section 581 and Rule 1, and would mean that the utility's plant-in-service account needs restatement.
6. Hillview/Forrester secured a personal loan of \$350,000 from a developer, then asked the Commission for authority to receive a SBA loan to repay it, never acknowledging that the loan being repaid was for a personal or non-utility purpose. This could violate sections 825 and 827, and the Commission's Rule 1.

IT IS ORDERED that;

1. The Hillview Water Company, a corporation, and its president, Roger Forrester, an individual, are respondents to this investigation and are placed on notice that they face fines and/or other sanctions in connection with the

violation of statutes, Commission orders, tariffs, and other Commission requirements as listed above (criminal violations can only be pursued in criminal courts). If the Consumer Services Division staff believes that it has found additional violations subsequent to the issuance of this order, it may seek an amendment of this order or a new investigatory proceeding.

2. The respondents may be fined under sections 2107 and 2108 if the Commission finds violations of sections 491, 581, 825 and the Commission's Rule 1.

3. The CSD staff shall serve a copy of the audit or investigatory report on the respondents and any other interested parties not later than 10 days before a prehearing conference (PHC), which shall be expeditiously held before an Administrative Law Judge. The respondents shall respond to staff's report(s) with prepared testimony under a schedule to be established at the PHC.

4. Hillview/Forrester shall respond fully and accurately to any staff data requests while this proceeding is pending, and shall comply with all provisions of the Public Utilities Code.

5. A separate phase of this proceeding may be used, if violations are found, for the purpose of determining what the utility's revenue requirement should be, and to set rates accordingly, and to ensure that any wrongful charges assessed to consumers are refunded. If it appears that Forrester is unfit to manage a public utility, parties may advance recommendations on how to ensure water service is provided to consumers in lieu of a utility managed by Forrester.

6. Hillview's rates are, until further order, subject to refund, and this proceeding will assess whether the utility's revenue requirement and rates or charges should be reduced.

7. Until further order, any proposals to increase rates or charges submitted to the Commission on behalf of Hillview, as well as any individual complaints filed against Hillview, shall be consolidated with this enforcement proceeding for consideration.

8. A copy of this order shall be personally served on Roger L. Forrester, c/o Hillview Water Company, Inc., 40312 Greenwood Way, Oakhurst, California 93644, and served by mail on Mark Geiger, Deputy Attorney General, P.O. Box 944255, Sacramento, California; 94244; David Ebershoff, Attorney, c/o Fullbright & Jaworski, 865 South Figueroa Street, 29th Floor, Los Angeles, California 90017; Dan Devor, 40178 Pleasant Court, Oakhurst, California 93644; and John Minick, 39854 Pine Ridge Way, Oakhurst, California 93644.

This order is effective today.

Dated July 16, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners