

PUBLIC UTILITIES COMMISSION MINUTES OF PUBLIC HEARING

The Public Utilities Commission convened at 1:00 p.m. on Tuesday, July 30, 2013, in Room 414, Fourth Floor, State Capitol, Pierre, South Dakota.

The purpose of the meeting was to conduct a public hearing on the proposed rules of the Commission numbered 20:10:11:01; 20:10:11:04.02; 20:10:11:10; 20:10:11:12.1; 20:10:11:12.2; 20:10:11:14; 20:10:11:15; 20:10:11:16; 20:10:11:17; 20:10:12:05; 20:10:12:05.01; 20:10:12:05.02; 20:10:12:10; 20:10:12:11; 20:10:12:12; 20:10:12:13; 20:10:12:14; 20:10:12:15; 20:10:12:18; 20:10:12:19.

Members of the Commission in Attendance: Commissioners Gary Hanson, Chris Nelson, and Kristie Fiegen. Commission staff in attendance: Rolayne Wiest, John Smith, Kristen Edwards, Greg Rislov, Jim Mehlhaff, Robin Meyerink, David Henry, Jason Simmons, Eric Paulson, Paul Kenefick-Aschoff, and Sherry Dickerson.

Others in Attendance: Kathy Zander, South Dakota Grain and Feed Association; Milt Handcock, Midwest Cooperative/Cenex Harvest States; Craig Haugaard, North Central Farmers Elevator; Jerry Cope, Dakota Mill & Grain; Travis Antonsen, SD Wheat Growers; Lowell Mesman, SD Farm Bureau; Mike Traxinger, SD Farmers Union; Lexi Heath and Tim Luken, Oahe Grain Corporation; and Brenda Foreman, SD Association of Cooperatives.

Written Testimony

No written comments were received prior to the hearing. Written comments were received following the hearing from Joel Keierleber; Terry Sestak; Lynn Frey; the South Dakota Association of Cooperatives and the South Dakota Grain and Feed Association; and the South Dakota Farmers Union.

Oral Testimony

Kathy Zander supported the rules in their entirety.

Milt Handcock supported the rules.

Jerry Cope supported all of the changes, particularly the voluntary credit sale rule and encouraged the passing of all of the rules.

Craig Haugaard urged that the rules be adopted.

Travis Antonsen agreed with all of the changes and encouraged their adoption.

Tim Luken agreed with the changes as proposed.

Mike Traxinger supported the rules with one exception. Mr. Traxinger stated that 20:10:12:13 should be amended by changing the time to provide written notice of objections to a voluntary credit sale contract from two days to five days. He stated that more time is needed in order to correct any errors or miscommunications. He stated Nebraska allows for ten days, but he believed that was too long. He stated that five days is reasonable.

Brenda Foreman supported the rules as written. She stated that the Board of the Associations of Cooperatives supported the rules as proposed. She stated the Board is comprised of both producers and managers. She recommended not changing the two day requirement in 20:10:12:13.

Adjournment: 1:15 p.m.

Final Action – August 12, 2013

Members of the Commission in Attendance: Commissioners Gary Hanson, Chris Nelson, and Kristie Fiegen. Commission staff in attendance: Rolayne Wiest, John Smith, Kristen Edwards, Greg Rislov, Jim Mehlhaff, Paul Kenefick-Aschoff, and Sherry Dickerson.

Others in Attendance: Ray Martinmaas, Martinmaas Dairy; Kathy Zander, South Dakota Grain and Feed Association; Milt Handcock, Midwest Cooperative/Cenex Harvest States; Mike Traxinger, SD Farmers Union; Steve Domm, Central Farmers Cooperative; Chet Brokaw, Associated Press; and Brenda Foreman, SD Association of Cooperatives.

At its August 12, 2013 ad hoc meeting, the Commission considered final action on the rules.

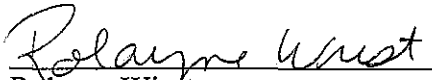
Ray Martinmaas spoke against the changes to 20:10:12:13. He handed out the April 29, 2013 letter written by Judge Tony Portra in the Anderson Seed Co., Inc. Grain Buyer Bond civil case. (The Commission has included this letter with the written comments.) He stated that 48 hours is not sufficient time for a farmer to respond. He stated that if a farmer does not sign a contract, the farmer will be giving up his right to the grain and will be the last to be paid as an unsecured creditor. He stated the laws are written for the grain buyers and bankers and that farmers have no protection.

Kathy Zander handed out the Bill Brief for HB 1167 that was passed in 2009 and resulted in the changes to SDCL 57A-2-201. (The Commission has included this Bill Brief with the written comments.) She stated that the industry has had no problems since this legislation was passed and it helps farmers sell grain over the phone.

Mike Traxinger stated that the SD Farmers Union had requested five business days in their comments.

Commissioner Fiegen moved to accept the minor changes as proposed by LRC. The Commission voted unanimously to accept these changes. Commission Nelson then moved to adopt the rules as proposed with the LRC style and form changes. Commissioner Nelson stated that he was reluctant to stray from the two days as that was the time period already promulgated by the legislature in SDCL 57A-2-201. The Commission voted unanimously to adopt the rules as proposed with the LRC style and form changes.

Respectfully submitted,


Rolayne Wiest
Commission Counsel
Public Utilities Commission

Adjournment: 11:30 a.m.