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South Dakota

PUBLIC UTILITIES COMMISSION

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July 21, 2021

Patricia Van Gerpen
Executive Director
Public Utilities Commission
500 E. Capitol Ave
Pierre, SD 57501

RE: GW21-002-In the Matter of Farmers Cooperative Elevator, Avon South Dakota

Ms. Van Gerpen,

Commission Staff (Staff) submits this letter to provide an update to the Commission regarding the July 12, 2021 Order Granting Request to Apply to the Circuit Court to Appoint a Receiver. Staff filed its Petition to appoint a Receiver in the First Judicial Circuit on July 20, 2021.

As Staff was preparing the Petition for filing, Staff worked with the Farmers Cooperative Elevator (FCE) Board to obtain a better understanding of their financial situation and to explore a potential financial option to pay FCE's creditors without filing for receivership. Unfortunately, Staff became aware of additional liabilities changing FCE's financial position and that option did not develop as anticipated. FCE's financial position is such that it will be far more difficult to satisfy all creditors while keeping FCE operating as a grain elevator.

Based on information obtained since Staff's filing with this Commission, Staff drafted the Petition requesting the receivership be limited to control of the grain elevator and directly related assets, including but not limited to grain inventory with the stated purpose of receivership to conduct an in-depth review of FCE's assets and liabilities and work to either bring FCE into a financially viable position or take other reasonable and necessary steps to the benefit of all creditors. If granted, this would allow the cooperative to continue to operate the convenience store, farm store, and fertilizer plant while utilizing grain assets to pay grain-related debt. In addition, any costs or receivables attributable to the other businesses will remain the responsibility of the cooperative.

Because of the position which the grain business is in at this time, it will be more important that we secure the bond and proceed with bond claims. Therefore, Staff will continue to work on that issue as well.

Staff will provide an update to the Commission when the Circuit Court rules on this matter.

Sincerely,

Amanda M. Reiss
Staff Attorney