

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF
FARMERS COOPERATIVE
ELEVATOR, AVON, SOUTH
DAKOTA**

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**REQUEST TO CLOSE DOCKET

GW21-002**

Staff of the South Dakota Public Utilities Commission (Commission), respectfully requests the Commission issue an order affirming no additional action need be taken and close the above-captioned docket. On July 12, 2021, the Commission issued an Order to Granting Request to Apply to the Circuit Court to Appoint a Receiver. In 04CIV21-037, the Circuit Court appointed Cody Chambliss (Receiver) of Staff as Receiver of Farmers Cooperative Elevator (FCE). The Receivership was limited to the grain elevator portion of FCE. Additionally, as part of the Receivership, the court granted Receiver the authority to pursue and collect all accounts receivable.

Through the Receivership, Receiver facilitated the successful sale of the grain elevator portion of FCE, as well as the agronomy and bulk fuel portions to Farmers Pride. FCE does continue to operate as a ranch store and fuel store, however these entities are not subject to PUC regulation.

Staff makes this request to inform the Commission that it has concluded the day-to-day receivership responsibilities that the Commission intended through its Order to Granting Request to Apply to the Circuit Court to Appoint a Receiver, with the exception of working to finalize collection efforts of one debt that is currently in the end stages of Chapter 12 bankruptcy (See Attachment 1, Bankruptcy Plan) and the collection of one other remaining small claims judgment

in favor of FCE. If the Commission agrees that no addition duties need be done, Staff requests the Commission close this docket.

The civil case would remain open, as staff does not intend to request termination of the Receivership until the debtor in the Bankruptcy has made all payments in full to FCE. Currently, under the bankruptcy plan, the debtor will make payments over the next five years. Pursuant to the plan, which was agreed upon by all parties to the bankruptcy, in the event of a default, a liquidation of debtors' assets shall occur to pay remaining debts. If that were to happen, Receiver and Receiver's counsel would need to be available to participate in the liquidation process and any necessary court filings. Because of the background and knowledge Receiver has in this proceeding, as well as the benefit of the assistance the Attorney General's Office has provided, it is to the benefit of FCE and its members for the Receiver to continue to be available in this matter.

However, FCE as an entity is now in a good financial position. FCE still owns and operates the ranch supply store and a fuel station. All general payables and producers have long-since been paid. Therefore, staff felt it important to notify the Commission the narrowing of the scope of responsibilities going forward and close this docket. Receiver will be giving an update to the members of FCE at their annual meeting on November 17, 2022. Closing this docket would give a better understanding to those in attendance of where we are at with the process and financial strength of the company going forward.

Receiver will continue to file any necessary reports in 04CIV21-037 and will make the appropriate filing in that case to request end the Receivership when FCE has been made whole by the debtor in bankruptcy.

Dated this 4th day of October 2022.

A handwritten signature in cursive script, reading "Kristen N. Edwards", is written over a solid horizontal line.

Kristen N. Edwards
Staff Attorney
South Dakota Public Utilities Commission
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