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August 25, 2022

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

**RE: GW22-006**

Ms. Van Gerpen,

This letter is to inform of Staff's position on the Cooperative's request for a waiver and to provide a general update on the status of this docket.

Regarding the status of the docket, since Ms. Dvorak came on board, we have developed a good working relationship with this company and are happy to report that we are working together toward resolving this docket and coming to an agreement on a final resolution.

As to the waiver request, the Cooperative has requested a waiver of the requirement to provide independent reviewed or audited financial statements in order to receive a Class A grain buyer license, pursuant to ARSD 20:10:12:14. As a general rule Staff does not support waiving the requirement to provide financial statements for any Class A licensee.

The requirement for applicants for a Class A license to provide audited or reviewed financials became mandatory in 2008.<sup>1</sup> Prior to the 2008 rulemaking, audited or reviewed financials could be required from an applicant at the discretion of the Commission.

The reviewed or audited financials are important to ensuring financial security prior to issuing a license. Staff relies on the independent or certified public accountant to employ their expertise to analyze the financial data of a license applicant and make necessary inquiries of company management to ensure the accuracy of the information provided.

Staff understands the Cooperative's specific request to be that the Commission accept the financials prepared by a bookkeeper and waive the requirement that the financials be prepared by a certified or independent public accountant. Other than the reviewed financial statements, the Cooperative has or will have all other licensing requirements met by the time of the Commission meeting. Grain Warehouse staff has reviewed all of the licensing information provided and determined that had the financial information indicates the Cooperative appears to be in solid financial condition.

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<sup>1</sup> See rulemaking in Docket No. RM08-001.

While as a regulatory standard, Staff does not support waiving the requirement for a reviewed or audited financial, Staff does support granting a 90-day waiver of the rule. A 90-day extension balances the importance of the reviewed or audited financial statements with the fact that all information provided demonstrates that the Cooperative is in good financial standing, as well as the fact that the timing makes it more difficult to obtain the financial statement. In addition, a temporary waiver is consistent with past Commission action taken upon a request for a waiver of ARSD 20:10:12:14 in Docket No. GD09-002.

If the Commission were to grant the temporary waiver, Staff would have all of the information necessary to grant a license, and the Cooperative could have the license in hand for the soybean harvest season.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cody Chambliss', is written over a horizontal line.

Cody Chambliss