

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

**IN THE MATTER OF THE SETTLEMENT)
STIPULATION WITH HEFTY SEED COMPANY OF)
BAL TIC, SOUTH DAKOTA)**

**STIPULATION
GW22-007**

This Stipulation reflects the resolution reached between the Staff of the Public Utilities Commission (Staff) and Hefty Seed Company of Baltic, South Dakota. (Hefty).

I. BACKGROUND

Hefty has done business in the state of South Dakota and has been registered with the South Dakota Secretary of State since 2010. Hefty has never held a grain buyer license from this Commission. During the time Hefty has been in business, Hefty operated as a grain buyer as defined in SDCL 49-15-1.1(3). Specifically, Hefty purchased at least 20 loads of grain between July 1, 2015, and June 30, 2022, a period in which Hefty did not possess a valid South Dakota grain buyer license.

The penalty for operating as a grain buyer without a license is described in SDCL 49-45-1. This statute provides for a fine of \$1,000 for each purchase of grain. The statute also states the total maximum fine that can be imposed is \$20,000. In this case, since more than 20 purchases are at issue, the maximum fine the Commission could assess is \$20,000. If, after a hearing, the Commission believed Hefty had made at least 20 purchases during the time it was not licensed, Hefty could be subject to a \$20,000 fine.

Now, to avoid a hearing, Staff and Hefty stipulate to the facts below and agree to resolve this matter as follows:

1. Hefty is located in Baltic, South Dakota and operates as a "grain buyer" in South Dakota as the term is defined in SDCL 49-45-1.1(3).

2. Hefty engaged in the business of purchasing grain for the purpose of resale without a license.
3. Hefty is subject to licensure as required by SDCL 49-45-1.
4. Both Staff and Hefty agree that between July 1, 2015, and, June 30, 2022, Hefty made at least 20 purchases of grain for resale as well as purchases from producers in South Dakota without a license.
5. Both Staff and Hefty acknowledge that Hefty is subject to penalties up to \$20,000 for operating as a grain buyer without a license.
6. Both Staff and Hefty agree that a penalty of \$15,000 is appropriate for this violation.
7. Hefty agrees any penalty assessed against Hefty by this Commission is paid in full within thirty days.
8. Staff agrees this Stipulation, if approved by the Commission, and any associated penalty assessed by the Commission, represents the final disposition of the issues specified herein and Staff will not pursue additional fines or penalties for the infractions outlined in this Agreement.
9. Hefty agrees to maintain a grain buyer license and bond for fiscal year 2023. Hefty did obtain a 2023 grain buyer license, effective September 6, 2022.

Both Parties acknowledge that they may have different reasoning for the agreed upon stipulation and absent the stipulation, both parties could have presented argument supporting their positions. This Stipulation does not reflect the concession of any single issue, but a negotiated global agreement.

Dated this 12th day of October 2022.

South Dakota Public Utilities Commission Staff

By: *Patricia Van Cester*

Name: *Patricia Van Cester*

Its: *Executive Director*

Hefty Seed Company

By: *Brian D. Hefty*

Name: *Brian Hefty*

Its: *member*