

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

IN THE MATTER OF THE GRAIN BUYER)	ORDER DENYING PETITION TO
LICENSE OF UTICA GRAIN, INC. DBA)	IMMEDIATELY SUSPEND GRAIN
UPPER UTICA GRAIN ELEVATOR)	BUYER LICENSE; CONDITIONS
)	REQUIRED TO MAINTAIN
)	CLASS A LICENSE
)	
)	
)	GW18-001

On August 20, 2018, the South Dakota Public Utilities Commission (Commission) received a Petition to Immediately Suspend Grain Buyer License Pursuant to SDCL 49-45-16 (Petition) filed by the staff of the Grain Warehouse Division (Staff). As a part of the Petition, Staff alleged it was aware of specific acts of insolvency and a refusal to cooperate with the lawful requests of Staff on the part of Utica Grain, Inc. dba Upper Utica Grain Elevator (Utica Grain) and that such acts required immediate suspension. Utica Grain has locations in Meckling, Tabor, Irene, and Utica, South Dakota. Utica Grain holds a Class A Grain Buyer License issued by the Commission. On August 20, 2018, Staff served the Petition on Utica Grain.

On August 23, 2018, the Commission electronically transmitted notice of the Agenda of Ad Hoc Commission Meeting to Utica Grain as well as interested individuals and entities on the Commission's PUC Weekly Filings listserv. On August 24, 2018, at an ad hoc meeting, the Commission heard from Staff and Utica Grain. The matter was deferred until the Commission's regularly scheduled meeting on September 4, 2018. On August 31, 2018, Utica Grain and Staff filed documents pursuant to the Commission's Order Deferring Suspension; Order Requiring Compliance Plan to be Followed; Order Requiring an Updated Financial Statement issued August 28, 2018.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-45, specifically 49-45-1, 49-45-3, 49-45-6, 49-45-7, 49-45-10, 49-45-13, 49-45-14, 49-45-16, 49-45-17, 49-45-18, 49-45-19, 49-45-25, 49-45-26, 49-45-27, 49-45-28, and ARSD 20:10:12.

On September 4, 2018, at its regularly scheduled meeting, the Commission considered the Petition. The Commission heard updates from Staff and Utica Grain. The Commission voted unanimously to deny the Petition. The Commission further voted to allow Utica Grain to maintain its Class A license based upon the following conditions:

1. Utica Grain shall follow the Updated Compliance Plan it filed on August 31, 2018, provided the Plan's provisions do not conflict with the language found in this order.
2. Utica Grain shall file monthly financial statements that have been reviewed by a third party. The third party hired by Utica Grain shall be approved by Staff and the name of the third party shall be filed on the Commission's website.
3. Utica Grain shall implement a ring fencing plan. Staff shall review the ring fencing plan and approve the language of the plan.
4. Within 30 days of this order, Ralph Marquardt shall file a written, personal guarantee confirming that all producers will be paid. Staff shall review the guarantee and approve the language of the guarantee.

It is therefore

ORDERED, that the Petition to Immediately Suspend Grain Buyer License Pursuant to SDCL 49-45-16 is hereby denied. It is further

ORDERED, that in order for Utica Grain to maintain its Class A license, it shall follow the aforementioned conditions.

Dated at Pierre, South Dakota, this 7th day of September 2018.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.</p> <p>By: <u>Karen E. Bremer</u></p> <p>Date: <u>09/07/18</u></p> <p style="text-align: center;">(OFFICIAL SEAL)</p>

BY ORDER OF THE COMMISSION:

Kristie Fiegen
KRISTIE FIEGEN, Chairperson

Chris Nelson
CHRIS NELSON, Commissioner