BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 8, Grain Warehouse Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 730 [2016], clarify security coverage for sellers of grain, and correct time for sellers to make a claim.	)	Rule and Regulation No. 200 ORDER OPENING DOCKET, RELEASING PROPOSED RULES, SEEKING COMMENT, AND SETTING HEARING Entered: July 5, 2017

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

The Commission, on its own motion, hereby opens this proceeding to amend Title 291, Chapter 8, Grain Warehouse Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 730 passed in 2016 by the Nebraska Legislature and relating to security coverage for sellers of grain stored in a warehouse closed by the Public Service Commission. In LB 730, the Legislature modified the requirements to qualify for security coverage when a warehouse is closed by the Commission.

Further, the Commission entered an order November 17, 2015, seeking comments on changes to the rules under LB 183 passed in 2015. LB 183 reduced the number of days a seller had to make a claim regarding lack of payment from 30 to 15. One such rule remained unchanged in the updated rules.

The Commission proposes to amend Title 291, Chapter 8, Grain Warehouse Rules and Regulations as seen in the attached Appendix A, incorporated herein by this reference.

Comments on the proposed amendments shall be filed by interested parties on or before **3:00 p.m., Friday, August 4, 2017**. Parties filing comments should file one original and five (5) paper copies and one (1) electronic copy emailed to **terri.fritz@nebraska.gov and ellie.rohr@nebraska.gov**.

The Commission finds that this matter should be set for hearing on **Tuesday, August 22, 2017, 1:30 PM** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Commission at (402) 471-0213 (TDD) or the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that this rulemaking amending Title 291, Chapter 8, Grain Warehouse Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 730 passed in 2016 by the Nebraska Legislature and relating to security coverage for sellers of grain stored in a warehouse closed by the Public Service Commission.

IT IS FURTHER ORERED that interested parties file comments on or before **3:00 p.m. Friday, August 4, 2017**. Parties filing comments should file one original and five (5) paper copies and one (1) electronic copy emailed to **terri.fritz@nebraska.gov** **and** **ellie.rohr@nebraska.gov**.

IT IS FURTHER ORDERED that this matter be set for hearing on, **Tuesday, August 22, 2017, at 1:30 p.m.** in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 5th day of July, 2017.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Mary Reddin

Crystal Rhoades

//s//Frank E. Landis

//s//Tim Schram

Chairman

ATTEST:

Deputy Director

APPENDIX A

1. Make the following revisions to Title 291, Chapter 8, Sections 001.01W, 002.05B, 002.07C, 002.18C(5), 002.18(9)(A) and (C), and 002.18(C)(12)

001 GENERAL:

001.01: DEFINITIONS: As used in Chapter 8 unless the context otherwise requires:

001.01W ~~Qualified Check Holder~~Qualified Seller of Stored Grain: ~~Any person who holds a check for purchase of grain stored in the warehouse, issued by the warehouseman~~ Any person who, not more than five (5) business days prior to the date the Commission officially closes the warehouse, owned and sold grain stored in the warehouse and had not received payment from the warehouse licensee for such grain, but shall not include grain sold by signed contract or priced scale ticket.

002.05 Security Requirements

002.05B Persons Entitled to Security: The security shall be payable to the Nebraska Public Service Commission for the benefit of all depositors, storers and/or owners and ~~qualified check holders~~qualified sellers of stored grain.

002.07 Records and Filing Requirements: Each warehouseman shall maintain at a place of business accurate, complete, and current records of all grain handled by the warehouse. The required records shall include, but are not limited to, the following:

002.07C Direct Delivery Ticket: Direct delivery ticket is the means by which a dealer/warehouseman shall maintain records of direct delivery grain. A direct delivery ticket shall be issued no later than ~~thirty (30)~~fifteen (15) days after the date of the last shipment of the contract, be filed numerically, and shall contain the following information:

002.18 Warehouse Surveillance; Closure of a Warehouse:

002.18C The Commission may take one or more of the following actions in determining whether to close a warehouse or revoke a license:

002.18C5 Take title to all grain stored in the warehouse in trust, for all valid depositors, storers and/or owners and ~~qualified check holders~~qualified sellers of stored grain.

002.18C9 Make redelivery of the grain on a pro rata basis to all valid depositors, storers and/or owners, or,

A) Sell the grain using a broker hired by the Commission, through a bidding procedure, auction or any other means which in the Commission's judgment would be best for the depositors, storers and/or owners of grain in the warehouse and ~~qualified check holders~~qualified sellers of stored grain.

C) Deposit money from the sale of grain in an interest-bearing trust account for the benefit of the valid depositors, storers and/or owners and ~~qualified check holders~~qualified sellers of stored grain.

002.18C12 Review the records to determine apparently valid claims of depositors, storers and/or owners and ~~qualified check holders~~qualified sellers of stored grain.