

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. GD-3048
Application Poet Grain, LLC,)
Wichita, Kansas, seeking)
authority to operate as a) GRANTED
grain dealer pursuant to Neb.)
Rev. Stat. § 75-903 (Reissue)
2018)) Entered: July 13, 2021

BY THE COMMISSION:

By application filed May 18, 2021, with the Nebraska Public Service Commission ("Commission"), Poet Grain, LLC ("Poet" or "Applicant"), Wichita, Kansas, seeks authority to operate as a grain dealer. Poet is a limited liability company organized under the laws of the State of Delaware, with its headquarters in Wichita, Kansas. Poet has been authorized by the Secretary of State to operate in Nebraska.

OPINION AND FINDINGS

Applicant seeks approval of a license to operate as a grain dealer in Nebraska pursuant to the Grain Dealer Act.¹ Under Neb. Rev. Stat. § 75-903, all grain dealers doing business in Nebraska shall be issued a license by the Commission. To procure and maintain a license a grain dealer shall: pay an annual fee; file a security; and file a financial statement.² Pursuant to Neb. Rev. Stat. § 75-903.02, if an applicant for a grain dealer's license is not an individual, then the chief executive officer, president, or general manager shall be subject to a fingerprint-based criminal background check completed by the Nebraska State Patrol. Applicant has paid the required application fee and the Commission has received Applicant's fingerprint-based criminal background check pursuant to the aforementioned requirements. The remaining requirements will be discussed below.

Security

An applicant must file a security for the benefit of any producer who files a valid claim arising from the sale to a grain dealer.³ The security may be a bond issued by a corporate surety company and payable to the Commission, an irrevocable letter of credit, or a certificate of deposit. The security shall be in the

¹ Neb. Rev. Stat. §§ 75-901 - 75-910.

² Neb. Rev. Stat. § 75-903.

³ Neb. Rev. Stat. § 75-903(2).

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amount of thirty-five thousand dollars or seven percent of grain purchases or exchanges by the grain dealer in the grain dealer's preceding fiscal year, whichever is greater, not to exceed three hundred thousand dollars.⁴ A new applicant that had not purchased any grain purchases in the preceding year may obtain a license based on an estimate of the volume of business the applicant expects to do during the term of the license. If the licensee purchases more grain than estimated, the estimate shall be revised and additional security shall immediately be furnished to cover the additional projected purchases.⁵ The liability of a surety bond shall cover purchases made by the grain dealer during the time the bond is in force and the bond shall be in continuous force and effect until canceled by the surety.⁶

Applicant would be a new licensee and lacks grain purchases for the prior year to dictate the amount of security required. However, Applicant has filed an estimation of the amount of grain it intends to purchase during its license and based on that amount Applicant would need to file a security at the maximum level. Applicant has filed a continuous surety bond with Capitol Indemnity Corporation payable to the Commission in the amount of \$300,000. Applicant's surety bond fulfills all requirements set out in Nebraska Law.

Financial Statement

An applicant for a grain dealer license must file a reviewed or audited fiscal year-end financial statement prepared by an independent certified public accounting firm as part of its application.⁷ Applicant must meet net worth and working capital requirements set out in Commission Rule. An applicant for a grain dealer license must demonstrate a minimum allowable net worth of \$10,000 to obtain a license.⁸ Finally, an applicant for a grain dealer license must also demonstrate a working capital ratio of not less than 1 to 1.⁹

On or around May 18, 2021, Poet filed an audited fiscal year-end financial statement for the preceding two years. A review of Poet's financial statement by Commission staff confirms that Poet

⁴ *Id.*

⁵ 291 Neb. Admin Code Chapter 8, § 003.02B.

⁶ Neb. Rev. Stat. § 75-903(2).

⁷ Neb. Rev. Stat. § 75-903(3).

⁸ 291 Neb. Admin Code Chapter 8, § 003.03H.

⁹ 291 Neb. Admin Code Chapter 8, § 003.03I.

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meets both the net worth and working capital requirements as prescribed by Commission Rule.

Being fully advised in the premise, the Commission finds Poet Grain, LLC, Wichita, Kansas, has met the requirements of Nebraska Law and Commission Rules, and should therefore be issued a grain dealer license.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. GD-3048, be and is hereby, granted, and Poet Grain, LLC, Wichita, Kansas, is authorized to operate as a licensed grain dealer in the State of Nebraska.

IT IS FURTHER ORDERED that Poet Grain, LLC, is hereby issued a grain dealer license that expires June 30, 2022, unless used in a manner inconsistent with Nebraska Statutes and the Rules and Regulations of this Commission

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 13th day of July, 2021.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rod Johnson
Mary Keddin
Tim Schram

Don Watson
Chair

ATTEST:

Michael S. Hyatt
Executive Director