

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. GW-2199
Application of Belden Grain,)
LLC, Belden, Nebraska, seeking)
authority to operate as a) ORDER GRANTING APPLICATION
grain warehouse pursuant to)
Neb. Rev. Stat. § 88-527)
(Reissue 2018).) Entered: September 28, 2021

BY THE COMMISSION:

By application filed September 21, 2021, with the Nebraska Public Service Commission ("Commission"), Belden Grain, LLC ("Belden" or "Applicant"), Belden, Nebraska, seeks authority to operate as a grain warehouse. Applicant is a limited liability company organized under the laws of the State of Nebraska, with its headquarters in Belden, Nebraska. Applicant 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 Nebraska Grain Warehouse Act.¹ Under Neb. Rev. Stat. § 88-527 (Reissue 2018), no person shall operate a warehouse nor act as a warehouseman without a license issued by the Commission. To procure and maintain a license a grain warehouse shall: file an application, file a license fee, submit a criminal background check, file a financial statement, file a form of security, and submit proof of stock insurance.² The Commission's findings regarding each aspect of Belden's application is detailed below.

Application, Criminal Background Check, and Application Fee

Each applicant for a license shall file an application with the Commission and submit a criminal background check.³ If an applicant for a grain warehouse 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.⁴ The Commission shall collect an annual license fee from each warehouse as provided in Neb. Rev. Stat. § 88-529. The license fee is computed based on the

¹ Neb. Rev. Stat. §§ 88-525 - 88-552.

² Neb. Rev. Stat. §§ 88-527 - 88-530.

³ Neb. Rev. Stat. § 88-528.

⁴ Neb. Rev. Stat. § 88-528.01

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. GW-2199

Page 2

capacity of a warehouse. Any first-time applicant will pay a prescribed fee.⁵ Applicant completed the required application and paid the appropriate license fee. The Commission has also received Applicant's fingerprint-based criminal background check pursuant to the aforementioned requirements.

Financial Statement

Pursuant to Neb. Rev. Stat. § 88-530, each applicant shall show sufficient net worth or stockholders' equity to conform with the financial requirements established by the Commission. Under Commission Rule, an applicant for a grain warehouse 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.⁶ Applicant must also meet the net worth and working capital requirements set out in Commission Rule. An applicant for a grain warehouse license must demonstrate and maintain an allowable net worth of \$0.25 per bushel for each bushel of licensed capacity. A minimum allowable net worth of \$10,000 is required to obtain a license.⁷ Finally, an applicant for a grain warehouse license must also demonstrate a working capital ratio of not less than 1 to t.⁸

On or around September 21, 2021, Belden filed a reviewed fiscal year-end financial statement for the preceding year. A review of Belden's financial statement by Commission Staff confirms that Belden meets both the net worth and working capital requirements as prescribed by Commission Rule.

Security and Stock Insurance

An applicant for a grain warehouse license must file a security in the form of a bond, a certificate of deposit, an irrevocable letter of credit, United States bonds or treasury notes, or other public debt obligations of the United States which are unconditionally guaranteed as to both principal and interest by the United States in such sum as the Commission may require and in the form and of the kind prescribed by the Commission.⁹ The security is held by the Commission for the benefit of all depositors, storers, and/or owners of grain stored in the warehouse and qualified check holders who file a valid claim against the

⁵ Neb. Rev. Stat. § 88-529.

⁶ 291 Neb. Admin. Code § 08-002.04. See also Neb. Rev. Stat. § 88-528.

⁷ 291 Neb. Admin. Code § 08-002.04A.

⁸ 291 Neb. Admin. Code § 08-002.04B.

⁹ Neb. Rev. Stat. § 88-530.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. GW-2199

Page 3

grain warehouse.¹⁰ The security shall not be less than \$25,000 or greater than \$500,000 except as provided by Commission Rule.¹¹

No license will be issued to a grain warehouse until satisfactory proof of insurance coverage has been filed with the Commission.¹² A warehouseman must maintain a policy or policies of combustion, fire, lightning, and tornado insurance in an amount sufficient to cover the total loss upon all grain in the licensed warehouse. Without limiting a warehouse's liability, the warehouse must carry a standard form of insurance policy approved for grain warehouses with a total deductible not to exceed \$10,000. If a higher insurance deductible is sought, an application must be submitted to the Commission.¹³

Applicant would have an initial licensed capacity of 678,148 bushels, requiring a security in the amount of \$149,300. Applicant has filed an irrevocable letter of credit with Security Bank payable to the Commission in the amount of \$149,300. Applicant has filed proof of stock insurance through Nationwide Agribusiness Insurance Co. with a \$5,000 insurance deductible. Applicant's irrevocable letter of credit and stock insurance fulfills all Commission requirements.

Being fully advised in the premise, the Commission finds Belden Grain, LLC, Belden, Nebraska, has met the requirements of Nebraska law and Commission Rules, and should therefore be issued a grain warehouse license.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Belden Grain, LLC, Belden, Nebraska, be, and is hereby issued a grain warehouse license effective October 1, 2021, pursuant to the above-mentioned conditions.

IT IS FURTHER ORDERED that Belden Grain, LLC, is hereby issued a grain warehouse license that expires September 30, 2022, unless used in manner inconsistent with Nebraska Statutes and the Rules and Regulations of the Commission.

¹⁰ 291 Neb. Admin. Code § 08-002.05B

¹¹ 291 Neb. Admin. Code § 08-002.05C. *See also* Neb. Rev. Stat. § 88-530.

¹² 291 Neb. Admin. Code § 08-002.06A.

¹³ 291 Neb. Admin. Code § 08-002.06C.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. GW-2199

Page 4

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 28th day of September, 2021.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rob Johnson
Crystal Brader
Mary Kiddy
Tim Schram

Don Watson
Chair

ATTEST:

Shanice Khutson
Deputy Director