

# SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Hawkeye ) Application GD-2903  
Commodities Company, Grimes, )  
Iowa, seeking a Waiver of the ) ORDER GRANTING WAIVER OF  
Commission's Rules And ) THE COMMISSION'S NET WORTH  
Regulations regarding Net Worth ) REQUIREMENTS  
Requirements For Grain Dealers )  
and to retain their Grain Dealer )  
License in the State of Nebraska ) Entered: March 22, 2011

BY THE COMMISSION:

### OPINION AND FINDINGS

Hawkeye Commodities Company ("Hawkeye"), Grimes, Iowa, seeks a continuation of the waiver of the Nebraska Public Service Commission's ("Commission") Rules and Regulations regarding Net Worth Requirements previously granted in orders issued on June 19, 2007, March 25, 2008, March 24, 2009 and March 30, 2010 to retain a Grain Dealer license in the State of Nebraska.

Hawkeye has been licensed in Nebraska as a Grain Dealer for in excess of twenty (20) years. In early 2006, Hawkeye was purchased by new owners. Consistent with the terms of the June 19, 2007 order, Hawkeye provided interim financial statements, maintained a \$500,000 letter of credit and has provided an audited year-end financial statement. Hawkeye's request to continue the waiver previously granted of the net worth requirements set forth in the Commission's Grain Dealer Rules and Regulations, Title 291, Chapter 8, Section 003.03H without the requirement of providing interim financial statements was granted on March 25, 2008. Hawkeye has since provided a \$500,000 security bond in lieu of an irrevocable letter of credit.

All of the financial statements have been satisfactory. Although the financial statement for 2008 year end showed a negative working capital, the Company maintained a \$3,000,000 line of credit. Hawkeye has continued to maintain the \$500,000 bond. However in 2010, the Commission staff recommended that based upon their financial statements over the past few years and the fact that the company has maintained a \$3,000,000 line of credit, the \$500,000 bond can be reduced to \$300,000.

Based on the information available, Hawkeye's compliance during the past year, and the Commission's investigation, the Commission finds that the new worth requirement shall be waived for Hawkeye for the license period of April 1, 2011 to March 31,

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2012 and Hawkeye shall be allowed to conduct operations as a Grain Dealer in the State of Nebraska on the following conditions: Hawkeye must maintain a bond in the amount of \$300,000. Hawkeye shall continue to file an audited year-end financial statement. In addition the Commission will, at a minimum, review this waiver on an annual basis. Should Hawkeye's audited financial statements raise concerns, the waiver may be revoked or other conditions imposed. Hawkeye's financial statement for the 2010 year end is not due to be filed until March 31<sup>st</sup>. This order is issued with the understanding that should the 2010 financial statement raise any concerns, the Commission may reinstitute the requirement for greater bond or mandate an additional condition.

The Commission's waiver of the net worth requirement is done in order to aid the agency and with the additional requirements imposed on Hawkeye does not prejudice any other party. The Commission's waiver in this case is unique to the situation and should the situation change the Commission may rescind this waiver at any time.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Hawkeye Commodities Company of Grimes, Iowa, is hereby allowed to conduct operations as a Grain Dealer in the State of Nebraska subject to the conditions set forth herein upon renewal of its license.

IT IS FURTHER ORDERED that Hawkeye Commodities Company is directed to maintain a bond in the amount of \$300,000, consistent with the terms and conditions of this order.

IT IS FURTHER ORDERED that Hawkeye Commodities Company is directed to file an audited year-end financial statement.

IT IS FURTHER ORDERED that the granting of this waiver shall be reviewed by the Commission annually prior to the renewal of Hawkeye's license however the Commission may rescind this waiver at any time based upon any concern.

IT IS FINALLY ORDERED that this waiver is limited to the facts and circumstances of this particular case and carries no other precedential value.

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MADE AND ENTERED at Lincoln, Nebraska, this 22<sup>nd</sup> day of March, 2011.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCUCRRING:



//s// Frank E. Landis  
//s// Tim Schram



Chairman

ATTEST:



Executive Director