

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. GD-2992
Richardson International (US))
Limited, Winnipeg, Manitoba, Canada)
seeking a waiver of 291 NAC 8 §) GRANTED
003.03 to utilize International)
Financial Reporting Standards.) Entered: March 31, 2015

BY THE COMMISSION:

On March 2, 2015, Richardson International (US) Limited (RIL), of Winnipeg, Manitoba, Canada, filed a request with the Nebraska Public Service Commission (Commission) to submit financial statements for relicensing its grain dealer license in accordance with International Financial Reporting Standards (IFRS). Such a request, if granted, would require a waiver of Title 291 Nebraska Administrative Code, Chapter 8, § 003.03.

RIL is a fully owned subsidiary of Richardson International Limited (Parent), a privately owned Canadian company. RIL utilizes the financial statement of Parent for licensing purposes. Parent utilizes IFRS, a widely accepted international accounting standard for its financial books and records and prepares all its financial documents to that standard and not the US Generally Accepted Accounting Principles (US GAAP), utilized by companies in the United States.

RIL and Parent state they would incur significant financial cost to have all the financial documents and reports of Parent redone in US GAAP from IFRS. Applicant further states the US GAAP and IFRS are becoming more consistent in most areas and standard setters for both the US GAAP and IFRS have been working together toward a convergence of accounting standards since 2002. Additionally, RIL states that in 2007, the US Securities and Exchange Commission (SEC) adopted a rule allowing foreign private companies to file financial statements prepared in accordance with IFRS instead of US GAAP.

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

Neb. Rev. Stat. § 75-903(5) requires applicants for a grain dealer license to provide a financial statement, "prepared in accordance with accounting principles generally accepted."¹ Commission Rule § 003.03 includes an additional requirement, more stringent than the Grain Dealer Act², stating, "the financial statement must be prepared in accordance with accounting principles generally accepted in the United States."³

¹ Neb. Rev. Stat. § 75-903(5) (Reissue of 2009).

² See Neb. Rev. Stat. § 75-901 et. seq. (Reissue of 2009).

³ 291 NAC 8, § 003.03 (2014).

The Nebraska Supreme Court has found administrative agencies are permitted to depart from their own regulations if circumstances warrant.⁴ Such circumstances include when in a given case the ends of justice require it and where the rules were intended to govern agency procedures rather than protect any interest of an objecting party.⁵

The rule in question is more restrictive than its corresponding statute, does not affect the interest of any other party, and would create a significant financial burden to the applicant due to the cost of reworking all the financial books of an international company.

RIL's financial statements prepared in accordance with IFRS comply with the Grain Dealer Act, as they are prepared in accordance with generally accepted accounting practices. According to the financial review conducted by Commission staff, the financial fitness and credit fitness of Parent is very strong. Further review of the financials prepared in accordance with IFRS show no significant departures or concerns as compared to US GAAP. The staff analysis shows financial fitness far in excess of the requirements of the Grain Dealer Act and Commission rules to be a licensed grain dealer.

In consideration of the request, and being fully informed, the Commission finds Rule 003.03 is a rule intended to govern agency procedures and it has the discretion to waive the rule for administrative efficiency and the ends of justice. The Commission hereby grants a limited waiver of Rule 003.03 of its Grain Warehouse Rules and Regulations to RIL and will accept financial statements prepared in accordance with IFRS to enable RIL to renew its grain dealer license in 2015.

⁴ See In re Application of Jantzen, 245 Neb. 81, 90, 511 N.W.2d 504 (1994).

⁵ *Id.*

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a limited waiver of Rule 291 NAC 8, § 003.03 be and is hereby granted Richardson International (US) Limited and the Commission will accept financial statements prepared in accordance with International Financial Reporting Standards for purposes of grain dealer licensing of Richard International (US) Limited in 2015.

IT IS FURTHER ORDERED that should Richardson International (US) Limited desire to submit financial statements prepared in accordance with International Financial Reporting Standards in a subsequent license year, it must reapply for a waiver to do so from this Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 31st day of March, 2015.

NEBRASKA PUBLIC SERVICE COMMISSION



Chairman

ATTEST:


Executive Director

COMMISSIONERS CONCURRING:



//s//Frank E. Landis

//s//Gerald L. Vap