

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

DENNIS & LYNNETTE HOCHSTEIN,) FORMAL COMPLAINT No. 1267
Hartington, Nebraska,)
) AMENDED COMPLAINT
Complainant,)
)
vs.)
) Entered: April 5, 2000
Belden Grain & Feed, Inc.,)
Belden, Nebraska,)
)
Respondent.)

BY THE COMMISSION:

On December 7, 1998, Dennis and Lynnette Hochstein, Hartington, Nebraska, ("Complainants") filed a formal complaint against Belden Grain & Feed, Inc., Belden, Nebraska, ("Respondent") alleging that the Respondent issued unlawful scale tickets. A copy of the letter registering the formal complaint is part of the record. Pursuant to Rules of Commission Procedure, the Commission may hold a prehearing conference for, among other issues, "the necessity or desirability of amending pleadings either for the purpose of clarification, amplification, or limitation." *Title 291, Chapter 1, Rule 020.01B*. On March 28, 2000, a prehearing conference was held in these proceedings in which the Commission found that the formal complaint should be amended to clarify (a) the statute allegedly in violation, and (b) the proper statutory reference regarding remedy. To conform with that finding, the Commission hereby adopts the following amendment to the original filed formal complaint by Complainants, to wit:

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"Prior to the 1998 grain harvest, Complainant made arrangements with Belden Grain & Feed to have their corn and soybeans picked up in the field by Respondent's trucks. Complainant also agreed to deliver some of their 1998 grain harvest to Respondent's facility for storage and possible sale.

The harvest crew hired by Complainant utilized a grain cart, which was equipped with load cells and a printer in the tractor to measure the amounts of grain being transferred from the grain cart to the semi. Throughout harvest, Complainant noticed a difference in the net weights from the grain cart scales and the Belden Grain & Feed scale tickets. This information caused the Complainants concern, but on October 23, 1998, Complainant received an anonymous letter saying, "DO YOU HAVE ANY IDEA HOW BADLY YOU'RE GETTING

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SCREWED ON BERNER'S SCALE?"

With this information, Complainant contacted the Nebraska Department of Agriculture to look into this matter. Prior to being delivered to Belden Grain & Feed, two loads of soybeans were preweighed on certified scales, other than those owned by Respondent. Both of the scale tickets from Belden Grain & Feed showed less grain than the first weights. With this information, Jeff Wild, an investigator from the Nebraska Department of Agriculture, watched as a Belden Grain & Feed semi truck, loaded with soybeans of the Complainant, pulled onto the scales at Belden Grain & Feed and weighed. When the truck started to leave the scale it was stopped and brought back to be weighed again. The second weight taken in the presence of Jeff Wild was 490 lbs. heavier than the weight stamped by Brian Berner on the original ticket. Complainant alleges a violation of Neb. Rev. Stat. § 88-535 (Reissue 1999) and prays for relief under Neb. Rev. Stat. § 88-546 (Reissue 1999)."

O R D E R



IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Formal Complaint of Dennis and Lynnette Hochstein should be, and is hereby, amended for purposes of clarification as described in our Findings above.

IT IS FURTHER ORDERED that a copy of this amended Complaint be delivered to all interested parties by this Commission.

MADE AND ENTERED in Lincoln, Nebraska on this 5th day of April, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

//s//Anne C. Boyle


Vice Chairman

ATTEST:


Executive Director