

STATE OF NORTH DAKOTA

IN DISTRICT COURT


COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

_____	)	
Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
	)	
Petitioner,	)	
	)	
vs.	)	
	)	REQUEST TO KEEP
Falkirk Farmers Elevator Co.	)	CASE OPEN
	)	
Respondent.	)	
_____	)	
PSC Case No. GE-12-769	)	
	)	
_____	)	

1. The Public Service Commission as Trustee in this warehouse insolvency, respectfully requests that this case remain open.
2. The insolvency proceeding involves claims under both North Dakota Century Code section 60-04-03.1, payable if valid from the Trust Fund, and North Dakota Century Code Section 60-10-05, payable if valid from the Credit-Sale Contract Indemnity Fund.
3. There exists pending federal litigation between the insolvent warehouse and the Public Service Commission's only claimant asserting a claim to the assets of the Trust Fund. This federal litigation is in its early stages, and involves substantial factual and legal issues that must be resolved before the Commission can make a recommendation on the claim involving the Trust Fund, the need for bond proceeds, and any resulting distribution of the Trust Fund assets. The pending federal litigation does not affect the claims against the Credit-Sale Contract Indemnity Fund.

4. Consequently, the Public Service Commission will soon formally consider staff's recommendation that the Commission ask the Court to bifurcate the proceeding to allow and approve final resolution of the Credit-Sale Contract Indemnity Fund portion of the proceeding, with payment to valid credit-sale contract claimants, while the Trust Fund portion remains open. If the Public Service Commission agrees with the staff recommendation, a corresponding motion and a First Report and Recommendation, with supporting documents, will be filed with District Court shortly thereafter.
5. Respectfully submitted at Bismarck, North Dakota, this 17<sup>th</sup> day of December 2013.

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