



COMMONWEALTH OF PENNSYLVANIA
MILK MARKETING BOARD

Official General
Order No. A-898

Posted: Sept. 25, 1998
Effective: Nov. 1, 1998

OVER-ORDER PREMIUM

NOW, this 25th day of September 1998, the Commonwealth of Pennsylvania, Milk Marketing Board (Board) issues this official general order pursuant to the authority conferred by the Milk Marketing Law, 31 P.S. §§ 700j-101 - 700j-1204. This order will become effective at 12:01 a.m. on November 1, 1998.

SECTION I

The attached Findings of Fact and Conclusions of Law are incorporated herein by this reference as though fully set forth in this order.

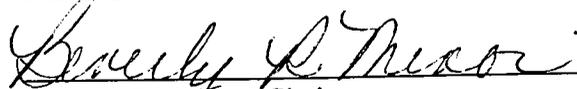
SECTION II

The official general price orders for all milk marketing areas are amended by reducing the over-order premium from \$.80 per hundredweight to \$.50 per hundredweight. The over-order premium shall apply only to Class I milk produced, processed, and sold in Pennsylvania. Milk dealers shall show by line item on their monthly statements to independent producers and cooperatives the specific amount of the over-order premium being paid.

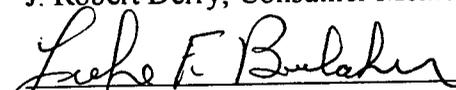
SECTION III

All parts of Official General Order No. A-893 not inconsistent with this order continue in effect.

PENNSYLVANIA MILK MARKETING BOARD


Beverly R. Minor, Chairwoman

J. Robert Derry, Consumer Member


Luke F. Brubaker, Member

FINDINGS OF FACT AND CONCLUSIONS OF LAW

OVER-ORDER PREMIUM HEARING

September 4, 1998

I. FINDINGS OF FACT

1. On September 4, 1998, the Pennsylvania Milk Marketing Board (Board) convened a hearing for all milk marketing areas to receive evidence concerning whether to adjust the level of the over-order premium. Pursuant to Official General Order A-897, the premium was scheduled to be reduced from \$.80 per cwt. to \$.50 per cwt. on November 1, 1998.
2. Notice of the hearing was published at 28 Pennsylvania Bulletin 3565 on July 25, 1998, and was mailed to those on the Board's interested persons list by means of Bulletin No. 1270, dated July 8, 1998. (PMMB Exhibits 1 and 2)
3. Dairy farmers are not now experiencing emergency conditions comparable to severe drought or soaring fuel prices, which prompted the Board in the past to establish over-order premiums. Prices for Class I milk are good and feed grain prices are favorable. However, an emergency does exist with regard to the financial viability of Pennsylvania dairy farmers. (N.T. 36 - 38, 112 - 13, PMMB Exhibit 3)
4. Wholesale milk prices in Pennsylvania for the twelve-month period June 1997 - May 1998 averaged \$14.46 per hundredweight, 5.76% less than prices during the same time period a year ago. Producer prices have increased recently, however, allowing dairy farmers to recover some of their losses from late 1997 and early 1998. Milk prices for the first months of 1998 have been much higher than in 1997 and similar to prices in 1996. Current price levels are better than those received by dairy farmers in recent history. Notwithstanding the upswing in prices, most farmers continue to retire old debt incurred in 1997 and are still struggling to maintain their farms. (N.T. 27, 31, 41 - 42, 53 - 54, 55 - 56, 56 - 57, 58, PFU Exhibit 1, PFB Exhibits 1 and 1A)
5. In general, costs of production are much lower than in 1996 and somewhat lower than in 1997. For the twelve-month period ending June 30, 1998, production costs of Pennsylvania dairy farmers averaged \$13.91 per cwt., 10.1% less than production costs a year ago. The simple average of production costs for the second quarter of 1998 was \$14.11 per cwt., compared with \$15.60 for 1997, a 9.5% decrease. These production figures include estimated costs of unpaid owner-operator and family labor. However, they do not include costs for

management or equity capital, or possible changes in inventory values of either capital or noncapital assets or liabilities not accounted for by reported depreciation. When these factors are recognized, producer income is below the cost of production. (N.T. 57, 60 - 61, 80 - 81, 87, 123 - 24, Exhibits PFU 1 and PFB 1)

6. The price of dairy feed is lower this year than in 1997. The National Agricultural Statistics Service (NASS) estimated in July 1998 that Pennsylvania dairy farmers could buy corn for \$2.60 a bushel, compared with \$3.03 in 1997. In July the average price nationwide for soybeans, according to NASS, was \$6.13 a bushel,¹ compared with \$7.52 in 1997. Soybeans are a proxy for soybean meal, which is a common protein supplement for dairy feed. NASS figures for alfalfa hay sold in Pennsylvania show a decrease from an average of \$134 a ton in 1997 to \$128 a ton in 1998. (N.T. 124)
7. Costs of production are not expected to change significantly during the next six to twelve months. (N.T. 87 - 88)
8. Calculations using a profit margin of 3.5%, a total cost of production of \$17.30 per cwt.--including cost for management using data for 1997 and cost for interest on equity at a return rate of 6% using data for 1995, the most recent data available--and a hundredweight price of \$14.51 for the twelve months ending June 1998 show a loss to the average producer of \$2.79 per hundredweight. (N.T. 80 - 85, PFB Exhibits 3 - 7)
9. Milk production in Pennsylvania during the second quarter of 1998 was 2.86 billion pounds, a 3% increase over production during the comparable period in 1997. Average production per cow for the quarter was 4505 pounds, 145 pounds above production in the first quarter of 1997. Total milk cows during the quarter averaged 635,000 head, 2000 head fewer than the average during the first quarter of 1998. In 1997 milk production in Pennsylvania increased by about the same rate, approximately 1%, as the national average. During the first half of 1998, however, production in Pennsylvania increased by 4.5% compared with the national rate of 0.8%. (N.T. 57 - 58, 64 - 65, 127, PFU Exhibit 1, PFB Exhibits 1 and 1A, LOL Exhibit 1 (p. 5))
10. Market indicators suggest that milk prices will decline this fall. Although a decline appears to be inevitable, how soon and how far prices will drop remains uncertain. Land O'Lakes estimates that blend prices in Federal Milk Marketing Order 4 for the remainder of 1998 will be as follows: August, \$15.41;

¹ Although the witness did not identify the quantity to which the soybean prices referred, the Board's familiarity with dairy feed pricing includes knowledge that soybeans are sold by the bushel.

September, \$16.49; October, \$16.43; November, \$15.89; December, \$15.23.
(N.T. 71 - 72, 86 - 87, 125 - 26)

11. During January through May 1998, in-state sales by Pennsylvania milk dealers decreased by 25 million pounds, or 2.8%, compared to the same period in 1997. During those same five months, in-state sales by out-of-state milk dealers remained constant with sales levels in 1997. (N.T. 128, LOL Exhibit 1 (graphs 1 and 2))
12. Dairy farmers in nearby states have had mixed success in negotiating premiums in excess of federal order minimums. Since 1997 the Northeast Dairy Compact has set a Class I price of \$16.94 in Boston. The effective premium in the Compact states is the difference between that price and the monthly federal order Class I price. In September 1998 the Class I price in Boston will be higher than \$16.94; thus there will be no Compact premium. In New Jersey an over-order premium based on a Class I price of \$16.89 expired in July 1998. In North Carolina the July-August over-order premium was \$1.30 per cwt., which is scheduled to be reduced to \$1.15 in September owing to the rising federal order Class I price. In western Ohio the net Class I premium is currently \$.95 per cwt. (N.T. 128 - 30)
13. Since the over-order premium in Pennsylvania was reduced to \$.80 per cwt., local over-order premiums outside Pennsylvania have remained constant. The Middle Atlantic Milk Marketing Agency (MACMMA), a group of dairy cooperatives organized as a marketing agency-in-common, has generally adjusted Class I premiums in surrounding markets to reflect changes in the Pennsylvania price. MACMMA members include Land O'Lakes, Dairy Farmers of America, and Maryland and Virginia Milk Producers Cooperative. (N.T. 130 - 31)
14. Factors to consider in establishing an over-order premium include the relationship between producer prices and cost of production; future trends in milk prices and production costs; milk production and sales trends within Pennsylvania; the effect of the premium on relative market conditions, that is, whether the level of the premium would disadvantage Pennsylvania milk in a competitive marketplace, particularly with regard to bordering states; and the effect of the premium in increasing supply and possibly creating downward pressure on prices. (N.T. 85, 102, 104, 131)
15. A reduction of the over-order premium from \$.80 per cwt. to \$.50 is justified in light of increases in the price of milk. Maintenance of a \$.50 premium is justified in light of producers' continuing struggle to recapture losses incurred during the last three years and anticipated declines in milk prices. A \$.50 premium will not have a negative impact on Pennsylvania's ability to compete with surrounding

states and will have no more than a negligible effect on supply.² (N.T. 28, 41 - 42, 58, 90, 103 - 04, 155 - 56)

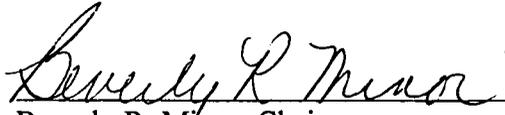
II. CONCLUSIONS OF LAW

1. The September 4, 1998, hearing on the over-order premium was held pursuant to authority granted the Board in sections 801 and 803 of the Milk Marketing Law, 31 P.S. §§ 700j-801 and 700j-803.
2. The hearing was held following adequate notice, and all interested persons were given a reasonable opportunity to be heard. (Finding of Fact 2)
3. A preponderance of credible evidence establishes that the current over-order premium of \$.80 per cwt. should be reduced to \$.50 per cwt.
4. All parts of Official General Order No. A-893 not inconsistent with the new order shall continue in effect.
5. In accordance with Official General Order No. A-897, the over-order premium shall continue to apply only to Class I milk produced, processed, and sold in Pennsylvania.

² The Board acknowledges the testimony of the expert witness for Land O'Lakes, Dennis Schad, who recommended a premium of \$.40 owing to the method of distribution used by the Board (*see* PMMB Exhibit 2, p. 2 and OGO A-893, Section II(c) for an explanation of how the premium is calculated). Mr. Schad testified that "there's an uncertainty level of how the 50 cents goes back to dairy farmers based on fluctuating Class I and Class II at dealer levels. Because of that uncertainty, I'm hard-pressed to tie down a number." (N.T. 131 - 33, 140) The Board does not find in the record, however, evidence showing that Mr. Schad's concerns over distribution would be alleviated by a \$.40 premium as compared with a \$.50 premium. Mr. Schad testified, in fact, that he had no objection to a premium of \$.50 should the Board find that level appropriate. (N.T. 150)

6. In accordance with Official General Order No. A-897, milk dealers shall continue to show by line item on their monthly statements to independent producers and cooperatives the specific amount of the over-order premium being paid.

PENNSYLVANIA MILK MARKETING BOARD



Beverly R. Minor, Chairwoman

J. Robert Derry, Consumer Member



Luke F. Brubaker, Member

Dated: September 25, 1998

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