



**Commonwealth of Pennsylvania**  
Milk Marketing Board  
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Official General  
Order No. A-955

Posted: August 20, 2008  
Effective: September 1, 2008

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**FLAVORED 0.5% MILKFAT MILK**

NOW, this 20<sup>th</sup> day of August 2008, the Commonwealth of Pennsylvania, Milk Marketing Board (Board) adopts and 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 September 1, 2008.

**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 Board will not establish a price for flavored 0.5% milkfat milk.

PENNSYLVANIA MILK MARKETING BOARD

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Richard Kriebel, Chairman

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Luke F. Brubaker, Member

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Barbara A. Grumbine, Consumer Member

Date: August 20, 2008

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**FLAVORED 0.5% MILKFAT MILK**  
**JULY 2, 2008**

FINDINGS OF FACT

1. On July 2, 2008, the Pennsylvania Milk Marketing Board (Board) convened a hearing for all milk marketing areas to receive testimony and evidence concerning whether to establish a price for flavored 0.5% milkfat milk.
2. Notice of the hearing was published at 38 Pennsylvania Bulletin 3342 on June 14, 2008, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1431, dated June 10, 2008.
3. Robert Mertz testified on behalf of Schneider Dairy. Mr. Mertz is the Director of Sales for Schneider – Valley Farms Dairy. Mr. Mertz requested that the Board establish a price for 0.5% butterfat flavored milk. He testified that as Director of Sales he has had inquiries for that product from school districts. Mr. Mertz testified that school districts were looking for lower fat products for their students. He also testified that the product would benefit school districts and students financially through a savings of \$0.0038 on butterfat per half pint; Mr. Mertz noted that the savings would be considerable when buying thousands of half pints for a school year. Mr. Mertz further testified that the product tastes good. He also testified that customers would in effect be overcharged by placing the 0.5% butterfat product in the low fat category, because the low fat category also contains 1% butterfat and 2% butterfat products.
4. Mr. Mertz acknowledged that he was not certain that school districts would pass on to students any savings from a 0.5% product. Mr. Mertz also testified that in the low fat flavored category units of 1% butterfat milk predominate, so that is the product driving the price. Mr. Mertz predicted that schools would continue moving from higher fat to lower fat milks and that there would be more movement from 1% to 0.5% products.
5. Patty Baresse testified that 0.5% flavored milk provides nutritional and financial benefits. Ms. Baresse is a Regional Dietitian for the Nutrition Group. Ms. Baresse testified that 1% chocolate milk accounts for approximately 75% - 80% of the milk served daily in the majority of the school districts for which the Nutrition Group manages meals. She testified that it would be beneficial from a nutritional standpoint to offer 0.5% chocolate milk, since it contains less calories, fat, and sugar while still contributing the same amount of calcium. Ms. Baresse acknowledged that the benefits from offering the lower fat product assumed that children would like the lower fat product just as much as they like the higher fat product, but testified that she had tasted the lower fat product and she had students taste the lower fat product and believed that the students would accept it. She also testified that Pennsylvania Department of Education Nutrition Standards encouraged the consumption of lower fat milk products.

6. Ms. Baresse testified that 0.5% chocolate milk can also have an economic benefit to consumers. She assumed that the cost of 0.5% chocolate milk would be lower than 1% chocolate milk. Ms. Baresse testified that by keeping costs low, school districts can limit increases in milk and meal prices and pass savings on to the parents.
7. Gloria Clawson, Director of Food Service for the Connellsville Area School District, testified that she would be willing to try 0.5% fat half pint milk for her school district. She also testified that it was her understanding that there would be a cost savings associated with the 0.5% product.
8. Carl Herbein testified on behalf of the Pennsylvania Association of Milk Dealers as an expert in milk cost accounting. Mr. Herbein testified that the following were reasons to not establish a price for flavored 0.5% milkfat milk:
  - a. the introduction of additional products in a dairy plant causes an increase in per unit costs due to increasing nonproductive time due to change-overs at the processing equipment cost center;
  - b. having more stock keeping units (SKUs) in the cold room increases the cost and decreases the efficiency of picking orders and loading trucks;
  - c. the bidding process in Pennsylvania for institutional and school milk is complicated today and the introduction of more SKUs will further complicate the process;
  - d. Board reporting forms and analytical spreadsheets will require change and administrative time to accomplish the changes at the Board Staff level;
  - e. the present system of supplying dairy products to schools and institutions appears to be working properly with little or no complications.
9. Mr. Herbein also testified that the Board uses the weighted average of the ingredient costs of all flavors to determine the correct minimum prices for flavored milk in each Milk Marketing Area, despite significant differences in ingredient costs among the various flavors. This results in all flavors being priced at the same price in each Area. Mr. Herbein opined that the Board should similarly continue to use the weighted average of butterfat tests to price all butterfat tests of reduced fat flavored milks at the same price in each Area.

Mr. Herbein explained that if sales of 0.5% flavored milk increase, it would result in the weighted average butterfat tests decreasing, thus leading to the raw milk component of the cost also decreasing. He noted that a process of converting from a preference for higher fat products to lower fat products has been ongoing. Mr. Herbein testified that at one time 2% flavored milk was dominant but that now 1% milk accounts for 75% - 80% of the market and that the Board pricing system in no way hindered that from

happening. Mr. Herbein opined that it was preferable to let such a normal transition occur regarding 0.5% flavored milk.

10. Noting that he had heard no testimony that any studies had been done regarding the actual cost difference between 0.5% flavored milk and other flavored milks, Mr. Herbein testified that such a study should be done in order for the Board to properly price 0.5% flavored milk. He testified that raw milk costs are only part of the equation and that processing costs and delivery costs would increase when an additional SKU is added at a plant. Mr. Herbein further testified that when fat is removed from a product, skim must be added; otherwise containers would be short-filled.
11. Reid Ritchey testified on behalf of Ritchey's Dairy, Inc. Mr. Ritchey testified that the Board should price 0.5% flavored milk in the current low fat category. He testified that establishing a separate price would create chaos in the Pennsylvania dairy industry. Mr. Ritchey also expressed doubt that pricing 0.5% flavored milk based on the reduced butterfat would capture other costs associated with processing the product. Mr. Ritchey testified that he had no requests for 0.5% flavored milk.
12. Carl Colteryahn, President of Colteryahn Dairy, testified that the Board should not establish a separate price for 0.5% flavored milk. Mr. Colteryahn testified that adding SKUs increases the overall cost of doing business. Mr. Colteryahn testified that the increased costs associated with adding SKUs included losing efficiencies associated with large runs, product make-up time costs, storage tank issues, filler changeover time costs, product waste between changeovers, additional inventory costs, and picking and loading costs. Mr. Colteryahn believed that those costs would grossly outweigh the butterfat savings.
13. David DeSantis testified on behalf of Board Staff. He testified that Board Staff could handle the administrative tasks necessary to establish a price for flavored 0.5% milkfat milk.
14. The Board finds that a separate cost for flavored 0.5% milkfat milk should not be established. In so finding, the Board finds the testimony of Mr. Herbein, Mr. Ritchey, and Mr. Colteryahn more persuasive than the testimony of Mr. Mertz, Ms. Baresse, and Ms. Clawson.

While we found the testimony of all of the witnesses to be credible, the Board is most concerned that no study was undertaken to determine the actual costs of flavored 0.5% milk. Mr. Ritchey, Mr. Colteryahn, and Mr. Herbein all provided uncontradicted testimony that there would be costs associated with the product beyond the cost of the butterfat. Without knowing these costs, we do not believe that we can properly establish a minimum price.

15. The Board also notes that nothing prevents any dealer from offering flavored 0.5% milk to its customers. We believe that if the market prefers flavored 0.5% milk, dealers will provide it and the natural conversion described by Mr. Herbein will occur. The Board

finds that such a natural conversion will allow the costs associated with providing flavored 0.5% milk to be properly captured in minimum prices.

CONCLUSIONS OF LAW

1. The July 2, 2008, hearing was held pursuant to the authority granted to the Board in sections 801 and 803 of the Milk Marketing Law (Law), 31 P.S. §§ 700j-801 and 700j-803.
2. The hearing was held following adequate notice and all interested parties were given a reasonable opportunity to be heard.
3. In adopting this order, the Board considered the entire record and concludes that the order is supported by a preponderance of credible evidence and is reasonable and appropriate under sections 801 and 803 of the Law.
4. The attached order may be amended pursuant to the procedures set out in section 801 of the Law.

PENNSYLVANIA MILK MARKETING BOARD

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Richard Kriebel, Chairman

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Luke F. Brubaker, Member

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Barbara A. Grumbine, Consumer Member

Date: August 20, 2008

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