

**BEFORE THE PENNSYLVANIA MILK MARKETING BOARD  
OVER-PRICE PREMIUM HEARING, 2<sup>nd</sup> PART  
ALL MILK MARKETING AREAS**

**June 4, 2014**

**Testimony by Troye A. Cooper**

**Presented on behalf of the Greater Northeast Milk Marketing Agency:  
Dairy Farmers of America, Inc., Dairy Marketing Services, LLC,  
Land O'Lakes, Inc.,  
Maryland & Virginia Milk Producers' Cooperative Association, Inc. and  
Upstate-Niagara Cooperative, Inc.**

My name is Troye Cooper. My business address is 1985 Isaac Newton Square West, Reston, Virginia 20190. I am currently employed by Maryland & Virginia Milk Producers' Cooperative Association, Inc. as Director of Milk Marketing. In that position I am responsible for the day-to-day milk marketing operations in Maryland & Virginia's Federal Order 1 marketing area including customer management, overseeing field services and leading membership growth. My resume is attached and describes my educational and professional background and previous experience. I would like to specifically point out that in my career I have worked in field procurement for a proprietary independent Pennsylvania dealer/handler and currently for a cooperative handler with more than 50% of its member farms located in Pennsylvania. I am very familiar with the identical costs that are incurred by each to procure milk and provide field, lab, handling and balancing services to Pennsylvania producers. I am also very familiar with how premiums are determined and paid by dealers to independent non-member dairy farmers in Pennsylvania and how premiums are determined and paid by dealers to dairy cooperatives.

I want to thank this Board for the opportunity to testify on behalf of Maryland & Virginia, and the Greater Northeast Milk Marketing Agency

(GNEMMA), in support of our initial request for this hearing dated May 17, 2013 proposing the termination of the over-price premium orders OGO-A-913 and OGO-A-925 with substitute solutions. We believe that a decision in favor of eliminating the over-price premium from the minimum resale price build-up (including elimination from the monthly Minimum Resale Prices announcement sheet) would be favorable to all interested segments of the Pennsylvania dairy industry.

We have heard loud and clear from the Pennsylvania Milk Dealers in both the December 2012 over-order premium hearing and the May 2013 over-order premium hearing that there had been a disparity in premiums between what processors outside of Pennsylvania had paid for Class I milk and what processors inside of Pennsylvania paid for Class I milk. It was very clearly pointed out by Rob Blaufuss in his testimony submitted on May 7, 2013 that in fact there is a “trio of premiums” that contribute to this disparity. He well identified that this “trio of premiums” includes the mandatory Class I over-order premium, the mandatory fuel adjuster, and the ‘voluntary’ over-price premiums paid by Pennsylvania dealers which are built into the wholesale minimum price.

This Board took action in addressing the first of the three components

of the “trio of premiums” with the June 19, 2013 issuance of OGO-A-982 reducing the mandatory Pennsylvania Class I over-order premium by 25 cents (down from \$1.85 to \$1.60) effective July 1, 2013 through December 31, 2013 and the continuation of this lower level premium by issuing OGO-A-984 effective January 1, 2014 through September 30, 2014.

To address the second component of the “trio of premiums” this Board also took very drastic action with the June 19, 2013 issuance of OGO-A-983 which revamped the fuel adjuster formula, resetting the baseline fuel price and effectively reducing the mandatory Fuel Adjuster on Pennsylvania Class I milk by 55 cents (from \$0.80 to \$0.25) effective July 1, 2013 and continuing.

These adjustments net to a combined reduction in premiums paid to Pennsylvania dairy farmers equal to \$0.80 per hundredweight for their Class I milk which is processed and sold in Pennsylvania. We believe Pennsylvania dairy producers have sacrificed about as much of a reduction in premium as they can tolerate in order to help reinvigorate the overall dairy industry, and more specifically to improve the collective position of Pennsylvania dealers in the competitive Class I marketplace.

It is now necessary for this Board to take further action to address the

third of the “trio of premiums” which is the ‘voluntary’ over-price premium that is incorporated in the wholesale minimum price build-up. It is easy to understand how this additional premium might cause heartburn to a customer who would be evaluating competing bids from a Pennsylvania dealer against an out-of-state dealer. This is a glaring line item over and above the already higher regulated Class I over-order premium (footnoted with fuel adjustment) on the Monthly Minimum Resale Prices announcement that is circulated by the Board each month. Mr. Blaufuss also supports this concern in his May 7, 2013, testimony where he correctly pointed out that: “The over-price premium is not some insignificant amount either. Between January 2010 and May 2013 the monthly over-price premium, after deducting the 20 cents for fluid milk promotion, has ranged between \$0.43/cwt and \$0.57/cwt for Area 1 and \$0.11/cwt and \$0.46/cwt for Area 5.” For comparison purposes, in February 2014, after deducting the 20 cents for fluid milk promotion, the over-price premiums remain “not insignificant” at \$0.29/cwt for Area 1 and \$0.40/cwt for Area 5. I am prepared to discuss why this over-price premium should be removed from the wholesale minimum price buildup and why this line should be removed from the Monthly Minimum Resale Prices announcement altogether.

Within the over-price premium today, there are essentially three components that make up the total. The first component is the \$0.20 per hundredweight MilkPEP Fluid milk promotion assessment. This is, in fact, anything but 'voluntary' because all fluid processors (including Pennsylvania dealers) are required to pay this \$0.20 per hundredweight assessment by law. GNEMMA supports<sup>1</sup> the proposal to remove from the over-price premium the \$.20/cwt assessment which dealers pay pursuant to the Federal Fluid Milk Promotion Act. We support the proposal that the \$.20 payment should be shown as a footnote to the price sheet, similar to the manner in which it was illustrated by Board Staff at the November 6, 2013 Hearing.

The remainder of the over-price premium for each area is any and all amounts paid to independent producers or cooperatives in excess of the blended value of regulated mandatory Class I over-order premium and fuel adjuster for Pennsylvania produced milk that is processed and distributed in Pennsylvania so long as such payments are not specifically designated to another class (including out-of-state Class I).

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<sup>1</sup> See GNEMMA Letter Reply Brief, All Milk Marketing Areas Over-Price Premium, November 6, 2013 Hearing, dated January 10, 2014.

To better understand these over-payments, we need to break them down into two types. First are the amounts that cooperatives may charge to reflect costs for milk procurement, field, lab, handling and balancing services, sometimes identified as “service and handling” charges or just “premiums.” It is indisputable that cooperatives provide these services when supplying PA Class I milk to Pennsylvania Class I dealers. GNEMMA believes that these costs should not be represented, reflected and recovered as a ‘voluntary’ over-price premium, but rather should be built into the cost/price build up in the same manner that Pennsylvania dealers with non-member producers represent, reflect and recover these identical costs. Currently dealers with independent milk are able to include all of their milk procurement, field, lab, handling and balancing services into the cost base for wholesale and retail minimums. Milk which is delivered to Pennsylvania dealer plants in a tailored supply by Pennsylvania cooperatives has identical milk procurement, field, lab, handling, and balancing costs. GNEMMA has engaged Reinsel Kuntz Leshner, LLP (“RKL”) to capture, quantify and aggregate these costs and John Stoner, CPA has provided further testimony to verify and validate these costs of the cross-section GNEMMA member cooperatives that were studied. We propose that these quantified, verified and validated costs be required to be

invoiced by cooperatives to dealers. The receiving dealer shall then represent these costs of milk procurement, field, lab, handling and balancing services in their financial reports in the same section that they report identical costs of their own, and recover these costs in the same manner.<sup>2</sup>

The final element of the current over-price premium and by far the most convoluted, consists of any and all amounts, (other than the MilkPEP assessment and cooperative service and handling charges) paid to independent producers, or cooperatives, in excess of the blended value of regulated mandatory Class I over-order premium and fuel adjuster for Pennsylvania produced milk that is processed and distributed in Pennsylvania, so long as such payments are not specifically designated to another class, or non-PA use. These premiums are indeed market-driven and sometimes negotiated.

The illogic of the current over-price premium calculation of these additional premiums can be summed up with this question: When the market rate producer **BLENDED premium** for all classes is just over \$1.00

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<sup>2</sup> An adjustment will need to be made in the cross-section build up to account for the fact that this charge is only on produced-processed-and-sold Class I volumes supplied by cooperatives.

(GNEMMA Exhibit 13), why would any buyer pay more than \$1.85 to attract more milk strictly for Pennsylvania Class I processing and distribution?

The answer is that no rational buyer would pay more for those volumes. And a regulation which implies that a buyer actually does pay more for those volumes should be reconsidered.

For purposes of identifying these actual overpayments for milk, we need to reflect upon what Pennsylvania dairy producers actually receive in their milk checks, commonly known as **BLENDDED premiums**. If the **BLENDDED premium** that a dairy producer receives is uncompetitive, a handler will need to add money to the **BLENDDED premium** in order to secure the needed milk for its plant REGARDLESS OF ITS CLASSIFICATION OF USE.

To demonstrate that over-price premiums are in fact only paid to a producer in order to generate a competitive **BLENDDED premium** and not specifically paid for PA Class I produced, processed and distributed milk, I have collected producer pay statements from producers who sell directly to licensed Pennsylvania milk dealers as independent producers, (GNEMMA Exhibit 15) for comparison. These producer pay statements were first collected for the over-order premium hearing of May 2013, when the combined mandatory Class I over-order premium and fuel adjuster was

announced at \$2.60. I have obtained updated pay statements from the same producers, and the point they demonstrate remains accurate today with the combined mandatory Class I over-order premium and fuel adjuster at \$1.85.

Plant 1 at 81.5% to 90.8% Class 1 (PA produced, processed and distributed) = **\$2.12 or \$1.68 BLENDED premium** (no over-price premiums paid);

Plant 2 at 44.2% to 45.6% Class 1 (PA produced, processed and distributed) = **\$1.15 or \$0.84 BLENDED premium** (no over-price premiums paid);

Plant 3 at 22.1% to 27.8% Class 1 (PA produced, processed and distributed) = **\$0.57 or \$0.51 BLENDED premium** - and an additional \$0.57 over-price premium was paid (designated as BST Premium=\$0.25, Quality Prem=\$0.07 and Volume Prem=\$0.25) to generate a competitive **BLENDED premium = \$1.14 or \$1.08**).

To me, this clearly shows that the need for a Pennsylvania dealer to pay ANY over-price premium over and above the mandated over-order premium and fuel adjuster is driven by the 'PA produced, processed and sold' utilization of the handler pool in order to generate a competitive

**BLENDED premium** to attract additional producer milk.

I have further analyzed how the producer blend for Plant 3 is built up on GNEMMA Exhibits 16 and 17. In Exhibit 16, the additional \$0.57 in over-price premiums paid by Plant 3 is not specifically identified to a class and therefore is applied proportionately to Class I Pennsylvania utilization as a fraction of all utilization. This calculation directly contributes to the over-price premium for the Area dealers of which this plant is part of the cross-section and gives the false perception that this extra premium is actually required to attract additional milk for Pennsylvania Class I processing and distribution.

Premiums and/or prices paid to producers, or cooperatives in excess of the regulated mandatory premiums are not necessarily for Pennsylvania produced milk that is processed and distributed in Pennsylvania without some erroneous assumptions and calculations. These “smoke and mirrors” assumptions translate to an artificially inflated cost that is then used in the minimum wholesale, and ultimately minimum retail, cost build-ups.

Further, as Exhibit 17 demonstrates, it can just as easily be argued that this \$0.57 over-price premium paid by Plant 3 may have been derived from the remaining 77.9% of sales in all other classes (out-of state Class I,

Class II, Class III and finally Class IV) of milk generating an average premium of \$0.73. In that case no portion of the \$0.57 should even be considered in the over-price premium or applied to Pennsylvania Class I at all. (GNEMMA Exhibit 17) In fact, using common logic, the exact opposite should apply. Since the regulated Class I premiums are the highest of all classes in Pennsylvania, any and all amounts (other than the MilkPEP assessment and cooperative service and handling charges) paid to independent producers, or cooperatives, in excess of the blended value (determined by a handler's PA Class I produced, processed and sold utilization), so long as such payments are not specifically designated to another class, should be allocated down to the next lowest class in order -- out-of state Class I, Class II, Class III and finally Class IV -- or spread evenly over all of those other classes until the premiums for all other classes are equal to or greater than the highest premium class of Pennsylvania Class I. Unless and until these premiums paid on other classes of use equal the PMMB Class I premium, GNEMMA proposes that the over-price premium calculation should be eliminated altogether.

In conclusion, I would like to reiterate the comments of this Board, stated in the Findings of Fact and Conclusions of Law from the Fuel

Adjuster Hearing which was conducted on May 22-23, 2013:

24. [In part] “The Board is concerned that a combination of factors has conspired to begin to adversely impact in-state sales by in-state dealers. Reduced in-state sales by in-state dealers has a negative impact on all segments of Pennsylvania’s dairy industry. We emphasize that we do not believe the mandated premiums are the only factor; in fact, we intend to examine all facets of Pennsylvania milk pricing.”

GNEMMA agrees that there has been and remains a combination of factors, including the issues raised today with the current over-price premium, that have adversely impacted in-state sales by in-state dealers. We also agree that this has a negative impact on all segments of Pennsylvania’s dairy industry including and especially the dairy farmers that our organizations represent. As a reminder, Pennsylvania dairy farmers have seen a reduction in premiums of \$0.80 per hundredweight for their Class I milk which is processed and distributed in Pennsylvania. Based on 2012 Pennsylvania Class I utilization of 1,641,441,073 pounds, this equates to more than **\$13,000,000 in reduced premiums** to Pennsylvania dairy producers annually.

GNEMMA recognizes and appreciates this Board’s dedication and commitment over these past several months to look at the total picture. Today we have exposed how erroneous assumptions and

calculations translate to an artificially inflated cost of Pennsylvania produced, processed and distributed Class I milk and ultimately affect the minimum wholesale and resale price to customers and consumers. We not only exposed this issue, we have also brought forth and proposed very logical and reasonable solutions. We believe it is time to abolish OGO-A-913 and OGO-A-925 and eliminate the over-price premium portion of the minimum wholesale and resale cost build-up from the “trio of combined PMMB regulated premiums” and adopt our proposed solutions:

1. Move the \$0.20 Milk PEP promotion cost to footnote on the price sheet similar to the manner in which it was illustrated by Board Staff at the November 6, 2013 Hearing;

2. Mandate that the costs which cooperatives incur to procure, market and balance milk for fluid milk processing plants, which are functionally identical to the costs that are incurred by plants procuring their milk from independent producers, to be invoiced by cooperatives to dealers and reported in dealer financial reports in the same section where they reflect identical costs of their own. These costs will continue to be recovered by dealers through the minimum wholesale

and resale price build-up. Additionally, we suggest that these costs should also be reviewed and updated in connection with annual cost replacement hearings;

3. Eliminate the current over-price premium order.

We are confident that this Board will agree with our position and in the words of your Chairman will “get this right.” Thank you for your time to hear our concerns and proposed solutions.

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**SUMMARY**

Dairy Procurement leader who is a change agent with credibility and knowledge of operations in each of the links of the dairy supply chain. Can efficiently connect dairy farm producers to the end consumers' table. Honest and straightforward communicator who can effectively balance the role of a sales representative with that of a supply chain agent. Networked to a large organization of producers, haulers, processors and manufacturers throughout the industry. Known for passion of the entire dairy business. Expertise includes:

- Understanding of the relationship between CME, NASS and FMMO pricing
- Familiar with risk management tools to help mitigate concerns of volatility of both price and cost
- Quickly identify short and long term savings opportunities
- Develop effective purchasing strategies to maximize savings
- Develop tools to measure and track savings over time
- Extensive experience with Dairy.com commodity trading platform and DairyPay quality and payroll system

**PROFESSIONAL EXPERIENCE**

**MARYLAND & VIRGINIA MILK PRODUCERS  
COOPERATIVE ASSOCIATION, INC, Reston, VA**

**2012 – Current**

***Director of Milk Marketing***

Direct day to day milk marketing operations in FO1 area with the assistance of 2 Area Managers.

- Oversee day to day field staff activities.
- Lead membership growth in designated operating areas.
- Establish and monitor member/producer pay programs while periodically adjusting to match market conditions.
- Oversee hauler relationships between cooperative, members and customers
- Present and uphold MDVA position in various industry groups including GNEMMA, NCIMS and PAMFES.

**DEAN FOODS COMPANY, Dallas, TX**

**2011 – 2012**

***Milk Supply Manager***

Manage field staff of 3 Producer Relationship Specialists to grow and enhance existing supply of Grade A farm direct milk to northeast dairy plants. Develop patron programs to ensure competitive position in existing marketplace. Ensure producer compliance with Federal and State regulatory requirements and industry recognized GMP's.

- Led regional field staff through transition to centralized reporting by coaching through structure changes.
- Established producer quality premium programs and increased milk quality testing frequency to encourage focus on continuous improvement.
- Consolidated DairyPay payroll to streamline process and improve efficiency.

**ALOUETTE CHEESE USA, INC, New Holland, PA**

**2008 – 2010**

***Director of Dairy Procurement***

Responsible for sourcing, price negotiations and procurement of all dairy and non-dairy raw materials for manufacturing plants. Managed milk accountant and 4 employees to ensure compliance with Federal and State regulatory requirements. Supported Research and Development team in innovative project work on new products.

- Expanded direct supplier base to increase competition for business resulting in cost reduction of >\$500,000 per year for raw materials.
- Executed corporate dairy risk management strategy for milk, butter and NFDM using a combination of options, futures, swap agreements and fixed price contracts to reduce volatility of raw material costs.
- Determined a new supplier for crumbled cheese co-packing arrangement to improve quality and appearance of product while reducing cost by >\$100,000 per year.
- Eliminated >\$300,000 of potential lawsuit exposure by negotiating continuing contract with acid whey byproduct customer while also reducing disposal costs by >\$30,000 per year.
- Transitioned through successful SAP implementation.

**DEAN FOODS COMPANY, Dallas, TX****1999 – 2008*****Director of Dairy Procurement***

(2005 – 2008)

Responsible for directing, sourcing, sales and procurement of >\$500M of cream and condensed skim milk produced by and purchased by 104 company owned processing facilities across the US. Collaborated with regional sales staff and local plant management to plan and implement utilization to generate the lowest cost, highest profit return of all fluid dairy commodities within the company. Analyzed daily and weekly dairy market data to determine the optimal strategy to maximize profits and/or minimize cost of transportation.

- Improved company relationships with suppliers and customers by networking within the industry.
- Coordinated with senior, regional and local quality and operations managers to identify routine quality deficiencies of milk and cream and improve through capital project inception and implementation.

***Dairy Procurement Manager***

(2003 – 2005)

Responsible for coordinating and scheduling transportation of cream within network of 104 company owned processing plants to maximize efficiency of scale.

- Introduced and trained plant personnel on implementation of Dairy.com commodity scheduling and trading platform to centralize view of plant needs.
- Utilized Dairy.com commodity transportation services to increase view of available movements to dairy haulers while maximizing backhaul opportunities.
- Reduced unnecessary purchasing at a premium and selling at a reduced price by coordinating load-out and receiving times between plants while continuing to meet customer orders.
- Monitored milk and butterfat shrink and provided solutions to correct excessive shrink.

***Field Representative, Swiss Premium Dairy, Lebanon, PA***

(1999 – 2003)

Responsible for milk procurement, quality assurance and regulatory compliance of all independent dairy farm suppliers. Managed all functions of the raw milk hauling business including the scheduling and organizing of farm pickup routes and supervision of 6 farm pickup drivers. Also responsible for general sanitation inside the plant and general maintenance of plant grounds.

- Increased independent direct farm supply from 65 producers to 85 producers by recruiting additional high quality independent dairy farm producers to accommodate Swiss Premium's growing business.
- Improved public perception of current farm practices on modern dairy farms.
- Reduced driver man hours by implementing 4 x 10 hour day work week schedule.
- Senior team leader in regulatory, customer and third party audit preparation.

**MARYLAND & VIRGINIA MILK PRODUCERS****COOPERATIVE ASSOCIATION, INC, Reston, VA****1995 – 1999*****Hauling and Transportation Assistant***

(1997 – 1999)

Responsible for receiving milk orders from customer dairies and for scheduling milk routes to match customer needs. Served as liaison between milk haulers and the cooperative, and assisted in preparing annual production and sales estimates.

- Coordinated over 200 farm pick-up milk routes from approximately 1200 member dairy farms per day.
- Developed MS Excel spreadsheets to prepare weekly schedules to improve communication efficiency with 35 contracted milk hauling companies and 20 dairy customers in the Washington DC and Baltimore, MD area.
- Monitored daily receipts to reconcile gains and losses between producer weights and customer scale weights.

***Meter Truck Operator***

(1995 – 1997)

Responsible for operation of mobile milk meter equipment to verify the proper calibration of member bulk milk tanks while also enforcing proper milk pickup procedures with each farm pickup driver.

- Implemented hauler fax manifest system to streamline the transmission of daily producer weight information to the cooperative payroll department.

**EDUCATION****B.S., Dairy and Animal Science (Business Option), Pennsylvania State University, University Park, PA****1993**

**CERTIFICATIONS**

Pennsylvania Grade A Approved Inspector License with Weigher/Sampler Permit

**PROFESSIONAL ORGANIZATIONS**

National Conference of Interstate Milk Shippers; Hauling Committee  
Pennsylvania Association of Milk Food and Environmental Sanitarians; President  
Pennsylvania Dairy Stakeholders  
Delta Theta Sigma, Agriculture/Social/Professional Fraternity; Vice President