

EMERGENCY APRIL 2020 RESALE PRICE HEARING

MARCH 31, 2020

BOARD STAFF TESTIMONY OF STEVEN ZALMAN

My name is Steven Zalman. I am the Director of Enforcement and Accounting for the Pennsylvania Milk Marketing Board. In this hearing I will address why the Pennsylvania Milk Marketing Board (PMMB) needs to extend March 2020 resale prices through April 30, 2020.

In March, the coronavirus disease of 2019 (COVID-19) started spreading throughout Pennsylvania. As a result of what the World Health Organization soon termed a pandemic, Governor Wolf urged non-essential businesses to close. The pandemic worsened, and on March 19 Governor Wolf ordered a statewide shutdown of all non-life sustaining businesses effective on March 21. With the exception of grocery stores, pharmacies, gas stations, and restaurant takeout the entire Pennsylvania business sector ceased operations, and still remains so. Also on March 19, while Pennsylvania businesses were being ordered to close, PMMB staff issued and posted April 2020 resale prices on the PMMB website. At this same time, the PMMB Board was in discussions with Government and dairy industry leaders concerning the state-wide business and school shutdown and the repercussions that the industry would likely experience. The resale prices that would go into effect on April 1 were considered as a factor that would produce negative consequences in a market already becoming uncertain. During the evening of March 19, the April resale prices were removed from the website by the PMMB, and the industry was notified that April prices would be delayed until further notice. This gave everyone some time to contemplate how to respond next, and it was decided that actions to keep March resale prices in effect for the entire month of April may be necessary.

Preservation of Dealer Capital

One of the main goals of Board Staff during this crisis is to minimize the loss of dealers' available cash so they are able to pay producers and personnel. Using April 2019 sales data for 17 Pennsylvania cross-section dealers selling into Pennsylvania areas, I calculated that it would save approximately \$607,669 if we keep March resale prices through April. This amount was calculated by taking the pounds sold for each of the controlled products and converting to quart equivalents for each product. The quart equivalents for each product were then multiplied by the difference between the wholesale quart price in April 2020 and the wholesale quart price in March 2020 for each product. Board Staff Exhibit 1, Table B and Table C show March 2020 and April 2020 prices of prominent products and container sizes. Table A shows the difference in prices between March 2020 and April 2020 for the prominent products and container sizes, and represents the savings realized for each by maintaining March 2020 prices. The average savings for the 17 Pennsylvania cross-section dealers would be \$35,745 with a range of \$7,290 - \$72,129. Board Staff Exhibit 2 shows the savings per area of controlled product sales into each area. We understand that April 2020 sales may be substantially less than last year's sales, but I wanted to give you some idea of the impact that keeping March 2020 prices in effect would have.

By keeping March 2020 prices, the only party affected negatively would be the consumer; I will address effects on producers, subsequently. The effect on the consumer would be minimal. For example, as shown in Staff Exhibit 1, the minimum retail price of a 2% quart of milk in Area 1 would be maintained at \$1.09 for an additional 30 days, instead of being adjusted to \$1.08. During this crisis the availability of milk, uninterrupted payments to producers, and dealer solvency is paramount.

Maintaining March 2020 resale prices would be only one action we have already taken since mid-March 2020. We have issued industry-wide waivers for certain specific minimum-price situations with the main goal of moving milk to consumers and helping dealers reduce inventory. We know because of our normal reporting requirements that some milk dealers in the state are not in a position to financially manage, during this crisis, the dual problems of 1) selling milk below minimum to move excess product and 2) decreased wholesale prices.

A legislated mandate to PMMB is regulation of the dairy industry and we believe the current pandemic is a situation in which we must make critical decisions to meet that mandate. The decision to maintain March 2020 resale prices may appear drastic to some, but that action would provide stability for the market and would, most importantly, help generate the cash flow some of our struggling dealers need to pay their producers and operating costs.

Dealer and Retailer Workload

For the last several weeks we have all seen retailers and their suppliers struggling to keep up with consumer demands for basic household goods. Panic buying by some has caused difficulty in keeping needed food items on the shelves for grocery stores and other retailers. Retailers also need to retag dairy cases when price changes are issued, and both dealers and retailers need to spend time inputting new prices into their systems.

By not issuing April 2020 resale prices these functions would be eliminated and allow dealers and retail store employees to concentrate on critical functions. The concerns of milk dealers and retailers should be maintaining the flow of milk and keeping shelves stocked with product; we should not burden them with what would otherwise be normal tasks but could be considered as unnecessary during this pandemic.

It is imperative we do all that we can in order to maintain the stability of the dairy industry and minimize interruptions in the supply chain. At retail, this means keeping dairy cases stocked with fresh milk, continually delivered by dealers and maintained by retailers.

Effects on Producer Prices

An obvious question is, “What impact will holding March 2020 prices have on the producers?” A hold on March 2020 resale prices will have no effect on producer prices. The PMMB will still issue producer prices as scheduled using the same methodology we always use. PMMB producer prices are based on prices published by the Federal Milk Marketing Orders and PMMB March 2020 producer prices are expected to be released on April 2, 2020, as scheduled. PMMB resale Prices are scheduled to be released on Thursday, on or before the 24th of the preceding month. PMMB producer prices are scheduled to be released on Thursday, on or before the 6th of the following month.

For example, March 2020 producer prices are to be released on April 2. They are for payments to producers for purchases made in March. Our next scheduled release of producer prices will be April 30, 2020 and will cover payment to producers for purchases made in April. Maintaining March 2020 resale prices through April 2020 will have no effect on the calculation of producer prices for any month. Producer prices would be the same whether March 2020 resale prices are maintained or not.

Conclusion

The shutdown of the Pennsylvania economy is unprecedented. Likewise, COVID-19 has caused the nation’s economy to shut down. This situation is so dire the IRS even extended tax deadlines

and Congress has passed a multi-trillion-dollar relief package for individuals and businesses. At this time, we may not know the entire effect COVID-19 will have on the Pennsylvania dairy industry. What we do know is that we want to keep milk flowing to the best of our ability. We want all Pennsylvania processors to stay in business. We want producers to be paid on time. And we want to maintain a safe and plentiful supply of milk and milk products for our consumers. One way to support these goals is to not institute resale price decreases at this time; that would only exacerbate the crisis. PMMB staff recommends that March 2020 resale prices be extended through the month of April 2020.

BOARD STAFF EXHIBIT 1

TABLE A

| SAVINGS FOR WHOLESALE / RETAIL PRICES OF PROMINENT PRODUCTS AND SIZES BY EXTENDING MARCH 2020 RESALE PRICES | | | | | | | | |
|--|----------------|-----------|-------------|----------|----------|-----------------------|-------------|---------|
| AREA-ZONE | CONTAINER SIZE | WHOLESALE | | | | RETAIL (OUT-OF-STORE) | | |
| | | HOMO | REDUCED FAT | LOW-FAT | NONFAT | HOMO | REDUCED FAT | LOW-FAT |
| 1-0 | Gallon | \$0.0732 | \$0.0672 | \$0.0619 | \$0.0574 | \$0.06 | \$0.06 | \$0.05 |
| | Half Gallon | \$0.0365 | \$0.0334 | \$0.0307 | \$0.0286 | \$0.03 | \$0.03 | \$0.02 |
| | Quart | \$0.0181 | \$0.0166 | \$0.0153 | \$0.0141 | \$0.02 | \$0.01 | \$0.01 |
| 2-0 | Gallon | \$0.0786 | \$0.0725 | \$0.0671 | \$0.0635 | \$0.07 | \$0.07 | \$0.05 |
| | Half Gallon | \$0.0403 | \$0.0372 | \$0.0347 | \$0.0328 | \$0.04 | \$0.03 | \$0.03 |
| | Quart | \$0.0177 | \$0.0163 | \$0.0150 | \$0.0140 | \$0.01 | \$0.01 | \$0.01 |
| 3-0 | Gallon | \$0.0769 | \$0.0709 | \$0.0655 | \$0.0619 | \$0.07 | \$0.06 | \$0.06 |
| | Half Gallon | \$0.0502 | \$0.0471 | \$0.0445 | \$0.0427 | \$0.04 | \$0.04 | \$0.04 |
| | Quart | \$0.0178 | \$0.0163 | \$0.0149 | \$0.0140 | \$0.02 | \$0.02 | \$0.01 |
| 4-0 | Gallon | \$0.0756 | \$0.0686 | \$0.0632 | \$0.0587 | \$0.07 | \$0.07 | \$0.06 |
| | Half Gallon | \$0.0373 | \$0.0337 | \$0.0311 | \$0.0289 | \$0.04 | \$0.04 | \$0.03 |
| | Quart | \$0.0173 | \$0.0156 | \$0.0142 | \$0.0133 | \$0.02 | \$0.02 | \$0.01 |
| 5-0 | Gallon | \$0.0764 | \$0.0704 | \$0.0650 | \$0.0615 | \$0.07 | \$0.06 | \$0.06 |
| | Half Gallon | \$0.0378 | \$0.0347 | \$0.0320 | \$0.0302 | \$0.03 | \$0.03 | \$0.03 |
| | Quart | \$0.0191 | \$0.0177 | \$0.0163 | \$0.0153 | \$0.02 | \$0.02 | \$0.01 |
| 6-0 | Gallon | \$0.0740 | \$0.0662 | \$0.0617 | \$0.0581 | \$0.07 | \$0.06 | \$0.05 |
| | Half Gallon | \$0.0379 | \$0.0339 | \$0.0316 | \$0.0299 | \$0.03 | \$0.03 | \$0.03 |
| | Quart | \$0.0193 | \$0.0173 | \$0.0161 | \$0.0152 | \$0.02 | \$0.02 | \$0.01 |

TABLE B

| MARCH 2020 WHOLESALE / RETAIL PRICES OF PROMINENT PRODUCTS AND SIZES | | | | | | | | |
|---|----------------|-----------|-------------|----------|----------|-----------------------|-------------|---------|
| AREA-ZONE | CONTAINER SIZE | WHOLESALE | | | | RETAIL (OUT-OF-STORE) | | |
| | | HOMO | REDUCED FAT | LOW-FAT | NONFAT | HOMO | REDUCED FAT | LOW-FAT |
| 1-0 | Gallon | \$4.0294 | \$3.8080 | \$3.6401 | \$3.4970 | \$4.17 | \$3.98 | \$3.83 |
| | Half Gallon | \$2.0491 | \$1.9384 | \$1.8544 | \$1.7829 | \$2.11 | \$2.02 | \$1.95 |
| | Quart | \$1.1161 | \$1.0607 | \$1.0188 | \$0.9829 | \$1.14 | \$1.09 | \$1.05 |
| 2-0 | Gallon | \$3.7978 | \$3.5852 | \$3.4145 | \$3.2642 | \$4.06 | \$3.87 | \$3.71 |
| | Half Gallon | \$1.9651 | \$1.8587 | \$1.7735 | \$1.6983 | \$2.09 | \$1.99 | \$1.92 |
| | Quart | \$1.0822 | \$1.0291 | \$0.9865 | \$0.9489 | \$1.13 | \$1.08 | \$1.05 |
| 3-0 | Gallon | \$3.6197 | \$3.4065 | \$3.2360 | \$3.0903 | \$3.81 | \$3.62 | \$3.47 |
| | Half Gallon | \$1.8760 | \$1.7693 | \$1.6841 | \$1.6113 | \$1.96 | \$1.87 | \$1.79 |
| | Quart | \$1.0547 | \$1.0014 | \$0.9587 | \$0.9223 | \$1.09 | \$1.04 | \$1.00 |
| 4-0 | Gallon | \$3.5875 | \$3.3722 | \$3.2007 | \$3.0719 | \$4.02 | \$3.80 | \$3.62 |
| | Half Gallon | \$1.8403 | \$1.7326 | \$1.6469 | \$1.5825 | \$2.06 | \$1.95 | \$1.86 |
| | Quart | \$1.0297 | \$0.9759 | \$0.9330 | \$0.9009 | \$1.14 | \$1.09 | \$1.04 |
| 5-0 | Gallon | \$3.8259 | \$3.6061 | \$3.4408 | \$3.3066 | \$4.10 | \$3.90 | \$3.75 |
| | Half Gallon | \$1.9388 | \$1.8289 | \$1.7462 | \$1.6791 | \$2.07 | \$1.97 | \$1.90 |
| | Quart | \$1.1582 | \$1.1033 | \$1.0619 | \$1.0283 | \$1.21 | \$1.16 | \$1.12 |
| 6-0 | Gallon | \$3.8026 | \$3.5806 | \$3.4119 | \$3.2797 | \$4.04 | \$3.84 | \$3.68 |
| | Half Gallon | \$1.9608 | \$1.8497 | \$1.7653 | \$1.6993 | \$2.07 | \$1.97 | \$1.90 |
| | Quart | \$1.2488 | \$1.1933 | \$1.1511 | \$1.1180 | \$1.28 | \$1.23 | \$1.19 |

TABLE C

| APRIL 2020 WHOLESALE / RETAIL PRICES OF PROMINENT PRODUCTS AND SIZES | | | | | | | | |
|---|----------------|-----------|-------------|----------|----------|-----------------------|-------------|---------|
| AREA-ZONE | CONTAINER SIZE | WHOLESALE | | | | RETAIL (OUT-OF-STORE) | | |
| | | HOMO | REDUCED FAT | LOW-FAT | NONFAT | HOMO | REDUCED FAT | LOW-FAT |
| 1-0 | Gallon | \$3.9562 | \$3.7408 | \$3.5782 | \$3.4396 | \$4.11 | \$3.92 | \$3.78 |
| | Half Gallon | \$2.0126 | \$1.9050 | \$1.8237 | \$1.7543 | \$2.08 | \$1.99 | \$1.92 |
| | Quart | \$1.0980 | \$1.0441 | \$1.0035 | \$0.9688 | \$1.12 | \$1.08 | \$1.04 |
| 2-0 | Gallon | \$3.7192 | \$3.5127 | \$3.3474 | \$3.2007 | \$3.99 | \$3.80 | \$3.66 |
| | Half Gallon | \$1.9248 | \$1.8215 | \$1.7388 | \$1.6655 | \$2.05 | \$1.96 | \$1.89 |
| | Quart | \$1.0645 | \$1.0128 | \$0.9715 | \$0.9349 | \$1.12 | \$1.07 | \$1.03 |
| 3-0 | Gallon | \$3.5428 | \$3.3356 | \$3.1705 | \$3.0284 | \$3.74 | \$3.56 | \$3.41 |
| | Half Gallon | \$1.8258 | \$1.7222 | \$1.6396 | \$1.5686 | \$1.92 | \$1.83 | \$1.75 |
| | Quart | \$1.0369 | \$0.9851 | \$0.9438 | \$0.9083 | \$1.07 | \$1.02 | \$0.99 |
| 4-0 | Gallon | \$3.5119 | \$3.3036 | \$3.1375 | \$3.0132 | \$3.95 | \$3.73 | \$3.56 |
| | Half Gallon | \$1.8030 | \$1.6989 | \$1.6158 | \$1.5536 | \$2.02 | \$1.91 | \$1.83 |
| | Quart | \$1.0124 | \$0.9603 | \$0.9188 | \$0.8876 | \$1.12 | \$1.07 | \$1.03 |
| 5-0 | Gallon | \$3.7495 | \$3.5357 | \$3.3758 | \$3.2451 | \$4.03 | \$3.84 | \$3.69 |
| | Half Gallon | \$1.9010 | \$1.7942 | \$1.7142 | \$1.6489 | \$2.04 | \$1.94 | \$1.87 |
| | Quart | \$1.1391 | \$1.0856 | \$1.0456 | \$1.0130 | \$1.19 | \$1.14 | \$1.11 |
| 6-0 | Gallon | \$3.7286 | \$3.5144 | \$3.3502 | \$3.2216 | \$3.97 | \$3.78 | \$3.63 |
| | Half Gallon | \$1.9229 | \$1.8158 | \$1.7337 | \$1.6694 | \$2.04 | \$1.94 | \$1.87 |
| | Quart | \$1.2295 | \$1.1760 | \$1.1350 | \$1.1028 | \$1.26 | \$1.21 | \$1.18 |

BOARD STAFF EXHIBIT 2

| PA Area | Savings* |
|---------|-----------------|
| 1 | \$99,908 |
| 2 | \$67,956 |
| 3 | \$94,808 |
| 4 | \$122,060 |
| 5 | \$142,586 |
| 6 | <u>\$80,351</u> |
| | \$607,669** |

*17 cross-section PA dealer savings per area of all controlled product sales if March prices are maintained through April 30.

* Savings are calculated using 2019 April sales.

**Per Dealer average savings of \$35,745 .

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Milk Marketing Board

In the Matter of: **March 31, 2020 Emergency Hearing**
Re: April 2020 Resale Prices

Rebuttal Witness and Exhibit List

The Pennsylvania Association of Milk Dealers, by and through Baker, Donelson, Bearman, Caldwell & Berkowitz, will participate in the above hearing by cross-examining witnesses and is expected to call Todd Rutter as a lay rebuttal witness, who is prepared to discuss the importance of giving customers plenty of notice of any price changes as support for PAMD's position in support of using March resale prices in April given current circumstances. Mr. Rutter may also discuss conditions affecting fluid milk plants under the current Pandemic circumstances. PAMD may also call Ron Mong of Herbein + Company, Inc. as an expert witness in cost accounting and milk cost accounting if surrebuttal testimony becomes necessary and/or authorized.

Respectfully submitted,

/s/ Wendy Yoviene

Wendy M. Yoviene

BEFORE THE PENNSYLVANIA MILK MARKETING BOARD
APRIL 2020 RESALE PRICES - EMERGENCY HEARING
ALL MILK MARKETING AREAS

March 31, 2020

Testimony of Dean Ellinwood

Presented on behalf of the Pennsylvania Association of Dairy Cooperatives:

Dairy Farmers of America, Inc.,
Lanco Dairy Farms Co-op, Inc., Land O'Lakes, Inc., and
Maryland & Virginia Milk Producers' Cooperative Association, Inc.

Good morning, my name is Dean Ellinwood. My business address is 5001 Brittonfield Parkway, Syracuse, New York, 13221. I am Chairman of the Pennsylvania Association of Dairy Cooperatives (PADC). Members of the PADC include Maryland & Virginia Milk Producers' Cooperative Association, Inc., Lanco Dairy Farms Co-op, Inc., Dairy Farmers of America, Inc., and Land O'Lakes, Inc.

PADC takes no position on the proposal to retain March minimum wholesale and retail prices during April.

All sectors of the economy and the dairy industry have been adversely impacted by the coronavirus pandemic.

The Board Staff testimony that the proposal action “will not affect producer prices” is correct but does not tell the full story. The March wholesale and retail prices were built from a producer price which is \$0.82/cwt higher than the price producers will be paid for April milk volumes sold in April with the March price levels. In other words, the minimum store price will **not** reflect producers receiving \$0.82/cwt less in April than in March for the same out of store price for milk.

Because of the coronavirus pandemic, dairy producers are facing what look to be world-wide depression levels of prices for dairy products. These prices translate directly into the PMMB producer prices. The Board may well be asked to address this situation in the near future.

BEFORE THE PENNSYLVANIA MILK MARKETING BOARD

EMERGENCY HEARING – APRIL 2020 RESALE PRICES

All Milk Marketing Areas

March 31, 2020

Testimony of Deputy Secretary Greg Hostetter

Presented on behalf of the Commonwealth of Pennsylvania

Department of Agriculture

Submitted March 30, 2020

Dear Chairman Barley and Members of the Board:

My name is Greg Hostetter and I am currently serving as the Pennsylvania Department of Agriculture's Deputy Secretary for Animal Health and Food Safety. While I am no longer actively in the dairy business, I previously partnered with my father for 23 years operating a 150-acre, 55 cow dairy. I have a full understanding of the challenges in the dairy industry.

This testimony is presented on behalf of the Pennsylvania Department of Agriculture ("Department") with respect to the effects of the coronavirus pandemic as it relates to the issuing of April 2020 Resale Prices. The Department is not opposed to Board Staff's proposal to extend March 2020 resale prices through April 30, 2020.

The Department's number one concern during this unprecedented situation is maintaining the stability of the milk markets in the Commonwealth. This is crucial to every segment of the industry, from producers to consumers. There have already been disruptions to the markets due to restaurant and school closings as well as supply chain problems. We have also heard anecdotal stories of stores limiting milk purchases and of stores charging well above the minimum prices for milk.

While this crisis affects all segments of the dairy industry, we are especially concerned with maintaining the capacity to process and distribute milk throughout the state. This is critical to all segments of the industry, because a loss of processing facilities would have a devastating effect on producers, retailers, and consumers. The Department is well aware of the current environment the industry is working in, and believes we need as much "normalcy" as possible during this time. We do not oppose the proposal to maintain the status quo for the next 30 days. We believe the less changes the better during this time of uncertainty.

Thank you for your consideration of the Department's position in this matter.