

LAW OFFICES OF MARVIN BESHORE

130 State Street, P.O. Box 946
Harrisburg, PA 17108-0946

Telephone: (717) 236-0781
Facsimile: (717) 236-0791

Marvin Beshore
mbeshore@beshorelaw.com

May 17, 2013

HAND-DELIVERED

Luke F. Brubaker, Chairman
Pennsylvania Milk Marketing Board
c/o Douglas Eberly, Esquire
2301 North Cameron Street
Harrisburg, PA 17110

Re: Request for Hearing on Over-Price Premium,
OGO-A-913; OGO-A-925

Dear Chairman Brubaker and Members of the Board:

The Greater Northeast Milk Marketing Agency (GNEMMA), for the reasons which follow, requests that the Board convene a hearing at the earliest possible date to review and terminate the over-price premium orders, OGO-A-913 and OGO-A-925. Because of the impact of the over-price premium on minimum wholesale and retail prices, this is an urgent matter of competitiveness for Pennsylvania dealers, as their testimony for the over-order premium so clearly reveals. Furthermore, these issues are equally important to Pennsylvania producers, particularly the majority of producers in Pennsylvania whose milk is marketed by the GNEMMA cooperatives, whose marketing costs are treated in a different manner than Pennsylvania dealer marketing costs through the over-price premium structure.

As the Board's monthly price sheet prominently shows, the over-price premium (net of the milk- PEP¹ 20¢/cwt) regularly contributes \$.02 to \$.05 per gallon to the wholesale and retail cost of fluid milk products produced, processed, and sold in Pennsylvania. These charges are built into the Pennsylvania minimum prices on the theory that the Pennsylvania fluid processors have paid sums over and above the Pennsylvania over-order premium price for Pennsylvania Class I milk. The marketplace facts show this assumption to be erroneous. Therefore, the over-price premium should promptly be eliminated.

¹ The Milk PEP charge should be retained as a cost of milk fully reflected in the wholesale and retail cost buildups. It can and should be accounted for directly in handler advertising costs or a similar accounting category.

00067472.WPD; v1

Pennsylvania Milk Marketing Board
May 17, 2013
Page 2

The assumption built into the over-price premium that more than the Board-set over-order premium is needed for Pennsylvania Class I milk is disproven by the fact that Pennsylvania processors with high Pennsylvania Class I utilization pay little or no premium for their milk supply. On the other hand, Pennsylvania Class I processors with low Pennsylvania utilization must pay substantial additional sums to attract milk for these non-controlled uses. It is clear that the milk they are attracting is not for Pennsylvania Class I use -- for which the price is quite adequate -- it is for non-Pennsylvania Class I or for non-Class I use. Consequently, the effect of the over-price premium is to unnecessarily pass costs of procurement of milk for non-Pennsylvania Class I sales and milk for non-Class I uses through to Pennsylvania wholesale buyers and retail consumers.

The hearing should address a second, embedded issue: The over-price premium as presently constructed inherently discriminates against cooperative milk supplies by allowing processors with independent milk to build all of their milk procurement and balancing expenses into the cost base for wholesale and retail minimum prices while providing no equivalent mechanism for recovery of the same costs when incurred by cooperatives. Cooperative costs which are incurred by the cooperatives for milk which is delivered to the plants in a tailored supply, include the same procurement, handling, and balancing costs which Dealers have. In some cases, cooperatives can directly negotiate an over-minimum charge to recover these costs. However, this is not true in all cases. The cooperatives' recovery of these costs is left to marketplace negotiations while the Dealers' costs are automatically structured into the wholesale and retail prices. This patent inequity should be changed through an order building the cost of procuring Pennsylvania Class I milk by cooperatives into the Class I price of all sales.

Thank you for your attention to this matter.

Very truly yours,



Marvin Beshore

MB/tls

cc: Andy Saylor, Esquire, PMMB staff counsel
John J. Bell, Esquire
Dennis J. Schad
Dean Ellinwood
Troye A. Cooper

00067472.WPD; v1