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SUBJECT TO PROTECTIVE ORDER
DATED MARCH 27, 2014**

COMMONWEALTH OF PENNSYLVANIA

MILK MARKETING BOARD

* * * * *

IN RE: OVER-PRICE PREMIUM HEARING,
ALL AREAS

BEFORE: Luke Brubaker, Chairman
Lynda Bowman, Consumer
Member
James A. Van Blarcom,
Member

ALSO

PRESENT: Douglas Eberly, Esquire
Chief Counsel
Timothy Moyer,
Secretary

LOCATION: Agriculture Department
Building
2301 North Cameron Street
Room 202
Harrisburg, PA 17110

HEARING: January 8, 2015
9:00 a.m.

Reporter: Bernadette Black

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Submitted August 13, 2018

PADC EXHIBIT 1

WITNESSES: Troy Cooper, Martin Moyer,
Rodney Smyser, Terry Inch,
Connie Troutman, John
Stoner, CPA, CVA

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 840
CONNIE TROUTMAN

1 Oh, the ground rules here,
2 yeah. Right. Chief Counsel reminded
3 me, you cannot talk between yourselves
4 when we're in testimony here. So you
5 have to think for yourself and give
6 your own answer. So that's the ground
7 rules.

8 ATTORNEY EBERLY:

9 And can we have the attorneys
10 make sure they're directing their
11 questions to individuals?

12 MR. BRUBAKER:

13 Okay. Another thought is, when
14 the attorney is addressing a question;
15 make sure you say who you're
16 addressing that question to. If you
17 identify their name, we will know if
18 you don't and they need identified.
19 But you suggest who you are asking a
20 question to; all right? Mr. Marvin
21 Beshore, your witnesses are available
22 for questioning.

23 ATTORNEY BESHORE:

24 Thank you very much, Mr.
25 Chairman. And thank you all, members

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 841
CONNIE TROUTMAN

1 of the panel, for coming here and
2 being willing to testify today. And
3 I'll start with my first question to
4 Mr. Smyser. Mr. Smyser, would you
5 just describe for the Board your dairy
6 farm, dairy farm operation, number of
7 cows, number of acres, how much your
8 farming, et cetera? Give them a
9 picture of your farm and farm
10 operation.

11 MR. SMYSER:

12 Okay. I've been farming all my
13 life. So my dad --- well, my
14 grandfather actually started the dairy
15 operation on our present place. So
16 that's been in existence since the
17 '30s.

18 Right now, we have a current
19 herd of about 75 cows. We milk 68
20 cows. So we have that, plus our young
21 stock, grade feeder steers, and sell
22 bulls. Also, we farm about 12,000
23 acres. And it's just --- right now,
24 it's me and my two sons, the
25 operation. Our current herd averages

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 842
CONNIE TROUTMAN

1 about over 30,000 pounds of milk. So
2 we raise corn, soybeans, wheat and
3 hay.

4 ATTORNEY BESHORE:

5 And how many family members are
6 involved in the operation, currently?

7 MR. SMYSER:

8 It's me and my two sons. And
9 my wife also helps out.

10 ATTORNEY BESHORE:

11 Can you tell us --- 30,000 is a
12 --- it's a very good herd average.
13 Where does that rank within the ---
14 among your peers, the county and the
15 state?

16 MR. SMYSER:

17 Well, we're right at the top in
18 the county. And we're probably in the
19 top 10 or 15 in the state, for herd
20 production.

21 ATTORNEY BESHORE:

22 Now, Mr. Inch, would you
23 describe your farm and your farm
24 operation? You know, introduce
25 yourself to the Board and to the rest

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 843
CONNIE TROUTMAN

1 of us in that fashion.

2 MR. INCH:

3 Yeah. My name is Terry Inch.
4 I didn't grow up on a farm or
5 anything, so I started --- I bought
6 some cows and rented a farm in 1994.
7 I started, and we've grown over the
8 years and bought our own farm, and
9 expanded. And we're milking 180 cows.

10 That's just my wife and our
11 children. We have six children
12 ranging from 21 down to 2. We farm
13 about 400 acres. And we had shipped
14 to an independent there and now, we
15 ship to Lanco. We farm --- yeah,
16 okay, 400 acres. Our herd averages
17 about 22,000. And our somatic cell
18 runs, I guess, about 120,000 for an
19 average, for the whole year average.
20 So that's pretty much our operation.
21 Thank you.

22 ATTORNEY BESHORE:

23 Thank you, Mr. Inch. Ms.
24 Troutman, same question. Could you
25 tell us about your farm?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 844
CONNIE TROUTMAN

1 MS. TROUTMAN:

2 Our farm is run by my husband
3 and myself. And we have three sons,
4 26, 24 and 22. They are all actively
5 participating with us in some aspect.
6 One helps with cows. And one has a
7 custom harvest operation. And the
8 other one helps do everything. And my
9 mother still runs books for the farm.

10 We farm --- well, we milk 200
11 cows, 40 Jerseys, the rest Holstein.
12 Herd average for both breeds together
13 is running right at 23,000. Our
14 somatic cell runs around 225. We farm
15 roughly 550 acres on our five farms
16 that we own.

17 ATTORNEY BESHORE:

18 What county are you in?

19 MS. TROUTMAN:

20 I'm Berks County.

21 ATTORNEY BESHORE:

22 Mr. Inch, what county are you
23 in?

24 MR. INCH:

25 Adams County.

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 845
CONNIE TROUTMAN

1 ATTORNEY BESHORE:

2 And I think you already said
3 York County; is that right, Rodney?

4 MR. SMYSER:

5 That is correct.

6 ATTORNEY BESHORE:

7 Okay. Mr. Smyser, can you
8 relate for the Board the history of
9 milk marketing from your farm, in
10 terms of how you market your milk
11 presently and over the years, how it
12 has changed?

13 MR. SMYSER:

14 Well, we shipped to an
15 independent for over 50 years. And I
16 guess that was in May of 2013, they
17 sent a letter out to all the
18 producers, asking them to voluntarily
19 cut your production ten percent.
20 Well, in the situation we're at, with
21 my two sons and I, without an
22 expansion barn with 68 cows in it, we
23 weren't going to sell six cows.

24 So apparently they didn't get
25 anybody to voluntarily cut production

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 846
CONNIE TROUTMAN

1 out of the shippers they had. In
2 fact, some of the bigger producers
3 that I talked to were already looking
4 for another market. And they told
5 them if --- they told everybody that
6 if they didn't get the voluntary
7 production, they were going to get rid
8 of some producers.

9 Well, we were one of the lucky
10 ones. Even though we shipped to them
11 for 50 years, we never failed an
12 inspection, we got our bonuses over 90
13 percent of the time, and we were the
14 closest dairy farm to the processing
15 plant.

16 So at that point, we looked for
17 another place to market our milk. And
18 we chose Lanco, because we thought
19 they would have their --- the best
20 service they provided, we thought.
21 And we are very happy with them since
22 then. And ---.

23 ATTORNEY BESHORE:

24 Now, what month was it or when
25 was it that you received a letter from

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 847
CONNIE TROUTMAN

1 your --- the handling or ---?

2 MR. SMYSER:

3 That was in May of '13.

4 ATTORNEY BESHORE:

5 Of what year?

6 MR. SMYSER:

7 2013.

8 ATTORNEY BESHORE:

9 Okay. And you said you were
10 the closest farm to the dairy you're
11 shipping to; is that ---? That you
12 have been shipping to for 50 years; is
13 that correct?

14 MR. SMYSER:

15 That is correct.

16 ATTORNEY BESHORE:

17 That dairy's in York?

18 MR. SMYSER:

19 Yes.

20 ATTORNEY BESHORE:

21 And the name of that dairy
22 is ---?

23 MR. SMYSER:

24 It'd be Rutter's Dairy.

25 ATTORNEY BESHORE:

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 848
CONNIE TROUTMAN

1 Okay.

2 MR. SMYSER:

3 They currently have about --- a
4 truck goes by our farm every day,
5 going from somebody else's farm into
6 the dairy.

7 ATTORNEY BESHORE:

8 Do you happen to have that
9 letter with you?

10 MR. SMYSER:

11 No, I do not.

12 ATTORNEY BESHORE:

13 What notification were you
14 provided that you were no longer ---
15 that they were no longer going to buy
16 your milk?

17 MR. SMYSER:

18 The milk inspector dropped a
19 letter off. I gave it to one of my
20 sons and gave us 30 days to find
21 another person to pick up our milk.

22 ATTORNEY BESHORE:

23 Okay. Thank you. Mr. Inch,
24 could you describe the history of your
25 marketing and affiliation? How you've

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 849
CONNIE TROUTMAN

1 marketed milk from your farm from the
2 time you started as you acquired it
3 yourself, as you've indicated, and up
4 to the present day?

5 MR. INCH:

6 Well, for the first 17 years, I
7 had also shipped to Rutter's Dairy.
8 And I got a letter here on May of 2011
9 that their sales were dropping back
10 and I was being left go. And I needed
11 to find another market in 30 days.

12 And I said --- you know, my only thing
13 was, previously, most all the time, I
14 was being encouraged to ship more milk
15 and expand because the quality was
16 good. We always got our bonuses.

17 And so it was kind of a
18 surprise to get --- because you
19 weren't the newest shipper and we
20 weren't the oldest one. But --- so I
21 mean, they still come into the
22 neighborhood and pick up other milk,
23 so ---.

24 And then when we got the
25 notice, I did some checking. And I

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 850
CONNIE TROUTMAN

1 came up with Lanco. It seemed to look
2 like about the best fit for our
3 situation, with the quality and stuff
4 we had. And I knew I was going to
5 take a pretty good cut. I compared
6 the numbers. And without the over-
7 order premiums, it was --- at that
8 point, I was losing close to \$1 a
9 hundred, so that was rather painful to
10 our operation. But we've survived, so
11 ---. And most of the difference, it
12 about added up to what the over-order
13 premium was almost all the time. So
14 that was --- pretty much was the
15 difference.

16 ATTORNEY BESHORE:

17 When did you say this occurred?

18 MR. INCH:

19 I got my letter in May of 2011.
20 So I had to be --- find another market
21 by June 30th of 2011.

22 ATTORNEY BESHORE:

23 Okay. So Ms. Troutman, could
24 you relate the history of milk
25 marketing from your farm?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 851
CONNIE TROUTMAN

1 MS. TROUTMAN:

2 Our farm --- I failed to
3 mention, too, it's been in our family
4 for 70 years this year, always a dairy
5 farm. We shipped to co-ops in the
6 past. And then, in 2002, we had
7 switched. And we were shipping to a
8 local independent dealer, ten miles
9 from the farm or so.

10 And we were with them until
11 2013. And that's when I got a letter.
12 My letter said, since you have been
13 put on re-inspection and then given
14 additional time to complete items from
15 the re-inspection, we have looked over
16 your inspection history, it's very
17 evident that you are marked for the
18 same items more times than not. If
19 this is the case after receipt of this
20 letter, you'll be given a letter of
21 termination. No excuses.

22 Well, I guess my thing is, in
23 2002, we built a new setup. So we
24 don't have a run-down setup of any
25 sort. I guess my problem was that I

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 852
CONNIE TROUTMAN

1 failed to think that walls that are 20
2 feet from where the cows were milked
3 needing scrubbing was more important
4 than the fact that, say, in November
5 of 2012 when my father had a stroke
6 and was still actively participating
7 with us, or in December of 2011, the
8 following year, when my sister was run
9 over and killed in a work accident, or
10 the following February when my husband
11 had a ruptured, gangrenous appendix.
12 At those times, I didn't feel that
13 scrubbing the wall was quite as
14 important as their loss.

15 And we, too, always made bonus.
16 But that didn't work. So instead of
17 being threatened by my cooperative, I
18 sent them my letter of termination.
19 Because at 48 years old, I will not be
20 threatened.

21 ATTORNEY BESHORE:

22 Do you mean threatened by your
23 cooperative or by the ---?

24 MS. TROUTMAN:

25 Yeah. They were not going to

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 853
CONNIE TROUTMAN

1 terminate me.

2 ATTORNEY BESHORE:

3 Okay. Was it a cooperative?

4 MS. TROUTMAN:

5 No. It was an independent.

6 ATTORNEY BESHORE:

7 Okay. And who was the

8 independent?

9 MS. TROUTMAN:

10 Clover Farms. So now, I can
11 receive 82 cents less per
12 hundredweight because I made a choice.

13 ATTORNEY BESHORE:

14 And where did you make a choice
15 to ship your milk?

16 MS. TROUTMAN:

17 I go to Maryland Virginia.
18 Well, I sent them my termination
19 letter. And I invited DFA and
20 Maryland Virginia to come see, because
21 I needed to find a market for my milk
22 as well. And both those gentlemen
23 came the very following open weekend.
24 And they both came in.

25 They met with me. And I said,

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 854
CONNIE TROUTMAN

1 now, don't you want a tour of my
2 facility? Because I was concerned,
3 since this was a big deal to my
4 previous inspector. And they said,
5 no, we can see from just walking
6 through your milk house, you're
7 exactly the kind of shipper we're
8 looking for. And I knew already that
9 I would be able to be happier somehow
10 than I was previously.

11 ATTORNEY BESHORE:

12 Do you recall what your score
13 was on your first milk inspection
14 after you switched to --- with
15 Maryland Virginia?

16 MS. TROUTMAN:

17 Yeah. We scored 100. And that
18 just gets you re-inspected some more.
19 But anyway ---.

20 ATTORNEY BESHORE:

21 Okay. Thank you. Mr. Inch,
22 I've just got a follow up question for
23 you. When you received, in 2011, the
24 letter from --- letters with respect
25 to cutting back, perhaps, your milk,

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 855
CONNIE TROUTMAN

1 were they paying volume premiums at
2 that time to any producers?

3 MR. INCH:

4 No. The only premiums they
5 paid was a quality bonus.

6 ATTORNEY BESHORE:

7 Okay. Let me go to Mr. Smyser
8 then. And I don't think you mentioned
9 this in your prior question. But if
10 you are aware, how does your pay price
11 currently with Lanco compare to the
12 --- what it was when you were
13 independent shipping to Rutter's?

14 MR. SMYSER:

15 Well, it's basically \$1
16 difference. I mean, but when we
17 switched, when we got cut off, the
18 month we were with Rutter's, that
19 would've been June of '12 --- I'm
20 wrong there. No, this ---. In my
21 previous thing, I said we got
22 terminated in '13. But it was
23 actually in '12, 2012.

24 ATTORNEY BESHORE:

25 Thank you.

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 856
CONNIE TROUTMAN

1 MR. SMYSER:

2 Our price was \$18.85. And our
3 first month with Lanco was \$16.10.

4 ATTORNEY BESHORE:

5 Now, when you were shipping to
6 Rutters, Mr. Smyser, did you ever have
7 to pay for the cost of the inspector,
8 for your inspector's salary, milk
9 inspector's salary?

10 MR. SMYSER:

11 Indirectly, I'm sure.

12 ATTORNEY BESHORE:

13 When you were shipping to
14 Rutter's?

15 MR. SMYSER:

16 Yes.

17 ATTORNEY BESHORE:

18 How would you think that?

19 MR. SMYSER:

20 Well, he has to get a salary.
21 And they only have a part-time
22 inspector.

23 ATTORNEY BESHORE:

24 Okay.

25 MR. SMYSER:

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 857
CONNIE TROUTMAN

1 So - - - .

2 ATTORNEY BESHORE:

3 Was it ever a deduction on your
4 milk check or anything like that?

5 MR. SMYSER:

6 No.

7 ATTORNEY BESHORE:

8 Okay. Now, with Lanco, who's
9 responsible for the salary of your
10 inspector or field men?

11 MR. SMYSER:

12 Well, I'm a part owner, because
13 it's a co-op. So I'm partly
14 responsible for his salary.

15 ATTORNEY BESHORE:

16 Mr. Inch, you may have covered
17 this. But just so it's clear, what's
18 the difference in your pay price from
19 the time you were independent with
20 Rutter's versus presently?

21 MR. INCH:

22 Well, I can tell you here from,
23 like, August, September and October, I
24 got Rutter's numbers to compare to
25 Lanco's numbers. And I have one now,

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 858
CONNIE TROUTMAN

1 in particular --- since the over-order
2 premium is not as high as it was at
3 the time when we --- when we left, it
4 was about \$1 difference on it. But at
5 this point, it's running to 61 cents
6 to --- over them three months, it was
7 61 cents to 68 cents difference. And
8 the actual over-order premium they
9 were paying in their check ran them 74
10 cents and 75 cents. So it real
11 closely matches to the difference in
12 what we're losing, my shipping to a
13 co-op.

14 That's why I would never quit
15 shipping to an independent on my own.
16 I would've never terminated myself.
17 Because it would've kind of been like
18 shooting yourself in the foot. So in
19 that sense, it kind of seems to be
20 almost more like a tool that the
21 independent uses on you.

22 Because he has the power of who
23 gets the money and who don't. So as a
24 shipper, you just take whatever's
25 given. And they say you don't get it

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 859
CONNIE TROUTMAN

1 anymore, you're left to then go down
2 to the co-op and figure out how to
3 make up the extra money.

4 ATTORNEY BESHORE:

5 Now, Mr. Inch, when you were
6 shipping to Rutters, were you required
7 to sign an affidavit or otherwise
8 assure them that you were not using
9 rBST in your --- with your cattle?

10 MR. INCH:

11 Yes. And there was no premium
12 offered for that, because I was told
13 that they already paid more for milk
14 than anybody else, which, obviously,
15 they did, using the over-order premium
16 as their gold hay.

17 ATTORNEY BESHORE:

18 Mr. Smyser, the same question.
19 Were you required to sign an
20 rBST-free ---?

21 MR. SMYSER:

22 Yes, we were. Yes.

23 ATTORNEY BESHORE:

24 And was there any premium
25 offered for that?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 860
CONNIE TROUTMAN

1 MR. SMYSER:

2 No, there was not.

3 ATTORNEY BESHORE:

4 So Ms. Troutman, you provided
5 some information, perhaps, about pay
6 price. But do you --- can you tell us
7 how your pay price has compared,
8 Clover versus now, Maryland and
9 Virginia?

10 MS. TROUTMAN:

11 I've just calculated today with
12 information. And right now, we --- in
13 the last month's pay, we would've
14 received 82 cents more with Clover.
15 And we, too, were --- we had to sign
16 an rBST paper. And we didn't get no
17 --- there was no incentive for that.

18 ATTORNEY BESHORE:

19 Now, let me go back to Mr.
20 Smyser. What differences, if any, Mr.
21 Smyser, have you experienced in the
22 services provided to you by the
23 cooperative, as opposed to your
24 experiences as an independent handler
25 in terms of just your services, or the

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 861
CONNIE TROUTMAN

1 way they service you on the farm?

2 MR. SMYSER:

3 Well, one of the nicest things
4 that we found in the co-op is that
5 they do butterfat. And they do all
6 their tests every pickup. And there
7 comes to --- you can go online and get
8 your results, you know, about five to
9 six days after the pickup.

10 With the independent, they
11 tested your milk once a day --- once
12 for the week and you got your results
13 the following week. Now, I guess
14 since then you could actually get an
15 email from them. But that was before.

16 And one of the --- the best
17 thing was the field rep. The field
18 rep was a lot more --- a lot nicer to
19 work with. We were having some
20 problems with PI count and he got an
21 outside source in at no cost to us and
22 helped us solve our problem. And we
23 had a problem with the independent
24 with a PI, that was --- you know, all
25 along to, and they really never helped

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 862
CONNIE TROUTMAN

1 us at all about how --- you know,
2 you've just got to do a better job, is
3 all they'd say. They really never
4 brought anybody in to help us solve
5 the problem. So that's the biggest
6 difference right there, the field rep.

7 ATTORNEY BESHORE:

8 Thank you. Mr. Inch, same
9 question. What differences, if any,
10 have you experienced in the service
11 you receive from your cooperative
12 versus the independent handler?

13 MR. INCH:

14 Well, the cooperative seems to
15 be a lot more friendly to you that
16 way. Like Rodney says, they already
17 get your --- you actually get more
18 service out of them, because you get
19 numbers more often. It's easier to
20 run your operation.

21 The inspectors are much more
22 helpful, which --- when it comes to
23 the price difference, I guess when
24 you're on the lower end, you're going
25 to be more helpful. When you're on

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 863
CONNIE TROUTMAN

1 the high end, you don't really need to
2 be helpful. They were on the high
3 end. They didn't really need to worry
4 about helping you out. You just kind
5 of ---.

6 I know in my particular
7 situation, the inspector just liked to
8 visit a lot and just heckle you. And
9 you were getting the bonuses all
10 ready. And I asked him one time why
11 he came so much. And he said, he
12 don't really need to come. He just
13 does it to do it. That was how he
14 gets paid, to come around and do that.
15 And so I said, there kind of was a
16 little more aggravation there. And
17 you just took it, basically, because
18 you wouldn't walk away from that extra
19 money. And nobody does that.

20 ATTORNEY BESHORE:

21 Thank you. Ms. Troutman, what
22 differences, if any, have you
23 experienced in the service you've
24 received?

25 MS. TROUTMAN:

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 864
CONNIE TROUTMAN

1 Pretty much the same that they
2 just said. We also get information
3 from every pickup, butterfat, protein,
4 somatic cell, and MUN and POA and SPC
5 run every week, I believe it is, that
6 we can keep on top of.

7 If you do have a problem, you
8 know if you got it fixed or you didn't
9 get it fixed. When we worked at an
10 independent, I believe we got a card
11 once a month. So you had one shot at
12 either you had it right or you didn't.

13 ATTORNEY BESHORE:

14 Would you say those services of
15 providing more test information more
16 frequently assist you as a dairy
17 farmer in producing a higher quality
18 product?

19 MS. TROUTMAN:

20 Absolutely. I mean, we're all
21 concerned about the quality. That's
22 foremost. If it's not a good product,
23 the consumers are not going to drink
24 it.

25 ATTORNEY BESHORE:

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 865
CONNIE TROUTMAN

1 Thank you. Now, Mr. Smyser,
2 you were here, what, a short period
3 this morning? You've heard a little
4 bit of the goings on in this hearing;
5 is that right?

6 MR. SMYSER:

7 That is correct, yes.

8 ATTORNEY BESHORE:

9 Do you feel like you have a
10 little bit of an understanding of what
11 it's about?

12 MR. SMYSER:

13 Yes.

14 ATTORNEY BESHORE:

15 Okay. And do you have an
16 opinion, a viewpoint that you would
17 like to express to the Board with
18 respect to the issues that are before
19 them in this hearing?

20 MR. SMYSER:

21 Yes. What was presented this
22 morning --- I think the co-ops have an
23 unfair disadvantage here, with the
24 pricing of their --- that we receive
25 for our milk. And at the end of the

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 866
CONNIE TROUTMAN

1 day, we're all dairy farmers. Why
2 should the independents have an
3 advantage over the co-op? I mean, we
4 all do the same work, providing a
5 quality product to the consumer. And
6 as fellow dairy men, you ought to
7 understand that.

8 ATTORNEY BESHORE:

9 So is it your view that if the
10 costs, such as field man costs,
11 quality testing costs and other costs
12 of getting the milk from farm to
13 plant, if they are --- for the
14 independent dairy, if they're built
15 into the retail --- into the wholesale
16 and retail price, should the same
17 costs be built into those prices for
18 the cooperative?

19 ATTORNEY YOVIENE:

20 Objection. I think he's
21 leading the witness.

22 MR. BRUBAKER:

23 Overruled. You can go ahead.

24 ATTORNEY BESHORE:

25 Did you get the question?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 867
CONNIE TROUTMAN

1
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MR. SMYSER:

Could you repeat?

ATTORNEY BESHORE:

Okay. If there are certain kinds of costs, such as costs of paying a field man, the cost of lab testing milk, you know, those sorts of things, if those costs that are incurred by Rutter's Dairy for its --- your former buyer, if they're incurred by Rutter's, if Rutter's costs are built into the price by the Milk Marketing Board, those costs are built into the wholesale minimum price and they're passed on through the retail and to consumer for the Rutter's Dairy, do you have a view whether those same costs that your co-op now has, costs for the same things, for field men, for testing, those sorts of things, should be built into those prices the same way and reimbursed to the cooperative?

MR. SMYSER:

Well, I think that's --- yes.

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 868
CONNIE TROUTMAN

1 They should be built in. Or else,
2 they should do away with them all
3 together, so the independents wouldn't
4 receive that premium either. Then the
5 cost to the consumer wouldn't go up.

6 ATTORNEY BESHORE:

7 Mr. Inch, you've been here for
8 part of the hearing this morning;
9 correct?

10 MR. INCH:

11 Yes.

12 ATTORNEY BESHORE:

13 Okay.

14 MR. INCH:

15 Yes.

16 ATTORNEY BESHORE:

17 And do you have an opinion, a
18 view, to communicate to the Board with
19 respect to how you feel they should
20 address the issues before them in the
21 hearing?

22 MR. INCH:

23 Well, I'm thinking I don't see
24 how --- I mean, the difference between
25 the deductions at Lanco and the

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 869
CONNIE TROUTMAN

1 deductions of theirs, it came up over
2 that three-month period about 26 cents
3 and I think we were talking about 27
4 cents. And I'm thinking --- looking
5 at the difference in the nets on our
6 milk checks versus theirs, it's almost
7 68 cents. So they'll still have an
8 advantage, as far as considering
9 themselves to be at a disadvantage.

10 And I have the same cost as the
11 next guy down the road, whether he
12 ships --- because he ships with an
13 independent. So I still have to
14 figure out how to make that up.

15 And I'm thinking, it seems
16 like, in fairness, we ought to all be
17 able to be pretty closely paid the
18 same. I mean, there's variants in our
19 milk checks by quality, by components
20 and such, so ---. But then you have a
21 fair footing and you have an
22 opportunity to either make more or
23 less.

24 In this situation, you're
25 already behind the ball. You don't

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 870
CONNIE TROUTMAN

1 get the chance. And I'm of the
2 opinion, too, if there was no over-
3 order premium, the consumer's cost
4 would be lower. The independent would
5 lose his advantage.

6 And I know from being with the
7 independent that was the last thing he
8 said he ever wanted to see, was the
9 over-order premium go away. He said
10 he likes to keep it down. But at the
11 same point, he wants it to be there,
12 because he ---.

13 ATTORNEY YOVIENE:

14 Objection. Hearsay.

15 MR. BRUBAKER:

16 Sustained. Okay. Go ahead.

17 ATTORNEY BESHORE:

18 Did you have anything else, Mr.

19 Inch?

20 MR. INCH:

21 No.

22 ATTORNEY BESHORE:

23 Okay. Thank you very much.

24 Ms. Troutman, the same question. Do
25 you have an opinion to communicate to

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 871
CONNIE TROUTMAN

1 the Board with respect to what you
2 understand to be the issues here in
3 this hearing?

4 MS. TROUTMAN:

5 First of all, I'm not very up
6 on milk pricing. But it seems like
7 this is a state mandated premium that
8 I cannot share in equally, because I
9 ship to a cooperative instead of an
10 independent. And that's all.

11 ATTORNEY BESHORE:

12 Would it be your view that if
13 the category of costs, such as field
14 men costs, lab tests and those sorts
15 of things, involved in assembling milk
16 from the farm to the plant, if they're
17 paid --- if they are built into the
18 resale price for the independent
19 plant, should the same costs of the
20 cooperative also be built into that
21 price?

22 MS. TROUTMAN:

23 I feel as though they should.
24 They're the same costs for procurement
25 of the milk, where you're --- you as

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 872
CONNIE TROUTMAN

1 Maryland Virginia are procuring it or
2 the independent is. I fail to see the
3 difference.

4 ATTORNEY BESHORE:

5 I have one final question for
6 each of you. And you may or may not
7 know the answer. Do you know, since
8 you have been working with the
9 cooperative --- I'll start with Rodney
10 Smyser, do you know whether your milk
11 has been marketed or sold by the
12 cooperative to your former plant?

13 MR. SMYSER:

14 No. I do not know the answer
15 to that.

16 ATTORNEY BESHORE:

17 Okay. Mr. Inch, do you know
18 whether it has?

19 MR. INCH:

20 No. I don't really know the
21 answer to that, either.

22 ATTORNEY BESHORE:

23 Okay. Ms. Troutman, do you
24 know?

25 MS. TROUTMAN:

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 873
CONNIE TROUTMAN

1 Yeah, I know. It's not allowed
2 to go into the independent plant. I
3 don't really quite comprehend why.
4 But my milk truck driver just told me
5 recently that they've already taken it
6 there. But as soon as they find out
7 that it came, then they're
8 reprimanded. And my milk is not to
9 come there.

10 ATTORNEY BESHORE:

11 How far is your farm from the
12 plant?

13 MS. TROUTMAN:

14 About ten miles.

15 ATTORNEY BESHORE:

16 Do you know, does your milk go
17 to other Class I plants, do you know,
18 from time to time, Rodney?

19 MR. SMYSER:

20 No. I do not know.

21 ATTORNEY BESHORE:

22 Do you know, Mr. Inch?

23 MR. INCH:

24 No. I'm told, but I'm not sure
25 --- it usually goes to Dairylea.

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 874
CONNIE TROUTMAN

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ATTORNEY YOVIENE:

Objection. Calls for hearsay.

ATTORNEY EBERLY:

What was ---?

MR. BRUBAKER:

Well, there was a mix of questions there. I didn't hear you. Say what you were going to say then, Ms. Yoviene? Or do you want to say what ---? Do you want to say first?

ATTORNEY ENGLISH:

Well, I just did it ---. He said, I'm told that ---.

ATTORNEY YOVIENE:

I objected to hearsay. He said, I'm told. I'm just ---.

MR. BRUBAKER:

You said it. You said it. Let's start over. Can you ask the question ---?

ATTORNEY BESHORE:

My question was, does he know if his milk is ---.

MR. INCH:

And I said I'm told it goes to

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 875
CONNIE TROUTMAN

1 Dairylea, which would be another
2 plant.

3 MR. BRUBAKER:

4 Okay.

5 ATTORNEY BESHORE:

6 A Class I plant?

7 MR. INCH:

8 Right.

9 ATTORNEY BESHORE:

10 Okay.

11 ATTORNEY ENGLISH:

12 And the objection is that being
13 told where it goes is hearsay.

14 MR. BRUBAKER:

15 Okay. Overruled. Okay.

16 ATTORNEY BESHORE:

17 Ms. Troutman, do you know, to
18 what plants your milk goes to, ma'am?

19 MS. TROUTMAN:

20 I can't remember where it goes
21 on a regular basis. About 70 miles.

22 ATTORNEY BESHORE:

23 Do you know whether that's to a
24 Class I plant or to a manufacturing
25 plant?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 876
CONNIE TROUTMAN

1 MS. TROUTMAN:

2 I do not.

3 ATTORNEY BESHORE:

4 Okay. I have no further
5 questions for the panel on Direct.

6 MR. BRUBAKER:

7 All right.

8 ATTORNEY BESHORE:

9 They'll available for Cross
10 Examination.

11 MR. BRUBAKER:

12 All right. Thank you, Mr.
13 Beshore. Okay. Just a note for the
14 panel. Wait for whoever's doing the
15 questioning to --- if they say your
16 name, then you answer it. And then
17 same way for everybody, so we don't
18 get it ---. All right. Mr. Bell?

19 ATTORNEY BELL:

20 I have no questions.

21 MR. BRUBAKER:

22 All right. Thank you. All
23 right.

24 ATTORNEY BELL:

25 I do want to thank the panel

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 877
CONNIE TROUTMAN

1 for their testimony.

2 MR. BRUBAKER:

3 All right. Thank you very
4 much, Mr. Bell. Okay. Ms. Yoviene?

5 ATTORNEY YOVIENE:

6 Yes, sir.

7 MR. BRUBAKER:

8 Okay.

9 ATTORNEY YOVIENE:

10 Thank you. Good afternoon to
11 all three of you. My name is Wendy
12 Yoviene. And I represent the
13 Pennsylvania Association of Milk
14 Dealers, which involves --- it has
15 membership of the milk processors in
16 Pennsylvania.

17 And I thank you for coming
18 today. Because I met with a dairy
19 farmer who had to testify. And I know
20 it's a hard choice to make, to come
21 and sit there. And I have never had
22 to do what you're doing. So accolades
23 to you.

24 Okay. So I was wanting to
25 understand from Mr. Smyser, what might

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 878
CONNIE TROUTMAN

1 ---? If you were comfortable listing
2 the types of deductions that come out
3 of your milk check now that you're in
4 at Lanco?

5 MR. SMYSER:

6 The type of ---?

7 ATTORNEY YOVIENE:

8 Deductions.

9 MR. SMYSER:

10 Deductions?

11 ATTORNEY YOVIENE:

12 Yeah. If you're comfortable.
13 I don't even necessarily --- I don't
14 need the numbers if you're not
15 comfortable.

16 MR. SMYSER:

17 Well, the only deductions that
18 they take off are the marketing
19 deductions, which would --- you know,
20 they --- that's the National Dairy
21 Promotion. And then the dues, which
22 amount to one cent. And then the
23 hauling. And that is all.

24 ATTORNEY YOVIENE:

25 Do you ---?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 879
CONNIE TROUTMAN

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MR. SMYSER:

The service fee.

ATTORNEY YOVIENE:

I'm sorry.

MR. SMYSER:

It's a service fee in there
also, which is part of the hauling.

ATTORNEY YOVIENE:

When you say ---? Thank you
for that. When you say the service
fee is part of the hauling, is that
one number? Is that what you mean?

MR. SMYSER:

That's two different line items
there. So I deduct it as hauling.

ATTORNEY YOVIENE:

Okay. Now that you're an
owner, how do you pay into the
cooperative to own shares, I guess,
own a part of the cooperative? Does
that ---?

MR. SMYSER:

There's a ---.

ATTORNEY YOVIENE:

Is that a deduction?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 880
CONNIE TROUTMAN

1 MR. SMYSER:

2 Yes, it is.

3 ATTORNEY YOVIENE:

4 Okay. And so when you did your
5 comparison of how you were --- you
6 know, how you were paid at an
7 independent plant and how you're paid
8 now, those deductions were taken into
9 account?

10 MR. SMYSER:

11 Yes, they were.

12 ATTORNEY YOVIENE:

13 All of them?

14 MR. SMYSER:

15 Yes.

16 ATTORNEY YOVIENE:

17 Okay. Were you aware ---? And
18 I'm very sorry about that letter that
19 you received. I'm sure --- it sounds
20 like it's not a happy occasion for
21 you. Were you aware of why the
22 independent plant that you were
23 shipping to had to ask for a reduction
24 and had to reduce the pounds that they
25 were taking into the plant?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 881
CONNIE TROUTMAN

1 MR. SMYSER:

2 Because they were having to
3 sell Class II milk. They're mainly a
4 bottling plant, and they try to keep
5 their volume coming in so they don't
6 have any excess.

7 ATTORNEY YOVIENE:

8 Is that based on a letter that
9 you received or is this just something
10 you heard?

11 MR. SMYSER:

12 That was information that the
13 owners gave out at their meetings,
14 basically.

15 ATTORNEY YOVIENE:

16 Okay. So you didn't ---.

17 MR. SMYSER:

18 At their producer meeting. So
19 it wasn't hearsay.

20 ATTORNEY YOVIENE:

21 Okay. You didn't hear ---?
22 You didn't want to get me there. And
23 I don't blame you. You didn't --- you
24 weren't informed that it was the
25 cooperative that was supplying the

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 882
CONNIE TROUTMAN

1 plant that had a quota that required
2 the plant to buy a minimum quantity of
3 milk from the cooperative?

4 ATTORNEY BESHORE:

5 No. I'm going to --- I want to
6 object to the specific request for
7 hearsay. In other words, the question
8 is asking --- Ms. Yoviene is asking to
9 have her client, who's not on the
10 stand, testify through Mr. Smyser.
11 And I object to that.

12 ATTORNEY YOVIENE:

13 I'm not asking that. I'm
14 asking if he was aware. I didn't ask
15 him, did he hear ---?

16 ATTORNEY BESHORE:

17 Yes, you did.

18 ATTORNEY YOVIENE:

19 No. I said aware.

20 MR. BRUBAKER:

21 Well, ask the question that
22 will be the right way.

23 ATTORNEY YOVIENE:

24 And sir, please know that the
25 colloquy between Mr. Beshore and I is

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 883
CONNIE TROUTMAN

1 separate from you. And I don't want
2 that to make you uncomfortable. Were
3 you aware of whether the request for
4 producers to reduce their volume at
5 the time was related to a need to meet
6 a quota --- a purchasing quota from
7 the cooperative that was also
8 supplying the independent plant?

9 MR. SMYSER:

10 No. I'm not aware of any.

11 ATTORNEY YOVIENE:

12 Thank you.

13 MR. SMYSER:

14 You're welcome.

15 ATTORNEY YOVIENE:

16 I appreciate it.

17 MR. BRUBAKER:

18 Do you have some more, Ms.

19 Yoviene?

20 ATTORNEY YOVIENE:

21 Yes, I do.

22 MR. BRUBAKER:

23 Okay.

24 ATTORNEY YOVIENE:

25 Ms. Troutman, thank you for

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 884
CONNIE TROUTMAN

1 coming today. I just wanted to ask
2 you --- you had read a letter. There
3 was a statement about re-inspection.
4 What was the issue that was involved
5 requiring the re-inspection?

6 MS. TROUTMAN:

7 Apparently the walls needed
8 scrubbing more frequently than
9 occurred.

10 ATTORNEY YOVIENE:

11 Was it ever included --- was
12 there an explanation or a request
13 regarding equipment cleanliness and
14 milk house cleanliness? I mean, I
15 guess the laws are milk house
16 cleanliness; correct?

17 MS. TROUTMAN:

18 Yeah.

19 ATTORNEY YOVIENE:

20 Okay.

21 MS. TROUTMAN:

22 He would mark and say if there
23 was a pile of buckets in the milk
24 house. Our milk house is clean, by
25 all standards. It is not cluttered

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 885
CONNIE TROUTMAN

1 any day of the week. Nor was it when
2 we would be put on a re-inspection.
3 Apparently, my standards were not Mr.
4 Wissinger's.

5 ATTORNEY YOVIENE:

6 Thank you. I think I heard the
7 first two producers with their count.
8 Do you know your counts?

9 MS. TROUTMAN:

10 My somatic cell currently runs
11 225,000.

12 ATTORNEY YOVIENE:

13 Has it improved over the years,
14 since the difficulties you were
15 dealing with?

16 MS. TROUTMAN:

17 Well, actually, when I left
18 Clover Farms, I was running about
19 140,000. So I was even better then.
20 My question to him was, am I shipping
21 with too much high quality milk? Or
22 maybe that's why he won't let our milk
23 come into the plant then.

24 ATTORNEY YOVIENE:

25 Okay. I think that's --- let's

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 886
CONNIE TROUTMAN

1 see. Let me just check to see if I
2 have any other questions. Mr. Inch, I
3 understood your testimony. So I don't
4 think I have anything there. Oh. I
5 guess I should ask Mr. Inch, do you
6 have deductions that are retained, as
7 well, in your milk check right now?

8 MR. INCH:

9 Well, I would have the same ---
10 I don't have it right in front of me.
11 But I would have the same deductions
12 as Rodney and I compared the prices.
13 The deductions were taken into
14 consideration.

15 ATTORNEY YOVIENE:

16 Okay.

17 MR. INCH:

18 There was a net --- the net
19 difference. Because it really doesn't
20 matter to me what the deductions are.
21 What matters is what I put in my
22 account, at the end of the day, is
23 what pays the bills.

24 ATTORNEY YOVIENE:

25 Just making sure. Thank you.

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 887
CONNIE TROUTMAN

1 Do you, Ms. Troutman, have deductions
2 in your milk check that pertain to
3 retains now?

4 MS. TROUTMAN:

5 Pertaining to what?

6 ATTORNEY YOVIENE:

7 Retains.

8 MS. TROUTMAN:

9 I don't know what that is.

10 ATTORNEY YOVIENE:

11 Okay. There's another word for
12 it. Co-op dues, maybe?

13 MS. TROUTMAN:

14 Yes.

15 ATTORNEY YOVIENE:

16 Okay.

17 MS. TROUTMAN:

18 Yeah.

19 ATTORNEY YOVIENE:

20 And you don't have to tell me
21 the amount, if you're not comfortable.

22 MS. TROUTMAN:

23 Yes, we do.

24 ATTORNEY YOVIENE:

25 Do you pay stop charges?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 888
CONNIE TROUTMAN

1 MS. TROUTMAN:

2 Yes. I pay \$120 a month in
3 stop charge.

4 ATTORNEY YOVIENE:

5 Do you pay a fuel surcharge?

6 MS. TROUTMAN:

7 Yes.

8 ATTORNEY YOVIENE:

9 Do you contribute to the
10 Hundredweight Program now, CWT?

11 MS. TROUTMAN:

12 Yes, four cents.

13 ATTORNEY YOVIENE:

14 Is that new? That's only if
15 you're a member of a co-op; right?

16 MS. TROUTMAN:

17 Yes, if you're a member. If
18 you're an independent, you don't get
19 the honor to do that.

20 ATTORNEY YOVIENE:

21 Was honor facetious?

22 MS. TROUTMAN:

23 Yes.

24 ATTORNEY YOVIENE:

25 Okay. Thank you. That's all I

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 889
CONNIE TROUTMAN

1 have. And I do thank you. And I hope
2 that I was not too tough.

3 MR. BRUBAKER:

4 All right. Thank you, Ms.
5 Yoviene. Now, Mr. Chip English, do
6 you have any questions?

7 ATTORNEY ENGLISH:

8 I have no questions.

9 MR. BRUBAKER:

10 Okay.

11 ATTORNEY ENGLISH:

12 But I do thank the witnesses
13 for testifying.

14 MR. BRUBAKER:

15 Yes. Mr. Lutkins, do you have
16 any questions?

17 ATTORNEY LUTKINS:

18 Yes.

19 MR. BRUBAKER:

20 Okay.

21 ATTORNEY LUTKINS:

22 Hi. Thank you. Ms. Troutman,
23 you had mentioned that you had a score
24 of 100. And all that seemed to get
25 you was re-inspected. Just for

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 890
CONNIE TROUTMAN

1 understanding purposes, I mean,
2 generally, what is that score?

3 MS. TROUTMAN:

4 Well, apparently --- well, you
5 have to score over 90, I believe it
6 is, to --- so that you don't get on
7 a ---.

8 ATTORNEY LUTKINS:

9 Just to sell milk?

10 MS. TROUTMAN:

11 Ninety (90) and above is what
12 you have to score on the dairy.

13 ATTORNEY LUTKINS:

14 Okay.

15 MS. TROUTMAN:

16 If they're coming in and to
17 check out the cleanliness of all
18 facilities. And apparently, because
19 we were put on re-inspect a number of
20 times, when I switched to Maryland
21 Virginia, it mandated that the state
22 come in and inspect us, just to make
23 sure everything was good, that it
24 isn't a dump, and that I'm still
25 allowed to ship milk.

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 891
CONNIE TROUTMAN

1 ATTORNEY LUTKINS:

2 Okay.

3 MS. TROUTMAN:

4 And yes, I made sure I was
5 ready for that inspection. But I
6 didn't have a lot of work to do to get
7 that 100 score from a previous re-
8 inspection.

9 ATTORNEY LUTKINS:

10 Okay. So basically, the lowest
11 score possible is 90 to be allowed to
12 sell milk. What's the highest score
13 possible?

14 MS. TROUTMAN:

15 One hundred (100).

16 ATTORNEY LUTKINS:

17 One hundred (100)'s the highest
18 score. Okay. I apologize. That's
19 really what I was trying to get at.

20 MS. TROUTMAN:

21 Yeah. And now, the re-
22 inspection statement, that's just,
23 like, well, once you've scored 100,
24 well, you're going to get re-inspected
25 some more, just because they don't

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 892
CONNIE TROUTMAN

1 believe that.

2 ATTORNEY LUTKINS:

3 They don't believe that that
4 was ---?

5 MS. TROUTMAN:

6 Yeah. That it wasn't really
7 real and just you need to be inspected
8 some.

9 ATTORNEY LUTKINS:

10 So everyone wants a little dirt
11 to believe that --- okay.

12 MS. TROUTMAN:

13 Not too much, though.

14 ATTORNEY LUTKINS:

15 Right, right. Just enough to
16 make it believable, right. Okay.
17 Thank you. In terms of ---. Mr.
18 Smyser, my question is, you would like
19 to see ---? Is it your thought that
20 the intent is to pass all the costs
21 associated with the cooperative ---
22 gets passed on to the consumer, so
23 that your milk check matches the milk
24 check of an independent dairy farmer?

25 MR. SMYSER:

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 893
CONNIE TROUTMAN

1 Yes. It won't match it,
2 because it's just the costs that's
3 going to be incurred. It won't be the
4 whole premium that the independents
5 receive.

6 ATTORNEY LUTKINS:

7 So okay. Let me try to
8 rephrase the question. Are there
9 costs associated with being part of a
10 cooperative that will --- that are not
11 going to be covered by the proposal
12 set forth by GNEMMA? Meaning, if the
13 proposal set forth by GNEMMA is
14 adopted by the Board, and it's at 27
15 cents per hundredweight, are there
16 still costs associated with being part
17 of a cooperative that aren't covered
18 by that 27 cents, to your knowledge?

19 MR. SMYSER:

20 I cannot answer that.

21 ATTORNEY LUTKINS:

22 Okay. But generally, is it
23 your intent that your milk check
24 should have the same dollar amount as
25 the milk check of an independent dairy

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 894
CONNIE TROUTMAN

1 farmer? Do you think ---?

2 MR. SMYSER:

3 Yes.

4 ATTORNEY LUTKINS:

5 That's what you feel is the
6 case?

7 MR. SMYSER:

8 I get up every morning to milk
9 our cows, just like anybody else's.

10 ATTORNEY LUTKINS:

11 Okay. And so the only
12 difference is that you're part of a
13 cooperative and an independent is not?

14 MR. SMYSER:

15 That is correct.

16 ATTORNEY LUTKINS:

17 Okay. So who should cover the
18 costs of the --- incurred by the
19 cooperative for the services that
20 they're providing to you?

21 MR. SMYSER:

22 Their consumer?

23 ATTORNEY LUTKINS:

24 Okay.

25 MR. SMYSER:

QUESTIONS BY BOARD MEMBERS: TERRY INCH, RODNEY SMYSER, 895
CONNIE TROUTMAN

1 Or do away with the over-order.

2 ATTORNEY LUTKINS:

3 You mean the Overprice?

4 MR. SMYSER:

5 Or the overpricing altogether.

6 That would be no increase for the
7 consumer at all.

8 ATTORNEY LUTKINS:

9 Okay. I have no other
10 questions. Thank you.

11 MR. BRUBAKER:

12 All right. Thank you, Mr.
13 Lutkins. Mr. Andy Saylor?

14 ATTORNEY SAYLOR:

15 No questions. Thank you.

16 MR. BRUBAKER:

17 All right. Mr. Chief Counsel?

18 ATTORNEY EBERLY:

19 No thanks.

20 MR. BRUBAKER:

21 All right. Now, Ms. Bowman?

22 How about Mr. Jim Van Blarcom? I do
23 have a comment or some questions,

24 first of all, for Mr. Smyser. Did I

25 understand, in your introduction, that

QUESTIONS BY BOARD MEMBERS: TERRY INCH, RODNEY SMYSER, 896
CONNIE TROUTMAN

1 you have --- you farm 12,000 acres?

2 MR. SMYSER:

3 1,200. I'm sorry.

4 MR. BRUBAKER:

5 I thought, this is the biggest
6 farmer here in the area then; right?

7 MR. SMYSER:

8 I'm sorry.

9 MR. BRUBAKER:

10 Yeah. So okay.

11 ATTORNEY YOVIENE:

12 Good catch.

13 MR. BRUBAKER:

14 I thought you had farms all
15 over York County and I didn't know it.
16 So all right. That correction will go
17 into the minutes. Thank you for that.
18 And then, on Ms. Troutman, did I
19 understand you clearly that you have a
20 son that's 26 years old? Are you sure
21 it's not your brother?

22 MS. TROUTMAN:

23 Sure. Thank you.

24 MR. BRUBAKER:

25 We need to put a little spice

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CONNIE TROUTMAN

1 into this here. We've been pretty
2 hard on you all. And you have a lot
3 of trauma in your life. And I
4 thought, you sure weathered it well.
5 Thank you for coming, all three of
6 you.

7 And the purpose of this hearing
8 today is not to decide whether co-ops
9 are good or independents are bad or
10 either or. We need them both. And so
11 we are not --- we're not trying to
12 decide who is best here today. All
13 right. So anyway, thank you very much
14 for that. I guess the Chairman should
15 not be in a position where he should
16 get --- but ---.

17 MR. VAN BLARCOM:

18 Sure.

19 MR. BRUBAKER:

20 We've got some good witnesses
21 on the chair. Okay. My question here
22 is that I'm going to ---. I'm asking
23 a question for all three. And you can
24 answer. What you think you're here
25 today for this hearing is, you want to

QUESTIONS BY BOARD MEMBERS: TERRY INCH, RODNEY SMYSER, 898
CONNIE TROUTMAN

1 come away here from a decision that we
2 make, is that you're not going to have
3 less money in your pocket when you're
4 done and that nobody --- well, I heard
5 that the consumer might have some less
6 money in their pocket, but you as
7 farmers here want to walk away from
8 here today hoping that this Board will
9 make a decision that's not going to
10 give you less money; is that right,
11 Mr. Smyser?

12 MR. SMYSER:

13 Yes. That is correct.

14 MR. BRUBAKER:

15 And Mr. Inch?

16 MR. INCH:

17 Well, my assumption is, I kind
18 of think the consumer doesn't
19 necessarily have to have less money in
20 their pocket. I think they're already
21 paying that money. It just means we
22 need our share of it to cover our
23 costs. Because that's a cost there
24 that the independents get and we're
25 not.

QUESTIONS BY BOARD MEMBERS: TERRY INCH, RODNEY SMYSER, 899
CONNIE TROUTMAN

1 MR. BRUBAKER:

2 So you want to walk away here
3 today hoping that we make a right
4 decision, that you're going to have
5 not less money in your pocket?

6 MR. INCH:

7 Well, right now, I'm hoping to
8 get a little bit more.

9 MR. BRUBAKER:

10 Okay.

11 MR. INCH:

12 I don't have the power to
13 decide how big or small my milk check
14 is by comparison, so ---.

15 MR. BRUBAKER:

16 Then you're hoping that you
17 walk away here from today, from the
18 decision that we make, that you're
19 going to have as much or more in your
20 pocket?

21 MR. INCH:

22 Right.

23 MR. BRUBAKER:

24 And is that the same for you,
25 Mr. Smyser?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 900
CONNIE TROUTMAN

1 MR. SMYSER:

2 Yes, it is.

3 MR. BRUBAKER:

4 And is that the same for you,
5 Ms. Troutman?

6 MS. TROUTMAN:

7 Yes, sir.

8 MR. BRUBAKER:

9 Okay. I think we're back for
10 re-questioning. Mr. Beshore?

11 ATTORNEY BESHORE:

12 Yes. Thank you. I have just
13 one follow-up question. I think this
14 goes to Rodney Smyser. Did you
15 mention, in response to Mr. English,
16 perhaps, producer meetings held by
17 your --- by Rutter's?

18 MR. SMYSER:

19 Yes. It wasn't directed to
20 him, though, but ---.

21 ATTORNEY BESHORE:

22 Well, but it ---.

23 MR. SMYSER:

24 It was. Well, I did mention
25 that. Yes.

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 901
CONNIE TROUTMAN

1 ATTORNEY BESHORE:

2 Okay. Can you just tell us a
3 little bit about that? I mean, what
4 --- did your dairy, Rutter's Dairy,
5 hold meetings a couple of times a
6 year, the producers? What did
7 you ---?

8 MR. SMYSER:

9 They had an annual meeting
10 every year.

11 ATTORNEY YOVIENE:

12 Objection. This is outside the
13 scope of his Direct. Nobody asked
14 that question.

15 ATTORNEY BESHORE:

16 It came up in Cross.

17 MR. BRUBAKER:

18 Overruled.

19 MR. SMYSER:

20 We had it ---.

21 ATTORNEY YOVIENE:

22 When did it come up in Cross?

23 ATTORNEY EBERLY:

24 I heard the question and
25 answer. I'm sure it came up.

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 902
CONNIE TROUTMAN

1 ATTORNEY YOVIENE:

2 Okay. Okay.

3 MR. BRUBAKER:

4 All right. Proceed, Mr.

5 Beshore.

6 MR. SMYSER:

7 But yes, they had a producer's
8 meeting, annual producer's meeting.
9 And the owner, which would've been
10 Todd Rutter, or one of his brother or
11 somebody, would have a presentation
12 and tell us what was going on with the
13 dairy and explain.

14 ATTORNEY BESHORE:

15 Treat you to a meal?

16 MR. SMYSER:

17 Treated us to a meal. That's
18 right.

19 ATTORNEY BESHORE:

20 Any other treats?

21 MR. SMYSER:

22 That would be all.

23 ATTORNEY BESHORE:

24 Once a year?

25 MR. SMYSER:

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 903
CONNIE TROUTMAN

1 Once a year.

2 ATTORNEY BESHORE:

3 Well, did you say there were
4 awards or something?

5 MR. SMYSER:

6 No. No awards were given out.

7 ATTORNEY BESHORE:

8 Okay.

9 MR. SMYSER:

10 No.

11 ATTORNEY BESHORE:

12 Thank you. That's all. Let me
13 just ask that question, if I can, to
14 --- we've heard from Rutters. But
15 with Ms. Troutman, with Clover, were
16 there producer meetings held by
17 Clover?

18 MS. TROUTMAN:

19 No.

20 ATTORNEY BESHORE:

21 That's all.

22 MR. BRUBAKER:

23 Okay. Thank you, Mr. Beshore.

24 Let's see where we are here. Mr.

25 Bell. How about Mr. Bell?

QUESTIONS BY ATTORNEYS: TERRY INCH, RODNEY SMYSER, 904
CONNIE TROUTMAN

1 ATTORNEY BELL:

2 No questions.

3 MR. BRUBAKER:

4 All right. Thank you. Ms.

5 Yoviene?

6 ATTORNEY YOVIENE:

7 No questions.

8 MR. BRUBAKER:

9 Mr. English?

10 ATTORNEY ENGLISH:

11 No questions.

12 MR. BRUBAKER:

13 Mr. Lutkins?

14 ATTORNEY LUTKINS:

15 No questions. Thank you.

16 MR. BRUBAKER:

17 Mr. Saylor?

18 ATTORNEY SAYLOR:

19 No questions.

20 MR. BRUBAKER:

21 Mr. Chief Counsel?

22 ATTORNEY EBERLY:

23 No thanks.

24 MR. BRUBAKER:

25 And how about my Board?