

ESTABLISHMENT OF A DROUGHT RELIEF ORDER
FOR ALL MILK MARKETING AREAS

It is ordered that the applicable provisions of the Official General Order for each milk marketing area shall be amended by this Official General Order to be known as Official General Order No. A-856, effective September 1, 1988, and remain effective through February 28, 1989. The amendments shall be carried out as set forth in Sections I-IV below.

SECTION I

To the Class I price established by each Official General Order \$1.05 shall be added.

SECTION II

In Official General Orders A-852, A-853 and A-854A, the prevailing area milk cost for any month shall be (1) the weighted average over price supply premium for the third month preceding that month plus (2) the price of Class I milk purchased for processing and resale in the respective area for that same month provided that in determining the prevailing area milk cost, the weighted average over price supply premium for the third month preceding shall be included only to the extent such amount exceeds \$1.05. The intent of this language is to allow dealers to pass through the full amount of the temporary (September 1, 1988 - February 28, 1989) Class I price increase without duplicating existing over-order supply premiums.

SECTION III


The Board shall monitor any changes which may occur as the result of legislative or regulatory activity of the Federal government which could have an impact on this Order. If the Board determines that these changes have a significant impact on this Order, they may call a public hearing to receive testimony from all interested parties concerning possible amendments to this Order.

SECTION IV

The provisions of this Order shall become effective September 1, 1988 and remain effective through February 28, 1989, subject to the provisions of Section III of this Order.

PENNSYLVANIA MILK MARKETING BOARD

Chairman


Member


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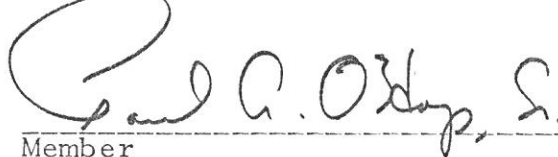
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FINDINGS OF FACT AND
CONCLUSIONS OF LAW FOR EMERGENCY HEARING
RE: PRODUCER PRICES IN MILK MARKETING
AREAS 1 THROUGH 6 HELD ON JULY 27, 1988

I. Findings of Fact

A. Procedural History

1. On July 13, 1988, at the regularly scheduled monthly sunshine meeting of the Pennsylvania Milk Marketing Board, the Board granted petitions for an emergency hearing filed by the Pennsylvania Farmers Association, the Pennsylvania Grange, and the Pennsylvania Farmers Union. Notice of this meeting was provided in accordance with the provisions of the Sunshine Act, 65 P.S. Section 271 et seq. (1988 Supp.).

2. The petitions requested a hearing to determine whether or not the Board should increase the price producers in Pennsylvania receive per hundredweight of milk. Petitioners sought an increase in the producer price as a result of the drought conditions in the Midwest and in Pennsylvania.

3. The hearing was set for 10:00 A.M. on July 27, 1988, in Room 309, Agriculture Building, Harrisburg, PA.

4. Notice of the emergency hearing was provided by mailing a copy of PMMB Bulletin No. 152 to the Board's mailing list of over 800 producers, milk dealers and other interested parties. (N.T. at 6). Notice was also published in eleven newspapers of general circulation which collectively covered all six milk marketing areas. (Id.).

5. The hearing was held on July 27, 1988, at 10:00 A.M. in Room 309, Agriculture Building, Harrisburg, PA.

B. Summary of Testimony

6. Testimony was presented by Richard E. Denison, General Manager of the Pennsylvania Farmers Association (PFA), Member Service Corporation and Manager of the PFA Farm Management Services. (N.T. at 7-8).

7. Denison presented a statement on behalf of the Pennsylvania Farmers Association (PFA). (N.T. 10-14; Pet. Ex. 1).

8. Denison's statement contained the following relevant information:

a) PFA represents approximately 23,000 farm families, of which approximately 50% are dairy farms. (N.T. at 10)

b) The USDA reported that through the week of July 11, 1988, 39% of the Pennsylvania corn crop was in "poor to very poor" condition. (N.T. at 11). Through the week of July 20, 1988, the price of corn in Pennsylvania had risen 94% over the same period in 1987, and soybean oil meal rose 33% during the same period. (N.T. at 11-12; Pet. Ex 1, Table 1 & 2).

c) These increases resulted in an average increased price for purchased feed of 34% for Pennsylvania dairy farmers in 1988 over the same period in 1987. (N.T. 12-13; Pet. Ex 1, Table 3).

d) This 34% increase in feed costs translates to an additional \$1.05/cwt for purchased feed. (N.T. at 13).

9. Denison's testimony was based on a cross-section of Pennsylvania producers, including small, medium, and larger producers in all Pennsylvania milk marketing areas, and producers of high, average, and low efficiency. (N.T. at 14).

10. Denison further testified that while practices among dairy farmers varied widely, and thus accurate figures are not readily available, Pennsylvania is a grain deficient state. (N.T. at 16-21).

11. Also testifying for PFA was Donald Unangst, Executive Director of the Agricultural Stabilization Conservation Service in Harrisburg, Pennsylvania (N.T. at 22).

12. Unangst presented a statement summarizing crop damage in 66 counties in Pennsylvania (N.T. at 26; Pet. Ex 2). Estimates of crop damage were \$50 million to \$75 million for hay and \$150 million to \$200 million for corn (N.T. at 26-27; Pet. Ex. 2). The drought has resulted in a lack of feed and high feed costs. (N.T. at 28; Pet. Ex. 2).

13. Unangst also testified that recent rains, while helpful for late hay cuttings and some soy beans, will not help much of the corn crop, a major source of feed for dairy cows. (N.T. at 31-39).

14. Karl Kroeck, a dairy farmer and a member of the State Board of PFA, and Chairman of its Dairy Advisory Committee, also testified for PFA and introduced a prepared statement. (N.T. at 40, Pet. Ex. 3). The statement reiterated the previous testimony of feed price increases, and calculated that these increases resulted in an average increase in the cost of production of \$1.06/cwt. of milk. (Pet. Ex. 3, Exhibit "A"). these price increases have occurred at a time when the Minnesota-Wisconsin price series is at its lowest level since 1983. (N.T. at 44; Pet. Ex. 3). Increased efficiencies in production, and the resulting reduced costs, have not been able to keep pace with the combined effect of increased feed costs and reduced price supports.

15. It was Kroeck's testimony that the requested \$1.05/cwt. increase would constitute a set price for six months, beginning September 1, over the price in each milk marketing area. These prices are in turn based on the M-W price, with an added differential (N.T. at 57-58).

16. James A. Fraher, the Chief Economist for Atlantic Dairy Cooperative, and an expert witness, testified for ADC and presented a written statement. (N.T. at 63-94; 155-165; 217-218; Pet. Ex. 4).

17. Fraher's testimony and statement contained the following relevant information.

- a) The prolonged drought has dramatically increased the cost of purchased feed and curtailed the locally available supplies of feedstuffs. (N.T. at 67).
- b) Since December, 1983, the U.S. support price for milk has decreased \$2.50/cwt. (Id.)
- c) Pennsylvania producers were experiencing a cost/price "squeeze" price to the onset of the drought, due to increased cost of production and decreased producer prices. (N.T. at 69; Pet. Ex.4 at 3-4).
- d) Decreasing milk production in Pennsylvania and an increase in milk consumption for both fluid and manufactured uses had created a very tight market for milk even before the drought. This condition will be exacerbated by the drought conditions. (N.T. at 69-73).
- e) The margins (the difference between wholesale price and cost of production) available to the average Pennsylvania producer for the year ending March 31, 1988 were largely inadequate to provide a reasonable return to management and net worth. (N.T. at 73-74; Pet. Ex. 4, Tables 7-9).

- f) There has been an additional decline in producer prices from March, 1988 to June, 1988 for the 84% of Pennsylvania milk pooled in Federal Orders 2, 4, and 36 of \$0.43/cwt. (N.T. at 75-76; Pet. Ex. 4, Table 11).
- g) The increase in feed costs incurred by Pennsylvania producers between March 31, 1988 and mid-July, 1988, amounted to \$0.56 to \$0.59 per hundredweight. (N.T. at 76-79; Pet. Ex. 4; Table 12).
- h) Fraher recommended that the Board increase the Class I price in all milk marketing areas by \$1.00 to \$1.10 per hundredweight, effective September 1, 1988 through February 28, 1989.

18. Fraher testified that the over-order pricing mechanism presently in place in Pennsylvania should remain in effect, but that the relief requested in the hearing would, for the effective period of the Order, take the place of these premiums. (N.T. at 85-86; Fraher's graph - supplemental attachment to Pet. Ex. 4).

19. Fraher testified that the producer price for bottled milk sold outside of Pennsylvania should be adjusted to reflect the prevailing prices for farmer milk outside of Pennsylvania (N.T. at 92 (a)-93).

20. Testimony of a number of individual Pennsylvania dairy farmers and a representative of Milk Marketing Inc. (MMI), reiterated the previous testimony on the impact of the drought and reduced producer prices on Pennsylvania dairy farmers. (N.T. at 95-135; 166-170; 208-216; Pet. Exs. 5, 7, 8).

21. Testimony was also presented by representatives of Pennsylvania Farmers Union (PFU). (N.T. at 137-150 (Rynd); 183-208 (Tewksbury); Pet. Exs. 6 and 9).

22. The testimony of PFU which requested a \$2.00/cwt. increase in the blend price, was based on individual experience and observation, rather than on a cross-section of Pennsylvania dairy farmers. (N.T. at 144-145; 204). Also, the invoices attached to Petitioners Ex.9 are not dated in the same sequence as the serial numbering in the invoices, and they therefore cannot be considered by the Board.

23. Finally, the Board received letters from Rep. John Shovers, a member of the House Agriculture and Rural Affairs Committee, and Sen. Edward W. Helfrick, Chairman of the Senate Agriculture and Rural Affairs Committee. These letters, both stating full support for the relief requested by the petitioners, were read into the record and made part thereof as Board Exs. 1 & 2. (N.T. at 150-155).

C. Findings of Fact

24. The testimony presented by petitioners PFA and the Pennsylvania State Grange was clear and credible, and is accepted by the Board as an accurate representation of the economic impact of the present drought conditions.

25. Specifically, the board finds that the prolonged drought has resulted in dramatically increased feed prices for Pennsylvania dairy farmers, amounting to an increase of \$0.56 to \$0.59 per hundredweight since March 31, 1988, and approximately \$1.05/cwt over the same period last year (1987).

26. This dramatic feed price increase occurred at the same time that the M-W price, the driving mechanism for producer prices in Pennsylvania was at its lowest point since 1983.

27. Despite increased efficiencies in production, the Board finds that Pennsylvania producers have been unable to reduce costs sufficiently to offset the reduction in producer price and the effects of the drought, specifically the increased cost of feed.

28. The Board finds that an increase in the Class I price of \$1.05 per hundredweight is fully supported by the competent and credible evidence presented in the record.

29. The Board further finds that given present market conditions and the potential for action by the Federal government to aid dairy farmers, the \$1.05/cwt. shall remain in effect from September 1, 1988 till February 28, 1989. The Board will monitor Federal government activity and will call a hearing, if necessary, to reevaluate this order based on such activity.

30. The Board finds that the current system for calculating over-order milk supply premiums shall remain in effect, but that the payment of such premiums shall have no effect on the resale pricing of milk unless the weighted average of such premiums when added to minimum prices otherwise prevailing, exceeds \$1.05 when added to the prevailing prices in PMMB Areas 1-6 on September 1, 1988.

II. Conclusions of Law

31. The hearing was called pursuant to Sections 801 and 803 of the Milk Marketing Law, in response to petitions filed by PFA, PFU and the Pennsylvania State Grange.

32. The notice requirements of the Milk Marketing law and the Sunshine Act were complied with.

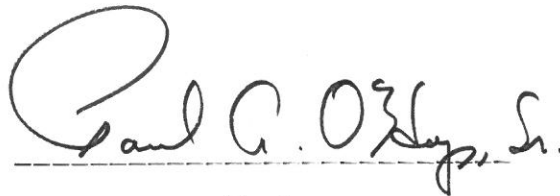
33. Section 803 of the Milk Marketing Law states that the Board "shall fix, by official order, the minimum prices or a formula for the setting of minimum prices to be paid by milk dealers or handlers to producers for milk or milk components."

34. Petitioners have demonstrated by substantial evidence that the recent drought conditions have resulted in dramatic increases in the cost of feedstuffs, an increase which has occurred at the same time that producer prices are at their lowest point since 1983. The substantial and credible evidence presented on cost of production, price received, and return on equity supports the granting of an additional \$1.05/cwt. for the price of Class I milk established by each Official General Order for each milk marketing area.

35. This attached order, Official General Order A-856, will become effective on September 1, 1988 and remain in effect until February 28, 1989, or until such time prior to February 28, 1989 as the Board shall amend this Order following a public hearing.

36. The board will monitor the legislative and regulatory activity of the Federal government to determine whether such activity has an impact which warrants Board action.

Chairman



Member



Member