



Commonwealth of Pennsylvania

Milk Marketing Board
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Official General
Order No. A-914 Amended

Posted: October 12, 2001
Effective: November 1, 2001

OVER-ORDER PREMIUM

NOW, this 12th day of October 2001, the Commonwealth of Pennsylvania, Milk Marketing Board (Board) adopts and issues this official general order pursuant to the authority conferred by the Milk Marketing Law, 31 P.S. §§ 700j-101 – 700j-1204. This order will become effective at 12:01 a.m. on November 1, 2001, and will expire at 12:00 midnight on December 31, 2001.

SECTION I

The attached findings of fact and conclusions of law are incorporated herein by this reference as though fully set forth in this order.

SECTION II

(a) In all milk marketing areas the calculation of the Class I price for milk produced, processed, and sold in Pennsylvania will include an over-order premium of \$1.40 per hundredweight.

(b) Milk dealers shall show by line item on their monthly statements to independent producers and cooperatives the specific amount of the over-order premium being paid.

SECTION III

All parts of Official General Order A-893 not inconsistent with this order shall continue in effect. This official general order supersedes Official General Order A-914.

PENNSYLVANIA MILK MARKETING BOARD

Beverly R. Minor, Chairwoman

Luke F. Brubaker, Member

Barbara A. Grumbine, Consumer Member

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
OVER-ORDER PREMIUM HEARING
OCTOBER 3, 2001**

FINDINGS OF FACT

1. On October 3, 2001, the Pennsylvania Milk Marketing Board (Board) convened a hearing for all milk marketing areas to receive testimony and evidence concerning whether an adjustment should be made to the level of the over-order premium of \$1.10 per hundredweight established by Official General Order (OGO) A-914.
2. Notice of the hearing was published at 31 Pennsylvania Bulletin 5420 on September 22, 2001, and was mailed to those on the Board's interested parties list by means of Bulletin No. 1309 dated September 6, 2001. Bulletin No. 1309 dated September 21, 2001, was mailed to all interested parties to clarify that the purpose of the hearing was to receive evidence concerning the level of the over-order premium for the months of November and December 2001. (PMMB Exhibits 1, 2, and 3)
3. At the conclusion of the hearing, a briefing schedule was set. Principal letter briefs were due on October 9, 2001 and Reply letter briefs were due on October 10, 2001.
4. Mr. Edward Gallagher testified on behalf of Dairy Marketing Services (DMS), Dairylea Cooperative, and Dairy Farmers of America's Northeast Council, (Petitioners) as an expert witness in agricultural economics and dairy marketing. Mr. Gallagher testified that the current over-order premium should be increased to \$1.40 for November and December 2001 and that the fuel adjustment premium continue. (N.T. 18) Mr. Gallagher based this request on several factors. One factor was the continuing decline in Pennsylvania milk production along with the decrease in the state's milking herds. (N.T. 18-19) At the same time that there is a decline in cow number and milk production in Pennsylvania, there are increases in cow numbers and milk production in Indiana, Idaho, California, and other western states causing a shift in Pennsylvania's milk production market share to western states. (N.T. 19)
5. Mr. Gallagher testified that the dry summer weather patterns affected feed production that could impact the nutrient and energy quality of the feed. Mr. Gallagher further testified that as of September 1, the Pennsylvania corn production is expected to be approximately 26% below last year's production; alfalfa hay crop is down 13% from last year; and soybean production is off 5% which may further impact milk output per cow. (N.T. 20)
6. Mr. Gallagher testified that competition for producer milk supplies is very intense and Pennsylvania milk continues to be shipped to the Southern markets with \$3 per hundredweight, plus handling costs, are common in this market. (N.T. 21-22) Mr. Gallagher further testified that the decline in Pennsylvania milk production,

the intense competition for producer milk supplies from plants located in other states, and the increase in milk being shipped and pooled to the Southeastern United States has caused a significant decrease in the amount of milk available to Pennsylvania's Class I milk dealers than there was last year at this time. (N.T. 22-23)

7. Mr. Gallagher testified that long-term milk prices in Pennsylvania have not been sufficient to "generate a growing and thriving dairy farming sector within the state" especially with rising costs of maintaining sanitary and quality conditions as well as future environmental regulations. (N.T. 24) Mr. Gallagher testified that the failure to generate strong milk prices will result in further declines in Pennsylvania farms, milk cow herds, and milk production that would place Pennsylvania's milk processing facilities in jeopardy because of the unavailability of milk supplies. (N.T. 24-25)
8. According to Mr. Gallagher's testimony farm milk prices are not high enough to make up for past years' low profitability and ensure "financial asset accumulation to weather the coming future years of roller coast milk prices and higher farm production and investment costs." (N.T. 28) Mr. Gallagher requested that the Board increase the over-order premium in order to reverse the trend of "exodus" from out industry. (Id.)
9. Mr. Gallagher testified that there has been strong milk prices for all of 2001 but predicts that the milk prices will drop and that he sees an average Class III price next year around \$12 per hundredweight and "at that level in this region, you'll generate gross milk prices around \$14 a hundredweight" --- "significantly lower than where they are now." (N.T. 48)
10. Mr. Arthur Zug, a dairy farmer and representative of the Pennsylvania State Grange, testified that the State Grange supported the \$.30 increase to \$1.40 per hundredweight in the over-order premium for the months of November and December 2001 as requested by the Petitioners. Mr. Zug further testified that this would be in addition to the \$.25 per hundredweight fuel adjustment. (N.T. 14)
11. Mr. Mike Ambruso, Manager of Planning and Financial Reporting at Lehigh Valley Dairies (Lehigh), testified that Lehigh supports the request of Petitioners to increase the current over-order premium of \$1.10 per hundredweight by \$.30 for the months of November and December 2001 plus the fuel adjustment of \$.25 per hundredweight. (N.T. 95) Mr. Ambruso based this request on several factors; one being that Lehigh's supplier currently imposes charges in excess of \$1.40 and he doesn't expect the charges will let up soon. (N.T. 96) Mr. Ambruso testified that DMS supplies the Lehigh plants with all their raw milk needs using the resources of independent producers and cooperative members and when DMS has procurement difficulties, the assessments charged to Lehigh by DMS for that milk increases. (N.T. 97) Mr. Ambruso further testified that "spot premiums and give up charges being paid on manufacturing milk are substantially higher than this time last year indicating that the cheese plants were

willing to pay significant sums to attract and retain milk.” Spot premiums on manufacturing milk ranged from \$1.75 to \$3.65 for September 2000 and for September 2001 the range for spot premiums on manufactured milk was \$3.00 to \$4.50. (N.T. 98-99) Mr. Ambruso testified that spot premiums tend to reflect the tightness of milk supplies. (N.T. 99) Mr. Ambruso testified that the increase in the over-order premium was also necessary to assure the “health and viability” of the dairy industry since the “failure to reflect the prevailing premiums and the over-order premiums” will “detrimentally impact Lehigh’s already low relative to industry standards profitability.” (N.T. 102) Mr. Ambruso requested that the Board “take steps to reflect this market condition in the over-order premium in order to keep Lehigh competitive.” (N.T. 104)

12. Mr. Earl Fink, on behalf of the Pennsylvania Association of Milk Dealers (Dealers), testified that milk dealers are able to find milk, however, in some cases the price is high, particularly with spot milk. (N.T. 118) Mr. Fink testified that the Dealers strongly support the \$.30 increase per hundredweight in the over-order premium for the months of November and December 2001. (Id.)
13. The Board finds that an over-order premium of \$1.40 per hundredweight for the months of November and December 2001 responds appropriately to the conditions of the dairy industry in Pennsylvania, including the increased cost of production, declining output per cow, and the tight supply of milk.

CONCLUSIONS OF LAW

1. The October 3, 2001 hearing on the over-order premium was held pursuant to the authority granted to the Board in Sections 801 and 803 of the Milk Marketing Law. (31 P.S. §§700j-801 and 700j-803)
2. The hearing was held following adequate notice and all interested parties were given a reasonable opportunity to be heard.
3. All parts of Official General Order A-893 not inconsistent with the attached order will continue in effect.
4. In accordance with Official General Order A-894, milk dealers shall continue to show by line item on their monthly statements to independent producers and cooperatives the specific amount of the over-order premium being paid.
5. In accordance with Official General Order A-894 (Supplemental), the over-order premium will continue to apply only to Class I milk produced, processed, and sold in Pennsylvania.
6. In adopting this order, the Board has considered the entire record and concludes that the order is supported by a preponderance of credible evidence and is reasonable and appropriate under Sections 801 and 803 of the Milk Marketing Law.
7. The attached order may be amended pursuant to the procedures set forth in Section 801 of the Milk Marketing Law.

PENNSYLVANIA MILK MARKETING BOARD

Beverly R. Minor, Chairwoman

Luke F. Brubaker, Member

Barbara A. Grumbine, Consumer Member

Dated: October 12, 2001

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