



Commonwealth of Pennsylvania
Milk Marketing Board
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Official General
Order No. A-970

Posted: December 15, 2010
Effective January 1, 2011

OVER-ORDER PREMIUM

NOW, this 15th day of December 2010, 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 January 1, 2011, and will expire at 12:00 midnight on June 30, 2011.

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 shall include an over-order premium of \$2.15 per hundredweight effective 12:01 a.m. on January 1, 2011, through midnight on June 30, 2011.

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

SECTION III

All parts of Official General Order A-893 not inconsistent with this order shall continue in effect.

PENNSYLVANIA MILK MARKETING BOARD

Richard Kriebel, Chairman

Luke F. Brubaker, Member

Barbara A. Grumbine, Consumer Member

Date: December 15, 2010

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
OVER-ORDER PREMIUM HEARING
DECEMBER 1, 2010**

FINDINGS OF FACT

1. On December 1, 2010, the Pennsylvania Milk Marketing Board (“Board”) convened a hearing for all milk marketing areas to receive testimony and evidence concerning the level and duration of the over-order premium.
2. Notice of the hearing was published at 40 Pennsylvania Bulletin 6756 on November 20, 2010, and was mailed to those who have requested mailed notice of Board hearings by means of Bulletin No. 1466, dated November 10, 2010.
3. Dennis Schad testified as an expert in agricultural economics and milk marketing on behalf of the Greater Northeast Milk Marketing Agency (“GNEMMA”). Members of GNEMMA with producers in Pennsylvania are Dairylea Cooperative Inc.; Dairy Farmers of America, Inc.; Dairy Marketing Services, LLC; Land O’Lakes, Inc.; Maryland and Virginia Milk Producers Cooperative Association, Inc.; and Upstate Niagara Cooperative, Inc. (“Cooperatives”). Mr. Schad recommended that the over-order premium be set at \$2.15 per hundredweight through June 30, 2011. Mr. Schad also recommended that the over-order premium fuel adjuster, Official General Order A-927, continue through the period.
4. Utilizing information developed by Board staff Mr. Schad testified that, on average, Pennsylvania dairy farmers received a negative net margin after depreciation of \$2.19 per hundredweight from their dairy enterprise during 2009. Mr. Schad also testified that updated Board staff-developed information showed that increasing milk prices had returned Pennsylvania dairy farmers to an average profitability of \$1.00 per hundredweight during September 2010.
5. Mr. Schad testified that domestic weather conditions and increased national and international demand had increased dairy feed prices during 2010. He testified that the estimated feed costs for 2011 track well above the five year average feed cost. Mr. Schad also testified that higher feed prices are expected to impact MILC payments in 2011, with Cornell dairy economists forecasting monthly payments ranging from \$0.039 per hundredweight to \$1.39 per hundredweight during the first half of 2011.
6. Mr. Schad testified that the country’s dairy herd had rebounded to year earlier levels, after decreasing through 2009, causing increases in milk production over the previous year. September 2010 milk production increased 3.6% over September 2009, with 4,000 fewer cows. Through September 2010 milk production had increased 1.5% from the same period in 2009. Despite decreased cow numbers and dairy farms, milk production in Pennsylvania outpaced the national increase of 1.5% - for the first nine months of 2010 Pennsylvania milk production was 2.5% greater than the first nine months of 2009.

7. Mr. Schad testified that market conditions for milk prices during the first half of 2011 were not favorable for strong dairy prices. He noted that nationally and locally milk production has been increasing. Mr. Schad testified that USDA, citing increasing milk production and relatively strong domestic and international demand, is forecasting the average Class III price to range between \$14.70 per hundredweight and \$15.40 per hundredweight during the first half of 2011.
8. Mr. Schad testified regarding premiums in nearby markets. The GNEMMA over-order price for Class I distribution in New Jersey remained at \$1.37 per hundredweight (including a \$0.17 fuel adjustment) plus an additional premium for customers requiring rBST-free affidavit milk; New Jersey also maintains a mandated fuel adjuster premium at the same level as Pennsylvania's. Mr. Schad testified that the GNEMMA price for distribution in Maryland and Delaware remained \$0.10 per hundredweight higher than the New Jersey price. The over-order Class I price for November 2010 set by the marketing agency in common in the southeast, including fuel adjustment and rBST-free affidavit premium, was \$3.64 per hundredweight, with credits of \$0.40 per hundredweight available. The marketing agency in common in the midwest had an over-order price for November 2010 of \$3.08 per hundredweight including fuel adjustment and rBST-free affidavit premium, with credits of \$0.60 per hundredweight available.
9. Mr. Schad testified that, in the aggregate, conditions in Pennsylvania favored holding the over-order premium at \$2.15 per hundredweight for the first six months of 2011. He testified that 2010 had provided a little relief to dairy farmers who were devastated by 2009's unprecedented cost/milk price squeeze, but also testified that milk prices had only returned to profitable levels during the second half of 2010 and did not approach the levels needed to restore equity lost in 2009. Mr. Schad further testified that increasing feed prices and lackluster milk prices projected for the first half of 2011 will once again challenge Pennsylvania's dairy farmers. He also noted that milk production had increased statewide and nationally and that over-order prices outside Pennsylvania were holding.
10. Richard Ebert testified on behalf of the Pennsylvania Farm Bureau. Mr. Ebert operates a dairy farm in Westmoreland County with his brother. Mr. Ebert is also Vice President of Pennsylvania Farm Bureau and Chairman of the Pennsylvania Farm Bureau Dairy Committee. Mr. Ebert recommended that the over-order premium be set at \$2.15 per hundredweight for six months. Mr. Ebert also recommended that the OGO A-927 fuel adjuster remain in effect.
11. Mr. Ebert testified that input costs have been increasing for the last few years, putting additional stress on already fragile margins. He testified that diesel fuel had increased 13% from March 2010 to November 2010 and that electricity costs would increase between 20% and 30% in January 2011. Mr. Ebert also testified that feed costs had increased 17% from September 2010 to November 2010.

12. Mr. Ebert testified that depressed milk prices had caused him to make adjustments that impact the way his cows are fed and that as profit margins tighten he needs to more closely manage feed rations to meet feed costs and maintain the quality and quantity of feed for optimum milk production. Rather than purchasing high quality hay, he makes it from grass on his own property. He has had to increase protein levels in his purchased feed concentrate and purchases feed inputs every two weeks instead of monthly.
13. Mr. Ebert testified that while milk prices have increased over the past few months, so have input costs, which had remained high regardless for the past few years. Mr. Ebert was especially concerned that even higher feed costs were on the horizon, as indicated by commodity price projections.
14. Matthew Espenshade testified on behalf of the Pennsylvania State Grange. Mr. Espenshade recommended that the over-order premium be set at \$2.15 per hundredweight through June 2011 and that the over-order premium fuel adjuster remain in effect. Mr. Espenshade and his father operate a dairy farm in Lancaster County, milking 80 cows.
15. Mr. Espenshade testified that the dairy industry continues to face many economic hardships, with energy and feed costs continuing to be major expenses. He testified that electric deregulation had significantly increased his electricity costs. Mr. Espenshade also testified that his feed costs would soon significantly increase. He testified that the increases in feed and energy costs were undermining the narrow profit margins on many dairy farms and that, coupled with the high debt load that many farms were carrying from 2009, the question was no longer “if, but “when” the end would come.
16. Mr. Espenshade testified that the over-order premium does not just support dairy farmers, but also helps support the businesses that dairy farmers depend on. He also testified that the over-order premium would help dairy farmers maintain farm equity and pay down the debt that has accumulated.
17. The Board finds that the over-order premium should be set at \$2.15 per hundredweight from January 1, 2011, through June 30, 2011. The Board also finds that the over-order premium fuel adjuster should continue.

The Board finds credible and persuasive Mr. Schad’s testimony regarding projected feed costs and milk prices for the first half of 2011. The Board also finds credible and persuasive Mr. Schad’s testimony regarding premiums outside Pennsylvania and his testimony regarding the effect competitive conditions have on the level at which the Board-mandated premium should be set. .

The Board finds the testimony of Mr. Ebert and Mr. Espenshade regarding the situations on their farms to be credible and persuasive. The Board also finds credible and persuasive their testimony regarding the effect increased input costs are having on

their farms and on dairy farms generally in Pennsylvania and on the decisions being made on Pennsylvania dairy farms.

CONCLUSIONS OF LAW

1. The December 1, 2010, 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 (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 No. A-893 not inconsistent with the attached order will continue in effect.
4. In accordance with Official General Order No. 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 Pennsylvania Milk Marketing Board's over-order premium being paid.
5. In accordance with Official General Order No. 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 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 Law.
7. The attached order may be amended pursuant to the procedures set out in section 801 of the Law.

PENNSYLVANIA MILK MARKETING BOARD

Richard Kriebel, Chairman

Luke F. Brubaker, Member

Barbara A. Grumbine, Consumer Member

Date: December 15, 2010

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