



Commonwealth of Pennsylvania
Milk Marketing Board
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Official General
Order No. A-1006

Posted: April 1, 2020
Effective: April 7, 2020

EMERGENCY ORDER
APRIL 2020 MINIMUM RESALE PRICES

NOW, this 1st day of April 2020, 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.

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

March 2020 minimum wholesale and retail prices shall remain in effect through April 30, 2020.

PENNSYLVANIA MILK MARKETING BOARD

Robert N. Barley, Chairman

James A. Van Blarcom, Member

Date: April 1, 2020

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
EMERGENCY APRIL 2020 RESALE PRICES HEARING
March 31, 2020**

FINDINGS OF FACT

1. On March 31, 2020, the Pennsylvania Milk Marketing Board (“Board”) held an emergency hearing for all milk marketing areas to receive testimony and evidence concerning the effect of the coronavirus/COVID 19 pandemic on minimum resale prices and whether March 2020 minimum resale prices should remain in effect through April 30, 2020.
2. Due to the emergency nature of the hearing and the short notice available, on March 26, 2020, the Board emailed notice of the hearing to those who have requested emailed notice of Board hearings and to those who have requested that Board price announcements be emailed to them. The hearing notice, as Board Bulletin 1571, was also posted on the Board’s website.
3. Steven Zalman testified on behalf of Board Staff as an expert in milk industry cost accounting and regulation. Mr. Zalman recommended that March 2020 resale prices remain in effect through April 30, 2020.
4. Mr. Zalman testified that April 2020 minimum resale prices were issued by Board Staff on March 19, 2020. April prices were issued as the coronavirus pandemic worsened, with Governor Wolf on March 19 ordering a statewide shutdown of all non-life sustaining businesses effective March 21. Mr. Zalman testified that the Board was in discussions with state government and industry leaders during this time concerning the statewide business and school shutdowns and the effects those shutdowns would have on Pennsylvania’s dairy industry. Mr. Zalman testified that the resale prices that would go into effect on April 1 were considered a factor that could produce negative consequences in a market already becoming uncertain; therefore, the April resale prices were removed from the Board website in the evening of March 19 and the industry was notified that March 2020 prices would remain in effect until further notice.
5. Mr. Zalman testified that one of Board Staff’s main goals was to minimize the loss of milk dealers’ available cash so that they would be able to pay producers and personnel. He also testified that continued availability of milk, uninterrupted payments to producers, and dealer solvency were paramount during the ongoing crisis. Using April 2019 sales data for the 17 Pennsylvania cross-section milk dealers, Mr. Zalman calculated the average amount retained by the cross-section dealers if March 2020 prices remained in effect for April 2020 would be \$35,745.00. Mr. Zalman noted that April 2020 sales may be substantially less than April 2019 sales.
6. Mr. Zalman characterized the effect on consumers as minimal if March 2020 prices remained in effect through April 2020. He testified, for instance, that the minimum retail price for a quart of 2% milk in Area 1 would be maintained at \$1.09 for the additional 30 days in April, rather than being adjusted to \$1.08. Mr. Zalman also

testified that maintaining March 2020 minimum resale prices through April 2020 would have no effect on producer prices. However, Mr. Zalman acknowledged that much of what would be the reduction in minimum resale prices for April 2020 was attributable to a lower producer price. Mr. Zalman also testified that monthly cost adjustments other than changes in producer prices affect minimum resale prices.

7. Mr. Zalman testified that maintaining March 2020 prices through April 2020 would eliminate the need for dealers and retailers to spend time inputting new prices and changing shelf tags. He observed that for the past several weeks retailers and suppliers have struggled to keep up with consumer demands for basic household goods, with panic buying causing difficulty keeping needed food items on the shelves. Mr. Zalman testified that it was important for milk dealers and retailers to concentrate on maintaining the flow of milk of keeping stores stocked, rather than taking on the additional burden of implementing resale price changes during this time.
8. Todd Rutter testified on behalf of the Pennsylvania Association of Milk Dealers (“PAMD”). Mr. Rutter is president of Rutter’s Dairy Inc. Mr. Rutter testified that PAMD supported maintaining March 2020 prices through April 2020. He testified that maintaining March prices could provide some margin relief to milk dealers. He also testified that changing minimum prices at this point would cause chaos in the retail segment.
9. Mr. Rutter testified that fluid milk processors are facing a possible financial crisis. He testified that processors first faced with the sudden closing of schools and restaurants; processors with high concentrations of business in those segments faced issues of inventory and raw milk supply. Mr. Rutter testified that the week of March 16, 2020, would probably set processing and sales records across the northeast, with initial high retail demand taking care of raw milk issues. However, Mr. Rutter testified that the following week retail demand “dropped off the cliff” with plants backed up and having no use for raw milk.
10. Dean Ellinwood testified on behalf of the Pennsylvania Association of Dairy Cooperatives (“PADC”) as an expert in raw milk marketing, procurement from producers, and sales to handlers. PADC consists of Dairy Farmers of America, Inc., Lanco Dairy Farms Co-op, Inc., Land O’Lakes, Inc., and Maryland & Virginia Milk Producers’ Cooperative Association, Inc. Mr. Ellinwood testified that PADC had no position regarding Board Staff’s proposal. Mr. Ellinwood noted, however, that March 2020 minimum resale prices were derived from a producer price \$0.82 per hundredweight higher than the price producers will be paid for April milk. Therefore, Mr. Ellinwood testified, the minimum resale prices effective for April would not reflect producers receiving \$0.82 per hundredweight less.
11. Mr. Ellinwood testified that all sectors of the economy and dairy industry had been adversely impacted by the coronavirus pandemic. He agreed with Mr. Rutter’s observation of market conditions earlier in March, with a high consumer demand followed by sharply reduced demand.

12. Greg Hostetter testified on behalf of the Pennsylvania Department of Agriculture (“PDA”). Mr. Hostetter is Deputy Secretary for Animal Health and Food Safety. Mr. Hostetter also, while not now actively engaged in the dairy business, partnered with his father for 23 years operating a 55-cow dairy. Mr. Hostetter testified that PDA did not oppose Board Staff’s proposal.
13. Mr. Hostetter testified that PDA’s number one concern during this unprecedented situation is maintaining the stability of Pennsylvania milk markets. He testified maintaining that stability was crucial to every segment of the industry, from producers to consumers. Mr. Hostetter also testified that there had already been disruptions to markets due to restaurant and school closings, as well as supply chain issues. He further testified that PDA had heard of stores limiting milk purchases and of stores charging well above minimum prices for milk.
14. Mr. Hostetter testified that while the crisis affects all segments of Pennsylvania’s dairy industry, PDA is especially concerned with maintaining processing and distribution capacity. The processing and distribution capacity is critical to all segments of the dairy industry, because a loss of processing facilities would have a devastating effect on producers, retailers, and consumers. Mr. Hostetter testified that PDA believed the less changes the better during this period of uncertainty.
15. The Board removed April 2020 minimum resale prices from its website on March 19, 2020. When the April 2020 prices were removed from the website, notice was posted that price changes for April 2020 were temporarily suspended and that March 2020 would be in effect until further notice.
16. The Board finds that March 2020 minimum wholesale prices should remain in effect through April 30, 2020. In so finding the Board relies on the credible and persuasive testimony of Mr. Zalman, Mr. Rutter, Mr. Ellinwood, and Mr. Hostetter.

The Board believes that stability is important during this unprecedented situation. One way to encourage stability is to maintain March 2020 prices for an additional month as the dairy industry adjusts to current and unpredictable future conditions. The Board shares the concerns of PDA and others regarding the need to maintain processing and distribution capacity at this time because of the devastating impact on all other segments of the industry if we begin to lose that capacity. We also find persuasive Mr. Zalman’s testimony that it is important to minimize the loss of milk dealers’ available cash at this time to better allow milk dealers to pay producers and keep their plants running.

The Board additionally notes Mr. Rutter’s and Mr. Ellinwood’s testimony regarding extreme changes in packaged milk demand. The Board believes it is important to maintain as much stability as possible as markets adjust and perhaps work through the extremes in demand. One component of maintaining stability is to maintain March 2020 minimum resale prices through April 30, 2020.

CONCLUSIONS OF LAW

1. The March 31, 2020, emergency hearing regarding the effects of the coronavirus pandemic on April 2020 resale prices 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 emergency hearing was held following adequate notice and all interested parties were given a reasonable opportunity to be heard.
3. Section 308 of the Law, 31 P.S. § 700j-308, requires that Official General Orders be posted for public inspection at least six days before becoming effective. Therefore, this Order shall become effective on April 7, 2020.
4. March 2020 prices shall remain in effect between April 1, 2020, and April 7, 2020. Notice was published on the Board’s website on March 19, 2020, that price changes for April 2020 were temporarily suspended and that March 2020 prices would remain in effect until further notice. Due to the emergency nature of the pandemic situation and the industry’s response to it, the Board concludes that March 2020 prices shall remain in effect until this Order becomes effective on April 7, 2020.
5. 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.
6. The attached order may be amended pursuant to the procedures set out in section 801 of the Law.

PENNSYLVANIA MILK MARKETING BOARD



Robert N. Barley, Chairman



James A. Van Blarcom, Member

Date: April 1, 2020

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