

Surrebuttal Testimony of Chuck Turner

PA Milk Marketing Board Over-Order Premium Hearing December 7, 2022

I am adding this testimony to that already submitted to address testimony submitted last week by four witnesses representing the Pennsylvania Department of Agriculture, Pennsylvania Farm Bureau, Pennsylvania Association of Dairy Cooperatives and Maryland Virginia Cooperative.

Three-Month Duration

Three months duration is not enough time for constructive action to supplement or replace the current over-order premium.

On December 14th I hope you will issue an official general order extending the over-order premium.

If the extension is for three months, there is no way to hold a full hearing that does not cramp either the pre-submission schedule or the post-hearing briefing schedule. For non-emergency hearings heavy on substance, the Board has often given interested parties at least two weeks in between pre-submissions. Similar response times for briefs have also been used. A three-month extension would mean that a hearing to implement a supplement or alternative or to extend the current over-order premium without interruption would need to be in February or March.

An interested party would need to petition for the next hearing by January 3rd to have it considered at the PMMB sunshine meeting the following day. That's only 20 calendar days or 12 business days between hearing processes to define the scope of the petition. I'm not sure how many legislative days if any are in that time frame but it seems very little could get done legislatively, but more importantly, very little consensus building could get done.

The whole thing could be pushed back 28 days for consideration at the February sunshine meeting for a March hearing, but then we have another rushed schedule for filing witness information and virtually no opportunity for legal briefs following the hearing.

Neither of these scenarios provide enough time for industry discussion, informal workshop, thoughtful legislative action or even a hearing that allows the introductions of new facts and arguments. The Board has seen how long it takes to develop evidence. The Secretary promised the Temple University Study back in March and although I understand they received it, they have not shared it. I urge the Board that if it is set on major change, time for study and deliberation is needed.

Contrary to the testimony of the organizations listed above, a 90-day extension will not bring about thoughtful contemplation by the industry and the legislature because it restricts the parties to this repetitive process.

I recommend that the Board maintain the current over-order premium at \$1.00 per hundredweight plus fuel adjuster for at least six months.

The Implications Of PDA's Three Criteria Should Be Reviewed

The Three Criteria that were referenced in Secretary Redding's testimony as well as the testimony of the Farm Bureau, PADC and MDVA go to the question of whether the over-order premium should be changed, replaced or supplemented and my understanding is this hearing is about level and duration of the over-order premium. However, since they were mentioned numerous times, I feel compelled to discuss them to reinforce the need for at least a 6-month time period for any OOP that would be effective Jan 1. The Three Criteria implicate serious questions that require serious discussion and inquiry before the Board or the Legislature even decides to accept them as guiding principles for discussion about changing the over-order premium. If they are used, the Three Criteria do not provide clear answers on what path to take, but rather require serious inquiry into the implications of different paths and evidence that different paths will help and not hurt PA dairy. In discussing the Three Criteria, I am not asking the Board to draw any conclusions about the Three Criteria now. In fact, I'm urging the Board not to do so unless and until there is much more substantive discussion and study of the issues surrounding the Three Criteria. I just want to encourage the Board to see that the dairy industry has a lot to discuss, study and consider in the coming months and three months is not enough.

It is my understanding that the Three Criteria were written by PA Secretary of Agriculture Russell Redding and his staff. I have sincere admiration and appreciation for the work Secretary Redding has done for Pennsylvania agriculture this past 8 years and believe that the Three Criteria were put forward with the best of intentions for Pennsylvania dairy farmers. This does not, however, mean they are the best policy for Pennsylvania dairy. The Three Criteria have not been established as law by our elected legislature or written as regulation through a formal process. What we have here are some well-intentioned ideas that have not yet been shown to bring about proposals that will help and not hurt the PA dairy industry. Nor have they been justified by facts or scrutinized by affected parties.

1. Uniform distribution of dollars among Pennsylvania dairy producers.

It is hard to argue with treating dairy farmers uniformly or equally, but what does that mean? Does it mean that every dairy farm gets the same check every month, maybe \$500 per farm? Some testimony at OOP hearings earlier this year seem to request this approach. Maybe it means the same dollars per cow or per cultivated acre. I suspect that most advocates of the Three Criteria intend to deliver dairy farmers the same dollars per hundredweight for the milk they ship regardless of how it's used.

Paying farmers based on dollars per hundredweight for class 1 milk is not more arbitrary than any of the methods, plus the dollars are more likely to go where consumers expect they are going – to the suppliers of the milk they are drinking. Another factor to be considered is how

this uniformity affects dairy farmers who are members of a cooperative. Would the premiums be paid to the cooperative or the member producers? Would the cooperative have full authority to reblend the premium to members across state lines? This brings us to the Secretary's concern in Criteria 2.

- 2. The amount charged to Pennsylvania consumers must not be substantially more than what is distributed back to Pennsylvania dairy farmers.*

Pennsylvania Association of Milk Dealers can confidently say that through mandated and voluntary premiums our dealers pay out every dollar of premiums that we collect through our Pennsylvania sales to our Pennsylvania producers. And with respect to stores buying from out of state, I think we need to look at what substantially means. If milk is coming from out of state to meet a consumer niche, like lactose free or organic, and it would be priced well above the minimum prices anyway, should that really be a factor? For stores that do get their packaged milk out of state, do we have evidence that those producers aren't getting the premiums or have we performed a cost benefit analysis to evaluate whether allowing some for that possibility is acceptable for the good of the Pennsylvania Class I industry? No evidence has been presented showing that dairy farmers serving Pennsylvania, whether from Pennsylvania or out of state, are not seeing premium dollars. I strongly suspect that the PDA sponsored study by the Fox School of Business at Temple University failed to support the preconceived ideas that led to the Three Criteria or we would have seen it.

- 3. The distribution system must not provide incentive for "shell games" by which payment of the premium to Pennsylvania dairy farmers can be avoided by purchasing or selling milk across state lines.*

The Pennsylvania Association of Milk Dealers has been arguing for decades before this Board that the mandated over-order premium needs to be in line with milk premiums paid in surrounding states in order to prevent disorderly marketing of milk. For this reason PAMD must oppose MDVA's recommendation that the premium be increased to \$2.00 per hundredweight. I have not seen any increases in premiums for raw milk in the Ohio market to our West.

Thank you again Chairman Barley and Members Van Blarcom and Kassimer for the opportunity to testify before this board today.