

**SURREBUTTAL TESTIMONY OF**

**CARL D. HERBEIN, CPA**

**Appearing on Behalf of the Pennsylvania Association of Milk Dealers**

**Diesel Fuel Add-On to the Over-Order Premium**

**August 30, 2017**

## **Surrebuttal Testimony of Carl D. Herbein, CPA**

### **Diesel Fuel Add-On to the Over-Order Premium**

I am Carl D. Herbein, CPA, President and CEO of Herbein + Company, Inc. and my address is 2763 Century Blvd., Reading, PA 19610. I wish to present surrebuttal testimony on behalf of the Pennsylvania Association of Milk Dealers. My Curriculum Vitae and testimony and exhibits were previously submitted on July 27, 2017. This surrebuttal testimony is directed at the rebuttal testimony submitted by the Pennsylvania Association of Dairy Cooperatives by their witness, John Rutherford.

### **Study Conducted**

On behalf of the Pennsylvania Association of Milk Dealers, I have read and considered the rebuttal testimony of John D. Rutherford, Jr., submitted August 10, 2017. I have also reviewed the PMMB Bulletin No. 1534 and PMMB's monthly pricing methodology as it relates to the fuel adjustment procedure as utilized in accordance with OGO A-988.

### **Findings and Opinion**

Mr. Rutherford requests that the adjustment to the fuel add-on begins with a \$0.10/cwt fuel adjuster and starts at a diesel fuel price level that is different than the starting point PAMD has proposed. It appears that like PAMD, the Pennsylvania Association of Dairy Cooperatives (PADC) has chosen not to re-litigate in this hearing the decision made by PMMB that the increase per \$0.10/gallon diesel fuel bracket should be \$0.02/cwt. That leaves disagreement over what starting diesel price to use and whether the base or minimum fuel adjuster should be zero versus \$0.10/cwt.

Mr. Rutherford's new starting point for the diesel fuel brackets is not justified because it would result in a fuel adjuster that is higher than the Board adopted in 2013 and 2014 should diesel fuel rise to those levels again. Mr. Rutherford's proposal ignores the fourteen-bracket reduction and the economic calculations utilizing the accepted adjusters of \$0.02/cwt for every \$0.10/gallon change in diesel prices. When applying this math we arrive at a starting point for the new brackets of \$2.8629/gallon and a zero fuel add-on. Moreover, since we are asking the Board to recognize that volatility has subsided and we expect the voluntary premiums and Class prices have had time to adjust to the new normal, it is logical to start the brackets where the premium would be mathematically zero.

Mr. Rutherford's suggestion that the fuel adjuster should be floored at \$0.10/cwt is also not justified. Mr. Rutherford presents information concerning fertilizer costs, hauling culled animals off of the farm, and the cost of energy utilized on the farm. According to finding of fact number 5 in OGO A-988, these factors are reflected in the 2-cents that neither party is disputing at this hearing.

Mr. Rutherford is accurate in stating that the Board took into account fuel adjusters being charged by cooperatives in areas outside of Pennsylvania in setting the current fuel adjuster. However, it is important to understand that in the context of the record and in that context cooperative announced fuel adjusters were a competitive factor that tended to support a reduction in the fuel adjuster from the high of \$0.80/cwt to \$0.25/cwt. Importantly, at that time, the fuel adjuster was supported by the brackets that PMMB adopted, and one could argue it was then reinforced by considerations of cooperative fuel adjusters charged elsewhere. However, I urge the Board to reconsider its reliance on the cooperative fuel adjusters charged elsewhere without more information. In recent years, I have observed that the labels given to premiums by cooperatives cannot be relied on in the way they used to be. I review cooperative invoices for much of my work, and it is my conclusion that cooperatives, and milk dealers for that matter, care about the total or net premium and that somehow lines items such as fuel adjuster can be just another way to adjust the total premium. I have concluded that the labels do not necessarily mean what they say. Mr. Rutherford may be accurate in his report of what fuel adjusters are, but without a complete picture of the premiums being charged by cooperatives, the Board would be mistaken to have the fuel adjuster start at \$0.10/cwt based on that testimony alone.

Mr. Rutherford's testimony on page 6 wherein he attempts to justify starting the fuel adjuster at \$0.10/cwt by comparison to the milk dealer's fuel adjuster is without merit. The milk dealer's fuel adjuster is completely different and cannot be reasonably compared to the fuel adjuster method established for producers. The milk dealer fuel adjuster is based on actual costs and is adjusted annually to actual costs and importantly goes negative.

### **Summary and Recommendation**

Based upon my research and review of John Rutherford's rebuttal testimony, I continue to recommend on behalf of the Pennsylvania Association of Milk Dealers that the Milk Marketing Board eliminate the \$0.25/cwt adjustment to the Class I Over-Order Premium by simply reflecting the brackets that were adopted as part of OGOs A-983 and A-988 down to the point at which the fuel adjuster would become zero. This proposal will

continue to be reactive to diesel market cost changes, but more closely tie fuel adjuster allotments with the value as determined by the Board previously of \$0.10/gallon diesel fuel price changes and an initial bracket which begins at \$2.8629. Thank you for your consideration of my analysis and opinions.