



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR  
HARRISBURG

THE GOVERNOR

November 13, 2009

Mr. Keith Bierly  
Secretary  
Pennsylvania Milk Marketing Board  
2301 N. Cameron Street, Room 110  
Harrisburg PA 17110

Re: Milk Pricing Collapse

Dear Mr. Bierly:

I want to thank Chairman Kriebel kindly for the letter of October 14, 2009. In light of concerns raised previously about the impact of direct discussions with PMMB members of matters that may come before the PMMB in its adjudicatory function, I am responding to you directly for distribution as you see fit.

With milk prices at the farm remaining at historic lows, the financial hardship of our dairy farmers remains a matter of great urgency. The continued viability of thousands of farming families' livelihoods remains in jeopardy. We have now suffered the better part of one full year during which our farmers have been selling their milk at a loss. No business can sustain those kinds of losses for long. All options available under existing Pennsylvania law must be explored, even if they break new ground in the PMMB's traditional pricing structure. We have asked the federal government to explore new options and are accordingly doing the same at the state level.

It is obvious that the PMMB and its staff have put careful and thoughtful work into the considerations you have outlined. We have done the same internally, in consultation with Acting Secretary of Agriculture Redding and his staff. We have some observations and proposals we would like to discuss further with you.

1. Class I Over-Order Premium: As we understand it, the best numbers available indicate that between 40-45% of all PA produced milk is sold as Class I, but only between 15-20% of all PA produced milk is "utilized" as Class I, as that term is applied under Pennsylvania's Milk Marketing Law. Therefore only that smaller percentage has the PMMB over-order premium attached and results in payment of the premium to our dairy farmers. We understand the current practice is that milk must be "produced, processed and sold" within Pennsylvania in order for the Class I over-order premium to be paid. The Class I milk constituting the difference between the two above-stated percentages (approximately the equivalent of between 20-30% of all PA produced milk) goes out of state at some point in the chain and therefore loses eligibility for the

PMMB's over-order premium as it is currently applied. Attempting to close this identified gap in how the PMMB over order premium is presently applied is one option to be explored. As long as "produced, processed and sold" in Pennsylvania remains the operative test for a producer's entitlement to any benefit of a PMMB over-order premium system, substantial progress beyond helping some limited Class I producers will not be made. Additionally, as we know, a percentage of that milk actually comes back into Pennsylvania for ultimate retail but eludes the application of the PMMB's over-order premium. That should not be the case in any instance.

2. Minimum Wholesale and Minimum Retail Pricing: Another identified gap in Pennsylvania's current pricing system exists in the establishment of the minimum wholesale price and minimum retail prices for Class I milk to be paid by PA consumers. It is assumed in the calculation that all Class I milk on the retail shelf in Pennsylvania has had Pennsylvania's over-order premium paid upon it. That is not true of course. So the consumer pays for the over-order premium to be applied, but that portion of the price paid by Pennsylvania's consumers is not benefiting the producers of Pennsylvania as articulated in Section 805 of the Milk Marketing Law. Contrary to the language of Section 805, this consumer-financed "benefit" is not being "given to producers," but is instead swallowed in the distribution chain.

In order to explore closing this identified gap, it would be helpful to establish how much total Class I milk is retailed in PA, both PA-produced and produced out-of-state. We understand the PMMB does not maintain that data any longer, but could do so. We request that the PMMB immediately begin to tabulate and keep that data. If that data were available today, it would be possible to subtract out the volume on which the PMMB over-order premium is paid. That would establish the amount of milk on which our consumers pay for the over-order premium to be "passed through" to our producers, but on which that is in fact not occurring.

Using an over-order premium of \$2.65, plus a fuel adjuster of approx. \$.30 cents, per hundred weight, the amount of the minimum retail price that is directly attributable to the PMMB over-order premium is approximately \$.25 per gallon on every gallon retailed in Pennsylvania. Our consumers presently pay this \$.25 on the basis that it funds the payment of a PMMB over-order premium on every gallon. Consideration needs to be made to creating a mechanism that would capture this \$.25 per gallon and distribute it in some equitable manner to all PA producers as contemplated by the law.

3. Other Products: The benefits of setting over-order premiums on Class II, III and IV products, even if logistically possible under current law, appear to be minimal. Based upon the nature of the products involved, perhaps it would be possible to establish an over-order premium on cream, and possibly buttermilk.

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The remainder of the considerations you have set forth in your letter require statutory change which we are willing to do, but in the meantime we are most interested in immediate options which can help Pennsylvania's struggling dairy farmers in the most expedient way possible. For these reasons, we believe closing the gaps identified above would be beneficial to more producers and be consistent with current law.

To continue our pursuit of a state solution to the dairy crisis, I would like to schedule a meeting with you and your staff as soon as possible to discuss these matters further. As always, your service to the Commonwealth is greatly appreciated.

Sincerely,



Edward G. Rendell  
Governor

cc: The Honorable Michael Brubaker, Chair, Senate Agriculture & Rural Affairs Committee  
The Honorable Michael O'Pake, Chair, Senate Agriculture & Rural Affairs Committee  
The Honorable Mike Hanna, Chair, House Agriculture & Rural Affairs Committee  
The Honorable John Maher, Chair, House Agriculture & Rural Affairs Committee