



By email

November 7, 2019

Dear Chairman Barley and Members of the Board:

Please accept this letter brief from Board Staff about the Cooperative Procurement Costs hearing.

Board Staff's request is that "cooperative" be inserted into the footnotes describing this charge on the proposed price sheets which are Attachments 1 and 2 to the proposed Order.

1. PADC and PAMD should state in their briefs whether they will withdraw the compromise if the Board inserts "cooperative" in the footnotes. Board Staff is simply asking the Board to make a one-word change on the proposed price sheets. PADC and PAMD originally said they "reserve the right to withdraw their consent to compromise *if the terms of the Draft Order would be altered* in any material respect" (PAMD letter of October 22, 2019, emphasis added). Now it appears they have extended their "right to withdraw" to the wording of their draft price sheets. They seem to be implying they will withdraw the compromise if this change is made. They should be clear in their briefs whether that is their position.¹

2. If they say they will withdraw, the Board ought to let them. It may be commendable for parties to work together and present proposals. But they should not get the idea they can give the Board a take-it-or-leave-it ultimatum so comprehensive that they would refuse to allow the Board to use the word "cooperative" in the designation of a cooperative-only charge.

3. PAMD and PADC are not the only parties affected by this. There are cooperatives that are not members of PADC. There are dealers who are not members of PAMD. They are not party to this deal. They have not followed the years of hearings. They should not have to read the Official General Order to see this is a cooperative charge.

4. Public perception. Cooperative transparency – or the perceived lack thereof – has been a significant issue in recent years. Refusing to use "cooperative" on the price sheet could cause renewed suspicion and lack of trust. Progress has been made; regression would be unfortunate.

5. The Board's commitment to transparency. As Steven Zalman said at the hearing, transparency should not be put on hiatus during an interim period of imposing this charge. In fact, it is all the more important to communicate clearly now at the inception. Board Staff would prefer much more clarity and transparency than this. We are hoping the Board will require at least this much. This is an opportunity for transparency that is within the Board's authority.

Respectfully submitted,

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Staff Attorney

¹ The parties could still agree on wording. One possibility would be to add "for purchases from cooperatives."