

**BEFORE THE PENNSYLVANIA MILK MARKETING BOARD**

**OVER - ORDER PREMIUM HEARING**

**ALL MILK MARKETING AREAS**

**August 30, 2022**

**Surrebuttal Testimony of Troye Cooper**

Presented on behalf of the Pennsylvania Association of Dairy Cooperatives,

Dairy Farmers of America, Inc.,

Lanco Dairy Farms Co-op, Inc.,

Land O'Lakes, Inc., and

Maryland & Virginia Milk Producers' Cooperative Association, Inc.

Good day, my name is Troye Cooper. My business address remains 1985 Isaac Newton Square, West, Reston, VA 20190. I am currently the Director of Operations, Milk Marketing and Member Services for Maryland and Virginia Milk Producers Cooperative Association, Inc. I am also the Chairman of the Pennsylvania Association of Dairy Cooperatives (PADC). Members of the PADC include Maryland & Virginia Milk Producers' Cooperative Association, Inc., Lanco Dairy Farms Co-op, Inc., Dairy Farmers of America, Inc. and Land O'Lakes, Inc.

Thank you for the opportunity to present our surrebuttal testimony to you today. In review of rebuttal testimony that has been offered by other interested parties we believe there are a few items that were brought forward that either need to be further clarified or need to be reiterated to confirm our position in this hearing.

The first subject that we will address is included in rebuttal testimony of PAMD witnesses Chuck Turner and, to a somewhat lesser degree, that of Sara Dorland. Both reference the need for continuation of the OOP because it is necessary for PA processors "to be able to pay premiums to attract **high quality** milk". In a not-so-subtle way, there is an implication that the milk produced for proprietary dealers by independent farmers is of superior quality when compared to that produced by their cooperative farmer counterparts. I am here to testify that is not the case. The standards and testing that Mr. Turner outlines in his testimony are very reminiscent of the former Grade "AA" standards that were deleted from PA Chapter 59 in 1996. Having been in this business my entire life, I have witnessed and been part of leading the progression of dairy farmers to not only meet, but exceed, minimum standards related to quality and performance. Even if not mandated by our customers, we continually raise the bar for ourselves. I have worked with independent producers and cooperative producers alike. Working with cooperative producers, the efforts are substantially greater because of the need to meet the expectations of multiple customers. Some customers require standard plate count limits similar to those outlined by Mr. Turner. Maryland & Virginia's

standard for our members is <10,000 and >90% of our member samples tested are within that standard. Other customers may require preliminary incubation (PI) testing and those results to be within certain strict limits. Maryland & Virginia's standard for our members is <30,000 and >85% of our member samples tested are within that standard. Some customers require lab pasteurization (LPC) testing and results to be within certain strict limits. All customers require Somatic Cell Count (SCC) testing and require farms to be compliant with EU standards which are substantially lower than the current FDA Grade A regulatory limit of <750,000. EU standards require each farm's 3 month rolling geomean average to be <400,000. Maryland & Virginia's standard is <250,000 and >80% of our members farms achieve that limit most of the year. In fact, the weighted SCC average for all our membership has been <225,000 every month for the past two years. Milk quality is paramount to everything we do.

Nearly all customers expect all their supplying farms to meet or exceed the standards of the National Milk Producers Federation's (NMPF) FARM program which is continuously evolving. Currently, that program is in its version 4.0. As that program evolves, it gets more comprehensive and goes beyond just evaluating animal care practices. It is moving quickly in the direction of adding a sustainability component which will evaluate each farm's existing conservation and environmental practices affecting water quality and soil stability and health.

All our Pennsylvania member farms are inspected by our field staff. Maryland & Virginia's field staff inspects the farms on an every-five-month rotation, which is more frequent than the six-month frequency that is required by law. Many of our members make their farms available for customer tours and are active with helping to promote not just Maryland & Virginia, but dairy products and the dairy industry in general. Our CEO, Jay Bryant has been known to say more than once to our members, "Our farmers have a great story to tell. It is up to you to go out and tell it. We will do whatever we can to help you with that."

I say all of this to say that we wholly agree with Mr. Turner's comment that "For this work, there needs to be and should be a financial incentive for the farmer". The sad reality is that in today's marketplace where REAL dairy milk and dairy products are competing with alternative substitute beverages and non- "dairy-like" foods, farmers must do all these things just to have access to any market as it has become an expectation and is no longer a differentiation.

To underscore my point, I pulled the following excerpt from Volume 26, Issue 50 of 26 Pa.B. 5950 published December 13<sup>th</sup>, 1996 regarding the deletion of Grade AA Regulatory Standards for Milk:

<http://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol26/26-50/2088.html>

"The Department responds that the dairy operation remains free to pay premiums for milk that exceeds Grade A standards. It is generally accurate that--all other factors being identical--milk with a lower bacterial count will keep longer than milk with a higher bacterial count. It is also generally accurate that bacterial count ultimately impacts upon the taste of milk. A dairy operation remains free to pay producers a premium based on this added value.... The milk processor has a direct financial interest in producing milk that is of good taste and keeping quality. If a milk processor believes there is a benefit to be derived from testing milk more often than is called for under the Grade A PMO, it remains free to do so..." The same still applies today and even without the over-order premium, the Board has provided via the over-price premium for dealers such as Mr. Turner to recover any premiums paid in the wholesale cost of their Class I milk products.

Moving on to another point, in Ms. Dorland's testimony, "point A. The OOP is a distinguishing factor in why Pennsylvania has been able to break the trend", she is making some broad assumptions. It may be true that despite higher costs, on average, Pennsylvania experienced fewer farm losses than other states with operating cost advantages. It may also be true that Pennsylvania producers' gross value of production in 2021 was higher by about \$0.12/cwt than the

national average. However, to simply drop an equal sign between “the existence of the over-order premium” and “fewer farm losses than other states” and “better than the average gross value of production” is a stretch. Among other factors, we cannot ignore the diversification of many Pennsylvania dairy farms. Poultry, pork, beef, dogs, produce, tobacco, quilts, and cakes may also be additional revenue sources that support the farm enterprise. Pennsylvania is also made up of a significant number of conservative farmers, where for them, in addition to being a business, farming is also a “way-of-life”. Their resilience to maintain that “way-of-life” likely has more to do with Pennsylvania breaking the trend and experiencing fewer farm losses than states with operating cost advantages than does the over-order premium.

Ms. Dorland does accurately note the different kinds of cooperatives in her point C and also describes how revenues may be collected and distributed within the cooperative. However, I would like to clarify her notion of a “13<sup>th</sup> check”. In the Mid-Atlantic/Northeast region, historically the “13<sup>th</sup> check” had been something cooperatives paid out once per year (after the close of their fiscal year). The check represented premium monies that were retained at the cooperative level to ensure an appropriate level of cash-on-hand to get through what is often the most unpredictable month of December when during the holidays, balancing costs could be through the roof. It was common for this “13<sup>th</sup> check” to equate to something between a couple of cents per hundredweight to as much as twenty cents per hundredweight spread over a members’ annual production. However, as premiums from the marketplace (regulated and voluntary alike) have eroded significantly (since about 2014), these funds have not been available and none of the PADC member cooperatives have paid out a traditional “13<sup>th</sup> check” in at least the past two years if not longer.

Cooperatives do, however, return patronage dividends to their members if they earn profits from their collective operations. Those dividends are returned often with a portion in cash and a portion in equity. Of course, if the cooperative realizes losses from operations in any given year,

those losses would also be allocated to the cooperative's member owners. It is not a secret that over the past several years, many, if not most, cooperatives have stepped up their investments in brick and mortar, largely to enhance the security of a home for their members' milk and always with the hope of being able to generate profitable returns for the members. It is also not a secret that just because one owns a processing plant that there is no guarantee it will make money. To say it simply, regardless of which class milk gets utilized in, and what consumer products are made and marketed, margins from sales have become razor thin.

In conclusion, I believe that ALL interested parties that have weighed in at this hearing are generally in agreement that as long as we have a regulated pricing system that dictates a minimum price to be charged to consumers and that consumers are willing to pay those additional costs (or premiums) without adversely affecting sales, we are all in support. I would like to acknowledge the Pennsylvania Department of Agriculture, the Pennsylvania Farm Bureau, and the Pennsylvania State Grange along with others that have provided testimony that is supportive of the much-needed change to find a better way to distribute to Pennsylvania dairy farmers the dollars that are paid by Pennsylvania consumers when purchasing milk at a Pennsylvania located store. Those dollars must equitably benefit all Pennsylvania farmers who are responsible for ensuring a sufficient supply of the freshest and highest quality milk available to the consuming public. This includes producers that are certainly willing, able, and ready to deliver their milk to Pennsylvania Class I dealers any time they are called to do so but may not have daily and regular direct access to a Pennsylvania dealer.

PADC's position remains that the over-order premium should not be continued indefinitely without scrutiny as to whether the current system is reflective of today's marketplace and treats all Pennsylvania producers equitably. Thank you for considering our testimony as you deliberate your decision.