

Pa. Senators dig into milk law, 'stranded' premium

By SHERRY BUNTING
Special for Farmshine

HARRISBURG, Pa.—It was a good day for the Pennsylvania dairy industry on June 29, when four panels representing sectors of the dairy industry, from farm to retail, and a fifth panel representing the state's Department of Agriculture and the Milk Marketing Board (PMMB) presented testimony at a hearing called by the Senate Agriculture and Rural Affairs Committee Chairman Mike Brubaker.

"Stranded" milk premiums were the focus of Tuesday morning's hearing as a follow up to last December's hearing on price transparency.

"We have a state-mandated over-order premium that is intended to go to the dairy farmers," said Sen. Brubaker. "It is important for us to understand how and how much of this premium is stranded when considering legislative solutions."

Minority Chairman Mike O'Pake said he looked forward to "forming a consensus," and he stressed the need to focus on long term relief to all corners of the Commonwealth. He said the testimonies in December, along with the efforts of the Governor's office, Department of Agriculture and the PMMB, have helped identify areas within the state's jurisdiction.

Out of that has come the first step, which changes the way of calculating the over-order premium on in-state milk for plants that buy and sell milk both in- and out-of-state. PMMB's June 2 decision on that aspect will become effective October 1.

What became evident through Tuesday's testimonies and the Senators' questions is that the language of the law is at the root of the problem because it requires payment of the over-order premium by consumers on every gallon of milk, but does not require the payment on every gallon of fluid milk sales back to producers.

Sen. Brubaker read portions of the law to witnesses during testimony, asking for their turn to page 29 (below)

Wolff represents DPAC on DOJ panel in Wisconsin

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MADISON, Wis.—"This reform brings 100 percent transparency to the market with real-time price reporting. They will no longer be able to make excessive profits by operating in the dark. Exposing these markets to the light of day will put money where it belongs."

This may sound like a description for reform in dairy price reporting, but instead, it is a quote by Sen. Blanche Lincoln, of Arkansas, about financial market reforms.

Representing DPAC, Dennis Wolff referred to this quote as he concluded his statement on the "market transparency" panel at the USDA/Department of Justice hearing in Madison, Wisconsin last week.

"The CME trading volume represents only 0.4% of the cheese produced and sold in the U.S. and 1.7% of the butter," he stated. "Does this accurately reflect supply and demand? No. It is a market of last resort. We need to dilute the influence of the CME through daily electronic reporting, and this needs to cover more products with auditing that also extends to inventory reporting."

USDA officials told DPAC in April that the cost to implement section 1510 of the current Farm Bill is about \$1 million. In May, Sen. Arlen Specter and Rep. Tim Holden sent a letter to ag appropriations subcommittees with signatures from more than 20 other members of Congress from 10 states.

The request is now in the hands of the subcommittees. On the Senate side, the chairman is Herb Kohl who referred to it Friday. Wolff said the daily electronic reporting injects accountability into the pricing system in several ways, including accuracy and timeliness.

"If I am pricing cheddar cheese on June 24, the only game in town is the CME as the only NASS Survey data available on that date is from June 7-11," he explained, adding that NASS simply captures and delays the prior activity of the thinly-traded CME.



(Above) Government relations consultant Dennis Wolff (left) represented DPAC on the "market transparency" panel at the DOJ / USDA hearing in Madison, Wis. last Friday, June 25. DPAC chairman and Franklin County, Pa. dairy producer Cliff Hawbaker (right) attended along with (from left) Laura Covert, adhoc member from Herkimer County, N.Y.; Jack Fritz, adhoc member from Robertson County, Tenn.; Alan Kozak, board member from Holmes County, Ohio; Maury Cox, executive director of Kentucky Dairy Development Council; Duane Hertzler, board member from Perry County, Pa. They traveled to Wisconsin a day early to meet with producers from around the country at a dinner meeting organized by David Cooper, general manager of Family Dairies, member of the Midwest Dairy Coalition. (See Part I of DOJ / USDA hearing coverage beginning on the cover of this week's Farmshine.)

(Below) Pictured at the Capitol after the Pa. Senate Ag Committee hearing on "stranded milk premiums" Tues., June 29, are (from left) Bernie Morrissey, DPAC recording treasurer; Justin Ritter, rising third-year law student at Penn State Dickinson; DPAC producer board members Zach Meck, Berks County, Pa.; Nelson Troutman, Lebanon County, Pa.; and Paul Horning, Lancaster County, Pa., along with fellow dairy producers Tom Krall and Calvin Zimmerman, both of Lebanon County.

Photos by Sherry Bunting



Senate Ag Committee explores 'stranded' premiums

from page 17 (above)

perspectives to bring information to the table and begin building consensus for potential statutory changes.

At issue is how to account for the 25 cents (premium) paid by consumers on every gallon of milk, and the breaks in the chain back through the system from retail to farm.

Pa. Secretary of Agriculture Russ Redding said it comes down to the question: "Where does the milk lose its qualification under the three-part rule? (produced, processed and sold in Pennsylvania)"

Chief Counsel Brook Duer provided a road map. "It's easy to get lost in the weeds and to get confused," said Duer, illustrating the ways in which milk that may qualify for the premium, under the intent of the law, is not receiving the premium at the farm level because of a "break in the chain."

On the producer panel, Lebanon County dairy producer Daniel Brandt testified that revenue flow from retail back to the farm was also a major issue at the national level during the USDA/Department of Justice hearing in Wisconsin last week. "U.S. Senators were asking the same question of 'where is all the money going?'"

Brandt, a vice-chair of the Dairy Policy Action Coalition (DPAC) also showed a graph illustrating Pennsylvania's mailbox milk price compared with neighboring Ohio and with the U.S. average.

"From 2008 through 2010—when the Pennsylvania over-order premium has been at its highest—our mailbox price has been 20 to 50 cents below Ohio's and within five to 30 cents of the U.S. average," he said. "How is it that a state with a mandated 'farmer premium' paid by consumers... winds up with a mailbox price that looks like this?"

"Does Ohio have a state-mandated premium?" Senator Brubaker later asked Earl Fink—testifying for the Pennsylvania Association of Milk Dealers, along with Counsel Chip English. The answer was "no." But Ohio does have a voluntary cooperative premium.

The Department of Agriculture (PDA) and others who testified Tuesday pegged the 'stranded' premium total at \$16 million for 2009, but at the high point of \$3.18 / cwt for June, the stranded revenue could go higher. Witnesses testified that about 25% of what is paid by consumers is 'stranded' in the middle.

Sen. Brubaker quoted from the Milk Marketing Law, where it talks about the PMMB setting the milk price based on a reasonable rate of return to producers, processors, and retailers. He drilled down on the point that the "reasonable rate of return" is defined for the dealer-handlers and for the retailers but not for the producers.

He asked David DeSantis, PMMB accounting and enforcement officer, to define reasonable rate of return. DeSantis said there is a wide range, but that any business would be happy to get 2.5 to 3.5%. That is the percentage defined in the law for the dealers and retailers.

Sen. Brubaker explored the "reasonable rate of return" with each panel. He also delved into the definition of "producer" in the statute. He went back and forth with Attorney Marvin Beshore, who testified for the Greater Northeast Milk Marketing Area (the cooperatives) on this definition as it appears in different areas of the statute.

He asked if the cooperatives pay all of the premium to the



(Above) The first panel testifies at the Pa. Senate Agriculture and Rural Affairs Committee hearing on 'stranded' milk premiums Tuesday in Harrisburg. Testifying from left are David DeSantis, PMMB chief of accounting and enforcement; Brook Duer, chief counsel; and Secretary of Agriculture Russ Redding. (Below) Dairy producers Nelson Troutman (left) of Richland, Zach Meck (center) of Womelsdorf, and Paul Horning of Stevens, thank Sen.

Brubaker for a productive hearing at the Capitol Tuesday. The graph below was part of the testimony presented by Lebanon County dairy producer Daniel Brandt on behalf of DPAC. It shows the Ohio mailbox price is now higher than Pennsylvania's even though Ohio does not have a state-mandated over-order premium, and Pennsylvania's premium has been at its highest levels since 2008.

farmer members. Beshore explained that cooperatives collect the premiums and pay them out... minus expenses.

"The farmer owners determine the formulas for how much of the different premiums to pay out," he said. "Cooperatives can only pay out what they take in."

In addition to Brandt, Bellville area dairy producer Keith Spicher testified on behalf of the Professional Dairy Managers of Pennsylvania and Westmoreland County dairy producer Rick Ebert testified for the Pa. Farm Bureau.

Testifying from the retail sector was Robert Schupper, dairy category manager for Ahold, which includes Giant Foods of Carlisle.

Schupper noted the trend toward consumers wanting local milk and that the Giant store wants to provide 100% Pennsylvania milk.

"We're at about 99% because with the blending of milk from the cooperatives, they can't tell us 100% is from Pennsylvania farms." He said, adding that they also sell local brands.

Two legislative solutions are being considered. One would declare the sale of the milk occurs at the farm pick-up for the purpose of the premium pricing. The other would authorize retail licensing, reporting and auditing of all retail sales of milk.

Duer also put forward some options for evaluating how the over-order premium is distributed.

Look for more from this hearing in next week's Farmshine.

