

Ex. 31
Prop 152

STATEMENT

FEDERAL ORDER NO. 1 HEARING

DOCKET NOS. AO-14-A70; DA-02-01

September 10, 2002

Alexandria, Virginia

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President Board of Directors
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My name is Bill Fitchett. I am the Vice President and General Manager of Marcus Dairy located at 3 Sugar Hollow Road, Danbury, Connecticut and the President of the Board of Directors of New York State Dairy Foods Inc. located at 201 South Main Street, Suite 302, North Syracuse, New York 13212-2166.

Marcus Dairy is a 75 year old independent, family owned, fluid milk processing and distribution business that is small in size relative to most of the players in the Order I market. Product is distributed under the Marcus label throughout the state of Connecticut, into the Springfield area of Massachusetts, and into the metro area of the State of New York. In fact, more than half the sales are in the State of New York. Sixty percent of the milk supply comes from independent producers and forty percent comes from cooperatives.

I am here today to present support for the proposed amendments of New York State Dairy Foods and to show how those amendments impact Marcus Dairy.

PROPOSAL NO. 1

1. Marcus Dairy strongly supports the change proposed to move the Handler milk reporting date to the Market Administrator from the 9th to the 10th of the month. The extra day will help to get more accurate information from the Cooperative and eliminate our need to estimate some of the numbers in order to file the report on time. Marcus has experienced several errors since the

inception of the new regulations. In fact, estimates of values to send to the Market Administrator are often used due to late information from the Cooperative. One of these errors occurred in October 2001 and was not caught until audited in June 2002. This \$25000 overpayment to the Pool has been acknowledged, but still not credited to our account (one year later).

Much of the milk that is supplied from the Cooperative to Marcus Dairy is commingled with Marcus independent producer milk. Many of the complexities of following this milk along with the necessity of component value pricing (new to Order I) ~~make~~ make the reporting date requirement difficult to attain. The extra day would be welcome relief.

2. The proposal to move the reporting date should be accompanied with the proposed change to move the Market Administrator Producer Price Differential announcement date. There needs to be some flexibility for the Market Administrator with this announcement date as regards weekends and holidays. The proposal by New York State Dairy Foods Inc. recognizes this need. It allows the Market Administrator some flexibility with the announcement date by suggesting the Producer Price Differential is announced on the 14th or the first day the MA office is open for business thereafter.

3. The New York State Dairy Foods Inc proposal to move the dates described above also require a similar movement to comply with the date of payment to the Producer Settlement Fund. ACH Bank transfers many times take a minimum of 2 days to complete. The language requiring that

payments be made not more than two days after the Producer Price Differential announcement is consistent with current timing.

4. Payments to Producers and Cooperative Associations need to follow the adjusted Date of the Producer Price Differential (PPD) announcement. The New York State Dairy Foods Inc. proposal suggests that the Cooperative payment continue to be the day after the PPD announcement.

Marcus Dairy has had many of its independent producers complain about the length of time between the partial payment and the final payment. Under the former Order I guidelines, the partial payment was made on the 5th of the following month for the first 15 days production. Under the former New York – New Jersey Order II, the partial payment was made on the 30th or the last day of the current month for the first 15 days production. The present requirement of making the partial payment on the 26 of the current month for the first 15 days production creates a longer time between payments for the final payment (as late as the 20th of the following month). In fact, Marcus Dairy has been asked and has provided additional payment advances 45 times over the past 20 months.

The proposal by New York State Dairy Foods is to change the partial payment requirement date to the 30th of the current month and to move the final payment date to the day after payment from

the Producer Settlement fund (current regulation). This addresses the issue of reducing the time between partial and final payment. Table 1 compares these two payment methods.

PROPOSAL NO. 2

The New York State Dairy Foods Inc. proposal No. 2 is designed to assure an adequate supply of milk to the Class I market. The new ability of Cooperatives to market independent milk and other smaller cooperative milk supplies enables them to show a much larger percentage sale to the Class I market. The independent milk supply and many smaller cooperative milk supplies have historically been associated with Class I – fluid milk markets (pool distributing plants – PD). The request to increase the shipping requirement in the August to November period by 5% will help to assure the supply for Class I when it is most needed.

Marcus Dairy, in the fall of 2000, had a shortfall of milk that could not be covered by its normal Cooperative agreements. In order to supply our customers, milk had to be procured through other means. The Market Administrator did increase shipping requirements for the following months to help correct this situation. This demonstrates the need to maintain the right for the Market Administrator to enact a “call” when conditions warrant. The proposal to increase the shipping percentage will help to alleviate the shortfall.