Docket: 23-J-0067

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

POST-HEARING BRIEF OF LEPRINO FOODS COMPANY

March 29, 2024

Per evidence presented during the 2023-2024 National Federal Milk Marketing Order Pricing Formula Hearing, this post-hearing brief covers the following proposals and topics:

- Updated Make Allowances: Proposals 7, 8, 9
- Elimination of Cheddar Barrel price from the Formula: Proposal 3
- Addition of Mozzarella to the Formula: Proposal 6
- Consideration of Farm Costs and Orderly Marketing

Proposals 7, 8, 9: Updated Make Allowances

As testified by many parties during the hearing, the cost of converting raw milk into dairy products has escalated significantly since 2006. Correspondingly, the current make allowances are outdated and must be updated to return the processing sector to health, so producers have reliable and economical outlets for their milk and to meet consumer demand. In addition to the testimony from multiple proprietary processors, several cooperatives including: Land 'O Lakes[1], AMPI[2], California Dairies Inc.[3], Northwest Dairy Association (Darigold)[4], Maryland/Virginia[5], Ellsworth Creamery[6], and Lone Star Milk Producers[7]

[1] Transcript of Proceedings, September 7, 2023, p. 2556-2559
[2] Transcript of Proceedings, September 7, 2023, p. 2602
[3] Transcript of Proceedings, September 7, 2023, p.2768, 2772-2778
[4] Transcript of Proceedings, September 8, 2023, p. 2812
[5] Transcript of Proceedings, September 8, 2023, p. 2860
[6] Transcript of Proceedings, September 11, 2023, p. 3166-3169
[7] Transcript of Proceedings, September 11, 2023, p. 3220-3222

also testified that their costs have escalated well-beyond the make allowance update levels proposed by National Milk Producers Federation (NMPF) in Proposal 7.

In the last year, manufacturing costs have continued to climb beyond the 2022 data in the hearing record.[8] This is placing additional burden on processors as outdated make allowances continue to fall further behind current processing costs. Interest rates and construction costs have escalated for any type of capital improvement project, much less the cost of building a new plant. Further examples that processing costs continue to rise (Leprino Foods 2023 vs. 2022 comparison) include: Labor +11%, property insurance +17%, and liability insurance +9%.

This continued cost escalation puts processors in regulated areas, those with milk contracts tied to regulated pricing, and those in Federal Orders where it is difficult to re-pool milk (such as the Northeast), at a growing disadvantage to their less or unregulated counterparts. Regulation should not penalize those who process large volumes of Class III & IV milk; it should not dictate industry winners and losers; and it should not incentivize industry participants to avoid regulation or locate in unregulated regions.

Implementation of make allowance changes will need to be immediate upon referendum results. Futures markets and other risk management tools are accustomed to uncertainty, and as this FMMO reform process continues forward, markets and industry participants will have opportunities to price in expectations on the impact of FMMO changes as the reform process moves forward.

As a result, the make allowance updates per Proposals 8 & 9, from the Wisconsin Cheesemakers Association (WCMA) and International Dairy Foods Association (IDFA), respectively, should be adopted immediately.

[8] Hearing Exhibits 178 (Mark Stephenson), 180 (William Schiek), 199 (Alison Krebs)

Proposal 3: Elimination of Cheddar Barrel Price from the Formula

Eliminating cheddar barrels from the price formula would damage US dairy. While cheddar barrels and cheddar blocks are separate markets, barrels serve an important market balancing role for cheese plants, and as such, the producers who supply milk to these plants. Because of this cheddar barrel balancing role, removing barrels from the milk price formula would push cheddar blocks into this balancing role and therefore, increase price volatility for cheddar blocks.

As Leprino Foods continues to invest in the US dairy industry to serve our customers, global markets are increasingly important to our business. Adding to US cheese price volatility will decrease the attractiveness of US dairy overseas, constraining growth opportunities for Leprino Foods and the US industry overall. Regulation should not create volatility and distortion that limits the global growth potential for US dairy.

Further, the increase in recent years of the block/barrel spread (the impetus for the proposal to remove barrels from the formula) is very likely to narrow with the advent of new cheddar block plants that expand capacity. Sufficiently updated make allowances would also remove current distortions and further enable the market to work, negating the rationale for removing the informative barrel volume from the price formula.

Proposal 6: Addition of Mozzarella to the Formula

As testified to in the hearing, multiple parties (National Milk Producers Federation, International Dairy Foods Association, Foremost Farms, and Saputo, along with Leprino Foods) oppose the addition of mozzarella to the Class III protein price formula. As mozzarella is a grouping or collection of like products with diverse specifications, most of which are not sold in bulk form without further transformation, it is a misinterpretation that mozzarella production volume represents a single easily defined bulk product.

Further, as compared to cheddar, mozzarella has a different make process, different make costs, and different product yields. Accordingly, the Class III pricing formula would become substantially more complicated with little incremental benefit if mozzarella were added. Finally, the mozzarella market remains competitive with cheddar, as enough plants have flexible capacity to produce cheddar or mozzarella in order to follow shorter-term profit opportunities.

Consideration of Farm Costs and Orderly Marketing

A primary tenet of Federal Milk Marketing Orders is to maintain the orderly marketing of milk. There is a very extensive and well documented legal argument that on-farm costs and farm-level profitability are not to be considered as part of Federal Milk Marketing Orders (see Post Hearing Brief of the International Dairy Foods Association, February 13, 2024); however, the economic argument is important and robust, as well.

For the FMMO milk pricing system to be orderly, formulas must set prices at market-clearing minimums. Otherwise, disorderly marketing conditions, such as dumped milk, extended shipping distances and costs, and/or low spot prices are likely to prevail in softer demand or higher supply situations (as we have experienced in recent years, given outdated make allowances). If, however, on-farm production costs and therefore price supports become part of the equation, the intended supply/demand price signals back to farms would be distorted and disrupted and would no longer work. In such situations, artificially supported milk prices would cease to be efficient and market clearing, as milk supplies would disconnect from product demand and significant disorder would ensue.

Simply stated, weighing farm costs in federally regulated milk pricing (thereby creating price supports) would directly create disorder within the FMMO system. As designed, separate USDA programs such as Dairy Revenue Protection and Dairy Margin Coverage should remain the vehicles to support farmers through difficult times.

Thank you r your time and r the opportunity to provide these comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Milk in the Northeast and Other Marketing Areas
Docket No.: 23-J-0067

Having personal knowledge of the foregoing, I declare under penalty of perjury that the information herein is true and correct, and this is to certify that a copy of the POST-HEARING BRIEF OF LEPRINO FOODS COMPANY has been furnished and was served by electronic mail upon the following parties on March 29, 2024 by the following:

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Docket No.: 23-J-0067

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