UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

In re:	7 CFR Parts 1000 *et seq.*
Milk in the Northeast and Other Marketing Areas	Docket No. 23-J-0067; AMS-DA-23-0031

CARMEL, INDIANA
JANUARY 2024

TESTIMONY OF AURORA ORGANIC DAIRY, PART 2 REGARDING NATIONAL HEARING ON FEDERAL MILK MARKETING ORDER PROPOSALS

January 17, 2024

I. BACKGROUND

A. PERSONAL BACKGROUND

My name is Cammie Garofolo, and I am the Chief Financial Officer at Aurora Organic Dairy. I am responsible for accounting, information technology, risk, and FMMO reporting and compliance. I have been in the dairy industry for 17 years, and in the organic industry for 25 years. I have a Bachelor's Degree in Business Administration from the University of Missouri and a Master's Degree in Economics from the University of Colorado.

B. COMPANY BACKGROUND

Aurora Organic Dairy is a vertically-integrated supplier of organic fluid milk and butter to national retailers. Aurora Dairy started as a conventional dairy producer in the mid-1970s. In 2003, we became Aurora Organic Dairy and converted all our farms to 100% organic and began exclusively supplying the private label market. Today we own and operate four different dairy farms in Colorado and Texas. Our corporate headquarters address is 1919 14th Street, Suite 300, Boulder, CO. We also operate two extended shelf life / aseptic fluid milk processing plants, one in Colorado (Central order pool distributing plant) and the other in Missouri (partially regulated). Our products are sold in all 50 states.

II. OPPOSITIONS TO OTHER PROPOSALS

A. Aurora Opposes Proposals 1 and 2 (NMPF's and National All-Jersey's Milk Component Factor Proposals)

Changing the component prices in the skim price formulas, which effectively increases the Class I price, does not make sense. Changes in the nonfat components do not change the value of fluid milk in the marketplace and cannot be recovered in consumer pricing. Changes in the nonfat components do not yield any more volume, nor change the yield in fluid milk production the way it does for other dairy products.

NMPF has argued that an assumed higher solids level for all raw milk, especially the related protein, creates more value for all Class I processors. However, three facts prevent traditional fluid

milk products from capturing this value under the FDA's federal standards of identity; 1) fluid milk product and labeling definitions under 21 C.F.R. § 131.110 allow standardization of butterfat only and require that other fluid milk components to be sold "as is", 2) if higher average nonfat solids occur in the market, the variability of below average solids actually delivered to a Class I plant may not permit labeling claims of extra components and 3) any standardization of protein or harvesting of excess protein requires filtration processes and related changes to labeling that would that make such a product different from the traditional milk that constitutes the vast majority of the Class I market. The standards only set minimums for milk solids which are well below the component factors in the price formulas. We also agree with the testimony of Sally Keefe and Mike Brown that has been provided earlier.

B. Aurora Opposes Proposals 13, 16, 17, and 18 (NMPF's, Edge's, and AFBF's Base Class I Skim Milk Price "Mover" Proposals)

Because organic prices are in no way associated with classified pricing in the market, organic prices sold to consumers do not change with volatility in the mover. Rather, the processor absorbs this cost. Nor does the organic producer get paid more based on the mover. The payments paid by organic for the mover is entirely paid to the conventional pool to other conventional producers. Because the FMMO system does not provide a benefit to the organic supply chain, increasing the mover would only exacerbate the disorderly market impact to organic Class I.

To create financial stability in the marketplace, we believe that the Class I price should be structured in such a way that processors of conventional milk can hedge their cost of milk. This will mitigate margin volatility in Class I conventional products and provide financial stability to Class I processors. Class I conventional processors should have access to the same risk management tools as all other dairy processors. Aurora supports MIG proposal 15. While we prefer MIG 15, Aurora could support as an alternative, IDFA Proposal 14.

C. Aurora Opposes Proposals 19 and 21 (NMPF's Class I Differential and AFBF's Class II Differential)

Organic and conventional milk are legally different and not interchangeable, for this reason, it is illogical and disorderly to treat them the same. We disagree with the rationale for NMPF's Proposal 19 for increasing the Class I differentials in Colorado (and nationwide) for three related reasons: First, there is more than enough milk produced nationally, and especially in Colorado to service all milk needs, both conventional and organic. Second, an increase in the Class I differential intended to cover the cost of transportation does not make sense for organic, since the transportation costs are typically borne by the processor not the producer. Lastly, the University of Wisconsin model does not recognize that the supply chain for organic milk is very different than conventional milk and its conclusions are flawed. Aurora Organic Dairy opposes NMPF proposal 19.

1. An increase in the Class I differential for Colorado is disorderly because Colorado has an adequate supply of milk to service conventional fluid milk markets and organic milk needs are not supplied by conventional.

Colorado's milk supply has increased substantially to service conventional fluid and manufactured dairy markets, but also to service the growing demand for organic fluid milk products. Moreover, because organic milk is not legally interchangeable with conventional milk, and Colorado processes a significant amount of organic Class I milk that is marketed inside and outside Colorado, the organic fluid supply and demand balance must be examined separately and taken into consideration.

In Colorado, the growth in supply of organic milk has significantly outpaced the local Class I organic demand as illustrated below in Table 1. From 2008 to 2019 Colorado's organic milk production expanded by 164%, while demand grew by 68%. Steve Stout, with Dairy Farmers of America, prepared a similar table in his testimony (NMPF 53) to estimate the changes in production and demand over time. To remain consistent for an "apples to apples" comparison

only and not endorsing his approach, to prepare Table 1, I followed Steve Stout's methodology and expanded the analysis to separate organic and conventional activity.

Aurora represents the majority of the organic milk production in Colorado and has ample milk supply to meet our needs for fluid processing. The milk from our dairy farms in Colorado is shipped to our plant in Platteville, CO for processing as fluid milk. Aurora's milk supply is very close to our plant, and our supply is used almost exclusively for fluid milk and does not compete with any manufacturing uses. Additionally, we do not compete with conventional plants for this milk. Our organic suppliers would take significant losses on their milk if they sold to a conventional plant, whether fluid or manufacturing. Therefore, no Class I premium is needed to attract it to our plant. The Class I differential that Aurora pays for milk shipped to our plant does not benefit our farms, nor other organic producers that supply our plants, but rather goes into the pool to be paid to conventional producers. This is disorderly.

Table 2 below shows that DFA does have an adequate supply of conventional milk available to meet all of the conventional Class I milk demand in Colorado while still meeting their Class III contract obligations. (see Table 2 below). I again followed Steve Stout's methodology and expanded to decompose the fluid milk demand into organic and conventional. My analysis indicates that in 2022 DFA had 82 million pounds of milk in Colorado above and beyond the needs of the Class I conventional market. Since there is plenty of milk in Colorado to go around, there is no need for an increase to the Class I differential to attract more.

TABLE 1

	2008	2019	% Chg	
Total U.S. Resident Population (in Mil's)	304	328	8%	(a)
Total U.S. Fluid Milk Products Mil. Lbs.	55,140	46,240	-16%	(b)
Total Conventional Products Sold Mil. Lbs.	53,464	43,659	-18%	
Total Organic Milk Products Mil. Lbs.	1,676	2,581	54%	
Pounds of milk per capita	181	141	-22%	

	State Population (in Mil's) (c)			Milk Production (in Mil's)			Beverage Demand (in Mil's)			
	2008	2019	% Chg	2008	2019	% Chg	2008	2019	% Chg	
Colorado	4.89	5.76	18%	2,935 (d)	4,807 (d)	64%	887	811	-9%	(h)
Organic Milk Production (in Mil's)				105 (e)	277 (f)	164%				
Conventional Milk Production (in Mil's)				2,830 (g)	4,530 (g)	60%				
Organic Share of U.S. Beverage Demand							3.0%	5.6%		(i)
Organic Beverage Demand in Colorado (in Mil's)							27	45	68%	(j)
Conventional Beverage Demand in Colorado (in Mil's)							860	766	-11%	(k)
Organic Surplus / (Deficit) to Supply (in Mil's)							**78**	**232**		**(l)**
Conventional Surplus / (Deficit) to Supply (in Mil's)							**1,970**	**3,764**		**(l)**

(a) U.S Census Bureau, Resident Population for each state, retrieved from FRED, Federal Reserve Bank of St Louis (https://fred.stlouisfed.org, last visited November 27, 2023)
(b) Estimated Total U.S. Sales of Fluid Milk Products, December 2008 and December 2019, USDA Agricultural Marketing Service
(https://mymarketnews.ams.usda.gov/filerepo/sites/default/files/3358/2008-12-30/340609/inareasls_ytd2008%20REVISED.pdf, last visited November 27, 2023)
(https://mymarketnews.ams.usda.gov/filerepo/sites/default/files/3358/2019-12-12/340696/Estimated%20Fluid%20Milk%20Sales%20Dec%202019.pdf, last visited November 27, 2023)
(c) U.S Census Bureau, Resident Population for each state, retrieved from FRED, Federal Reserve Bank of St Louis (https://fred.stlouisfed.org, last visited November 27, 2023)
(d) Colorado Agricultural Statistics 2009, National Agriculture Statistics Service, Colorado Department of Agriculture
(https://www.nass.usda.gov/Statistics_by_State/Colorado/Publications/Annual_Statistical_Bulletin/Bulletin2009.pdf, last visited November 27, 2023) and Colorado Agricultural Statistics 2023, United States Department of Agriculture National Agricultral Statistics Serice, Mountain Region, Colorado Field office
(https://www.nass.usda.gov/Statistics_by_State/Colorado/Publications/Annual_Statistical_Bulletin/Bulletin2020.pdf, last visited November 27, 2023)

(e) Milk production from Aurora's farms. The 2008 Organic Production Survey, USDA, NASS reported 3 organic dairy farms in Colorado, but did not disclose milk production due to sample size. Aurora operated 2 of the 3 farms that participated in the survey. (https://agcensus.library.cornell.edu/wp-content/uploads/2007-Organics-Survey-ORGANICS.pdf, last visited November 27, 2023)
(f) 2019 Organic Survey, USDA NASS (https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/Organics/ORGANICS.pdf, last visited November 27, 2023)
(g) Conventional = Colorado Milk Production - Organic Milk Production
(h) Beverage Demand = Pounds of milk per capita x State Population
(i) Organic Share of Beverage Demand = Total Organic Milk Products / Total Fluid Milk Products
(j) Organic Beverage Demand = Organic Share of Beverage Demand x Beverage Demand
(k) Conventional Beverage Demand = Colorado Beverage Demand - Organic Beverage Demand
(l) Surplis / (Deficit) = Milk Production (in Mil's) - Beverage Demand (in Mil's)

TABLE 2

	2000	2022	% Chg	
Total U.S. Resident Population (in Mil's)	282	333	18%	(a)
Total U.S. Fluid Milk Products Mil. Lbs.	55,495	43,270	-22%	(b)
Total Conventional Products Sold Mil. Lbs.		40,425		
Total Organic Milk Products Mil. Lbs.		2,846		
Pounds of milk per capita	197	130	-34%	

	State Population (in Mil's) (c)			Milk Production (in Mil's) (d)			Beverage Demand (in Mil's) (e)		
	2000	2022	% Chg	2000	2022	% Chg	2000	2022	% Chg
Colorado	4.33	5.84	35%	1,924	5,314	176%	852	758	-11%

Organic Share of U.S. Beverage Demand	6.6%	(f)
Organic Beverage Demand in Colorado (in Mil's)	50	(g)
Conventional Beverage Demand in Colorado (in Mil's)	**708**	(h)
DFA-CO Production Available for Conventional Class I (in Mil's)	**790**	(i)
DFA Surplus / (Deficit) (in Mil's)	**82**	

(a) U.S Census Bureau, Resident Population for each state, retrieved from FRED, Federal Reserve Bank of St Louis (https://fred.stlouisfed.org, last visited November 27, 2023)
(b) Estimated Total U.S. Sales of Fluid Milk Products, December 2000 and December 2022, USDA Agricultural Marketing Service
(https://mymarketnews.ams.usda.gov/filerepo/sites/default/files/3358/2000-12-30/340617/inareasls_ytd2000%20REVISED.pdf, last visited November 27, 2023)
(https://mymarketnews.ams.usda.gov/filerepo/sites/default/files/3358/2022-12-12/682253/ams_3358_00044.pdf, last visited November 27, 2023)
(c) U.S Census Bureau, Resident Population for each state, retrieved from FRED, Federal Reserve Bank of St Louis (https://fred.stlouisfed.org, last visited November 27, 2023)

(d) Colorado Agricultural Statistics 2001, National Agriculture Statistics Service, Colorado Department of Agriculture (https://spl.cde.state.co.us/artemis/agserials/ag13internet/ag132001internet.pdf, last visited November 27, 2023) and Colorado Agricultural Statistics 2023, United States Department of Agriculture National Agricultural Statistics Service, Mountain Region, Colorado Field office (https://www.nass.usda.gov/Statistics_by_State/Colorado/Publications/Annual_Statistical_Bulletin/Bulletin2023.pdf, last visited November 27, 2023)
(e) Beverage Demand = Pounds of milk per capita x State Population
(f) Organic Share of Beverage Demand = Total Organic Milk Products / Total Fluid Milk Products
(g) Organic Beverage Demand = Organic Share of Beverage Demand x Beverage Demand
(h) Conventional Beverage Demand = Colorado Beverage Demand - Organic Beverage Demand
(i) Testimony of Steve Stout, NMPF 53, page 11 of 21

2. An increase in the Class I differential to cover increased milk hauling costs does not make sense for organic milk, since the hauling costs are typically borne by the processor, not the producer.

The organic milk supply chain works differently than conventional. Unlike the conventional industry, we buy our milk from organic producers at a price which is not related to classified pricing under the Federal Orders, or our payments to the producer settlement fund. The organic farm milk price is based on the cost of production and other market factors, and most notably, does not include the cost to haul the milk to the processing plant. That hauling cost is paid by Aurora not by the organic producer. This arrangement of the processor paying hauling costs, rather than the producer, is typical in the organic dairy sector in my experience. Our producers' income is not affected by Aurora's decisions regarding which plant receives their milk nor by transportation cost increases. An increase in the Class I differential justified by increased milk hauling costs, will effectively ask for Aurora to pay those same increased hauling costs twice.

3. The University of Wisconsin model does not accurately reflect Aurora's organic supply chain, and likely does not reflect other organic systems either.

The University of Wisconsin model does not take into consideration these differences in the supply chain for organic versus conventional milk. First, its assumptions treat all Class I demand the same but organic and conventional milk are not interchangeable. Organic milk is more concentrated into Class I as compared to conventional milk. Approximately 55% of organic milk is utilized into Class I as compared to 27% in the FMMO system. Second, most organic milk is shipped longer distances and processed into extended shelf life products in a handful of plants spread across the country. These two factors are not reflected in the model and very likely may distort the model results and thus the subsequent policy recommendations.

A good example is the specific circumstances for Aurora's plants in Platteville, Colorado and Columbia, Missouri. In Colorado, Aurora operates one of five large fluid milk plants in the state. Aurora operates one of four large fluid plants in Missouri. All of the milk processed in

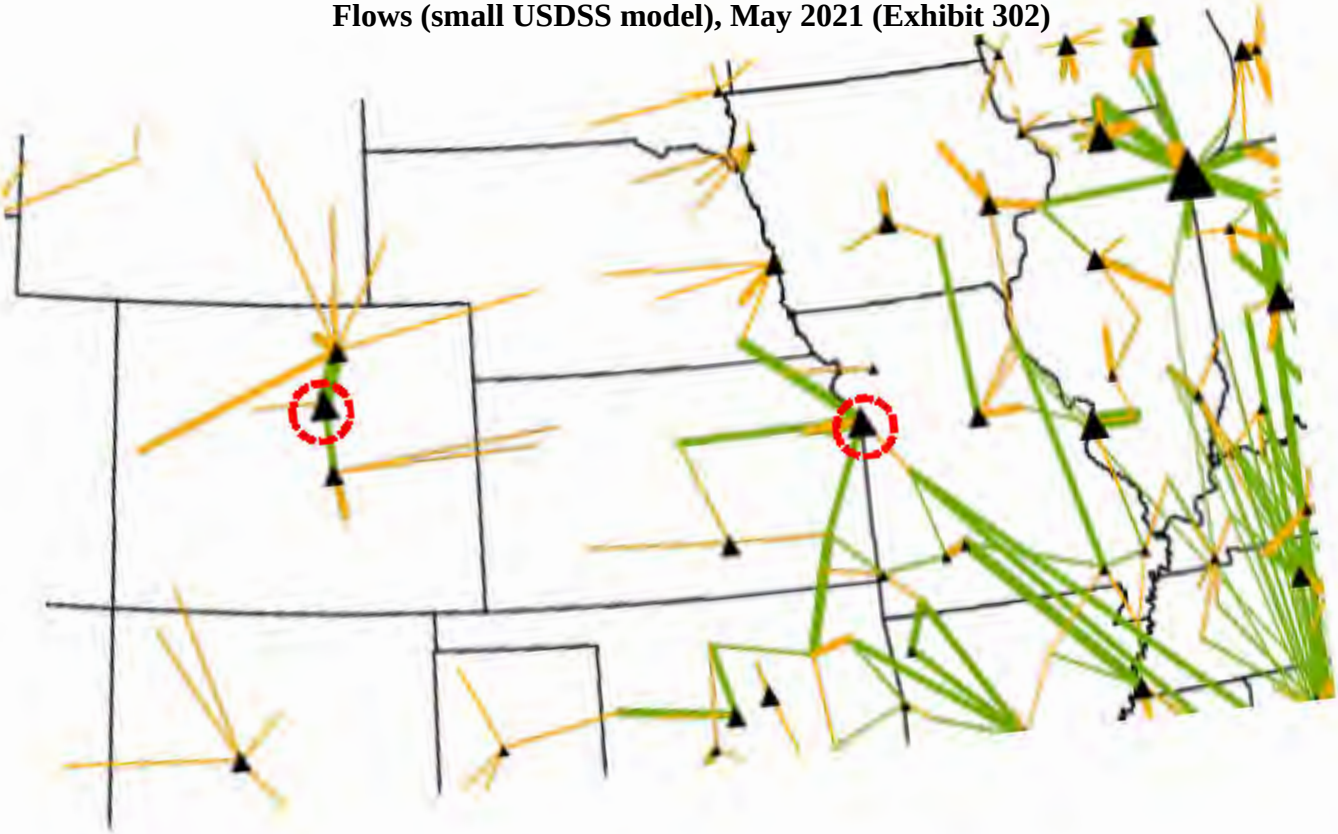
Aurora's plants is certified organic. Because none of the milk Aurora processes is supplied by the conventional markets, any increase in the Class I differential that assumes our demand places any burden on the conventional markets is wrong.

Even if it was correct to consider organic milk as part of the conventional model, the sources and markets for Aurora's milk are dramatically different than the model assumes. Figure 1 below is a snapshot of Figure 5 from Dr. Nicholson's testimony that shows milk assembly at fluid plants and packaged milk flows for May 2021 (Exhibit 302). Aurora's Platteville plant is located in Weld County, Colorado (a red, dashed circle below). In 2022, 64% of the milk cows in Colorado were in Weld County[1]. The model assumes that our plant in Platteville receives all of its milk from local farms, as indicated by the short green lines in the map. As indicated by the orange lines, the model also assumes that Aurora's plant only distributes packaged fluid milk as far as western Colorado, eastern Wyoming and western Nebraska.

For Aurora's plant in Columbia, Missouri (the red, dashed circle to the right), the model assumes that our milk supply is sourced from southern Iowa, and that the plant only distributes packaged fluid milk short distances to cities in eastern Missouri. Again, this is not accurate.

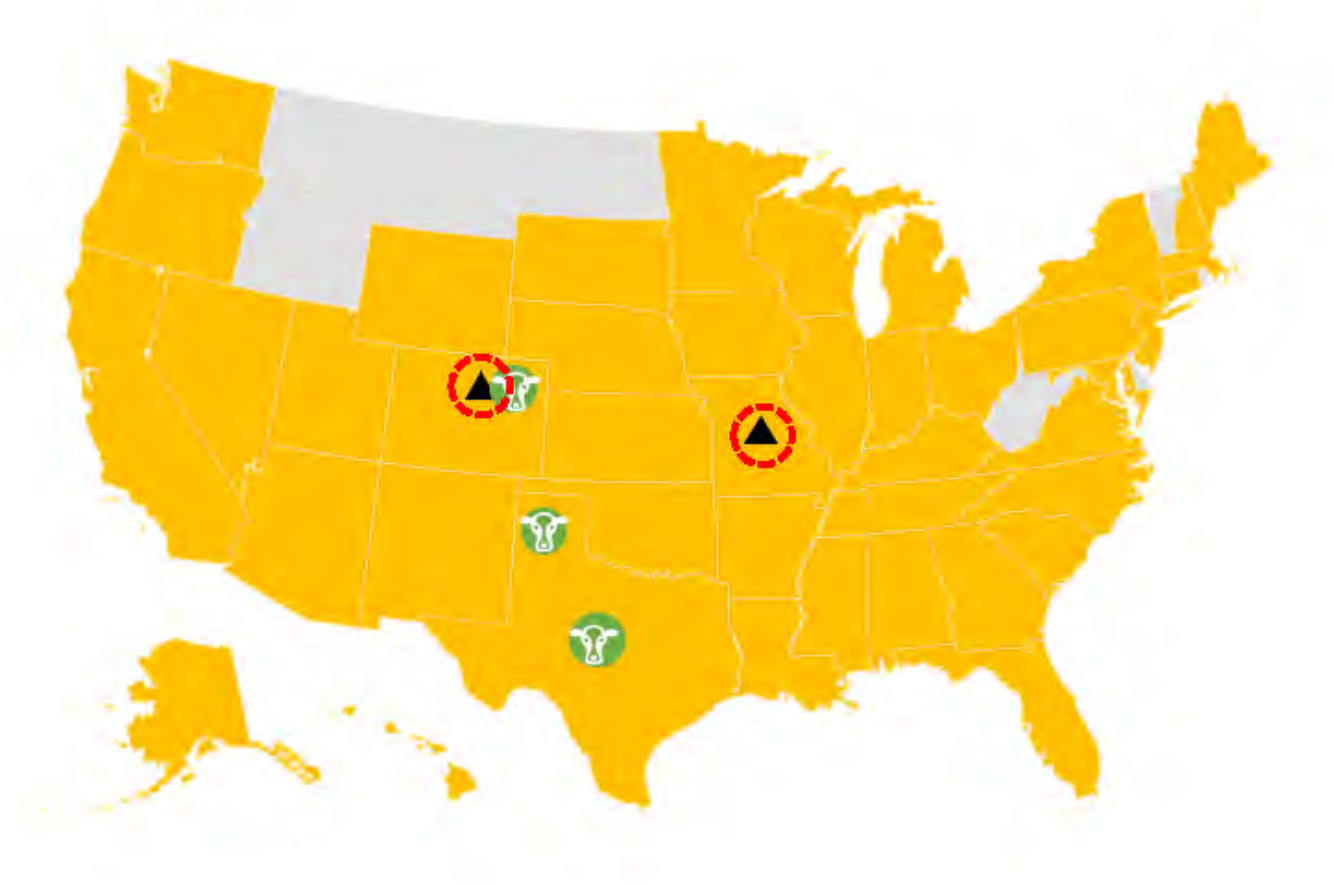
[1] Colorado Agricultural Statistics 2023, United States Department of Agriculture National Agricultural Statistics Service, Mountain Region, Colorado Field office (https://www.nass.usda.gov/Statistics_by_State/Colorado/Publications/Annual_Statistical_Bulletin/Bulletin2023.pdf, last visited November 27, 2023)

FIGURE 1
Excerpt from Dr. Nicholson Figure 5. Milk Assembly at Fluid Plants and Packaged Milk Flows (small USDSS model), May 2021 (Exhibit 302)



In contrast, Figure 2 below depicts the actual location of Aurora's organic farms (green circles) in Colorado and Texas, which supply the majority of milk to the two processing plants (black triangles) in Colorado and Missouri. The actual organic milk supply for Aurora comes from much further distances than the model assumes. Additionally, that means that the local milk the model had allocated to Aurora must go elsewhere (which misstates, then, the model estimated location value of that milk). Additionally, Aurora's finished product is sold nationwide – we distribute packaged fluid milk to the states shaded in orange and it reaches all 50 states from the retailers Aurora delivers to.

FIGURE 2
Aurora Organic Dairy Milk Production and Processing Footprint and Packaged Milk Flows, 2023



The model doesn't distinguish between organic and conventional farm milk supply and dairy product demand. Thus, the model's assumed movements of farm milk supply and packaged fluid milk demand for Aurora's plants in Colorado and Missouri are not accurate whatsoever. While I don't expect any model to be perfectly accurate, the model's results for Aurora's areas are not even close to our operational reality. I expect this divergence happens across the country for other organic milk systems as well. This divergence between reality and the model is different from the issues raised by NMPF that the differentials reflect "business relationships." The problem here is not that Aurora has business relationships, but that there are USDA regulations that only permit certain raw milk (USDA certified organic) to be used in organic milk products. It is not

that Aurora has not been served by local non-organic supplies, it is that Aurora *cannot* be served by those supplies.

It is my recommendation that the modeling be expanded to differentiate and exclude organic to better reflect conventional supply and demand. The model would better inform policy decisions for conventional Class I differentials. Given how dramatically different the organic context is, the Class I differential for organic fluid milk should be $0.00.

4. Increasing the Class II differential would be disorderly.

Aurora also opposes AFBF's proposal 21 to increase the Class II differential from $0.70 to $1.56 per cwt. Like many ESL operators, Aurora produces Class II fluid creams. These products are not formulated in the same manner as cultured Class II items or ice cream mix. Any increase in the Class II differential, simply increases the producer settlement fund obligation. As the FMMOs do not provide benefit to organic systems like Aurora's, increasing the Class II differential as proposed by AFBF would only increase Aurora's costs and further shift funds from organic to conventional. This would be disorderly.

III. CONCLUSION

Given the significant differences between the organic and conventional milk supply chains, and that organic milk is legally distinct, it is not appropriate to apply a Class I differential based on the conventional milk activity to organic milk. We urge USDA to reject proposals 1, 2, 13, 16, 17, 18, 19, and 21.

DATED this 16 day of January, 2024.

By */s/ Cammie Garofolo*
CAMMIE GAROFOLO