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Federal Order #33 Hearing Statement

Docket No. AO-166-A68; DA-01-04

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Wadsworth, Ohio

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My name is Carl Rasch and I am employed by the Michigan Milk Producers Association (MMPA). I have served in my present position as the Director of Milk Sales for MMPA since 1977. MMPA is a dairy farmer owned and operated cooperative engaged exclusively in the marketing of milk and dairy products for its 2600+ members. MMPA's members produce milk in Michigan, northwest Ohio, northern Indiana, and northeast Wisconsin. The production from these farms is 100% Grade A and marketed almost entirely to plants located within the Mideast Marketing Area.

Michigan consistently ranks among the top ten dairy production states in the country. Milk production per capita in Michigan has managed to keep pace with per capita dairy consumption during the past decade. Consequently, Michigan is relied upon as a significant source of reserve milk supplies for deficit markets to the south of us. To the extent it is feasible to ship milk directly from Michigan farms to distributing plants regulated by other federal orders and satisfy the performance requirements of these distant markets, MMPA does pool a portion of its members' milk production in other Federal Orders for a portion of the year. This year, MMPA will deliver to and participate in the FO #5 and FO #7 market pools for the months of August through December.

The Michigan milk market is unique for a number of reasons. Because of the geographic features of the state, access to this market is limited. Michigan is a peninsula surrounded by the Great Lakes on both the east and west as well as by Canada to the east and north. Because of barriers to international trade and the cost of transporting milk and dairy products around the lakes, the only practical point of access to the market is from the south. Our experience both before and after federal order consolidation is that more milk in the form of both bulk and packaged product moves south across the state border rather than to the north.

The marketing of milk in Michigan is concentrated among a few large entities. The two largest coops in the state are MMPA and Dairy Farmers of America. Combined, they market approximately 80% of the milk produced in the state. There are currently 14 distributing plants located within the state. Four of these plants are owned and operated by Suiza Foods. Dean Foods, Kroger, Bareman, and Melody Farms own and operate one plant each. The combined volume of these 8 plants account for approximately 90% of the milk which is processed into Class I and Class II packaged products within the state. All but one of these plants relies entirely upon either MMPA or DFA for their raw milk requirements.

Four large manufacturing plants are strategically located around the state. Two of these plants are solely owned and operated by MMPA. They produce liquid and dry dairy ingredients for a variety of customers. Both of these plants also have the ability to produce bulk powder and butter which enables them to assist in clearing the market of surplus production. The other two plants are cheese plants which are jointly owned by MMPA and Leprino Foods and operated by Leprino. MMPA has a long-term agreement with Leprino to supply all of the milk requirements for both of these plants. The supply agreement each year is structured so as to fully utilize the manufacturing capacity of these two plants when excess milk supplies are available. The supply agreement also provides for the release of milk to satisfy the supplemental milk requirements of the fluid market during peak demand periods.

All four of these plants play a key role in providing balancing service for the fluid market. Consequently, they experience a large degree of variability in the daily operation of their plants. These plants are expected to fluctuate between four day and seven day production weeks depending upon the needs of the market. No other facilities exist within Michigan that have either the capacity or desire to perform this function.

Marketing agencies in common have existed in one form or another in Michigan since 1956. Over time, small regional marketing agencies were consolidated to create a single agency called the Producers Equalization Committee (PEC) in 1966. Its scope of operation closely paralleled that of the FO #40 Southern Michigan marketing order. In 1992, the structure and operation of the PEC was modified such that virtually all of the milk marketed in FO #40 decided at that time to voluntarily participate in the PEC. In exchange for balancing services, all of the southern Michigan distributing plant operators agreed for the first time to pool over-order premiums on Class I and Class II sales. We are proud to report that today, even after federal order reform and consolidation, participation in the PEC by Michigan processors is still almost universal.

With the afore-mentioned information submitted as background material, I would like to elaborate upon MMPA's position as a proponent of proposals 1 – 5. MMPA whole-heartedly supported federal order reform. The process of consolidation and modernization was long overdue. We concurred with the logic behind establishing the geographic boundaries of the Mideast marketing area. We believe that the current boundaries fairly well reflect the consolidation that was occurring within the fluid processing industry as well as the expansion of product distribution territories. Despite the large volume of Class I sales in the Mideast market, it is the second largest market in terms of total Class I utilization, we believed that the geographic boundaries of the order encompassed an adequate reserve milk supply necessary to service the needs of this market. The changes in classified milk pricing that were implemented with order reform, in conjunction with the operation of the PEC, fairly compensated local dairy farmers and assured the market of an adequate supply. That was our belief then and it still is.

A brief review of production and sales data will support our argument that adequate supplies of milk exist locally within FO #33 to satisfy the requirements of at least the Michigan portion of the market. Very little change has occurred in the Michigan market since order consolidation. The FO #40 and #44 markets consisted of 16 distributing plants and 4 pool plants. As of September 2001, the Michigan portion of the Mideast market consists of all of the same distributing plants and supply plants with the exception of two. Pollard Dairy at Norway, Michigan became regulated by the Upper Midwest order because of where the market boundaries were established. Calder Dairy at Lincoln Park, Michigan became an exempt plant because of an insufficient volume of route disposition and packaged sales to other plants. Attached to my statement is a list of the pool plants physically located in Michigan for both the months of December 1999 and September 2001.

Because of order consolidation, it is difficult to use federal order statistics to evaluate sales trends within Michigan after December 1999. Therefore, I have used sales information from the PEC for the past 36 months ending with August 2001 to evaluate the local market. As previously mentioned, almost all of the Michigan processors are pooling their Class I sales so this data is representative of the market. Class I sales by customers of the PEC for the 12 months ending with August 1999 amounted to 2.09 billion pounds. Class I sales for these same plants for the 12 months ending with August 2001 amounted to 1.95 billion pounds. Class I sales within the PEC experienced a decline of approximately 140 million pounds. This represents a decline of 7% during the past two years.

While local Class I sales have been declining, milk production in Michigan has been increasing. State production in 1999 increased by 90 million pounds versus the previous year. Production in 2000 when adjusted for leap year increased by another 235 million pounds. Through the first eight months of 2001, milk production is still increasing, by another 31 million pounds. Cumulative production increases since 1998 amount to 356 million pounds which is equivalent to a 7% gain in local supply.

At a time when fluid sales are declining and production is increasing, it appears illogical to be pooling additional quantities of milk supplies from distant sources, yet that is what is happening. Total milk pooled in the Mideast market for the first month after order consolidation was 1.123 billion pounds. One year later it was 1.385 billion pounds. By July 2001, the Mideast market had peaked at 1.65 billion pounds. During the month of July 2001, more than 500 million pounds of milk produced on farms in New York, Wisconsin, and Minnesota were pooled in the Mideast market. Almost all of that milk was utilized in either Class 3 or Class 4 plants, which severely depressed pay prices for the rest of the market.

This has occurred because the performance standards required for pool qualification for this market are too lenient. Performance standards for both distributing plants and supply plants have been dramatically reduced. Supply plants can now designate a portion of their facility to be a non-pool plant. Before order reform, they could not. Supply plants can now satisfy up to 90% of their performance with shipments directly from the farms of their producer supply. The touch base requirement for producers has been reduced from 6 months to 3 months. Determination of the plant location adjustment for producer milk diverted to non-pool plants is now much less restrictive. All of these changes are described in an attached table that compares various pooling provision before and after order consolidation.

Each of the five predecessor orders which were merged into the Mideast order had more demanding qualification standards and for good reason. We realize that pooling provisions are not intended to create barriers to pooling, but it is reasonable to expect that a market with a fluid demand as large as the Mideast order warrants a higher level of performance than the Upper Midwest order or the Western markets. It appears that a lot of other interested parties agree with us. Every single proposal included in the hearing notice that pertains to performance standards proposes to increase the standards.

In conclusion, as a marketing cooperative that actively services the fluid market by supplying milk and also provides facilities to balance the variable demands of the market, MMPA urges the Secretary to adopt the changes requested in Proposals #1 – 5. Lax performance standards have resulted in an inequitable distribution of proceeds from this market's pool. One of the principle responsibilities of the order program is to preserve the proceeds from the fluid market for those producers who demonstrate an ability and a willingness to service that market. We also believe that emergency conditions exist which warrants omission of a recommended decision. We urge the Secretary to issue a decision on this matter in the most expeditious manner possible.