Maryland & Virginia
Milk Producers Cooperative Association, Inc.

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March 10, 2006

Hearing Clerk
Stop 9200 Room 1031
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250-9200

In Re: Federal Order Transportation Credit Hearing, Appalachian and Southeast Orders; Docket Number AO-388-A17 and AO-366-A46; DA-05-06

Enclosed are four copies of the Post Hearing Brief submitted on behalf of Maryland & Virginia Milk Producers Cooperative Association, Inc. for the captioned matter.

If you have any questions, please do not hesitate to call. Thank you for your cooperation.

Sincerely,

Jay Bryant

Jay Bryant
General Manager

Enclosures

cc: Dana Cole, Deputy Administrator

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Federal Order Transportation Credit Hearing
Appalachian and Southeast Orders
Docket Number AO-388-A17 and AO-366-A46; DA-05-06

Post Hearing Brief
Maryland & Virginia Milk Producers Cooperative Association, Inc.

This brief is submitted on behalf of Maryland & Virginia Milk Producers Cooperative Association, Inc. (Maryland & Virginia). Maryland & Virginia is headquartered in Reston, Virginia with approximately 1,400 producers in 11 states in the east and southeast. Maryland & Virginia is a supplier of milk in Federal Orders 5&7 Class I plants with producers located inside the Order 5& 7 marketing area and Maryland & Virginia is a supplemental supplier of milk to Federal Orders 5&7 Class I plants with producers located outside the Order 5&7 marketing areas. Maryland & Virginia also received payments from the Transportation Credits Balancing Fund of Orders 5&7 for the supplemental milk deliveries to Orders 5&7 Class I plants in 2005.

Maryland & Virginia supports proposals 1, 2 and 3 as included in the hearing notice for the following reasons.

1. Maryland & Virginia has experienced substantial increases in the cost of hauling milk to serve Order 5 & 7 Class I plants, and Maryland & Virginia paid prices per loaded mile for milk hauling much like those rates quoted in the hearing record

2. The mileage rate used under the Transportation Credit Balancing Funds of Orders 5 & 7 is terribly inadequate, and is based on approximately $1.80 per loaded mile, which is only around three-fourths of the current cost of hauling.

3. The mileage rate proposed in the hearing, even when adjusted for current fuel costs will be less than 95 percent of the actual cost of hauling.

4. The fuel adjuster for the mileage rate as proposed uses processes and data well established by industry. Maryland & Virginia has hauling contracts which include monthly fuel adjusters.

5. The Transportation Credit Balancing Funds have been under-funded for the last several years. The three cent increase in the Transportation Credit Balancing Fund assessments which went into effect November 2005 will not be enough to fund 2006 claims against the Transportation Credit Balancing Funds, even at the current mileage rate.

6. If the mileage rate is increased to reflect current costs of hauling and costs of fuel, the Transportation Credit Balancing Funds will be even further under-funded.

7. Differences between Order 5 and Order 7 in the proposed maximum rate of assessment on Class I milk for the Transportation Credit Balancing Funds is justified based on the differences in costs of supplying supplemental milk to the two marketing areas.

8. Differences in effective rates of assessment on Class I milk for the Transportation Credit Balancing Funds have existed in the past due to waiving of the assessment in Order 5, while Order 7 has not waived the assessment, even though the maximum rate of assessment stated in the two orders has been virtually the same.

9. The Federal Order 5 and 7 pools are adequately supplied in the short supply season, albeit from very distant milk, but are not over supplied. There is no evidence that the existence of the Transportation Credit Balancing Fund, nor the payments from the Transportation Credit Balancing Fund have led to a significant increase in the volume of milk pooled. Increases in pooled volumes is a natural outgrowth of the increase in necessary balancing reserve brought on by increases in the geographic size of the milk shed for the two Orders.

10. If Transportation Credit Balancing Funds and payments were eliminated or curtailed, the increased cost of supplying milk to the southeast from distance sources would fall disproportionately on certain producer groups, namely the members of milk marketing cooperatives.

11. Assessments for the current Transportation Credit Balancing Fund, and the proposed Intra-Market Transportation Credit Fund, provide all industry participants assurance that the Class I costs are applied uniformly to all plants, and payment for the services by Class I processors is for work actually performed.

12. Maryland & Virginia has a substantial amount of milk which cannot go to the nearest Class I plant because the volumes produced near those plants exceed the plant's needs. When this happens, the milk must move to more distant plants and the Federal Order location adjustment structure does not cover enough of the incremental cost of moving milk.

13. Maryland & Virginia has a substantial amount of milk which is delivered to plants which are located distant from a producer supply. When this happens, the milk must move to these more distant plants and the Federal Order location adjustment structure does not cover enough of the incremental cost of moving milk.

14. Maryland & Virginia experiences substantial losses from these extra milk movements.

15. Class I plants should pay the cost of these extra milk movements.

16. The purpose of the producer location adjustment structure is to provide incentives to move milk to Class I. The producer location adjustment structure does not provide sufficient economic incentives to move milk because the structure is built on outdated hauling costs.

17. Since the producer location adjustment surface does not provide enough incentive to move milk between plants, a producer's location in relation to the producer's nearest plant is a determinate in producer price equity. Producers whose milk moves further than their nearest plant are treated inequitably in the net revenue received for the sale of their milk, while all Class I revenues are shared by all producers without regard to where a producer's milk was received.

18. Differences between Order 5 and Order 7 in the proposed maximum rate of assessment on Class I milk for the Intra-market Transportation Credit Funds is justified based on differences in location of supplies versus Class I processing locations.

19. Maryland & Virginia is a member of the marketing agency in common which establishes Over Order prices for the Order 5 and 7 areas. Over Order prices were substantially increased in the southeast during 2005. The Over Order Class I price charged to plants in the southeast is nearing, or is perhaps at, the upper limit which can be attained due to competitive price relationships between plants inside and plants outside the southeast.

20. Over order prices are not universally paid by handlers, while assessments on Class I milk under the Federal Orders are.

Maryland & Virginia requests that the Secretary install Intra-Market Transportation Credit assessments at levels sufficient to pay for the additional costs of moving milk past a producer's nearest pool distributing plants as proposed. However, to correct inequities in the distribution of these costs amongst producers, if the Intra-Market Transportation Credit assessments are insufficient to cover the full cost of Intra-Market Transportation Credit payments, the producer revenue pool should be allowed to carry the additional costs, up to the limits proposed.