



July 11, 2011

Ms. Candace Gates, Chief
Dairy Marketing Branch
California Department of Food and Agriculture
560 J Street, Suite 150
Sacramento, CA 95814

RE: June 30 & July 1, 2011 Class 4a, and 4b Hearing — Post Hearing Brief

Mr./Ms. Hearing Officer and Members of the Panel:

Saputo Cheese USA Inc. appreciates the opportunity to submit the following post-hearing brief to amplify our testimony and address questions raised in Sacramento on June 30th and July 1st, 2011.

A question was asked at the hearing to compare the accuracy of weekly dry whey price quotes published by Dairy Market News (DMN) with National Agricultural Service Dairy (NASS) Product Prices Report given Saputo's experience from having drying facilities in both California and the Midwest. While we cannot draw a conclusion based on our specific pricing history, we are aware of a study being conducted by the American Dairy Products Institute, not of dry whey but of lactose. The purpose of the study is to assess the accuracy and validity of pricing information reported by Dairy Market News. It seems reasonable to assume that conclusions drawn from the study on one whey product (lactose) would apply equally to another (dry whey). The study is based on survey data from ADPI members who, combined, represent approximately 90% of the lactose produced in the United States. Early results indicate a substantial portion of the volume not reported or represented in the Dairy Market News, a wide variance from actual average prices, and a substantial percentage of prices falling outside the "mostly" range.

There are a number of flaws inherent in Dairy Market News survey methodology:

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- Participation is voluntary. Prices are reported on the "honor system." Unaudited.
- Responses are susceptible to bias based on individual economic interest.
- No distinction is made between spot prices and long term market prices. Prices are not always current. The reported price may have been established months earlier under different economic conditions.
- Prices are not weighted by volume. Sale price of a single load carries the same weight as the single sale of 50 loads.
- DMN personnel make subjective decisions regarding whether data is reliable or is an "outlier." The "mostly range" is undefined and completely subjective as well.
- Product quality and varying terms of sale create challenges to comparability.

The NASS survey participation is mandatory and results are audited, making it a better choice than Dairy Market News for use as a pricing base. However, as we testified at the hearing, the current 25 cent fixed whey factor is eminently fair and is an excellent tool to mitigate milk price volatility. Since it was implemented in December 2007 through May 2011, a forty-two month period, it enhanced Class 4b prices by fifteen cents per hundredweight over what they would have been under the previous formula after adjusting to the most current manufacturing cost data (\$0.3099 per lb.).

Producers needed emergency relief two years ago. To provide it today at the expense of vulnerable processors while on the cusp of record milk prices could lead us back to the days of production caps — or insufficient capacity with little or no economic incentive to invest in it. We reiterate our request to the Department to allow the market to work and to make no further alterations to the California Class 4b price.

Sincerely,

A handwritten signature in black ink that reads "R. Gregory Dryer".

R. Gregory Dryer
Executive Vice President of Industry and Government Relations
Saputo Cheese USA Inc.