



O-AT-KA Milk Products Cooperative, Inc.  
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September 14, 2007

*Via Federal Express*

Joyce A. Dawson, Hearing Clerk  
United States Department of Agriculture  
Room 1031, South Building  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-9200

In Re:            In the Matter of Milk In The Northeast Marketing Areas, et  
                         al.Docket Nos.: AO-14-A73, et al., DA-03-10

Dear Ms. Dawson;

Enclosed please find four (4) copies of the Post-Hearing Brief for O-AT-KA Milk  
Products Cooperative, Inc.

Thank you for your cooperation.

Very truly yours,

Craig S. Alexander  
Manager of Dairy Ingredient Sales  
and Regulatory Affairs

**BEFORE THE UNITED STATES DEPARTMENT  
OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE**

**In the Matter of**

**: Docket Nos.:**

**Milk In The Northeast**

**:**

**: AO- 14-A73, et al;**

**Marketing Area, et al**

**:**

**: DA-03-10**

**POST-HEARING BRIEF FOR  
O-AT-KA MILK PRODUCTS COOPERATIVE, INC.**

Brief submitted on behalf of  
O-AT-KA Milk Products Cooperative, Inc.  
By Craig Alexander, Manager of Dairy  
Ingredient Sales and Regulatory Affairs of  
O-AT-KA Milk Products Cooperative, Inc.

**BEFORE THE UNITED STATES DEPARTMENT  
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<b>Milk In The Northeast</b>	:	<b>: AO- 14-A73, et al;</b>
<b>Marketing Area, et al</b>	:	<b>: DA-03-10</b>

**POST-HEARING BRIEF FOR  
O-AT-KA MILK PRODUCTS COOPERATIVE, INC..**

In Re: In the Matter of Milk In The Northeast Marketing Areas, et al.Docket Nos.: AO-14-A73, et al., DA-03-1

This post hearing brief is provided on behalf of O-AT-KA Milk Products Cooperative, Inc. O-AT-KA is primarily owned by the farmers belonging to Upstate Niagara Cooperative Inc., and a minority interest is owned by Dairy Farmers of America, Inc. O-AT-KA annually processes about 600 million pounds of milk, however, volumes fluctuate significantly on a daily, weekly, monthly and yearly basis as O-AT-KA provides balancing services for milk producers in Western New York and the Northeast. Although O-AT-KA manufactures a full line of canned evaporated milk products, and a variety of long shelf life specialty beverages in cans and glass bottles, butter and nonfat dry milk represent a significant proportion of production and revenue for the cooperative.

It is critical to the producers owning O-AT-KA that the end result of the USDA decision process provides the industry with make allowances and other factors in the Class III and IV product formulas that are fair and accurate. Importantly for balancing operations such as ours, we ask that the Secretary consider that extreme fluctuation in milk supplies due to demands from other higher valued uses that often vary opposite to the seasonal pattern of milk production on the farm, increases processing costs and inefficiencies.

O-AT-KA will provide comments relative to the proposals and testimony made at the hearing that pertain to butter and nonfat dry milk formula factors and costs in the Class IV formula, as these are the products we produce.

O-AT-KA supports the testimony presented by Agri-Mark et. al. for Proposal 1 to update the make allowances used within the product formulas determining Class III and Class IV prices. O-AT-KA supports increasing make allowances for nonfat dry milk and butter as the evidence in the record, particularly the testimony and cost study by Dr. Mark Stephenson and California cost surveys both show increased costs since the last studies. We believe that the cost results and correction of the Cornell study methodology since the last survey represents a minimum of what is necessary considering the costs and changes in costs experienced by O-AT-KA. The cost study results for nonfat dry milk in particular still fall far short of the costs we see in our smaller scale plant providing balancing services to the market. We ask that the Secretary consider that a make allowance set at the weighted average cost means that half of the milk (and possibly more than half the plants) do not have a sufficient make allowance to fully recover the costs of processing. **We also remain very concerned that USDA keeps alignment of Class IV and California Class 4a prices in mind as these formula changes are considered.** We are directly impacted by competition from California processors, particularly in our butter and evaporated milk items. California regularly updates their costs in their manufacturing 4a and 4b formulas and USDA needs to keep pace in timing and formula factors as well.

O-AT-KA supports annually updating the processing costs of producing the products encompassed in Class III and IV formulas in Proposal 2, however we do not at this time support the automatic updating of these costs in the formulas. We believe these formula changes should be addressed through regularly scheduled hearings where all parties have the opportunity for input, and a USDA protocol that expedites the decision making process. However if it becomes clear that the hearing process cannot generate decisions in a timely way, we may need to support such an automatic make allowance procedure in the future.

In conjunction with proposals 1 and 2, O-AT-KA also supports the National Milk Producers Federation Proposal 17 that regularly adjusts the formulas for energy costs. This important proposal will help alleviate energy cost changes that are the most significant variable factor impacting costs.

O-AT-KA does not support proposals 3, 4, 6, 7, and 8. These proposals as a group are not supported in the record and proposed changes in yield factors and make allowances that would hinder the ability of the industry, and specifically butter and nonfat dry milk plants such as ours, to provide a fair return to our member owners as well as provide balancing services to the market. USDA must recognize, as ample testimony has shown, that factors beyond the complete control or cost recovery of plant operators impact the costs and returns of processing plants. These include farm-to-plant shrink, in plant loss and off grade products, and actual, not theoretical yields.

O-AT-KA also has concerns regarding Proposal 5 changing the butter yield. The exact intent of the Secretary in his decision is unclear as discussed in the testimony of Land O' Lakes (Transcript pp 2110-2111). We would also note that the California state milk order also uses a 1.2 butter yield factor. We believe that if the yield factor is adjusted, it should be done only after specifically accounting for plant loss and off grade product

price discounts supported in the testimony on record by Michigan Milk (Transcript p 472) and Dairygold (Transcript p 2558). The formulas need to be taken in their entirety in terms of the impact on processors. Changing one factor in isolation that in effect raises milk costs without addressing the other factors will only serve to exacerbate the inability of the Class IV formula to allow a fair return to be achieved by the producers owning O-AT-KA.

O-AT-KA believes proposals 18 and 20 require further study and consideration. In particular, Proposal 20 submitted by Dairylea, is a concept that attempts to allow cost increases to be sent forward to customers instead of passed back to producers. In the real world and in an unregulated environment, the economics of supply and demand and the complicated product demand and supply elasticity relationships involved would impact both sides of the market (producer and consumer) in different ways and to different degrees. In our current regulated milk pricing system as articulated in the testimony on this proposal, either processors suffer as any price increases to recover costs are cycled back into milk costs, or producers feel the first round economic impacts as make allowance increases reduce producer prices. In the case of a cooperative manufacturing a bulk commodity product, producers feel the negative effects in either case. We applaud the attempt to find a different means of finding a fair balance in pricing farm milk, but we believe this proposal needs further study.

Thank you for consideration of this post hearing brief. We ask that this decision, and make allowance adjustments coming from it, will be made in as expeditious a manner as possible.

Respectfully submitted,

Craig S. Alexander  
Manager of Dairy Ingredient Sales  
and Regulatory Affairs