The witness contended that these price fluctuations have provided the necessary signals to Federal order producers to make adjustments in supply according to demand.

The next point of objection by the Pennmarva, et al., witness focused on the disruption of orderly marketing conditions which he feared would be created by the adoption of the support price. According to the witness, this disruption would result because the Federal order price would be below the competitive value of milk. During the period between April 1988 through April 1992, the M–W price has exceeded the support price by amounts ranging from \$.12 to \$4.58.

The Pennmarva, et al., witness then explained that the Federal order program and the price support program have different objectives. He described the order program objective as maintaining an adequate supply of milk to meet the fluid needs of the market, while the support program provides a price floor for milk used to manufacture dairy products. Another point of opposition addressed by the witness was the fact that Federal order class prices would no longer be influenced by seasonal and other supply and demand factors.

Further objection by the Pennmarva, et al., witness addressed the fact that milk not regulated under the Federal order program would still be priced on a competitive basis, creating differences in price levels and further resulting in disorderly marketing. A substantial increase in over-order prices would become the means of improving the competitiveness of regulated handlers, resulting in greater inequities between producers and handlers. The witness projected that this would lead to increased instability between producers and handlers because of the increase in risks by both parties.

Several other witnesses, including but not limited to MIF/IICA, NMPF, CMPC, AE/SFG, Darigold, et al., SCDF, Dairylea and its affiliated cooperatives, and Country Fresh, et al., expounded on the points of opposition addressed by the Pennmarva, et al., witness during the hearing and in post-hearing briefs. The consensus of those opposing the adoption of the support price was that it would result in disorderly marketing conditions with the price received by dairy farmers being lowered. They contended that Federal order prices would no longer reflect supply and demand conditions but would be based on a politically determined price.

The final M–W price replacement alternative considered at the hearing, proposal number ten, was the use of a

cost-of-production formula to determine the basic formula price. Several independent dairy farmers and dairy farmer organizations proposed this alternative. Proposal number ten in the hearing notice listed a formula that might be utilized to determine the cost of production although none of the witnesses testifying in support of this proposal discussed the listed formula. The witness testifying on behalf of the Progressive Agriculture Organization and several other groups (PAO) and the witness representing the National Farmers Union (NFU) proposed using the national average cost of production published by USDA, adjusted annually, as the basic formula price.

The PAO witness stated that all dairy farmers should be treated equally and that the current basic formula price results in an inadequate pay price for producer milk. The witness contended that due to the inadequacy of this price, several dairy farmers have been either forced out of business or forced to increase production to maintain a constant cash flow. According to the witness, the PAO proposal would benefit producers, processors, and consumers because it would result in long-term price stability by eliminating the volatile price swings the industry currently experiences. Although the witness stated that this proposal would increase prices, he maintained that it would not stimulate production. Basically, these viewpoints were expressed by other witnesses representing the American Dairy Farmer Campaign and several other groups, Empire State Family Farm Alliance and several other groups, and the NFU. As mentioned previously, NFO also supported the adoption of the cost of production as a floor price for the basic formula price.

A witness from the University of Wisconsin—River Falls, testified exclusively in opposition to the cost of production as a replacement for the M– W price. The witness based his opposition on the theory that the price received for milk determines the cost of production. He cited historical data which he maintained proved that dairy farmers do adjust their inputs in response to milk prices. He further reiterated the point that the adoption of a cost-of-production formula would not monitor changes in national supply and demand conditions.

In addition to this witness, an overwhelming amount of opposition to the adoption of a cost-of-production formula was presented during the hearing and in post-hearing briefs. The general consensus of the opposition is that a cost-of-production formula accounts for only factors affecting supply conditions; it does not factor demand conditions into the calculation. Also, the opposition argued that basing the cost of production on the national average would not account for the regional variations in production costs and would tend to advantage the larger, more efficient producers. It was further agreed by the opponents that the ultimate result of adopting a cost-ofproduction formula as the basic formula price would be an increase in production. Another problem cited with this proposal is the availability of data; USDA cost-of-production numbers tend to lag current production costs by two years.

The Agricultural Marketing Agreement Act of 1937, as amended (the Act), authorizes the Federal milk order program. 7 U.S.C. section 602 sets forth the declaration of policy and 7 U.S.C. section 608c(18) sets forth certain milk pricing requirements. Part of the policy of the Federal milk order program is to

Establish and maintain such orderly marketing conditions \* \* \* as will provide, in the interests of producers and consumers, an orderly flow of the supply, thereof \* \* \* to avoid unreasonable fluctuations in supplies and prices \* \* \*.

The pricing provisions state in part, that

Whenever the Secretary finds, upon the basis of evidence adduced at the hearing \* \* \*, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area \* \* \* he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs, and be in the public interest.

The hearing notice stated that any change in price levels must be justified under the supply and demand pricing standards mentioned above. The hearing record indicates that current price levels are achieving a reasonable balance between supply and demand for milk. Present price levels are ensuring consumers of an adequate supply of milk while maintaining sufficient reserve supplies.

The record conclusively demonstrates that three types of the proposals considered—product price formulas (except for updating purposes), the support price, and cost-of-production formulas—would change current price levels and do not have sufficient justification in the evidentiary record for such changes. In addition, the latter