STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

OSHKOSH PROFESSIONAL POLICE ASSOCIATION, Complainant, vs. CITY OF OSHKOSH, Respondent.	Case 212 No. 49869 MP-2800 Decision No. 27946-A

Appearances:

Mr. Frederick J. Mohr, Attorney at Law, 414 East Walnut Street, Green Bay, Wisconsin 54305, appearing on behalf of the Oshkosh Professional Police Association.

Ms. Lynn A. Lorenson, Assistant to the City Attorney, 215 Church Avenue, Oshkosh, Wisconsin 54902, appearing on behalf of the City of Oshkosh.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

Oshkosh Professional Police Association, hereinafter Complainant or Union, filed a complaint with the Wisconsin Employment Relations Commission on September 27, 1993, alleging that the City of Oshkosh, hereinafter Respondent or City, committed a prohibited practice within the meaning of Section 111.70(3)(a)7 1/ of the Municipal Employment Relations Act, by failing to properly incorporate into its proposed agreement for 1993-94 the decision of Arbitrator Oestreicher as to health insurance. The Commission appointed Thomas L. Yaeger, a member of its staff, to act as Examiner. A hearing was held in the City of Oshkosh on April 13, 1994, and counsel submitted briefs thereafter, with the last brief being submitted on May 16, 1994. Having considered the evidence and arguments of counsel, the Examiner makes the following Findings of Fact, Conclusion of Law and Order.

FINDINGS OF FACT

1. The Complainant, Oshkosh Professional Police Association, an unincorporated association, 414 East Walnut Street, Green Bay, Wisconsin 54305, is a labor organization as defined in Section 111.70(1)(h), Stats.

2. The Respondent, City of Oshkosh, 215 Church Avenue, Oshkosh, Wisconsin 54902-1130, is a municipal employer as defined in Section 111.70(1)(j), Stats.

3. The Complainant is recognized by the Respondent as the exclusive collective bargaining agent for the positions of patrolman, detective and sergeant in its Police Department. The Complainant and Respondent were parties to a two year collective bargaining agreement for the calendar years 1991 and 1992. Article VIII of that agreement contained a provision relating to health insurance, as follows:

1/ This Section is erroneously referred to as 111.77(3)(a)7 in the Complaint.

Article VIII

. . .

INSURANCE BENEFITS

Hospital and Medical Insurance

The employer shall provide health coverage equal to the level of benefits available to the employees under the HMP type program in effect during 1990. Effective pay period 1, 1991, employees shall contribute $10 per month towards the premium for the single plan and $30 per month for family coverage. Effective pay period 1, 1992, employees shall contribute an additional amount equal to twenty-five percent (25%) of the increase in premium for 1992 but not to exceed an additional Twenty Dollars ($20.00) per month.

. . .

4. The Complainant and Respondent attempted unsuccessfully during 1992 to negotiate a successor agreement for the calendar years 1993 and 1994. A petition to initiate binding interest arbitration was filed with the Wisconsin Employment Relations Commission on November 18, 1992, and Marshall Gratz was assigned by the Commission to act as investigator. Investigator Gratz advised the Commission that the parties were at impasse in their negotiations and it ordered arbitration. John C. Oestreicher was selected by the parties as Arbitrator. After hearing and briefing, Oestreicher issued his decision on August 20, 1993, selecting the Respondent's revised final offer and directed that it be incorporated into the parties' 1993-94 collective bargaining agreement.

5. While still in negotiations with the Complainant for a 1993-94 agreement, the Respondent reached a voluntary agreement with its Firefighter's Union for a 1993-94 contract, which contained the following health insurance language, at Article VIII:

. . .

ARTICLE VIII

HOSPITAL AND MEDICAL INSURANCE

The employer shall provide health coverage equal to the level of benefits available to the employees under the WPS-HMP program in effect during 1992. Effective pay period 1, 1993, employees shall contribute $24.50 per month towards the premium for the single plan and $68.75 per month for family coverage. Effective pay period 1, 1994, the employees may remain in the existing non-deductible plan and pay 20% of the increased cost of the plan to a maximum of $20.00 per month. The employee may choose to opt out of the non-deductible plan and into the $250 (single) and $500 (family) deductible plan at no monthly premium participation by the employee.

. . .

6. Shortly after an investigation session with Gratz was concluded, the Respondent made a settlement offer to Complainant. That offer included a proposal on health insurance identical to the language contained in the 1993-94 agreement it had recently reached with its Firefighters (quoted in Finding of Fact 5 above). The Complainant rejected this offer. Thereafter, the parties submitted their final offers to Investigator Gratz. The Complainant's final offer contained no proposal to change Article VIII of the 1991-92 contract, whereas the Respondent made the following final offer regarding Article VIII:

. . .

1. All provisions of the 1991-92 Agreement not modified by this Final Offer shall be incorporated in the successor agreement.

. . .

3. Health Insurance

Amend Article VIII. Insurance Benefits Hospital and Medical Insurance. This article to be revised to provide for a dual choice in health insurance coverage beginning January 1, 1993. Employees electing the plan containing the up front deductibles of $250.00 on the single plan and $500.00 on the family plan shall not contribute toward the premium payment. Employees electing to continue the coverage in force in 1992 shall pay premium contributions effective January 1, 1993 of $24.50 per month for the single plan and $68.75 per month for the family plan and in addition, effective January 1, 1994, shall contribute an amount equal to 25% of the increase in premium for 1994.

. . .

7. At no time during the negotiation, investigation or arbitration did either side discuss with each other whether Respondent's final offer on Article VIII was intended to delete the first sentence of Article VIII of the 1991-92 agreement. The arbitrator did not discuss this matter in his decision, however, the Complainant's failure to put in issue in the arbitration proceeding any questions concerning the inclusion or exclusion of that first sentence explains the absence of any discussion of the matter by the arbitrator.

8. During the investigation, counsel for the Complainant submitted to Gratz a letter on December 1, 1992, 2 1/2 months prior to the Respondent's submission of its revised final offer, outlining the outstanding issues and the parties' positions, at that time. Paragraph 3 of the letter referred to health insurance as follows:

. . .

> 3. Insurance Benefits. The employer seeks to change the insurance benefit. Presently, employees enjoy an HMP program. Employees pay a flat monthly amount ($50.00 per month for a family plan). All medical expenses are covered.
>
> Management has requested to provide a dual choice. Under one plan, employees will pay a 250/500 deductible. Employees choosing the existing plan will pay their present premium plus 25% of any increase for each of the years 1993 and 1994.

. . .

This letter does not establish that the Complainant's revised final offer of January 21, 1993, failed to propose the deletion of the first sentence of Article VIII appearing in the parties' 1991-92 agreement, because it was merely a summary of issues and positions as understood by Complainant's Counsel not necessarily as understood by Respondent. Also, Respondent did not prepare a similar document for the investigator, and it never discussed with Complainant its intentions concerning whether any language of Article VIII of the 1991-92 contract would be continued in the 1993-94 contract. Furthermore, proposal number one of Respondent's revised final offer clearly states that the only language of the 1991-92 contract that continues under the 1993-94 contract are those provisions not modified by the offer. The Respondent's revised final offer proposed the modification of Article VIII of the 1991-92 agreement. Therefore none of the 1991-92 contract language of Article VIII could be deemed to continue under the 1993-94 contract except to the extent it was included in Respondent's proposal number three.

9. Arbitrator Oestreicher issued his award on August 20, 1993, selecting the Respondent's revised final offer and directed that it be incorporated in the parties' 1993-94 contract. Upon receipt of the Arbitrator's decision, counsel for the Respondent prepared a 1993-94 collective bargaining agreement. In it, Respondent incorporated the health insurance language from its revised final offer, except it replaced the first five words of its revised final offer, "This article to be revised. . .", with these words: "The employer shall. . ." Thus, the Article VIII language the Respondent gave to Complainant for execution read:

. . .

> The employer shall provide for a dual choice in health

> insurance coverage beginning January 1, 1993. Employees electing the plan containing the up front deductibles of $250.00 on the single plan and $500.00 on the family plan shall not contribute toward the premium payment. Employees electing to continue the coverage in force in 1992 shall pay premium contributions effective January 1, 1993 of $24.50 per month for the single plan and $68.75 per month for the family plan and in addition, effective, January 1, 1994, shall contribute an amount equal to 25% of the increase in premium for 1994.
>
> . . .

10. Because Complainant did not carry over the first sentence of Article VIII of the parties' 1991-1992 collective bargaining agreement into the 1993-94 agreement, counsel for the Complainant objected, taking the position that under the Arbitrator's decision this first sentence must be included along with the health insurance language of the Respondent's revised final offer. After Respondent refused to include this sentence, the Complainant filed the Complaint herein, alleging that Respondent was guilty of a prohibited practice by refusing to properly incorporate the Arbitrator's decision into its proposed 1993-94 collective bargaining agreement, in violation of Section 111.77(3)(a)7.

11. Respondent's revised final offer relative to Article VIII Insurance Benefits Hospital and Medical Insurance was a proposal to replace the language of Article VIII of the parties' 1991-92 contract with the revised final offer language. It was not merely a proposal in principle to change Article VIII of the 1991-92 agreement to provide for a dual choice option to employes, with the contract language to be arrived at later. It was a complete proposal requiring no additional bargaining or discussion as a prerequisite to implementation. Therefore, the 1993-94 contract Article VIII language must be written exactly as it appears in the Respondent's revised final offer submitted to Arbitrator Oestreicher. Thus, the contract document Respondent submitted to Complainant for execution did not properly implement Arbitrator Oestreicher's award.

Based upon the foregoing Findings of Fact, the Examiner makes the following

CONCLUSION OF LAW

That Respondent, by its failure to properly implement Arbitrator Oestreicher's August 20, 1993 award, has committed a prohibited practice within the meaning of Section 111.70(3)(a)7, Stats.

Based upon the foregoing Findings of Fact and Conclusion of Law, the Examiner makes the following

ORDER 2/

IT IS ORDERED that the City of Oshkosh, its officers and agents, shall immediately:

1. Cease and desist from requesting the Oshkosh Professional Police Association to execute a 1993-94 collective bargaining agreement that contains language in Article VIII that is at variance with the City's January 21, 1993 revised final offer that was selected by Arbitrator Oestreicher.

2. Take the following affirmative action which the Examiner finds will effectuate the policies of the Municipal Employment Relations Act:

   a. Immediately prepare for the Oshkosh Professional Police

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2/ Any party may file a petition for review with the Commission by following the procedures set forth in Sec. 111.07(5), Stats.

Section 111.07(5), Stats.

> (5) The commission may authorize a commissioner or examiner to make findings and orders. Any party in interest who is dissatisfied with the findings or order of a commissioner or examiner may file a written petition with the commission as a body to review the findings or order. If no petition is filed within 20 days from the date that a copy of the findings or order of the commissioner or examiner was mailed to the last known address of the parties in interest, such findings or order shall be considered the findings or order of the commission as a body unless set aside, reversed or modified by such commissioner or examiner within such time. If the findings or order are set aside by the commissioner or examiner the status shall be the same as prior to the findings or order set aside. If the findings or order are reversed or modified by the commissioner or examiner the time for filing petition with the commission shall run from the time that notice of such reversal or modification is mailed to the last known address of the parties in interest. Within 45 days after the filing of such petition with the commission, the commission shall either affirm, reverse, set aside or modify such findings or order, in whole or in part, or direct the taking of additional testimony. Such action shall be based on a review of the evidence submitted. If the commission is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings or order it may extend the time another 20 days for filing a petition with the commission.

This decision was placed in the mail on the date of issuance (i.e. the date appear immediately above the Examiner's signature).

Association a 1993-94 collective bargaining agreement with Article VIII appearing as follows:

. . .

> Insurance Benefits Hospital and Medical Insurance. This article to be revised to provide for a dual choice in health insurance coverage beginning January 1, 1993. Employees electing the plan containing the up front deductibles of $250.00 on the single plan and $500.00 on the family plan shall not contribute toward the premium payment. Employees electing to continue the coverage in force in 1992 shall pay premium contributions effective January 1, 1993 of $24.50 per month for the single plan and $68.75 per month for the family plan and in addition, effective January 1, 1994, shall contribute an amount equal to 25% of the increase in premium for 1994.

b. Notify all of its Police Department employes by posting, in conspicuous places on its premises where those employes are employed, copies of the notice attached hereto and marked "Appendix A." That notice shall be signed by an official of the City and shall be posted immediately upon receipt of a copy of this Order and shall remain posted for thirty (30) days thereafter. Reasonable steps shall be taken to ensure that said notices are not altered, defaced or covered by other material.

c. Notify the Wisconsin Employment Relations Commission, in writing, within twenty (20) days following the date of this Order, as to what steps have been taken to comply herewith.

Dated at Madison, Wisconsin, this 4th day of August, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas L. Yaeger /s/
Thomas L. Yaeger, Examiner

"APPENDIX A"

NOTICE TO ALL EMPLOYES

Pursuant to an Order of the Wisconsin Employment Relations Commission, and in order to effectuate the policies of the Municipal Employment Relations Act, we hereby notify our employes that:

1. WE WILL immediately prepare for the Oshkosh Professional Police Association's execution a 1993-94 collective bargaining agreement with Article VIII appearing as follows:

> Insurance Benefits Hospital and Medical Insurance. This article to be revised to provide for a dual choice in

health insurance coverage beginning January 1, 1993. Employees electing the plan containing the up front deductibles of $250.00 on the single plan and $500.00 on the family plan shall not contribute toward the premium payment. Employees electing to continue the coverage in force in 1992 shall pay premium contributions effective January 1, 1993 of $24.50 per month for the single plan and $68.75 per month for the family plan and in addition, effective January 1, 1994, shall contribute an amount equal to 25% of the increase in premium for 1994.

2. WE WILL NOT in any like or related manner refuse to implement Arbitrator Oestreicher's Arbitration Award in violation of the Municipal Employment Relations Act.

By _____ _____
City of Oshkosh Date

THIS NOTICE MUST REMAIN POSTED FOR THIRTY (30) DAYS FROM THE DATE HEREOF AND MUST NOT BE ALTERED, DEFACED OR COVERED BY ANY OTHER MATERIAL.

CITY OF OSHKOSH (POLICE DEPARTMENT)

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

In its complaint, the Complainant alleges that the Respondent has committed a prohibited practice by refusing to include the first sentence of Article VIII of the 1991-1992 collective bargaining agreement in its proposed agreement for 1993-94. It contends that a proper interpretation of the Arbitrator's decision requires inclusion of this first sentence. The Respondent contends that the Arbitrator's decision does not provide for inclusion of this sentence in the health insurance language of the 1993-94 agreement.

POSITION OF COMPLAINANT

Complainant avers that the Wisconsin Supreme Court in Sauk County v. WERC, 165 Wis. 2nd 406, 420, 477 N.W.2nd 267 (1991), found it to be an unfair labor practice within the meaning of Section of 111.70(3)(a)7, Stats., when an employer fails to incorporate the specific terms of an arbitrator's award into a resulting collective bargaining agreement. In this case, Complainant argues that Arbitrator Oestreicher listed the issues in dispute in his award and makes no mention of the deletion of what Complainant refers to as the "minimum standard clause" which is the first sentence of the 1991-92 collective bargaining agreement between Respondent and Complainant. Complainant thus concludes that it is "apparent by Oestreicher's discussion of the parties' positions that he did not believe that the City's offer to the Police was substantially different than its settlement with the Firefighters." Complainant goes on to state that "Oestreicher specifically indicates that the City's offer under consideration is similar to the Firefighters except in one respect." Complainant concludes that there is no evidence in Oestreicher's award which would lead anyone to conclude that he intended to delete the minimum standards clause. Furthermore, Complainant in support of its contentions points to the testimony of the Respondent's negotiator, Patterson, wherein he stated that the deletion of the clause was not something considered by management until after the award was granted, and furthermore that the subject was not raised at the bargaining table or in caucus.

The Union insists deletion of the disputed language would have a "deleterious" effect on bargaining unit employes and that Patterson concurred in that assessment. The Union urges that deletion of the minimum standards clause would amount to a major concession on the part of the Union and therefore, it certainly would have been something discussed by the arbitrator had the arbitrator intended that effect. Furthermore, Complainant argues that the Employer never intended to delete this clause prior to the issuance of the arbitrator's award. It supports this contention by reference to the City's acknowledgement that it had no internal discussion regarding this issue prior to arbitration, the fact that it was never pointed out by the Respondent at the bargaining table that it was its intent to delete the first sentence of the 1991-92 contract and the City's offers during the course of negotiations.

Complainant argues that a similar issue regarding the interpretation of an arbitrator's award was discussed by Examiner Crowley in Peshtigo School District, WERC Dec. No. 27730-A (1994). Complainant believes Crowley adopted a methodology in which he "considered (1) the District's final offer, (2) the parties' discussions during mediation, and (3) the arbitration award itself." Applying that analysis in the instant case leads the Complainant to conclude that because Respondent offers to continue all of the terms of the 1991-92 agreement except those modified by its final offer and that Respondent failed to use the word "delete" or "substitute" with reference to the first sentence of Article VIII of the 1991-92 contract that the City did not propose the deletion of the disputed language. Because the offer is ambiguous it should be construed against the drafter as was done in Spring Valley Meats, Inc., 94 Wis 2d 600, 288 N.W.2nd 852 (1980).

Complainant also argues that if it was the City's intention to delete such a substantial benefit it was incumbent upon it to have at least considered it and mentioned it during the negotiation and investigation stages of the proceedings. Because it failed to do so it must be concluded that the City did not intend the deletion of this language. Finally, Complainant argues that Oestreicher's award discussed the issues in dispute and made no mention of the deletion of the minimum standards clause, and in his summary of the City's position indicated that only the questions of dual coverage and premium contribution were in issue. Thus, Complainant concludes that Oestreicher believed the City was offering language identical to that contained in the Firefighter's contract, except for the different level of contribution toward the 1994 premiums. In its reply brief, Complainant states it obviously never considered deletion of the first sentence of the 1991-92 collective bargaining agreement relative to health insurance as being a part of the City's final offer. "If it had Complainant would have argued vociferously that the City's final offer was not equivalent to the Firefighters' and had a substantial negative impact on Complainant's members."

POSITION OF RESPONDENT

Respondent argues that it made a "clear and specific" final offer providing for a dual choice health insurance program. The Association's contention that it did not understand the language of the City's proposal to provide for deletion of the first sentence of the prior collective bargaining agreement lacks credibility. The City's negotiator, Patterson, testified that it was "normal procedure in writing a final offer to put the language which the party desired to be written into the contract." At no time did the Association object to or question the wording of the provisions submitted by the City. Nor does the Association contend now that it misunderstood the provision as submitted.

Furthermore, Complainant is now seeking to obtain in this proceeding the language that it rejected during negotiations. It was the Union that rejected the City's offer of the language of the voluntary agreement between the City and the Firefighters' Association.

The Respondent also contends that deletion of the first sentence of the prior collective bargaining agreement is meaningless notwithstanding the Association's attempt to elevate this sentence to a level of greater importance than even it attached to the language during negotiations. By its own admission Complainant did not consider the sentence until after the arbitration was rendered and the City's final offer incorporated into contract language. Maintenance of benefits is maintained within the 1993-94 contract provisions notwithstanding the absence of the language contained in the first sentence of the 1991-91 collective bargaining agreement. To now insert the first sentence of the old contract in the new contract "serves only to muddy the revised contract provision." While the plans are comparable, coverage under the two plans differ somewhat. Thus, Respondent argues that rather than create confusion it chose to modify the provision and clearly provide that employes may "elect to continue the coverage in force in 1992."

The Respondent also denies that it is motivated by some "malicious intent" to change the HMP program applicable to this group of employes. It argues that it employes over 600 employes with full benefits and that it would be neither practical nor realistic for the City to modify its insurance package for this one bargaining unit. The Complainant is merely arguing that it didn't get the same language as the language contained in the Firefighters' contract which it was offered and subsequently rejected. And this argument was specifically rejected by the arbitrator in the arbitration proceeding.

In conclusion, Respondent argues that it made a clear and specific final offer, that no issue was raised as to the rewording of Article VIII during the course of negotiations or during the arbitration proceeding, the parties to the arbitration proceeding understood the City intended to revise the provision to read as provided within its final offer, and the arbitrator ordered incorporation of the City's final offer into the 1993-94 contract. Thus, it concludes that it has not committed a prohibited practice by refusing to include the first sentence of the 1991-92 collective bargaining agreement health insurance clause within the new 1993-94 contract health insurance clause. Therefore, Respondent submits that the complaint filed herein should be dismissed.

DISCUSSION

Complainant believes that Respondent never proposed the deletion of the first sentence of Article VIII of the parties' 1991-92 collective bargaining agreement at anytime during their negotiation for a successor agreement, and therefore insists that the City has committed a prohibited practice of refusing or failing to implement an arbitration award by its insistence on a new Article VIII - Insurance Benefits that does not include the first sentence of Article VIII of the 1991-92 contract. The Wisconsin Supreme Court in Sauk County v. WERC, 165 Wis 2d 406, 477 N.W.2d 267 (1991) stated that an unfair labor practice of failing to "implement" an arbitration decision occurs when a party fails to incorporate specific terms of the award into the resulting collective bargaining agreement.

The initial question presented is whether the Respondent's revised final offer selected by the arbitrator included, in addition to the language appearing as item number "3. Health Insurance:", the first sentence of Article VIII of the 1991-92 contract. An examination of the testimony, exhibits and arguments presented persuades me that it did not. The Respondent's final offer, as argued by Complainant, did provide that "all provisions of the 1991-92 Agreement not modified by this final offer shall be incorporated in the successor Agreement." However, the Respondent had made a proposal dealing with Article VIII, and that proposal did not include the first sentence of Article VIII of the 1991-92 agreement. The proposal did however rewrite the old Article VIII language. In examining the rewritten Article VIII, it is clear that it was prepared in a fashion that it would stand alone without regard to the prior language of the 1991-92 agreement. Also, the Respondent's proposal to "Amend Article VIII" "modified" a "provision" of the 1991-92 agreement.

"Modify" means to "change or alter" as in change the language of a document. 3/ Here the Respondent's proposal for Article VIII significantly altered or changed the prior language of the 1991-92 contract. Thus, Respondent's proposal number one to incorporate the language of the 1991-92 agreement was not applicable to Article VIII because Article VIII of the 1991-92 agreement was modified by Respondent's proposal number three. Therefore, it could not be the case that any language of the 1991-92 Article VIII survived under Respondent's revised final offer.

Complainant also argues that because Respondent never stated during negotiation or investigation it was proposing to delete the first sentence of the 1991-92 Article VIII, it was obligated to continue that language in the 1993-94 contract. The examiner does not believe the Respondent was so obligated. As discussed in the preceding paragraph, the plain meaning of the Respondent's revised final offer makes it clear that it was not proposing to continue that language in the new contract. Rather it was proposing new contract language for Article VIII. It was not necessary for Respondent to restate what was obvious from the plain meaning of its offer.

Complainant also argues that even the arbitrator believed that the City's final offer was the same as the Firefighter settlement that included the disputed language because he never mentioned the deletion of the disputed language in his decision. It is true that the arbitrator never discussed this issue, but it is also true that no one argued it to him. It is an undisputed fact that the subject was never discussed by either party during negotiation or investigation nor argued to Arbitrator Oestreicher. Consequently, it is illogical to conclude from his award, as Complainant argues, that the arbitrator understood or intended that sentence to be carried over into the 1993-94 contract. The arbitrator was unaware, and therefore incapable of expressing an opinion on this issue. Reading such a conclusion into his award is not supported by this record.

3/ Webster's New World Dictionary of the American Language (Second College Edition, 1974)

Finally, it is undisputed in this case that the language of Article VIII Insurance Benefits, that Respondent prepared subsequent to Oestreicher's decision, is not the verbatim language of its revised final offer that was selected. The Respondent chose to delete the introductory words "This article to be revised to" and put in their place "The Employer shall." While the examiner believes this was not a substantive altering of the proposal, if the Respondent's final offer with respect to Article VIII was "the language which [it] desired to be written into the contract" as I have concluded, then Section 111.70(3)(a)7, Stats., required that exact language, once selected by the arbitrator, to be incorporated verbatim in the resulting collective bargaining agreement. To conclude that a winning party can unilaterally make insubstantial changes in the final contract language would destroy the finality of the interest arbitration process, and create the potential for numerous prohibited practice cases like this where the other side disagrees that the language modification is insubstantial and does not alter its meaning. Clearly, that would be bad public policy and a result to be avoided. Thus, the unilateral change made by Respondent in the language of Article VIII of its revised final offer selected by the arbitrator was impermissible. Consequently, in doing so the Respondent did not implement Oestreicher's award, and thus committed a prohibited practice within the meaning of Section 111.70(3)(a)7, Stats.

Dated at Madison, Wisconsin, this 4th day of August, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas L. Yaeger /s/
Thomas L. Yaeger, Examiner