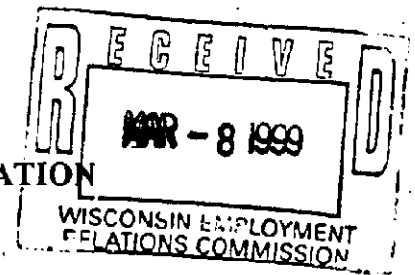


IN THE MATTER OF THE INTEREST ARBITRATION
PROCEEDINGS BETWEEN



WISCONSIN PROFESSIONAL POLICE
ASSOCIATION/LAW ENFORCEMENT
EMPLOYEE RELATIONS DIVISION
(CALEDONIA PROFESSIONAL
TELECOMMUNICATORS ASSOCIATION),
Union,

and

ARBITRATOR'S AWARD
Case 68 No. 56203
INT/ARB 8448
Decision No. 29400-A

TOWN OF CALEDONIA (POLICE
DEPARTMENT),
Employer.

Arbitrator: Jay E. Grenig
Appearances:

For the Employer: Victor J. Long
Long & Halsey Associates, Inc.

For the Association: Richard T. Little
Bargaining Consultant
WPPA/LEER

I. BACKGROUND

This is a matter of final and binding interest arbitration pursuant to Section 111.77(3) of the Wisconsin Municipal Employment Relations Act for the purpose of resolving a bargaining impasse between the Wisconsin Professional Police Association/Law Enforcement Employee Relations Division (Caledonia Professional Telecommunicators Association) ("Association") and the Town of Caledonia ("Town" of "Employer"). The Town is a municipal employer. The Association is the exclusive collective bargaining representative of certain employees of the Town in a collective bargaining unit consisting of all regular full-time and regular part-time Telecommunicator I and Telecommunicator II's and the Telecommunications Coordinator. The Employer and the Association were parties to a collective bargaining agreement that expired on December 31, 1997.

The Association filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to initiate final and binding arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act. Following an investigation by the WERC, it was determined that an impasse within the meaning of Section 111.77(3) existed between the Association and the Town. The parties thereafter submitted their final offers.

On July 24, 1998, the WERC issued an order appointing the undersigned as the arbitrator in this matter. The matter was brought for hearing before the Arbitrator on October 26, 1998, in Caledonia, Wisconsin.

The bargaining unit represented by the Association includes six full-time Police Telecommunicators. In October 1998, three were classified as Telecommunicator I and two were classified as Telecommunicator II.

At the arbitration hearing, the parties agreed on the combining of the Telecommunicator I and II classifications and also agreed on the first four steps (start through three years) of the resultant schedule. In both offers, the new schedule is being created by taking all of the steps of the Telecommunicator II range, adjusting them by three percent and then taking the top two steps of the Telecommunicator I range and adding them as the "After 4 years" step and the "After 5 years" step of the new range. The wages in dispute are the 1998 rates for the "After 4 years" step, the "After 5 years" step, and the Telecommunications Coordinator wage rate.

The parties were given full opportunity to present all relevant evidence and arguments. The hearing was declared closed on February 1, 1999.

II. SUMMARY OF FINAL OFFERS

A. The Town

ARTICLE X - WAGES

10.01 Delete the positions of Telecommunicator II and Telecommunicator I, replace with Telecommunicator and combine the wage schedules as follows:

	<u>1/1/98</u>	<u>1/1/99</u>
Start	\$10.09	\$10.39
After 1 year	\$11.12	\$11.45
After 2 years	\$12.06	\$12.42
After 3 years	\$13.32	\$13.72
After 4 years	\$13.83	\$14.24
After 5 years	\$14.85	\$15.30

Telecommunications

Coordinator	\$15.74	\$16.21
Part-time Telecommunicators	\$10.09	\$10.39

The Town proposal is that no Telecommunicator will have his/her pay rate reduced as a result of implementation of the new schedule.

Delete all other references to Telecommunicator I and Telecommunicator II as follows:

Article II Change Telecommunicator I and Telecommunicator II to Telecommunicator.

Article 7.05 Delete last paragraph.

Article 9.09 Delete this section.

Tentative Agreements

Section 3.01 Change January 1, 1996 to January 1, 1998 and change December 31, 1997 to December 31, 1999.

B. The Association

1. Article-X-Wages

The Association agrees with the Town proposal to combine the Telecommunicator I and II positions into that of Telecommunicator with a new wage scale to be established as follows:

Effective January 1, 1998

Start	\$10.09 per hour
After 1 year	\$11.12 per hour
After 2 years	\$12.06 per hour
After 3 years	\$13.32 per hour
After 4 years	\$14.32 per hour
After 5 years	\$15.32 per hour

Part time \$10.09 per hour

Telecommunicators	
Coordinator	\$16.85 per hour

Effective January 1, 1999

3% across the board for all pay categories.

2. Article III-Duration
January 1, 1998 through December 31, 1999
3. All other terms and conditions from the 1996-1997 collective bargaining agreement will be carried over to the 1998-1999 agreement as status quo.

III. STATUTORY CRITERIA

111.77. Settlement of disputes in collective bargaining units composed of law enforcement personnel and fire fighters

In fire departments and city and county law enforcement agencies municipal employers and employees have the duty to bargain collectively in good faith including the duty to refrain from strikes or lockouts and to comply with the procedures set forth below:

....

(3) Where the parties have no procedures for disposition of a dispute and an impasse has been reached, either party may petition the commission to initiate compulsory, final and binding arbitration of the dispute. If in determining whether an impasse has been reached the commission finds that any of the procedures set forth in sub. (1) have not been complied with and that compliance would tend to result in a settlement, it may require such compliance as a prerequisite to ordering arbitration. If after such procedures have been complied with or the commission has determined that compliance would not be productive of a settlement and the commission determines that an impasse has been reached, it shall issue an order requiring arbitration. The commission shall in connection with the order for arbitration submit a panel of 5 arbitrators from which the parties may alternately strike names until a single name is left, who shall be appointed by the commission as arbitrator, whose expenses shall be shared equally between the parties. Arbitration proceedings under this section shall not be interrupted or terminated by reason of any prohibited practice charge filed by either party at any time.

(4) There shall be 2 alternative forms of arbitration:

(a) Form 1. The arbitrator shall have the power to determine all issues in dispute involving wages, hours and conditions of employment.

(b) Form 2. The commission shall appoint an investigator to determine the nature of the impasse. The commission's investigator shall advise the commission in writing, transmitting copies of such advice to the parties of each issue which is known to be in dispute. Such advice shall also set forth the final offer of each party as it is known to the investigator at the time that the investigation is closed. Neither party may amend its final offer thereafter, except with the written agreement of the other party. The arbitrator shall select the final offer of one of the parties and shall issue an award incorporating that offer without modification.

(5) The proceedings shall be pursuant to form 2 unless the parties shall agree prior to the hearing that form 1 shall control.

(6) In reaching a decision the arbitrator shall give weight to the following factors:

(a) The lawful authority of the employer.

(b) Stipulations of the parties.

(c) The interests and welfare of the public and the financial ability of the unit of government to meet these costs.

(d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:

1. In public employment in comparable communities.

2. In private employment in comparable communities.

(e) The average consumer prices for goods and services, commonly known as the cost of living.

(f) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(h) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

IV. POSITIONS OF THE PARTIES

A. THE TOWN

With respect to employee turnover, the Town asserts that many of the departures were beyond the control of the Town. According to the Town, it shares the Association's concern regarding turnover, and thus proposed the combination of the two Telecommunicator classifications into one. This changes the present system under which a Telecommunicator II can only move into the higher paying Telecommunicator I position when there is a vacancy. With the combining of the classifications, employees will now automatically progress to the higher pay level. With respect to the Telecommunications Coordinator position, the Town argues that it is unlikely that the pay of that position had any impact on the departure of previous employees or that it would provide an incentive for current employees to stay.

The Town does not dispute the Association's costing of the Association's final offer at 4.91%. However, the Town contends that the Association's costing of the Town's offer seems to be inaccurate. The Town believes the cost of its final offer is 3.11%. While its proposal does not significantly increase its costs above three percent for 1998, the Town stresses that the combining of the two Telecommunicator classifications creates long term financial impact for the Town.

The Town points out that the Town's Telecommunicators work 1,946.67 hours per year, but are paid for 2,080 hours. It says that this creates a difference between hours worked and paid of 133 hours, a little over 16 1/2 days. The Town concludes that this creates a pay premium of approximately two percent that does not show up in the Association's wage comparisons.

The Town requests that the Arbitrator adopt its final offer for the 1998-199 contract. It asserts that virtually every internal and external comparable supports its position. Furthermore, the Town says that it has recognized the turnover issue and its final offer is a significant step towards addressing that issue.

B. THE ASSOCIATION

The Association asserts that its final offer best serves the citizens of Caledonia by recognizing the need to maintain the morale and health of its telecommunications personnel and thereby retaining the best and most qualified employees. The Association views

the comparison of the Caledonia Telecommunicators with Telecommunicators employed by similar departments as the most prevalent comparison made in these proceedings.

According to the Association, the Town has experienced difficulty in retaining qualified Telecommunicators. It claims that the unit's morale will not be improved by a wage proposal that simply adds the steps of the lower paid classification to the top two steps of the higher paid classification.

The Association claims that its position is supported by a comparison of the wages paid Telecommunicators in comparable communities. It asserts that a comparison of classification base wage rates place the wages of the Town's Telecommunicators below the average pay for all but the fifth year of employment. The Association says that based on the comparables its final offer must be viewed as the most reasonable.

The Association concludes that its final offer must be considered more reasonable than the Town's proposed offer. It asks the Arbitrator to accept its offer as final and binding on the parties.

V. FINDINGS OF FACT

A. The Lawful Authority of the Employer

There is no contention that the Town lacks the lawful authority to implement either offer.

B. Stipulations of the Parties

While the parties were in agreement on a number of matters, there were no stipulations with respect to this issue.

C. The Interests and Welfare of the Public and the Financial Ability of the Unit of Government to Meet these Costs.

This criterion requires an arbitrator to consider both the employer's ability to pay either of the offers and the interests and welfare of the public. The interests and welfare of the public include both the financial burden on the taxpayers and the provision of appropriate municipal services. There is no contention that the Town lacks the financial ability to pay either offer.

The public has an interest in keeping the Town in a competitive position to recruit new employees, to attract competent experienced employees, and to retain valuable employees now serving the Town. Presumably the public is interested in having employees who by objective standards and by their own evaluation are treated fairly. What constitutes fair treatment is reflected in the other statutory criteria.

D. Comparison of Wages, Hours and Conditions of Employment

1. Introduction

The purpose in comparing wages, hours, and other conditions of employment in comparable employers is to obtain guidance in determining the pattern of settlements among the comparables as well as the wage rates paid by these comparable employers for similar work by persons with similar education and experience. The Town's offer would result in three percent across the board wage increases in 1998 and 1999. The Association's final offer would result in a wage increase of about 5.5% for 1998 and three percent for 1999.

2. External Comparables.

The parties have agreed on five external comparables: City of Cudahy, City of Franklin, Town of Mt. Pleasant, City of Oak Creek, and City of South Milwaukee. In addition, the Association proposes the cities of Racine and Kenosha. The Town proposes the villages of Greendale and Muskego. The average wage increase in the comparables is approximately for 1998 and less than three percent for 1999.

3. Internal Comparables.

The settled wage increases for other employees of the Town are three percent for 1998 and three percent for 1999. In pending negotiations, the Town has not made a wage offer in excess of three percent for either 1998 or 1999.

E. Changes in the Cost of Living

While there is arbitral authority in Wisconsin to the effect that changes in the cost of living are reflected, those decisions give more weight to the comparability criterion than envisioned by the Section 111.77. That section requires the arbitrator to consider the "average consumer prices for goods and services, commonly known as the cost of living." The "average consumer prices for good and services" is measured by the Consumer Price Index. It is apparent that the Legislature intended for arbitrators to consider changes in the relevant Consumer Price Index under this criterion.

The Consumer Price Index (Milwaukee Area-All Consumers) increased by 2.7% in 1995, by 2.5% in 1996, and by 2.0% in 1997. Through August 1998, the CPI increased by 1.6%. The increase in the CPI for Urban Wage Earners was even lower in 1996 and 1997. Both parties' offers provide for wage increases greater than the increase in the cost of living as measured by the Consumer Price Index for and 1997.

F. Overall Compensation Presently Received by the Employees

In addition to their salaries, employees represented by the Association receive a number of other benefits. While there are some differences in health and welfare benefits received by employees in comparable municipalities, it appears that Telecommunicators employed by the Town generally receive benefits equivalent to those received by employees in the comparable municipalities.

G. Changes During the Pendency of the Arbitration Proceedings

No material changes during the pendency of the arbitration proceedings have been brought to the attention of the Arbitrator.

H. Other Factors

This criterion recognizes that collective bargaining is not isolated from those factors which comprise the economic environment in which bargaining takes place. See, e.g., *Madison Schools*, Dec. No. 19133 (Fleischli 1982). There is no evidence that the Town has had to or will have to reduce or eliminate any services, that it will have to engage in long term borrowing, or that it will have to raise taxes substantially if either offer is accepted.

There is no evidence that the Town has had to or will have to reduce or eliminate any services, that it will have to engage in long term borrowing, or that it will have to raise taxes if either offer is accepted.

VI. ANALYSIS

A. Introduction

While it is frequently stated that interest arbitration attempts to determine what the parties would have settled on had they reached a voluntary settlement (See, e.g., *D.C. Everest Area School Dist. (Paraprofessionals)*, Dec. No. 21941-B (Grenig 1985) and cases cited therein), it is manifest that the parties' are at an impasse because neither party found the other's final offer acceptable. The arbitrator must determine which of the party's final offers is the most reasonable, regardless of whether the parties would have agreed on that offer, by applying the statutory criteria.

In this case, there is no question regarding the ability of the Employer to pay either offer and both offers exceed the increase in the cost of living as measured by the Consumer Price Index. In addition, employees in the bargaining unit receive health and welfare benefits comparable to that provided employees in other municipalities. Accordingly, the most significant criterion here is a comparison of wages, hours and conditions of employment

B. External Comparables

One of the most important aids in determining which offer is more reasonable is an analysis of the compensation paid similar employees by other, comparable employers. Arbitrators have also given great weight to settlements between an employer and its other employees. See, e.g., *Rock County (Deputy Sheriffs' Ass'n)*, Dec. No. 20600-A (Grenig 1984). While arbitral authority establishes the principle that internal settlements are to be given "great weight," such internal settlements are not conclusive. It is still necessary to examine the other criteria, including external comparables.

In analyzing the comparative data, consideration of the median and average salaries is important. An examination of the average salary can have erroneous results because the average can be distorted by very high or very low salaries in the comparison group. It is also helpful to consider the relative ranking of the employer among the comparable employers, giving particular attention to whether the ranking has moved up or down.

The parties agree that Cudahy, Franklin, Mt. Pleasant, South Milwaukee, and Oak Creek are appropriate comparables. In addition, the Association proposes the cities of Racine and Kenosha. The Town proposes the villages of Greendale and Muskego.

All the comparable communities are within geographic proximity to the Town. The population of the Town is 22,553. The range in population of the five agreed upon comparable communities ranges from 18,864 to 26,591. The number of full-time law enforcement officers in Caledonia is 26 and the number of full-time civilians is seven. The number of full-time law enforcement officers in the agreed upon comparable communities ranges from 44 to 24 and the number of full-time civilians ranges from six to 11.

The population of the Village of Greendale is substantially less than the population of the Town. Additionally, the population of Greendale is outside the population range of the agreed upon comparables. On the other hand, the population of Muskego is approximately 1,500 less than that of the Town and it is within the range of the population of the agreed upon comparables.

On the other hand, the populations of the City of Kenosha and the City of Racine are each approximately four times larger than the Town's population. The populations of Kenosha and Racine are far outside the population range of the agreed upon comparables. Those two cities are simply too dissimilar to the Town to make a meaningful comparison of Town wages with the wages in those cities.

Because the parties are agreed upon the wage rates for the first three-year wage rates and are only in disagreement with respect to the last two years, any comparison should be limited to the wage rates in dispute. Whatever shortcomings there are, if any,

in the wage rates for the first year are the result of mutual agreement and are not in dispute in this proceeding.

A comparison of the maximum wage rate for Telecommunicators in the comparable communities discloses the following:

MAXIMUM HOURLY WAGE (FIVE YEARS)			
Municipality	1997 Hourly Rate	1998 Hourly Rate	1999 Hourly Rate
<i>Caledonia</i>	\$14.42		
<i>Town Offer</i>		\$14.85	\$15.30
<i>Association Offer</i>		\$15.32	\$15.78
Cudahy	\$13.74	\$14.22	
Greendale	\$13.25	\$13.71	
Franklin	\$12.82	\$13.18	\$13.54
Mt. Pleasant	\$13.99	\$14.48	
Oak Creek	\$14.88	\$15.31	\$15.76
South Milwaukee	\$13.27	\$13.67	\$14.08

In 1997, the Town ranked second at this benchmark. The Town exceeded the average 1997 hourly rate of \$13.66 at this bench mark by 76¢. The Town's wage rate at this benchmark exceeded the median wage rate (\$13.55) by 87¢.

In 1998, the Town's offer would maintain the second place ranking at this benchmark, while the Association's offer would place it in first place. The Town's offer would exceed the average wage rate of \$14.10 by 75¢ while the Association's offer would exceed the average by \$1.22. The Town's offer would exceed the 1998 median of \$13.96 by 89¢ and the Association's offer would exceed the median by \$1.36.

There are too few 1999 settlements among the comparables to make a comparison useful. Nonetheless, the Association's offer would place it first among the three settled comparables and the Town's would place it second. The second place ranking would hold if all the comparables are considered as having settled with a 2.75% increase.

If only the five agreed upon comparables are considered (that is Greendale is excluded, the Town would still have ranked second among the comparables at this bench-

mark in 1997. Its wage rate exceeded the average of \$13.74 by 68¢ and the median of \$13.74 by 68¢.

In 1998, the Town's offer would maintain the second place ranking, and the Association's offer would place it in first place. The Town's offer would exceed the average wage rate of \$14.17 by 68¢ while the Association's offer would exceed the average by \$1.15. The Town's offer would exceed the 1998 median of \$14.22 by 63¢ and the Association's offer would exceed it by \$1.10. The 1999 comparison would be the same as Greendale had not settled for 1999 by the time the hearing was closed.

A comparison of the four-year hourly wage rate for Telecommunicators in the agreed upon comparable communities discloses the following:

HOURLY WAGE (FOUR YEARS)			
Municipality	1997 Hourly Rate	1998 Hourly Rate	1999 Hourly Rate
<i>Caledonia</i>	<i>\$12.93 (T/C II)</i>		
<i>Town Offer</i>		<i>\$13.83</i>	<i>\$14.24</i>
<i>Association Offer</i>		<i>\$14.32</i>	<i>\$14.75</i>
Cudahy	\$13.74	\$14.22	
Greendale	\$13.25	\$13.71	
Franklin	\$12.82	\$13.18	\$13.54
Mt. Pleasant	\$13.99	\$14.48	
Oak Creek	\$14.45	\$14.80	\$15.23
South Milwaukee	\$13.67	\$14.09	\$14.47

In 1997, the Town ranked sixth among the comparables at this benchmark. (However, when the \$14.42 T/C I wage rate is used for comparison, it ranked second from the top.) The Town was 72¢ below the average 1997 hourly rate of \$13.65. It was 77¢ below the median of hourly wage of \$13.70.

In 1998, the Town's offer would improve its sixth place ranking to fourth place and the Association's offer would improve the ranking to third place. Excluding Greendale would not significantly change this ranking. The Town's offer would be 25¢ below the average hourly wage rate of \$14.08, while the Association's offer would exceed the average by 24¢. The Town's offer would be 32¢ below the 1998 median of \$14.15 and the Association's would be 17¢ above the median.

With respect to 1999, the Association's offer would rank the Town second among the settled comparables at this benchmark, while the Town's offer would rank it third out of four. The Town's offer is 17¢ below the average of \$14.41 and the Association's offer is 34¢ above the average. The Town's offer is 23¢ below the median of \$14.47 and the Association's is 28¢ above the median.

D. Conclusion

Both offers are reasonable when compared with increases in the cost of living as measured by the Consumer Price Index. Both offers would improve the Employer's comparative ranking at the top two benchmarks.

While there appears to have been a problem retaining Telecommunicators employed by the Town, the parties have taken suitable steps to address this problem with their voluntary agreement merging the Telecommunicator I and II classifications. Now, a Town Telecommunicator can receive a higher rate of pay after four years than before. No longer does a Telecommunicator II have to wait for a vacancy before moving into the Telecommunicator I classification.

The Town's final offer for 1998 results in the Telecommunicators' maintaining their second place ranking among the comparables at the maximum wage rate, while the Association's would improve that ranking to first. The Town's final offer is closer to both the average and median wage rates at this benchmark than the Association's. In 1999, the Town's offer would maintain the Town's second place ranking at the maximum wage rate, while the Association's would result in a first place ranking among the settled comparables.

With respect to the hourly wage for Telecommunicators at the four-year benchmark, the Town's 1998 final offer would improve the Town's last place ranking to fourth place (above Greendale and Franklin). The Association's 1998 final offer would improve the Town's relative ranking from last place to third place. The Association's offer is closer to the median and average hourly wages at this benchmark for 1998. In 1999, the Town's final offer would place the Town third out of four employers. The Town's final offer would result in a 1998 wage rate farther from the median and average rates of the comparables than the Association's final offer.

In addition, the Town's three percent across the board wage increase proposed for 1998 is closer to the average percentage increase in the comparables than is the Association's offer in excess of five percent.

In four of the six comparables, the fourth year wage rate is the maximum hourly wage rate. On the other hand, in the Town the fourth year wage rate is not the maximum; Telecommunicators employed by the Town receive an additional pay increase in the fifth year. While the Town's final offer does not compare as favorably with the Association's

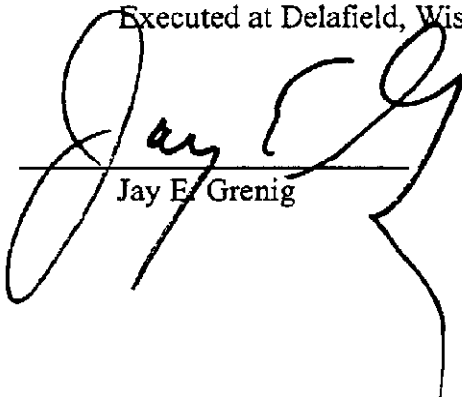
at the fourth year benchmark, in the fifth year the Town's 1999 final offer would maintain the Town's second place ranking among the comparables. moves the Town to second place. In other words, the Town's offer means that after five years, the Town's Telecommunicators are the second highest paid among the comparables.

In summary, both offers improve or maintain the Town's relative ranking at the two benchmarks in dispute here. While the Town's Telecommunicators' wage rate during the first four years of employment is not as favorable as it is in the comparable communities, when Town Telecommunicators reach the fifth year, they are the second highest paid Telecommunicators among the comparables. This favorable wage rate would benefit Town Telecommunicators for the remainder of their careers with the Town. Because the Town's offer is closer to the average percentage increase of the comparables while maintaining the favorable Town's second place ranking at the fifth year benchmark, it is concluded that the Town's final offer is more reasonable than the Associations.

VII. AWARD

Having considered all the relevant evidence and the arguments of the parties, it is concluded that the Town's final offer is the more reasonable offer. The parties are directed to incorporate into their 1998-1999 collective bargaining agreement the Town's final offer together with all previously agreed upon items.

Executed at Delafield, Wisconsin, this fourth day of March, 1999.



Jay E. Grenig