WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BEFORE THE ARBITRATOR [Dec. No. 29481]

In the Matter of the Arbitration Between	)	Case 46
MANITOWOC EDUCATIONAL PARAPROFESSIONALS	)	No. 56149
and	)	INT/ARB-8428
MANITOWOC PUBLIC SCHOOL DISTRICT	)	OPINION and AWARD

Appearances: For the Union, James R. Carlson, Kettle Moraine UniServ Council, Sheboygan, WI.
For the Employer, William G. Bracken, Godfrey & Kahn, Oshkosh, WI.

On February 16, 1998, the Manitowoc Educational Paraprofessionals (referred to as the Union) filed a petition with the Wisconsin Employment Relations Commission (WERC) pursuant to Section 111.70(4)(cm) of Wisconsin's Municipal Employment Relations Act (MERA) to initiate arbitration. The Union and the Manitowoc Public School District (referred to as the Employer or District) had begun negotiations for a successor collective bargaining agreement but failed to reach agreement on the issues in dispute. On November 18, 1998, following an investigation by a WERC staff member, the WERC determined that an impasse existed and that arbitration should be initiated. On December 9, 1998, the undersigned, after having been selected by the parties, was appointed by the WERC as arbitrator to resolve the impasse. By agreement, she held an arbitration hearing on February 8, 1999 in Manitowoc, Wisconsin, at which time the parties were provided with a full and fair opportunity to present evidence. Briefs were subsequently filed and exchanged.

ISSUES AT IMPASSE

The parties were unable to resolve the following issues:[1]

1. Wages for 1997-98 and 1998-99 (including rates and salary schedule structure);
2. Union proposals to modify existing provision relating to involuntary transfers;
3. Union proposal to change the existing funeral leave

[1] In addition to the listed issues in dispute, the Union has proposed two language changes in Section 12.4 (Article 12 - Vacancies, Transfers, and Promotions). The District has stated it has no objection to these clarifications. Accordingly, there is no dispute between the parties on this matter.

provision to authorize up to three days leave per occurrence; and

4. Union proposal to require that Union President should receive copies of all job postings prior to the expiration of the posting period.

A copy of the Union's final offer is annexed as Annex A and a copy of the Employer's final offer is annexed as Annex B.

STATUTORY CRITERIA

In reaching a decision, the undersigned is required by Section 111.70(4)(cm)(7)-(7r) of MERA to consider and weigh the evidence and arguments presented by the parties as follows:

7. "Factors given greatest weight." In making any decision under the arbitration procedures authorized by this paragraph. the arbitrator or arbitration panel shall consider and give the greatest weight to any state law or directive lawfully issued by a state legislature or administrative officer, body, or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.

7g. "Factor given greater weight." In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration shall consider and give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.

7r. "Other factors considered." In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or the arbitration panel shall also give weight to the following factors:

a. The lawful authority of the municipal 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 the costs of the proposed settlement.

d. Comparisons of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.

e. Comparisons of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes generally in public employment in the same community and in comparable communities.

f. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes in private employment in the same community and comparable communities.
g. The average consumer prices for goods and services, commonly known as the cost of living.
h. The overall compensation presently received by the municipal employes, 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.
i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
j. 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.

POSITIONS OF THE PARTIES

The Union

The Union's primary emphasis in this proceeding is to address what it identifies as the substandard, dysfunctional, and "deplorably" low existing wage rates for bargaining unit members. It notes that since the 1993-94 school year, every bargaining unit member has been frozen at his/her 1993-94 placement on the salary schedule and that the only wage increases since then have been a result of flat percentage increases, completely disregarding the value of experience and longevity of service. These Employer practices, according to the Union, have resulted in a seriously high turnover rate.

In addition, the Union points to the District's practice of hiring one paraprofessionaL for two separate positions, with each position having less than 600 hours per year. Thus, while many bargaining unit members work more than a total of 600 hours per year, only 73 (of the more than 150 unit members) are qualified to receive negotiated Employer paid insurance benefits.

The Union believes that the Employer's wages are extremely low in contrast to external comparables and criticizes the Employer's final wage offer as an extension of the inferior status quo. The Union seeks a "catch-up" raise based upon the comparables of Appleton, Fond du Lac. Green Bay, Kaukauna, Kimberly, Menasha, Oshkosh, Plymouth, and Sheboygan. It supports these comparables on the basis of two prior Manitowoc School

District arbitration awards involving other bargaining units. In 1997, Arbitrator Richard Tyson determined that Fond du Lac, Sheboygan, Plymouth, and Two Rivers were comparables. In 1992, Arbitrator Zel Rice determined that Fond du Lac, Green Bay, and Sheboygan (Group A) and Appleton, Kaukauna, Kimberly, Neenah, Oshkosh, and Two Rivers (Group B) were comparables. He specifically rejected the inclusion of Reedsville, Howards Grove, and Kiel as appropriate comparables. Of the comparables established in these two arbitration awards, the Union rejects Two Rivers as an appropriate comparable in this proceeding because Two Rivers paraprofessionals do not engage in collective bargaining. It cites supporting arbitral authority for its position on Two Rivers.

Turning to the Union's proposal to restructure the salary schedule, the Union argues that the existing schedule consists of twenty two steps, far in excess of the comparables. In contrast, its proposal attempts to "narrow the gap" with the comparables by reducing the number of steps from twenty two to eleven, standardizing vertical increments in each lane, and maintaining the horizontal integrity of the existing schedule.

In addition, the Union contends that its wage proposal, in contrast to the Employer's, better addresses current wage disparities between bargaining unit members and their comparables - although the Union acknowledges that even implementing its offer does not represent a complete "catch-up." The Union rejects the Employer's emphasis on percentage wage increases instead of wage levels since the entry level and maximum wage rates of unit members are significantly behind the comparables.

Noting that the Employer has not made an inability to pay argument, the Union believes that its final offer would not place an undue burden of the District because of savings to the District generated by the high paraprofessional turnover rate.

Finally, the Union notes that its calculation of the costs of its total wage package for 1997-98 (7.89%) and for 1998-99 (7.10%) is not significantly greater than the Employer's calculation of the cost of the Union's total wage package.

For all these reasons, the Union concludes that its proposals for a wage increase and wage schedule restructuring are more appropriate than that of the Employer's since the Union's proposals address the significantly lower wage rates of Manitowoc School District paraprofessionals in an affordable and predictable manner.

In addition to the unresolved issue of wages and salary schedule structure, the Union's final offer incorporates modifications to three existing contractual provisions. The

Union's proposal relating to involuntary transfers states that the District will "provide any needed training prior to the [involuntary] transfer" and requires that individuals receiving an involuntary transfer "shall be notified at least five (5) school days prior to the effective day of the transfer." According to the Union, these changes are equitable ones and provide benefits to paraprofessionals which are already enjoyed by teachers and other support staff. The Union is critical of the District for belatedly introducing at the arbitration hearing concerns over expense and additional burden to the District resulting from the Union's involuntary transfer proposals since these were never mentioned during extensive discussions of this proposal at the bargaining table. Moreover, the Union notes that involuntary transfers continue to be within the sole discretion of the District and thus there is no sound basis for the rejection of the sound employment practices which the Union wishes to add to the existing contractual provisions covering involuntary transfers.

The Union's second proposal relates to funeral leave and changes the existing provision authorizing up to three days of funeral per school year to funeral leave of up to three days per family member. The Union's rationale for this change is that all other District employees enjoy the funeral leave policy proposed by the Union.

The Union's third proposal makes an addition to the contractual provision relating to job postings. The augmentation states that "the Union President will receive copies of all postings prior to the expiration of the posting period." The Union justifies this proposal on the basis that it is a requirement already contained in the District's other collective bargaining agreements.

For all the above reasons, the Union concludes that its final offer package is preferable to the Employer's final offer package.

The Employer

Since the Employer calculates that the Union's 1997-98 wage offer is more than double that of the District's, it contends that the Union's total package exceeds the bounds of reasonableness and moderation required by the tight revenue controls which now govern Wisconsin school districts. In addition, the Employer stresses the importance of internal comparability and the prevailing external settlement pattern. It also places great weight on the total compensation approach, particularly the need to give consideration to the District's liberal health insurance benefits provided to its employees.

The Employer disagrees with the Union about which school districts are appropriate comparables. It believes for purposes of stability in labor relations that Arbitrator Tyson's 1997 award involving the District's custodial and maintenance employees bargaining unit should control in defining the primary external comparables in this proceeding. The Employer, therefore, contends that the appropriate primary comparables are Fond du Lac, Plymouth, Sheboygan, and Two Rivers.

The District also looks to Arbitrator Tyson's secondary comparables as secondary comparables in this proceeding: Green Bay, Kiel, and Sheboygan Falls. Finally, the District asserts that the four geographically proximate school districts of Mishicot, New Holstein, Reedsville, and Valders should receive some (although not primary or secondary) consideration because they provide relevant information about the labor market immediately surrounding Manitowoc.

The Employer strongly objects to the Union's inclusion of the Fox River Valley communities of Kaukauna, Appleton, Menasha, Neenah, and Oshkosh as comparables because the Employer believes that they are beyond the local labor market for educational paraprofessionals due to their geographical remoteness. While such comparables may not be too distant to be appropriate teacher comparables, the Employer cites arbitral authority for its conclusion that the labor market for support staff (including the paraprofessionals of this bargaining unit) is more restricted geographically. In addition, it objects to the Union's use of the Manitowoc teachers' bargaining unit and comparisons based upon athletic conference school district membership as inappropriate for this proceeding. It specifically opposes the Union's use of the decision by Arbitrator Zel Rice in an impasse arbitration case involving the Manitowoc teachers bargaining unit on the issue of appropriate comparables since it is well established that the appropriate labor market for teachers is geographically broader than the labor market for paraprofessionals.

The District further contends that there is strong arbitral support (primarily based upon statutory construction) for considering unorganized as well as organized districts as appropriate comparables. It thus rejects the Union's position that, for purposes of this proceeding, school districts which do not bargain with their paraprofessionals are not relevant.

Turning to the Union's proposed new wage schedule, the District argues that such a fundamental change should be made through negotiations and not imposed by arbitration. This is particularly true for the Employer since it believes that the Union has failed to prove a compelling need for the change, has failed to demonstrate how its proposed new wage structure solves a problem, and has failed to provide any "quid pro quo" (for

example, a reduction in Employer costs for health insurance benefits) for this major restructuring of the wage scale. For the District, the Union's proposed wage schedule is a tremendous change due to its percentage index wage structure and because it has the practical effect of introducing more steps for an employee to reach, thus building in expensive future costs. Moreover, the Union's proposed wage schedule is not supported by external comparables. In fact, the Employer underscores that using the Union's own comparables, the Union's wage offer does little to change Manitowoc's rankings.

When the Employer discusses the statutory criteria which must be considered in this interest arbitration proceeding, it maintains that the factor which must be given the greatest weight favors the District's economic offer due to the impact of state imposed revenue controls. Acknowledging that this is not an inability to pay situation, the District nevertheless emphasizes that the statutory greatest weight factor mandates arbitral recognition of the existence of state imposed revenue controls.

In addition, the greater weight factor is very relevant in this proceeding, according to the District, because Manitowoc School District taxpayers have incomes below the primary and secondary comparables' average. In addition, Manitowoc County has an unemployment rate higher than the state average in 1998 while the County's personal per capita income was below the national and state average. Thus, consideration of the local economic conditions factor favors the Employer's final offer and not the Union's final offer, according to the District.

As to the remaining statutory factors, the Employer contends that its offer is supported by: "the interests and welfare of the public," considerations of internal comparability (including the desirability of consistency and equity which have been accepted by the parties for the last four years), the prevailing settlement pattern and benchmark wages established in comparable school districts, and the fact that the District's offer is closer to the CPI factor than is the Union's offer. The District particularly notes that it has experienced no difficulty in filling paraprofessional vacancies (with the exception of Hmong interpreter positions where there is a state-wide shortage).

The Employer rejects the Union's argument for greater wage increases than those contained in the Employer's final offer based upon a need to "catch-up" rationale. It stresses that current wages are a result of past voluntary settlements between the parties and cautions that the arbitrator cannot know the extent of previously negotiated trade-offs. For example, the excellent health insurance benefits generously funded by the Employer must be considered as an integral part of an employee's total compensation package. When these health insurance benefits

are taken into account, the District's admittedly below average wage rates are justifiable.

Although it concedes that the wage rates and salary schedule issues will determine the outcome of this dispute, the Employer addresses the language issues which are at impasse. As for the Union's proposal that the Union President receive copies of all postings prior to the expiration of the posting, the Employer states that it has no strong objection to this practice since it appears to be a common one in other organized comparable school districts. However, as to the Union's proposal which adds a requirement that the District "will ensure" that employees given an involuntary transfer can meet the requirements of the new job and is obligated to provide any needed training prior to implementing the transfer, the Employer has several objections. The District believes the proposed language is ambiguous and introduces uncertainty about its application. It also believes that the new language might create a hardship for the District. The District argues that since there is no evidence of any involuntary transfer of a paraprofessional, the Union has not demonstrated the need for a change in the existing contractual provision.

The District also objects to the Union's proposal to liberalize the funeral leave provision. It notes that while there is some support for the Union's proposals among the comparables, there is also support among the comparables for the District's position. In addition, the Employer points out that the Union has failed to prove any need for change. Further, the District argues that it legitimately hesitates to liberalize the parties' funeral leave rules as proposed by the Union due to the fact that the paraprofessionals have the highest absenteeism rate of all District employee groups. Accordingly, the District opposes the Union's proposed changes to contractual funeral leave benefits.

For all these reasons, the District believes that its final offer should be selected.

DISCUSSION

As set forth above, the undersigned is obligated to give **greatest** weight to the factor contained in Section 111.70(4)(cm)7 of MERA. The Employer has argued that state imposed revenue controls (including the requirement that school district voters must approve budgets exceeding imposed revenue caps and the statutory limits placed on total compensation increases for teachers who bargain collectively under MERA[2] and for

[2] Although there is no statutory cap on teacher salary

administrators) strongly support the Employer's final offer on economic issues. It argues that the financial resources required to fund the Union's offer (in contrast to the Employer's final offer) must come from the Employer's budget which is already committed to other needed expenditures and the District's reserve fund and that an arbitrator should not "second guess" the District's decisions on its budget priorities.

The District further argues that the **greater** weight factor set forth in Section 111.70(4)(cm)7g of MERA also supports the District's more modest final offer because of local economic conditions including the fact that Manitowoc School District taxpayers have lower average incomes than taxpayers in comparable school districts.

If these Employer arguments were to prevail in this proceeding, they would determine the outcome herein without further consideration of any other arguments made by both parties to support their respective final wage offers. Although the undersigned is able to conceive of circumstances in which there is unmistakable evidence of some specific facts which would direct such a result due to the language of Section 111.70(4)(cm)7 and 7g, she does not believe that the evidence and arguments in this proceeding are sufficient to require such a summary result. State imposed school district cost controls are applicable to all school districts. There is no specific state law or directive which limits implementation of the Union's final offer by the District. While state revenue controls must be considered in this proceeding, the undersigned concludes that their existence is insufficient by itself to mandate adoption of the Employer's final offer at this stage in her analysis of MERA's statutory factors. Any other conclusion would undermine the statutory impasse procedures retained by the legislature in Section 111.70(4)(cm) of MERA. Similarly, she believes that data on local economic conditions in the Manitowoc School District are relevant and need to be considered in this proceeding. However, she does not believe that the data presented by the Employer justify giving this factor controlling weight. Accordingly, she will consider the "other" statutory factors while continuing to give appropriate weight to the evidence and arguments presented by the Employer relating to the factors specified in Section 111.70(4)(cm)7 and 7g.

Turning to the parties' arguments involving the "other"

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increases, bargaining units composed of school district professional employees do not have a right to arbitration for economic issues at impasse if their school district has submitted a qualified economic offer.

statutory factors, the undersigned first notes that, not surprisingly, the parties do not agree about what are the appropriate external comparables. Therefore, determining which are the appropriate external comparables is as important preliminary issue to be resolved.

The Employer contends that the external comparables in this proceeding should be taken from Arbitrator Tyson's recent (1997) arbitration award involving the Employer and its bargaining unit of custodial and maintenance employees because this approach promotes predictability and stability in the collective bargaining process. In that case, the primary external comparables were determined to be Fond du Lac, Plymouth, Sheboygan, and Two Rivers. Although the Union agrees that three of these primary comparables are appropriate, it argues that Two Rivers should not be considered because paraprofessional wages in the Two Rivers School District are not determined by means of the collective bargaining process. There is some arbitral support for the Union's position on this issue. However, the undersigned believes there is strong arbitral support for the opposite position adopted by the Employer that MERA's language does not contemplate excluding comparables due to a lack of collective bargaining. Accordingly, she finds that the appropriate primary comparables is this proceeding are those determined by Arbitrator Tyson. Because data are available from these four primary comparables, there is no need to consider other comparables although the undersigned has concerns about the appropriateness in this proceeding of comparables designated for the District's teacher bargaining unit (due to the difference in the labor market for teachers in contrast to the labor market for paraprofessionals) and comparables based solely upon geographically proximity (when there are significant differences in size).

Looking at only the wage rates in the comparables (Fond du Lac, Plymouth, Sheboygan, and Two Rivers), specifically the entry level and maximum rates for instructional aides and special education aides, it is clear that Manitowoc School District wage rates are low. This fact is admitted by the Employer - although the Employer rejects the Union's emphasis on the need for significant "catch-up" increases. Both parties acknowledge that even the Union's final wage offer does little to change this low ranking.

The Employer argues, however, that attention must be directed to the paraprofessionals' total compensation, not merely wage rates, and highlights the "excellent" Employer provided health insurance benefits. The Union rejects this argument on the basis that a significant number of bargaining unit employees work a total of 7 or more hours per day and a total of at least 600 hours per year but do not benefit from the "excellent" Employer

provided insurance plans because the paraprofessional works two separate positions. When each position is less than 600 hours, that employee does not even receive prorated benefits. In fact, fewer than one-half of the paraprofessionals enjoy Employer insurance benefits. In the judgement of the arbitrator, the Employer's argument that total compensation figures are more significant than wage rates alone is weakened somewhat by the fact that Employer financed insurance benefits are not broadly enjoyed by a majority of bargaining unit members.

The Employer also emphasizes that its wage offer increase is in line with percentage increases received by paraprofessionals in the appropriate comparables and with internal comparables where equity among the Employer's various employee groups is important. While comparisons may demonstrate that the Employer's percentage wage increases in its final offer are in line with percentage increases for comparable paraprofessionals and are comparable with percentage wage increases for internal comparables, particularly the teachers bargaining unit and the custodial/maintenance bargaining unit, this Employer argument does not detract from the need demonstrated in this proceeding by the Union for some "catch-up" in the paraprofessional wage rate (even when total compensation is taken into account). [The Employer itself in 1997 negotiated some "catch-up" for its teachers in a voluntary agreement which was significantly above the 3.8% qualified economic offer.]

While the Union has provided support for the need for "catch-up," there is a complicating consideration in this proceeding directly connected to the parties' wage dispute. This complicating consideration concerns the salary schedule structure. Although prior collective bargaining agreements contained a salary schedule with various steps for each of the lanes, since the 1993-94 school year, the parties have agreed to freeze each employee at his/her 1993-94 salary schedule placement. Since that time, unit member wages have been increased solely by means of a flat percentage increase. The District's final offer continues this practice of ignoring the contractual salary schedule. The Union objects to perpetuating what it characterizes as a "dysfunctional" wage scale and its final offer introduces a significantly restructured salary schedule. The Employer in turn objects to the Union's making restructuring of the wage scale an arbitration issue and argues that not only has the Union failed to present a case for the compelling need for change, it has failed to demonstrate how its proposed new wage structure solves the perceived problem and it has failed to provide any "quid pro quo" for this change to the status quo.

The undersigned finds that determining the outcome for this issue dealing with the restructuring of the salary schedule to be demanding. On the one hand, although the contract does contain a

salary schedule structure, it has not been used to determine wages for a significant number of years (since 1993-94). The de facto status quo is thus no salary schedule at all. The Employer apparently does not believe this is a problem in light of the high number of qualified job applicants for paraprofessional vacancies and what it characterizes as a "relatively low" staff turnover (since high turnover rates for part-time employees should be anticipated). There is Union evidence, however, that experienced bargaining unit members are leaving Manitowoc for employment as paraprofessionals in other districts and that paraprofessionals, like other employees, reasonably expect some salary recognition for their years of service. This latter point is tacitly acknowledged by the Employer since its final offer continues to include the long-ago negotiated salary schedule in the collective bargaining agreement even though the District's percentage wage offer has no significant relationship to this salary schedule and any principle of rewarding experience.

On the restructuring issue, the arbitrator believes that the positions of both parties are somewhat flawed. On the one hand, the Employer, while not formally abandoning the principle of a salary schedule, continues to ignore it, continues to deny the need for "catch-up," and takes comfort in the high number of job applicants for most paraprofessional vacancies. However, the Employer legitimately argues that a major change such as a restructured salary schedule should result from the collective bargaining process and not be imposed by means of an arbitration award. On the other hand, the Union, while advocating significant wage increases in the context of a genuine salary schedule, did not establish that its proposed salary schedule structure is based upon an established or accepted pattern appropriate for paraprofessionals. Moreover, in proposing to restructure the parties' abandoned salary schedule, the Union has neither offered a quid pro quo nor any explanation as to why it agreed with the Employer to ignore salary schedule movement since 1993-94. Thus, the Union has been a voluntary party, in conjunction with the Employer, in establishing and continuing a status quo which has ignored the need for salary schedule movement for a long time.

While the arbitrator concludes that the Union has established the need for a "catch-up" and the desirability of implementing some reasonable salary schedule which recognizes experience as a positive value for the District, she does not believe that the Union has sufficiently justified its particular final offer proposal nor has the Union provided a sufficient quid pro quo to justify its proposed substantial change from the parties' long standing practice since 1993-94 of percentage wage increases only.

In addition to the factors already discussed, the Employer notes that other factors under Section 111.70(4)(cm)7r of MERA

support its wage offer. These include the cost of living factor as well as some information about the private sector. While there is no doubt that the cost of living factor supports the Employer's final offer, that factor is less important in a case such as this where "catch-up" is a major issue. In addition, the private sector information submitted by the Employer is only mildly relevant to the specific issues in dispute.

Turning to the language proposals contained in the Union's final offer, the parties concurred (either explicitly or implicitly) that they should not be determinative. The Employer has stated that it has no strong objection to the Union's proposed change to Section 12.2 (Job Postings), leaving only two Union language proposals in dispute. As to its proposed change to contractual funeral leave in Section 14.4.4, the Union's main justification for its proposed change is that it is a benefit already enjoyed by other employees of the Employer. The Employer's main objection to this proposal does not go directly to the merits of the proposal but notes the District's concern that this bargaining unit has a high absenteeism rate. It appears that absenteeism problems should be addressed directly by the Employer with the Union. Introducing concerns about excessive absenteeism into this proceeding has no direct relationship to this Union proposal. The Union's additional proposal relating to involuntary transfers was extensively discussed during negotiations and it appears to address some legitimate Union concerns. While the Employer expressed some concerns about implementation problems resulting from this Union proposal at the arbitration hearing, these belatedly noted concerns should have been expressed at the bargaining table so that a mutual accommodation could have been explored. Accordingly, if these language issues were the sole issues at impasse, the undersigned believes that the Union's positions are more reasonable.

Under MERA, in the absence of voluntary impasse procedures negotiated by the parties, the arbitrator is restricted to choosing the final offer whole package of either the Union or the Employer. There is a consensus that the determinative issues relate to the interrelated issues of wage rates and salary schedule restructuring. In light of the extensive discussions above on these issues and taking into consideration all the statutory factors an impasse arbitrator is required to consider and weigh, the undersigned recognizes that determining the final outcome in this final offer whole package proceeding presents some close and not easy to resolve questions. Based upon her consideration of all the arguments, she concludes that, although the Union has presented meritorious arguments for "catch-up" wages, the Employer's final offer is somewhat closer to MERA's revised statutory factors than is the Union's final offer, particularly on the critical issue of the salary schedule structure. Accordingly, she selects the Employer's final offer

package.

The undersigned appreciates that this Opinion and Award only resolves the parties' impasse dispute for the two year period 1997-99. She notes that the parties will have another opportunity to revisit these controversial issues during their negotiations for a successor agreement. She hopes that they will use this new opportunity to discuss thoroughly the issues they raised in this proceeding and will be able to reach a voluntary, mutually satisfactory negotiated settlement of these issues.

AWARD

Based upon the statutory criteria, the evidence and arguments presented by the parties, and the discussion set forth above, the arbitrator selects the final offer of the Employer and directs that the Employer's final offer be incorporated into the parties' collective bargaining agreement for 1997-99.

May 6, 1999
Madison, Wisconsin

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June Miller Weisberger
Arbitrator