

STATE OF WISCONSIN
WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MARSHFIELD CITY EMPLOYEES
AFSCME LOCAL 929, AFL-CIO

Union,

v.

CITY OF MARSHFIELD,

Employer,

Case 142
No. 60285
INT/ARB-9357
Dec. No. 30638-A

DECISION AND AWARD

The undersigned was selected by the parties through the procedures of the Wisconsin Employment Relations Commission. A hearing was held on November 10, 2003. The parties were given the full opportunity to present evidence and testimony. At the close of the hearing, the parties elected to file Briefs and Reply Briefs. The arbitrator has reviewed the testimony of the witnesses at the hearing, the exhibits and the parties' briefs in reaching his decision.

ISSUES

The parties reached agreement on most of the terms to be included in the successor agreement. All of those tentative agreements are incorporated into this Award. The remaining open issues are:

Union

3% across the Board increase January 1, 2001

3% across the Board increase January 1, 2002

3% across the Board increase January 1, 2003

Effective upon implementation of changes to Article 14, Section 1,A, each wage rate shall be increased by Twenty cents (\$.20) per hour prior to the General Wage Increase.

Effective upon implementation of changes to Article 14, Section 1,A, all employees who are required to obtain and maintain a Commercial Drivers License shall receive an additional ten cents (\$.10) per hour

Article 14- Group Health Insurance:

Section 1. The City shall contribute to the cost of the premium for the life and hospital, surgical insurance program in the following manner:

Changes in Section 1, A shall be effective on the first day of the month following for arbitrator's decision in interest arbitration or ratification of a voluntary settlement by the parties.

A) Eighty-five percent (85%) toward the premiums of the hospital, surgical insurance program presently in effect (Security Health Plan), or of a policy containing equal or more benefits, but in no case shall the City adopt an insurance plan with less benefits.

The health plan will include Major medical coverage as indicated on the Appendix A, with an annual two hundred fifty dollar (\$250.00) annual deductible per individual and a maximum family out-of-pocket expense for seven hundred-fifty hundred dollars (\$750.00). In addition there shall be a co-pay on prescription drugs utilizing a ten dollar (\$10.00) for generic and twenty dollar (\$20.00) brand drug benefit drug card. The insurance plan will include a vision care plan. A summary of the vision plan is attached as Appendix B.

Employer

Wages

3% across the Board increase January 1, 2001

3% across the Board increase January 1, 2002

3% across the Board increase January 1, 2003

Effective upon implementation of changes to Article 14, Section 1,A, each wage rate shall be increased by seventeen cents (\$.17) per hour prior to the General Wage Increase.

Health Insurance:

Same as set forth in Union proposal

BACKGROUND

There are six bargaining units in the City of Marshfield. AFSCME Local 929 represents the employees in the Streets, Park and Recreation Department. There are approximately 40 employees in the bargaining unit. The current agreement expired at the end of 2000. All of the other bargaining units, except the unit of clerical employees have settled their agreements for the years in question here. The clerical employees are also involved in Interest Arbitration. AFSCME represents these employees, as well.

STATUTORY CRITERIA

The parties agree that the Statutory Factor that is to be given the “greatest weight,” any lawful orders or directives, is not applicable here. Neither party has argued that the factor to be “greater weight,” economic conditions in the City, applies to this dispute. Both parties have discussed the financial condition of the City vis-à-vis other communities, but neither has argued that the factor to be given “greater weight” should be applied in this case. The Arbitrator sees no reason to disagree with the

parties and finds neither of these two factors to be relevant in this proceeding. The primary relevant factors are internal and external comparables and whether the quid pro quo offered by the City is sufficient for the health insurance gains that it has obtained.¹

Internal Comparables

Four other bargaining units in the City, the Police, Ordinance and Dispatch, Wastewater, and Fire Fighters, agreed to the same health insurance change that the Union has agreed to accept here. Each unit received additional compensation for agreeing to make the change. The Clerical and Technical unit has also agreed to the change, but like this unit has a disagreement with the City as to the appropriate tradeoff for making the change. The amounts paid to each unit in addition to the general wage increase are as follows:

<u>Police</u>	<u>Dispatch</u>	<u>Waste Water</u>	<u>Firefighters</u>	<u>Clerical</u>
\$.25	\$.26	\$.20	\$.15	Union \$.24 Employer \$.14

The Union believes that there is another unit that also should be considered as an Internal Comparable. It argues that the Electric and Water Utility should also be included. The Utility did not change health insurance provisions in its Agreement to conform to the changes the other units made. The City does not agree that the Utility should be used

¹ The Employer also argued that COLA and the Interests of the Public are factors in its favor. Since the parties have agreed to the basic wage and only disagree as to the sufficiency of the quid pro quo, and possibly the need for catch-up the Arbitrator does not agree that these factors are determinative.

as a comparable since it is funded in a different manner than the other units. It charges for the services provided and users pay a rate based on usage. The other six units are funded by taxes and State funds. Arbitrator Nielsen in his 1988 Award did not refer to the Utility when discussing internal comparables.² Arbitrator Krinsky in a 1991 Award involving the Electric and Water Utility did look to the other six bargaining units as internal comparables. Traditionally, public owned utilities because of their different revenue structure have not been compared with other City employees. This Arbitrator, like Arbitrator Nielsen, does not believe that the Electric Utility is an appropriate comparable. Having so found, it should be noted that even if it were considered, the fact that all other units, including this one have already agreed to the health insurance changes would severely diminish the value of any comparison with the Utility as far as insurance is concerned. Similarly, the fact that all six units have agreed upon the amount of a general wage increase and all accepted the concept of an additional increase in exchange for the health insurance changes lessens the value of any comparison with the Electric Utility. The main issue that the Arbitrator is being asked to determine is the proper amount that should be paid in exchange for the health insurance change that has

² Decision No. 25298-A

been agreed to by the parties.³ Using the Utility as a comparison would add nothing to that determination.

Looking at the chart that lists the tradeoff given to the other units, it would at first appear that there has been no consistency in what the Employer was paying to each unit. It goes from a low of \$.15 or even \$.14 under the Employer proposal to the Clerical Unit to a high of \$.26 to the Dispatchers. The Employer, however, indicated that it used a set formula for all of the units and that the amount being offered to the employees in this unit was calculated in the same manner as was done for all of the other bargaining units. Linda Baehr testified at the hearing. She stated that the City looked at health insurance usage in each bargaining unit for the year 2000.⁴ She then calculated what the cost to the employee would have been had the changes being proposed here been in effect in that year. The additional wage increase that was being offered was then meant to offset the increased insurance cost. She further testified that because the usage was different in each unit that the amount of increase proposed varied from unit to unit, but each increase proposed was based on past usage in that unit. The Union argues that it is totally improper to do the calculations based on the usage in any single bargaining unit

³ The Union also believes there is a need for catch, as will be discussed below, that justifies its wage demand.

⁴ The proposal to change the health insurance was made in 2001, so the most recent year at the time that could be used to do the calculations was the year 2000.

since the insurance carrier does not set rates in that manner. It looks to a much larger pool when setting rates. It does not look to any single unit.

The Union is certainly correct that an insurance company looks to a much broader group of employees than the 40 in this unit when it calculates the needed rate structure. However, that argument misses the point. The City was attempting to ascertain the cost to the employees in this unit so as to offer a wage increase that was enough to offset the additional cost. Segregating the units for that purpose was not improper. More importantly, according to the City, this was the same methodology used for all the units. The consistency in the formula is what is most important here. The Employer cited two cases that discussed the importance of maintaining consistency among bargaining units. One of those decisions was from this Arbitrator. In City of Monroe (Nonprofessionals),⁵ I wrote:

Internal comparables are always a more persuasive factor when evaluating benefits. There is a desire and a need for uniformity of benefits within a public employer. The need the proposal would address would be the disparity in benefits among the bargaining units.

In a similar vane, Arbitrator Nielsen stated in Dane County (Deputies),⁶:

In the area of insurance benefits, a uniform internal pattern is particularly persuasive. Internal consistency of general benefits is a legitimate goal of most employers, and is generally supported by arbitrators. While wages will generally vary from occupation to occupation, depending upon market conditions for workers' skills, the level of insurance benefits across a work force is far less likely to be skill-specific and far more likely to

⁵ Dec. No. 29014-A (1997)

⁶ Dec. No. 25576-A

be standardized as to elements such as plans offered, deductibles, and degree of contribution.

The Employer by using the same formula and then obtaining agreement from the other four units based on that formula has set a pattern to which the Arbitrator must give considerable weight. While the above cases discuss benefits as opposed to wages, the issue here is tied closely to benefits. It is a tradeoff for benefit changes and the fact that there has been continuity in the formula used is crucial. Therefore, the Arbitrator finds the factor of internal comparability strongly favors the City proposal.⁷

External Comparables

There have been two previous interest arbitrations between the parties. The prior arbitrators have determined that the Cities of Stevens Point, Wausau and Wisconsin Rapids should be used as comparables. Both parties here have proposed those same cities. Arbitrator Imes also used, "with some reservation," Portage, Marathon and Wood Counties as comparables. She noted that she was doing so:

... not only because they meet certain comparability criteria and are proposed as comparables by the parties, but because their inclusion provides a larger pool of comparables for establishing a pattern of settlements within the area.

⁷ This Arbitrator recently ruled against the City of Wisconsin Dells because of the absence of any history of pattern bargaining. That type of record is not presented here and for that reason that case is distinguishable from the instant case. Dec. No. 30687

The parties here have again proposed using the Counties as comparables, although the Union contends that since the Counties have not settled their agreements for the years in question, that they are not relevant in this proceeding. Most of the charts that it used for comparison only included the three other Cities. The Employer does not believe it is proper to ignore the Counties since they are on the list of comparables. The Arbitrator agrees with the City and shall utilize the three Counties as well as the three Cities when making comparisons.

The parties here have already agreed on a 3% wage increase in each of the years in question. Thus, the purpose for which external comparables are normally used is not as germane as it would be if wages alone were the issue. Similarly, a comparison with what others are doing regarding health insurance coverage and plans would be required had insurance still been an issue, but the fact that the insurance changes have been accepted also limits the need for such a comparison. Despite these findings, the Union believes external comparables are important for another reasons. It argues that the other Cities pay their employees more for the same jobs than this City does and that there is a need for these employees to catch-up to the wages of others. It believes the fact that other comparables pay more coupled with the fact that these employees will now be required to pay more towards insurance justifies a raise for the employees in this unit over and above the 3% each year. The Union has proposed a \$.10 per hour increase for those having a Commercial

Drivers License as its way of addressing catch-up. The question is whether it has made the case for that supplemental increase?

The parties have done a comparison of the ranking of the employees here with similar employees in the other communities. They have ranked them by classification. As noted earlier, the Union only included the comparable Cities in its charts and did not include any of the Counties. Looking first at insurance, all of the comparables require employees to pay a lower percentage of the insurance premiums than this City does. The average percentage paid by the employees in the comparables is 7.3% for all six of the other communities. The City employees pay 15%. In doing those calculations, it should be noted that some of the Counties have not settled their agreements to date and thus their employees may wind up paying a higher percentage in the future depending upon the outcome of those negotiations. The average deductible is \$158 for an individual and \$366 for a family versus \$250 and \$750 here. On the other hand, this City pays more for insurance than the average. Under its proposal it will pay \$1135 per month for family coverage. The average among the six comparable employers is \$1051.⁸ These facts would seem to suggest that these employees are behind those in the other communities when it comes to insurance.

⁸ Portage has different rates for some of the bargaining units. Both rates were used in determining the average.

The Union contends that the City wage ranking is also at the low end. The Union introduced exhibits to show that this City does rank towards the bottom. One such chart compared dispatchers in the unit with dispatchers elsewhere. This chart unlike the others did included the Counties:

DISPATCHER	<u>2000 Minimum</u>		<u>Maximum</u>		<u>Rank</u>
					<u>Long</u>
					<u>Rank</u>
Marathon County	12.41	15.51	1	15.51	1
Portage County	11.74	13.04	6	13.04	6
Stevens Point	12.92	14.36	2	14.68	2
Wisconsin Rapids	12.02	14.14	3	14.14	4
Wood County	11.56	13.60	5	13.60	5
Marshfield	11.45	13.98	4	14.30	3

It then offered a comparison for all the classifications, but only used the four

Cities in the comparison:

CLASSIFICATION	Base Year 12/31/00	2001	2002	Rank 20003 After Lift
Mechanic	Last of 4	Last of 4	Last of 4	Last of 3
Sign Person	Last of 4	Last of 4	Last of 4	Last of 3
Sign Person Helper	Last of 2	Last of 2	Last of 2	Last of 2
Stock Clerk	Last of 4	Last of 4	Last of 4	Last of 3
Stock Room Helper	3 of 4	3 of 4	3 of 4	2 of 3
Night Person	Last of 2	Last of 2	Last of 2	Last of 2
Backhoe Operator	3 of 4	Last of 4	Last of 4	Last of 3
Aerial Bucket Truck	2 of 3	2 of 3	2 of 3	Last of 2
Excavator	2 of 3	2 of 3	2 of 3	Last of 2
Grader Operator	Last of 4	Last of 4	Last of 4	Last of 3
Loader Operator	Last of 4	Last of 4	Last of 4	Last of 3
Bulldozer Operator	Last of 3	Last of 3	Last of 3	Last of 3

Zoo Keeper	Last of 2	Last of 2	Last of 2	Last of 2	Last of 2
Cement Mason	Last of 2	Last of 2	Last of 2	Last of 2	Last of 2
Roller Operator	Last of 4	Last of 4	Last of 4	Last of 3	Last of 4
Truck Operator (Heavy)	Last of 4	Last of 4	Last of 4	Last of 3	Last of 4
Truck Operator (Light)	2 of 3	2 of 3	2 of 3	Last of 2	2 of 3
Sweep Operator	Last of 4	Last of 4	Last of 4	Last of 3	Last of 4
Skid Steer (Bobcat) Operator	NA				
Park Maintenance	Last of 3	Last of 3	Last of 3	Last of 2	Last of 3
Lead Sewer TV	Last of 4	Last of 4	Last of 4	Last of 3	Last of 4
TV Helper	Last of 4	Last of 4	Last of 4	Last of 3	Last of 4
Street Laborer	3 of 4	3 of 4	3 of 4	2 of 3	3 of 4
Park Laborer	3 of 4	3 of 4	3 of 4	2 of 3	3 of 4
Custodian	Last of 3	Last of 3	Last of 3	Last of 2	Last of 3

It believes these figures and the insurance inequity justify the additional wages that it is seeking in this case. It cited a case by Arbitrator Kessler to support its claim. Arbitrator Kessler noted:

Wautoma ranks near the bottom on almost all of the benchmarks. In 1984-85, it ranked between 6th and 7th of the eight school systems. This ranking toward the bottom justifies bringing it more in line with the average of the other districts in the Athletic Conference. It is a district in which a “catch-up” wage should appropriately be considered. The more generous offer proposed by the Association would enable the teaching staff to move closer to a rank in the middle of its own Athletic Conference. The goal in an Arbitration should be to assure that the teachers involved are receiving compensation close to the same level as teachers in comparable schools. That goal is better met by the Association’s offer.⁹

The Union in further support of its position also points out that some of the other bargaining units in the City, like the police and fire, received an additional wage increase to rectify a disparity between the wages of the police and fire in the City with that of the other comparables. Based

⁹ Wautoma School District (Dec. No. 23264-A , 1996)

on that precedent, it believes it too should have an adjustment made and that there is ample justification for its \$.10 proposal.¹⁰

The Employer also prepared a chart, which included all of the comparables:

<u>Classifications</u>	<u>12/31/00</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
(City's Final Offer - \$0.17)				
Welder/Fabricator	4 of 6	4 of 6	5 of 5	2 of 3
Equipment Head/Mechanic	6 of 7	6 of 7	6 of 6	4 of 4
Sign/Traffic Maintainer	6 of 6	6 of 6	6 of 6	4 of 4
Sign Helper/Traffic Controller	2 of 2	2 of 2	2 of 2	2 of 2
Store Clerk/Store Keeper	7 of 7	7 of 7	6 of 6	4 of 4
Assistant Clerk/Helper	3 of 3	3 of 3	3 of 3	2 of 2
Night Person/Mechanic	3 of 3	3 of 3	2 of 2	2 of 2
Backhoe/Shovel Operator	3 of 6	3 of 6	3 of 5	3 of 4
Aerial Bucket Truck	2 of 3	2 of 3	2 of 3	2 of 2
Excavator/Shovel	3 of 6	3 of 6	3 of 5	2 of 3
Motor Grader	6 of 7	6 of 7	6 of 6	3 of 4
Loader	5 of 7	5 of 7	5 of 6	3 of 4
Backhoe Operator	4 of 4	4 of 4	4 of 4	1 of 3
Bulldozer/Tractor Operator	5 of 6	5 of 6	5 of 5	3 of 4
Zookeeper	2 of 2	2 of 2	2 of 2	2 of 2
Street Custodian/Cement Mason	3 of 4	3 of 4	3 of 4	3 of 3
Cement Finisher	1 of 1	1 of 1	1 of 1	1 of 1
Asphalt Roller	6 of 7	6 of 7	6 of 6	4 of 4
Heavy Truck Driver	5 of 7	5 of 7	5 of 6	3 of 4
Small Truck Driver	4 of 6	4 of 6	4 of 5	2 of 4
Sweeper Operator	5 of 5	5 of 5	5 of 5	4 of 4
Bobcat/Skid Operator	2 of 2	2 of 2	2 of 2	2 of 2
Park Maintenance Person	3 of 3	3 of 3	3 of 3	
2 of 2				
Sewer/TV Leadperson	4 of 4	4 of 4	4 of 4	3 of 3
Sewer Crew Worker/Helper	4 of 4	4 of 4	4 of 4	3 of 3
Street/Common Laborer	4 of 6	4 of 6	4 of 5	2 of 3
Park Laborer	3 of 4	3 of 4	3 of 4	2 of 3
Custodian	3 of 3	3 of 3	3 of 3	2 of 2 ¹¹

¹⁰ The Union notes that it could simply have asked for an additional \$.10, but it felt by making the proposal in this way it was benefiting the City as well. Since almost all employees must have a CDL, the Arbitrator will simply look at this as a proposal for a \$.10 increase as a catch-up. The benefit to the City of a CDL premium is minimal.

The Employer further points out that regardless of the current ranking that the employee's rank has not changed over the years. It then cited a decision by Arbitrator Krinsky:

Also, it appears that for the past several years the parties have reached voluntary wage settlements, and for the same percentages given to other County employees. Was the need for catch-up discussed in bargaining those contracts? Has the position of these employees worsened during those years? Why should there be catch-up now through arbitration, where for several years there has been voluntary agreement with no catch-up?¹²

Based on that decision, the City argues that this proposal should be rejected.

The Union attached a chart to its Reply Brief that showed the wage increases received by the other bargaining unit. The chart included the increases that were part of the catch-up for the police and fire. This unit is getting a 3% increase. The Police received two 2% increases in 2001. In 2003, they received an additional \$.07 on top of the 3% increase. The Firefighters were given an additional .25% in the 2nd and 3rd years of their agreement. These catch-up increases were obtained as part of the general wage increase, not as part of the trade for the insurance changes. If the Union felt that catch-up was required, the time for it to have sought that gain was when it was negotiating the 3% wage increase.

¹¹ What the Arbitrator finds interesting about both charts is that even under the City's chart this City ranked on the average towards the bottom.

¹² Baron County (Dec. No. 20826-A, 1984)

There is no evidence in the record that it did that during negotiations for the 3%. Did the Union raise the issue of catch-up as justification for more money? Did it present arguments as to why more was needed? If that was done, the parties could have debated whether the rationale of Arbitrator Kessler applied or whether the circumstances were more like those in the case before Arbitrator Krinsky. Absent more evidence on this point, this Arbitrator is not persuaded that in deciding the question before him that this is the time to deal with possible inequities in the wage structure of this Employer. As was true in the Krinsky case, the parties have voluntarily settled several agreements without adjusting the pay here to that paid elsewhere. Why is a change needed now and why must the Arbitrator be the one to grant it? When the Arbitrator looks at this proposal as a stand alone proposal and not part of a tradeoff, more in the way of negotiation history and a more detailed record concerning that bargaining is needed before this Arbitrator would feel comfortable imposing that catch-up here. This Arbitrator noted in Vernon County:

The Union believes it is necessary for the employees in this bargaining unit to catch-up with wages paid to similar employees in other jurisdictions. The burden is upon the Union to show that the circumstances require that this be done.¹³

The evidence here simply does not support on its own merits the request for an additional \$.10. This Award, including the request for an additional \$.10, will instead rise or fall on a determination as to which proposal presents a fairer trade for the insurance changes. Only if \$.30 is

more reasonable than \$.17 as a trade, will the Union proposal be adopted. With that in mind, the Arbitrator will now turn to the question of the sufficiency of the City's \$.17 offer.

The Quid pro Quo

The Employer Exhibits showed that the employees in this bargaining unit paid \$9,345 towards deductibles and \$2136 for prescription drugs in the year 2000. If the employees had been under the new plan, they would have paid \$16,485 in deductibles and \$9,200 for prescription drugs. The total additional cost would have been \$14,475. Premiums will go down under the new plan. Since employees pay a portion of those premiums, their share will also go down. Again looking at 2000 as a base, the change would have saved employees \$4042. Deducting this amount from the \$14, 475 means the overall cost for the bargaining unit, based on 2000 rates, would be \$10,533. The \$.17 cents extra being offered provides an additional \$14,144 to the bargaining unit. The Employer has argued that this demonstrates that the \$.17 it has proposed is more than enough to offset the additional cost to employees. Of course, this does not take into account the reality that the employees have also been paying more and more of their own money for premiums over the last few years as rates have increased. Given the fact that the percentage paid by employee is more than in other communities, the net gain to employees has been diminished over time by the increased cost of

¹³ Dec. No. 28775-A (1997)

insurance. Thus, while they are saving money over the old plan, they are also being asked to pay more towards deductibles and drugs than they had before which is then compounded by the additional money they have been paying towards insurance premiums since 2000.

The Employer points out that the additional \$.17 is not the only additional benefit being offered. It has agreed that employees can utilize a PEHP Plan that enables employees to use pre-tax dollars for insurance costs, and it has agreed to pay \$140 per year into that plan. It also has enhanced the vision plan. Glasses are now covered. The Employer calculations indicate employee will realize a \$3412 savings in vision costs by these enhancements. The Employer states that when these benefits are added to the \$.17 in wages that employees will receive \$12,623 in benefits over and above the additional cost to them. This comes to a gain of \$315.68 per employee or \$.15 per hour based on a 2080 hour work year.

The Union believes there is yet one more factor that the Arbitrator should consider that has not been addressed by the Employer. The Employer is paying less than before under the new insurance plan towards premiums. Its premium costs have also gone down by these changes. The Union believes it is erroneous to look at the saving to employees without also looking at the savings to the Employer. The Employer overall total wage costs per employee decreases with the reduction in insurance costs. The Union calculates that the Employer

savings would have been \$.23 per hour in 2002 and \$.28 in 2003. The attached chart shows the Union's calculations of two offers:

COMPARISON OF OFFER COSTS
MARSHFIELD CITY EMPLOYEES (Street, Parks & Recreation Departments)
Local 929, AFSCME, AFL-CIO

	BASIS	
	2003	2002
Cost shift to employees:	-\$0.289	-\$0.231
Employer's offer:	\$0.170	\$0.170
PEHP:	\$0.067	\$0.067
	<u>\$0.237</u>	<u>\$0.237</u>
Net:	-\$0.052	\$0.006
Union's offer:	\$0.200	\$0.200
CDL:	\$0.100	\$0.100
PEHP:	\$0.067	\$0.067
	<u>0.367</u>	<u>0.367</u>
	0.078	0.136
DIFFERENCE IN OFFERS:	0.13	0.13

Thus, the Union sees the net benefit to the employees as far less than does the City and far less than the benefit to the City.

The Arbitrator agrees with the Union to a certain extent. The Employer does enjoy a saving that should be factored into the equation, but using two years as the Union does on the chart is not truly appropriate since the changes are prospective only. No savings have yet been realized, just as no additional costs or benefits to the employees has yet been realized.

If the only difference between the two proposals were the \$.20 offer of the Union versus the \$.17 offer of the City's, the Arbitrator would be inclined to go the higher amount given the savings to the Employer. It would simply give back some of the Employer gains to the employee. They would share in the savings. It would also address some of the concerns of the Arbitrator noted earlier regarding the use of the year 2000 as a base year. The Arbitrator does not know how the usage has been since that year. Has the usage by employees here increased while other units, like the police decreased? More importantly, it is impossible to know with any certainty what the usage will be the year after this contract is adopted. Employees in some of the other bargaining units received more than the \$.20 sought by the Union based on their 2000 usage. If usage in this unit had changed since 2000, then these employees too would be justified in gaining more. Thus, adopting the \$.20 proposal has merit and adopting it would not upset the balance between the units that was discussed earlier. It is close enough to still stay within the general framework of the formula. For that reason, the \$.20 proposal of the Union is not out of line, and would be favored if it was the only issue that remained to be resolved.

The problem is that there is more to the Union proposal than simply the \$.03 difference. It also wants an additional \$.10 for those employees that possess a Commercial Driver's License. The vast majority of the bargaining unit would be affected by this proposal. Only two

classifications are not required to have a CDL. Every other employee must possess a CDL as a condition of employment. The Union points to other bargaining units where employees receive additional funds for such things as education. It believes employees here should get a similar premium. The Employer notes that having a CDL is hardly a new requirement and that employees have had to possess such a license for years. It also notes that none of the comparables pay additional wages for those who possess the license.

The Arbitrator rejects any argument that this incentive is in keeping with incentives given to other bargaining units. The CDL has been required for years. Why is a premium justified now? No sudden need has been demonstrated. The Union also sought this additional compensation for the employees to catch-up to others. The Arbitrator has already rejected that argument. Having rejected both those positions for the Union is to prevail, as was noted earlier, it would have to be because its offer is a better or fairer quid pro quo than the Employer's. The \$.30 increase sought is more than any unit received as part of the trade. How can the Arbitrator adopt that great of increase given the amounts others received as their quid pro quo, and the similarity in the formula used to get to that number. While \$.20 would not skew the formula, \$.30 would. Therefore, based primarily on the internal comparables, the Arbitrator adopts the proposal of the Employer.

AWARD

The City's proposal together with the tentative agreement is adopted as the agreement of the parties.

Dated: May 7, 2004

Fredric R. Dichter,
Arbitrator