

STATE OF WISCONSIN

BEFORE THE ARBITRATOR

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In the Matter of the Arbitration of the
Dispute Between the

City of Marshfield (Electric and Water Utility)

and

GENERAL TEAMSTERS UNION LOCAL 662

WERC Case 155
No. 63650
INT/ARB 10206
Decision No. 31120-A

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Appearances:

Mr. Steven C. Zach, Boardman, Suhr, Curry and Field, LLP, on behalf of the Marshfield Electric & Water Utility.

Ms. Andrea F. Hoeschen, Previant, Goldberg, Uelmen, Gratz, et. al. on behalf of the General Teamsters Local 662.

Sworn Testimony was received from:

Mr. Joseph Pacovsky, Utility Manager, City of Marshfield , Marshfield, WI.

Background

Representatives of City of Marshfield (hereinafter referred to as the "City" or the "Employer") and General Teamsters Union Local 662 (hereinafter referred to as the "Union" or the "Employees") exchanged proposals on issues to be included in a successor collective bargaining agreement for the years 2004-05. The Union represents all regular full-time production, construction, maintenance and drafting employees and all regular full time and regular part-time clerical employees in the Utility, excluding craft, managerial, supervisory, confidential salesmen, guards, seasonal or temporary employees. The Parties exchanged offers and met on several occasions and failed to reach an agreement. On May 10, 2004 the Union filed a petition with the Wisconsin Employment Relations Commission for final and binding interest arbitration pursuant to Section 111.70(4)(cm)6 Wis. Stats. Investigator Susan J. M. Bauman, a member of the Commission's staff, conducted an investigation and then advised the Commission that an impasse existed. The parties submitted final offers to the Commission by October 1, 2004. On October 20, 2004, the Commission certified the parties' final offers and directed them to select an impartial arbitrator. The Undersigned, Richard Tyson, was selected and appointed November 11, 2004. He conducted a hearing on the matter on March 23, 2005 at the Marshfield Utility, Marshfield, Wisconsin. No transcript of the hearing was taken. Both parties had an opportunity to present exhibits and testimony and to outline their arguments in this dispute. They agreed to a

schedule for submitting certain additional exhibits, and exchanging briefs and reply briefs which was subsequently amended.

The Issue(s)

While several issues arose in the process of negotiating this successor agreement, all but one remained unresolved in the bargaining process. The issue remaining in contention is wages. The Union proposes to raise wages 2% on January 1 of each year and 2% on July 1 of each year for an approximate 8% lift and 6% cost. The Employer proposes to raise wages 2.5% in 2004 and 2.5% in 2005.

A related issue has factored in this dispute. This is the matter of what constitutes the appropriate external comparable group. The Union would use as the comparable group Kaukauna, Menasha and Wisconsin Rapids utilities based on a prior award Arbitrator Krinsky. The Employer would use municipalities of Chippewa Falls, Eau Claire, Wausau, Stevens Point, and Merrill, and utilities in Abbotsford, Medford, Rice Lake, and Waupun. The Union contends that Marshfield utility employees are significantly behind the comparable group and the split increases allows a measure of “catch up” without excessive costs to the employer. The Employer contends that since the Utility’s craft employees separated from this unit in 2001 and it ceased its generation of electricity in 1995, the comparables established in 1991 no longer apply.

Neither party has provided costs for the respective offers. Wages for the various positions under the Union (U) offer and the Employer (E) offer are as follows:

		<u>2004</u>	<u>2005</u>	<u>difference (04/05)</u>
Repair/Waterman/	E	\$21.13	\$21.66	\$.31/64
Pump I and II	U	21.44	22.30	
Draftsman	E	18.64	19.11	.28/.57
	U	18.92	19.68	
Stores	E	20.87	21.39	.31/.65
	U	21.18	22.04	
Laborer	E	18.91	19.38	.28/.59
	U	19.19	19.97	
Acct/Payroll clerk	E	15.58	15.97	.23/.48
	U	15.81	16.45	
Cashier/Reception	E	13.48	13.82	.20/.41

	U	13.68	14.23	
Acct/Payroll clerk II	E	16.38	16.79	.25/.51
	U	16.63	17.30	

The Statutory Criteria

The parties have directed their evidence and arguments to the statutory criteria of Sec. 111.70 (7) Wis. Stats. which directs the Arbitrator to consider and give weight to certain factors when making his decision. Those factors are:

7. 'Factor given greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative 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.
7. g. 'Factor given greater weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors under subd. 7r.
7. r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and 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 the costs of any settlement.
 - d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services.
 - e. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.

- f. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees generally in private employment in the same community and in 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 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.
- 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.

Arguments of the Parties

The Union

The Union contends that its offer is more reasonable and supported by the comparables. The comparable pool has been established in 1991 and has essentially been reaffirmed in subsequent arbitration awards, and is appropriate in this case as well. The Employer bears the burden of showing that the pool is inappropriate and has not done so; moreover, its proposal for external comparables includes non-utility municipalities and utilities which are much smaller than Marshfield. The internal comparables are also inappropriate. Primarily, the Union asserts that its offer is more consistent with the wages of other settlements of comparable employers, does not change rankings, while the Employer's offer leaves the unit's employees' significantly behind comparable employees.

Wages of Marshfield Utility employees significantly lag those of the established comparables, from as much as \$4.00 for clericals to, in one case, less than \$1.00 for laborers. Marshfield

2005 Wages, assuming 3% increases for comparables

		<u>Marshfield</u>	<u>Wisc. Rapids</u>	<u>Kaukana</u>	<u>Menasha</u>
Repair/Waterman/ Pump I and II	E	\$21.66	\$ 23.02	\$23.23	\$23.92
	U	22.30			
Laborer	E	19.38	19.86	20.91	21.73
	U	19.97			
Acct/Payroll clerk I	E	15.97	18.09	20.01	18.78
	U	16.45			
Meter reader	E	21.52	23.64	25.23	23.92
/repairman	U	22.15			

provides up to \$.43 longevity at 20 years, and about a quarter of Marshfield employees are at that mark. With longevity, the rankings stay the same in almost all cases. The Union offer brings Marshfield somewhat closer to the comparables without changing rankings.

2005 Wages with 20 years longevity, assuming 3% increases for comparables

		<u>Marshfield</u>	<u>Wisc. Rapids</u>	<u>Kaukauna</u>	<u>Menasha</u>
Repair/Waterman/ Pump I and II	E	\$22.07	\$ 23.19	\$23.23	\$24.03
	U	22.72			
Laborer	E	19.81	20.03	20.91	21.84
	U	20.38			
Acct/Payroll clerk I	E	16.39	18.26	20.01	18.89
	U	16.87			
Meter reader	E	22.07	23.81	25.23	24.03
/repairman	U	22.58			

The Employer has argued that it has a sick leave payout provision it has valued at \$.26/hr. (if not taken); however, Marshfield Utility employees have 1-2 fewer paid holidays and no prescription drug coverage in their health plan. The Employer has also argued that it is increasing its health insurance contribution as well as the stand-by pay. The Union contends, however, that all employers are faced with increasing health insurance premiums, and the relevant question is whether the Employer is impacted by premium increases any more than the comparables. As to whether the stand-by pay increase is a significant new benefit and extraordinary gain in this bargain the Union contends that stand-by pay not new, and is pay for work, and that form of pay should rise along with the pay for the other 40 hours per week.

Arbitrator Krinsky established the comparable pool in 1991 to include Kaukauna, Menasha and Wisconsin Rapids utilities.¹ He rejected Medford as a comparable which in the instant case is proposed by the Employer. The pool has essentially been reaffirmed in other arbitration awards, and is appropriate in this case as well. Arbitrator Vernon used these for the Kaukauna utility.² Arbitrator Schiavoni rejected the employer’s attempt to use other comparables in the recent Menasha Utility craft unit, finding the established pool to still apply.³ The Union cited dicta of several arbitrators that once established, the comparable pool should not be changed unless there are strong factors demonstrating that comparability no longer exists. The customer base of Marshfield, Kaukauna, Menasha and Wisconsin Rapids utilities are similar, the criteria used for comparability of utilities by Hutchinson and McAlpine.⁴

	Customers	population	mWh	Revenue	miles from Marshfield
Marshfield	12,857	18,861	354,427	16,824,753	
Kaukauna	12,879	13,688	768,622	33,210,494	115
Menasha	7,705	16,648	573,062	26,876,246	101
Wi. Rapids	12,471	18,376	234,094	14,355,627	34

The Employer bears the burden of showing that the pool is inappropriate and has not done so. It has argued that since Marshfield no longer operates a power plant, it is no longer in this pool. There is no reason offered as to why this would be the case, or how it affects the positions in this unit. Moreover, the utility manager testified that money would be saved, enhancing its ability to pay, and Marshfield has a 32% ownership of a Marinette power plant. Further, Wisconsin Rapids doesn’t operate a plant either.

The Employer asserts that since the Marshfield Electric & Water Utility craft workers are now in a separate bargaining unit from the non-craft employees, municipalities are more appropriate comparables. It fails to explain why this is true. On the other hand, the Union argues that the internal bargaining unit divisions “have no effect on the purpose of the employer or the functions of the employees.”⁵ The Employer has proposed external comparables which include non-utility municipalities which do not employ craft employees, and utilities which are much smaller than Marshfield. It is unnecessary to choose non-utility municipalities, a different category of employers,

¹ City of Marshfield (Electric and Water Utility), Dec. No. 26752-A, Aug. 1991.

² City of Kaukauna (Electric and Water Utility) Dec. No 26092-A, Feb. 1990. Arbitrator Vernon examined several others as well.

³ City of Marshfield (Electric and Water Utility) Dec. No. 31081-A, April, 2005.

⁴ Sun Prairie Water and Light, Dec. No. 27716-A, 1994 and Village of Gresham, Dec. NO. 29994-A, 2001, respectively.

⁵ Union Reply Brief, p. 1.

when there are sufficient comparable employers. Utilities are similarly organized for the same purpose and in the same business. Municipalities and utilities are not appropriate comparables, according to Arbitrator Dichter.⁶

The Employer has proposed three utilities as comparables by the Employer, but they have little “in common” with Marshfield.

	<u>Customers</u>	<u>population</u>	<u>mWh</u>	<u>Revenue</u>	<u>Miles from Marshfield</u>
Marshfield	12,857	18,861	354,427	16,824,753	
Medford	3,135	4,308	143,048	7,162,787	37
Rice Lake	5,184	8,424	160,735	8,802,748	125
Waupun	4,158	10,637	109,599	5,986,663	128

Clearly Marshfield utility is more than twice as large as these. The Employer also proposes the cities of Eau Claire, Wausau, and Stevens Point which are between 40% and 230% larger than Marshfield but paid Water Operators between nearly \$1 – \$3 less, suggesting to the Union that the positions are “materially different” when at a utility vs. a municipality. The Employer has provided no evidence that the jobs are comparable just because they have the same or similar names.

The internal comparables proposed by the Employer are also inappropriate. Besides Arbitrator Dichter, Arbitrator Yeager also found that Marshfield Utility employees are not comparable employees to other Marshfield municipal employees.⁷ The Union in both cases argued that the Marshfield Water and Electric Utility should be considered as one of the internal comparables while the City disagreed arguing that the utility is governed by a separate board, and that board is not the governing body that decides the level of wages and fringe benefits for the municipal employees. Negotiators for the City also differed from those employed by the Utility. The Employer attempts to place Marshfield municipal employees under the “other” factors for consideration but argues that this would only be relevant if the Employer could show that the non-craft employees and municipal employees had similar duties and responsibilities, which it has not done.

In sum, the Union’s offer is more reasonable. Its offer attempts to keep Marshfield Utility employees from falling further behind comparable employers’ employees. The comparables are well established. The Employer’s offer will cause the utility employees to fall further behind, and is based on comparisons with a different category of employers or very small, non-comparable utilities.

⁶ Arbitrator Dichter, City of Marshfield (Public Works), Dec. No. 30638, May 2004

The Employer

The Employer has argued that its offer is preferred based on “other factors” than the “greatest” and “greater weight” factors. These other factors include the costs of the stipulations, cost of living, comparisons with internal, external and private employers, and other factors.

In the negotiations the parties have agreed to an increase in the stand-by pay to \$2 from \$1.90 in 2004, and another \$.10 in 2005. It will pay \$.24/hr. in increased health insurance, and at least \$.71/hr. in 2005, and likely more after Oct. 1. The Employer calculates that with its wage proposal and the health insurance increase, the top bargaining unit employee will receive 3.9% more compensation in 2004 and 5.6% more in 2005.

The comparability of Marshfield utility to Kaukauna, Menasha and Wisconsin Rapids utilities established by Arbitrator Krinsky no longer exists for several reasons: the unit no longer includes linemen (crafts) and the utility no longer operates a power plant. Moreover, Krinsky indicated that he had incomplete information about suggested comparables. The unit may have been comparable when craft employees were included, but when they are not included, it is more accurately compared to non-craft units. Craft employees are different from regular municipal employees in that they have private sector counterparts which “pressures” wages, and their wages are determined in a broader labor market than municipal employees. They are employed by utilities, while the non-craft employees in this unit have municipal counterparts. That the WERC permitted the craft severance suggests that these are distinctly different sets of employees. The Employer admits that the award by Arbitrator Schiavoni for the utility’s craft employees raised the same question of comparables. She (wrongly) ruled that the Krinsky comparables still applied; however, this unit is “fundamentally different” from the craft unit and thus her determination of comparables need not apply to this case.

With further respect to the Union’s comparables, it should be noted that while the customer base in terms of population may be similar for the utilities, business and industry needs may vary considerably. In this case Kaukauna and Menasha have significantly larger mWh sales than Marshfield, and as such are different, and are really tied to the large Fox Valley industrial base some 100 miles away. Marshfield, on the other hand, is in the middle of the state without adjacent populations centers. They are essentially much bigger utilities than Marshfield even though the number of “customers” may be similar.

⁷ City of Marshfield (Clerical/Technical Employees), Dec. No. 60916, July, 2994

The Employer also recites arbitrators' cautions against disturbing established comparables and "comparable shopping" in favor of continuity and stability in bargaining relationships, but contends that in this case, the unit and the employer have changed, requiring a review of the external comparables. While linemen are employed by utilities, a unit of linemen can properly be compared to other utilities employing linemen. Non-craft employees in this unit, on the other hand, are found in municipal units as well as utilities. The other reason for changing comparables is that in 1991, Marshfield, Kaukauna, and Menasha operated power plants, but Marshfield no longer does. This has affected the scope of the utility operations as well as revenue sources. Further, the rulings by Arbitrators Dichter and Yeager "adopted the reasoning the Utility makes in this case that bargaining units that include craft employees such as linemen should not be used as direct comparables for non-craft employees."⁸ Hence, this unit should not be compared to the utilities used by the Union.

The Employer has provided data for numerous municipalities which have non-craft positions and no linemen. It lists 9 employers of Water Operators and Clericals, seven of which are within 100 miles of Marshfield.⁹ Three are larger and 6 are smaller. Marshfield pays Water Operators "significantly more" than the others, including the larger cities. Marshfield Utility Clericals are paid more than seven of the listed cities, and somewhat less than much larger Eau Claire and Wausau.¹⁰ The Union contends that water operators and clerical perform different functions depending on whether they are employed by a utility or a municipality, which the Employer claims is "far-fetched."¹¹ They are the same but simply in different organizations. There is no need for "catch up" pay for either group of Utility employees. The Employer speculates as to the disparity in wages between the Employer and Union's comparables. It may be that the growing, industrial Fox Valley pays more, or it may be that electrical Linemen wages far exceed Water Operators and Clericals, so when they are in combined units, the latter positions get an artificial lift. In either case, given the distance and craft separation, it is clear that "catch up" is not needed for Marshfield Water Operators and Clericals.

The Employer's offer is consistent with the internal pattern of settlements while the Union's offer is excessive. The City employs wastewater and clerical workers who have settled on 2.3% for 2004 and 2005. Examination of wage levels between Utility and Marshfield City employees shows that the former generally is paid more for similar jobs.¹² Utility Water Operators were paid \$2.57 more than City Wastewater employees; Utility Laborers were paid \$.85 more than City laborers; Utility Clericals were paid \$1.39 more than City Clericals at the lower classification, and about the same for the

⁸ Employer Reply Brief, p. 3.

⁹ Employer Exhibit G. Waupun and Rice Lake are 134 and 126 miles from Marshfield.

¹⁰ Exhibit G indicates that the top rate for Waupun and Medford are higher than in Marshfield.

¹¹ Employer Reply Brief, p. 2.

¹² Employer Exhibit B.

Accounting Clerk II classification. The Employer recognizes that arbitrators have found it inappropriate to compare municipal and utility employees because of the funding sources, but it argues that the statute requires consideration of “other public employees” in the same community. Wages for water operators and clericals are determined in the local labor market more so than for linemen. Both the City and the Utility are municipal employees under MERA. The Utility is an enterprise of the City which performs all bonding, reviews its accounts which are included in the City’s total finances, and its wastewater billing is done by the Utility based on water use. The Employer is not arguing for equality of wages by direct comparison of Utility and other municipal employees, only that the latter are relevant reference for this dispute and indicate, again, that “catch-up” for Utility employees is not necessary.

The Employer provided some private sector data showing that Utility Accounting Clerks’ wages are about \$2 more than those in the area survey. Utility Draftsmen and Laborers earned nearly \$5 more.

The cost of living factor weighs in favor of the Employer as well. The Midwest Urban area inflation rates in 2004 and 2005 were 2.4% and 2.6% respectively, or less than the Employer’s offer when health insurance increases are included. Finally, the annual cash out of accumulated sick leave is about \$.26/hr. must be considered since Kaukauna, Menasha and Wisconsin Rapids utilities do not have such a benefit.

In sum, the Employer’s offer is preferred as being more consistent with internal comparables both as to level and the increase for 2004 and 2005. It is more consistent with private sector earnings and the CPI increases. There has been a fundamental change in the bargaining unit with the result that the prior set of comparables does not apply. The City’s list of proposed comparables are now more appropriate than the Union’s in that the latter include craft workers and cities in the distant, industrial Fox Valley. These comparables clearly support the Employer’s offer and indicate that the Utility employees do not need a “catch up.”

Discussion and Opinion

The Statute requires the Arbitrator to consider the aforementioned criteria in making an award. The criteria cited by the Parties as pertinent to this decision are (b.) stipulations of the parties, the internal and external and private sector (e., d., and f.) comparisons, cost of living (g.), and such other things (j.) Each of these will be considered below as the issues of this dispute have been considered by the Arbitrator. These issues include how the parties’ offers compare with external and internal and private comparables, and what constitutes the external comparables which in part establish that

pattern. First, the Arbitrator is will address the issue of external comparables which is in dispute in this matter, which will then be discussed to determine what he considers to be the comparables. He then will compare wages and benefits of these as well as discuss internal comparisons, following a discussion of other factors.

External comparables

The parties are in disagreement regarding external comparables. Similarity of size and character and proximity are generally employed in determination of external comparability. In this case cities range from 24 to 128 miles from Marshfield, some have utilities as employers and others do not. County per capita income ranges from \$24,000 to \$32,000. What weight to accord these varies among arbitrators and circumstances. Established use of comparables by the parties or findings of prior arbitrators carries great weight. The Union would use Kaukauna, Menasha, and Wisconsin Rapids as the appropriate comparables for Marshfield following the selection by Arbitrator Krinsky in 1991 which included those utilities.¹³ The Employer in the instant case has suggested a number of cities as comparables, some of which have utilities. These are generally much smaller than Marshfield. Additionally and not surprisingly they are located in counties with considerably lower county per capita personal income, and likely lower wages.

Proposed Comparables, Per Capita Personal Income, Location, population, and Utility Customers and Revenue

City	County	Income/cap.	Distance	Pop.(000)	Ut. Cust. / \$Rev.
Marshfield	Wood	\$32,031	---	19	12,857 \$16.8m.
Wi Rapids	Wood	32,031	34	18	12,471 14.4m
Kaukauna	Outagami	32,377	115	14	12,879 33.2m
Menasha	Winnebago	32,275	101	17	7,705 26.9m
Medford	Taylor	24,083	37	4	3,135 7.1m
Rice Lake	Barron	26,537	125	8	5,184 8.8m
Waupun	Dodge/FdL	27,527/31,366	128	10	4,158 6.0m
Abbotsford	Clark/Mara.	24,109/31,206	24	2	
Eau Claire	Eau Claire	28,664	83	64	
Stevens Point	Portage	28,874	36	25	
Wausau	Marathon	31,206	43	39	
Merrill	Lincoln	26,057	60	10	

Sources: Employer Ex. G, Union Brief pp. 7-10, BEA, Local Area Personal Income (<http://www.bea.gov/bea/regional/reis/drill.cfm>)

¹³ City of Marshfield (Electric and Water Utility), Dec. No. 26752-A, Aug. 1991.

It is evident from the data that Kaukauna, Menasha, and Wisconsin Rapids are quite similar in size to Marshfield. The Employer has argued that Kaukauna and Menasha differ from Marshfield, being located in the growing and more prosperous Fox River industrial area though it appears that per capita personal income is remarkably similar in all three counties and different from those proposed by the Employer. It is also evident that the utilities are similar, though Menasha is smaller in the number of customers, but sells more electricity. That the MWH sales differences due to having some large industrial users are so significant as to override other similarities is not evident. While the Employer argues without evidence that these large industrial users somehow give Menasha and Kaukauna utilities an advantage, it could equally be argued that these large customers may have more of an opportunity to “shop” elsewhere for electricity than residential customers and may not necessarily be such a lucrative source for generous utility wages. Kaukauna, Menasha, and Wisconsin Rapids utilities appear to be the most comparable employers of Marshfield utility employees.

The Union has argued that Arbitrator Krinsky rejected Medford as a comparable. The Undersigned notes that Arbitrator Michelstetter also specifically eliminated Marshfield as a comparable to Medford due to its size¹⁴. He also notes that Arbitrator Vernon used the Krinsky comparables for the Kaukauna utility.¹⁵ Arbitrator Schiavoni rejected the employer’s attempt to use other comparables in the recent Menasha Utility craft unit, finding the established pool to continue to apply.¹⁶ Both Waupun and Rice Lake are distant and less than half the size. Arbitrator Michelstetter specifically chose less distant and more similarly sized comparables for Waupun Public Utility and did not include Marshfield.¹⁷ Rice Lake is as distant as Waupun and even smaller. Abbotsford is the closest municipality suggested but is in no respect similar in size or income. Stevens Point and Wausau are not utilities but are communities of similar size, are fairly close, and have income levels more similar to Marshfield than the others which the Employer proposes. While they may not be similar as employers of water and sewer employees due to differences in organizational structure, they would be considered employers of other employees generally in public employment in comparable communities.

¹⁴ City of Medford (Electric Utility), Dec. No. 29684-A, March, 2000

¹⁵ City of Kaukauna (Electric and Water Utility) Dec. No 26092-A, Feb. 1990. Arbitrator Vernon examined several others as well.

¹⁶ City of Marshfield (Electric and Water Utility) Dec. No. 31081-A, April, 2005.

¹⁷ City of Waupun (Public Utility), Dec. No. 29465-A, May, 1999

The Employer has argued that since Marshfield no longer operates a power plant on the premises, it no longer is to be compared with Kaukauna and Menasha. It does have 1/3 ownership of and generates revenue from a Marinette plant. Wisconsin Rapids does not operate a power plant but is considered comparable. Arbitrator Schiavoni did not find this to be persuasive as to result in excluding Kaukauna and Menasha from the comparable pool. The Employer in this case also has not established that meter readers', accounting clerks', watermen/pump repairers' work or the employment relation is dependent on whether Marshfield produces or buys electricity. The Employer has further argued that since the craft separation the appropriate comparison should be with non-craft employers-- of water operators who do not employ linemen—since when non-craft employees are mixed with craft employees, wages of the former are artificially higher. This is a matter of conjecture.

External Comparisons (d.)

The parties dispute whether Marshfield employees are highly paid with reference to external comparable and the impact of the respective final offers on their relative positions. The Union

2005 Wages with 20 years longevity (\$.43), assuming 3% increases for comparables

		<u>Marshfield</u>	<u>Wisc. Rapids</u>	<u>Kaukauna</u>	<u>Menasha</u>
Repair/Waterman/	E	\$22.07	\$ 23.19	\$23.23	\$24.03
Pump I and II	U	22.72			
Laborer	E	19.81	20.03	20.91	21.84
	U	20.38			
Acct/Payroll Clerk I	E	16.39	18.26	20.01	18.89
	U	16.87			
Meter reader	E	22.07	23.81	25.23	24.03
<u>/repairman</u>	U	22.58			

Union Brief, p. 3, based on Union Exhibit E.

contends that its offer will provide some measure of “catch up” though with its offer Marshfield wages will still lag in most categories. The Employer has not taken issue with the above-listed comparisons of positions and their respective wages. The Employer’s data indicates that when compared to other utilities or municipalities, Marshfield Utility employees are paid more than comparables. The Arbitrator would note that in two area comparable communities “Water Operators” in Stevens Point would earn \$18.92 while “Typist I” would earn \$15.54 and “Wastewater Operators” in Wausau would earn \$20.02 and “Accounting Assistants” would earn \$18.69 though Clerical Assistants III would earn \$16.30. The Union maintains that the water operator and clerical positions which the Employer cites in Exhibit G for the 9 employers are dissimilar to the Marshfield Waterman and Clerk I listed above. Marshfield utility employees wages are somewhat below (and in the case of

the Acct. Clerk, considerably below) comparable utility employees. If the municipally-employed water operators in Stevens Point and Wausau were similar to Marshfield Utility Watermen, the latter's wages would be somewhat above, though it appears that the Acct. Clerk wage is not. Not being utilities it is difficult to say whether other comparisons could be made, and no wages were reported for other positions of these municipal employers.

The Union contends that the Employer's offer will cause unit employees' wages to lag further behind the comparables. The Employer's offer of 2.5% each year is clearly below the comparable utilities. In 2004 the mean increase was 3.33% while Kaukauna is settled for 3.5% in 2005. The lift under the Union's offer is also somewhat closer to the mean (.67% vs. .83%) in 2004. The Union's offer is closer to the wage increase of Wausau and Steven's Point employees though their lift is closer to the Employer's offer. Wage increase data for 2005 for other employers cited by the Employer were generally around 3%. The Undersigned notes that Arbitrator Schiavoni suggested that the Employer's argument to give less consideration to Kaukauna and Menasha "might have some merit" if the dispute were to involve the non-craft employees.

City	2003-> 04	2004->05
Marshfield	(E)2.5% (U)3% (4% lift)	(E)2.5% (U) 3% (4% lift)
Wi Rapids	3.25%	
Kaukauna	3.5%	3.5%
Menasha	3.25%	
Medford	2.25 (3% lift)	2.25 (3% lift)
Rice Lake		3.7%*
Waupun		3%
Abbotsford		3%
Eau Claire		3.25%
Stevens Point	2.8%	
Wausau	3%	
Merrill	2.5 (3% lift)	

*Several positions in Rice Lake increased 3.7%, a couple more and less.
Source: Employer and Union Exhibits G and G-I respectively.

The offer of the Union is a somewhat more reasonable offer based on comparisons with Kaukauna, Menasha, and Marshfield's most similar employer, Wisconsin Rapids. Unit employees wages will increase 3% in 2004 and again in 2005 which is likely to be somewhat less than employees in those utilities though the wage difference will be reduced by 1% - 2% in 2005. Under the Employer's offer the difference will likely increase by the same amount.

Internal and other Comparisons (e.)

The Employer contends that its offer is consistent with what other municipal employees in Marshfield received. Its Wastewater and Clerical workers received 2.3% wage increases in 2004 and 2005, as did the Clerical/Technical and other employee units. Its offer to the Utility employees is somewhat higher. The Employer has argued that Utility employees are generally paid more than City employees for similar jobs, have no need for “catch up,” and should not have a greater wage increase than these others.

Because of municipality and utility differences in organization and funding sources, arbitrators have found it inappropriate to compare municipal and utility employees:

“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.”¹⁸

The City has argued against internal comparability with the Utility in disputes involving municipal employees. The Undersigned notes, however, that Arbitrator Krinsky in his 1991 decision involving the Utility did look to the other six bargaining units under Factor e.

“Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.”

He noted the six bargaining units’ settlements as well as compared Utility and City wage rates for two positions: Accounting Clerk and Secretary. In the instant case, the Employer’s offer of 2 ½%/ 2 ½% is more consistent with increases of “other employees generally in public employment in” Marshfield. As noted above, Wausau and Steven’s Point are geographically proximate and are somewhat similar in size and income. Wages for municipal employees in the water/sewer departments increased 3% and 2.8% respectively in 2004, which is seemingly closer to the Union’s offer though the lift in that offer through 2005 is not. Factor e. would tend to favor the Employer’s offer.

Private employment (f.)

The Employer provided Marshfield Chamber of Commerce wage survey data from 2003. The survey indicates minimum, mean, median, and maximum wage rates for about 40 jobs, including Accounting Clerk, Laborer, and Draftsman. Utility wages were greater than the maximums reported. While it is

¹⁸ Arbitrator Dichter, City of Marshfield (Public Works), Dec. No. 30638, May 2004

not established that these are directly comparable jobs and other benefits and conditions of employment may vary, the data is suggestive that Factor f. would favor the Employer's offer.

Cost of living. The Employer has provided data on the Consumer Price index for 10 years ending in January 2005 for both Milwaukee-Racine and the Midwest Urban Areas. The increase was 2.6% from Jan. 2004 to Jan 2005. The annual average index number rose 2.4% from 2003 to 2004. In 2005 it has increased somewhat. The Utility's offer would be slightly preferred because it comes closer to the cost of living which is in the range of 2.5 – 3% over the two years. The Undersigned has generally given weight to this factor inversely proportional to the time which has lapsed and the number of other settlements under the theory that these subsume cost of living considerations.

Stipulations (b.)

The Employer has agreed to an increase in the stand-by pay to \$2 from \$1.90 in 2004, and another \$.10 in 2005 as well as increase health insurance. It calculates that with these and its wage proposal, the top bargaining unit employee will receive 3.9% more compensation in 2004 and 5.6% more in 2005. The increase for stand-by pay is about 5% each year, more than base wage increases. The Undersigned has not been provided with any information on the how much stand-by is typically "worked," how long it has been since this was increased, nor the amount paid to others for stand-by in comparable employment. Similarly, the increase in health insurance premiums has been experienced by nearly all employers; information about whether Marshfield Utility's increase is any more than what comparable employers have experienced has not been presented, and thus, this factor favors neither party.

Other factors (h)

The overall compensation factor does not favor either offer. The Employer has argued that it provides cash-out of accumulated sick leave having a \$.26/hr. value. In response the Union argued that unit employees get 1-2 fewer paid holidays than do employees of the comparables and also do not have prescription drug coverage (UX-E) in their health plan. Whether these would be equivalent in cost to the Employer or value to the employees has also not been presented.

Conclusion

The Undersigned has considered the issues, evidence, and arguments with reference to the parties' offers in light of the statutory criteria. The "greatest" and "greater weight" factors have not been considered relevant in these proceedings and do not compel an award in favor of either party. The Arbitrator has evaluated the parties' wage proposals *vis a vis* comparable employers. He has found that wage levels under consideration in the Marshfield Utility to be somewhat below the established external comparables and that the lift under the Union's proposal would "gain ground" by

approximately the same percentage as would be “lost” under the Employer’s offer. He has found the Union’s offer of the percentage wage increase in 2004 and 2005 to be more consistent with these comparables as they are in excess of 3% per year. At the same time the Arbitrator has found that the Employer’s offer is more consistent when comparing settlements of public employees generally in the same community where Watermen, Clerks, and Laborers are employed. It is also arguably more consistent with comparable communities nearby. In these latter the Union’s proposed monetary increase in 2004 may be more reasonable, though the increase and lift in 2005 would favor the Employer’s offer. The cost of living factor (CPI) applied to wages is found to be closer to increases proposed by the Employer, and thus favors the Employer’s offer, as does perhaps comparisons with private sector employment. Stipulations and other factors favor neither parties’ offers. What remains is to weigh the findings of general support for the Union’s offer found in comparing comparable utilities with the equally strong support of the Employer’s offer found in comparing general public employee wages and settlements, particularly in the same community. In this case private employment and cost of living factors, while generally not determining such as decision, can provide some additional guidance.

Award

Having carefully considered all of the evidence and argument of the Parties set forth above as well as the arbitral criteria provided under Section 111.70 Wisc. Stats., it is the decision of the Undersigned that:

The final offer of the Marshfield Utility Employer is to be incorporated into the 2004-05 Collective Bargaining Agreement with Teamsters General Union Local 662.

Dated this 16th day of December, 2006.

Richard Tyson,
Arbitrator