

BEFORE THE ARBITRATOR

In the Matter of the Petition of

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 965**

To Initiate Arbitration Between Said Petitioner and

VILLAGE OF NEW GLARUS

Case 9 No. 63158

INT/ARB-10096

Dec. No. 31160-A

Heard: 1/18/2005

Record Closed: 3/10/2005

Award Issued: 5/17/2005

Sherwood Malamud

Arbitrator

APPEARANCES:

Tony Bartels, Assistant Business Manager, IBEW Local Union 965, 1602 South Park Street, Room 220, Madison, Wisconsin 53715-2108, appearing on behalf of the Union.

Davis & Kuelthau, Attorneys at Law, by Kirk D. Strang and Jeanne K. LaCourt, Suite 600, Ten East Doty, Madison, Wisconsin 53703, appearing on behalf of the Municipal Employer.

ARBITRATION AWARD

Jurisdiction of Arbitrator

On December 6, 2004, the Wisconsin Employment Relations Commission appointed Sherwood Malamud to serve as the Arbitrator to issue a final and binding Award pursuant to Sec. 111.70(4)(cm), 6.c., Wis. Stats., to determine a dispute over wage rates and health insurance for a two-year agreement, calendar years 2004 and 2005 for certain employees of the Employer. Hearing in the matter was held on January 18, 2005, in the Village Hall in New Glarus, Wisconsin, at which time the parties presented testimony and documentary evidence. Original and reply briefs were received and exchanged through the Arbitrator by March 10, 2005, at which time the record in the matter was closed. Upon reviewing the evidence, testimony, and arguments presented by the parties, and upon application of the criteria set forth in Sec. 111.70(4)(cm)7., 7.g., 7.r., a.-j., Wis. Stats., to the issues in dispute herein, the Arbitrator renders the following Award.

THE ISSUES IN DISPUTE

The Union Offer

1. Wages

The Union proposes that the across-the-board wage rates for the Laborer I, II and III classifications be increased by 3% effective 1/1/04 and increase by an additional 3.5% effective 1/1/05.

The Union proposes that the remaining classifications of employees represented in this unit (Lineman, Line Crew Leader, Service Technician, Water Operator, Wastewater Treatment Plant Operator) increase by 5% effective 1/1/04 and an additional 5% effective 1/1/05.

2. Health Insurance

The Union proposes that the status quo remain in effect for the first year of the Agreement, 2004, in that the Village pay 105% of the lowest cost qualified plan of the state health insurance plan for the area in which the Employer is located. The Union proposes that the Village pay 100% of the lowest cost qualified plan in 2005.

The Village Offer

1. Wages

The Village proposes that the wage rates of all employees in this unit increase by 2% every six months over the two year duration of this Agreement. Specifically, the Village proposes that the wage rates increase by 2% on 1/1/04, an additional 2% on 7/1/04, by 2% on 1/1/05, and an additional 2% on 7/1/05.

2. Health Insurance

For calendar year 2004, the Village proposes to pay 103% of the lowest cost qualified plan for current employees of the Village as of December 31, 2003. The Village would pay 97% of the lowest cost qualified plan for new hires to the Village in this unit on and subsequent to January 1, 2004. The remaining 3% would be paid for by the newly hired employee. Effective January 1, 2005, the Village would pay 100% of the lowest cost qualified plan for “current employees” and 97% for the new hires.

STATUTORY CRITERIA

Sec. 111.70(7), Wis. Stats., provides that:

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.

7g. '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 specified in subd. 7r.

7r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or 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 any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
- e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings 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 the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees 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 municipal 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 and 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.

DISCUSSION

Background

This is a six-person unit. It consists of one Line Crew Leader, one Line Technician, one Wastewater Treatment Plant Operator Grade III, one Service Technician App. 2d, one Laborer III, the highest Laborer classification, and one Laborer II. There is no cost impact to the Employer's proposal to shift part of the cost of health insurance premium to employees. Its proposal only applies to new employees. The Employer has no plan to hire any new employees during the term of this agreement.

This is the first interest arbitration proceeding between these parties. As a result, the parties focus their arguments on the determination of the appropriate group of municipalities comparable to New Glarus.

The Union proposes a lower rate of increase for the employees in the Laborer classifications, Laborer I, II and III, than it requests for employees in the Lineman, Service Technician, and Water and Wastewater Operator classifications. The Union argues there is a need for catch-up at the Lineman classification. The Union maintains that in the last bargain, the Village addressed fringe benefits. In the last bargain, the Village President indicated that in this bargain it would adjust wages to bring everyone at or above the average wage rates paid by the comparables.

For its part, the Village argues that its offer is consistent with the settlement it achieved with the WPPA for the police bargaining unit, the only other organized bargaining unit in New Glarus. In that agreement, the police accepted raises of 2% every six months and the Employer's health insurance proposal for current and new hires. The Village makes the same proposal, in this case with the IBEW unit. The Employer asserts that its proposal maintains consistency between the two organized units of employees in New Glarus.

The total dollar difference between the parties amounts to \$4,208.66 in 2004 and \$5,008.52 in 2005 for a total over the two-year term of the agreement of \$9,217.18.

The Union argues a split increase either ignores or diminishes the importance of delaying employee wage increase. Whether the delay is undue or a vehicle to increase employee wage rates, presumably closer to the average, at a reduced cost will be determined as the product of the wage rate and percentage wage increase analyses in the discussion of the parties offers on the Lineman and Waste Water Operator classifications.

The Arbitrator first addresses the comparability issue. Then the Arbitrator applies the statutory factors to identify the preferred final offer. The Arbitrator will include the arguments of the parties in the analysis of the parties' final offers that follows.

The Group of Comparables

The Union proposes 25 communities as comparable to the Village of New Glarus. Its group of comparables includes all of the communities that the Employer identifies as the "comparable employment" group. The Union includes among its comparables the City of Verona and the City of Monroe. Both are substantially larger than New Glarus and neither operates a municipal electric utility. The Union relies on geography and population as the sole indicators of comparability.

The Employer relies on population, geography, total and shared revenue and expenditures to identify its comparability grouping. Neither party provided the Arbitrator with the full value of taxable property in New Glarus and the communities that the parties identify as comparables. The absence of this data gives the Arbitrator pause in determining with confidence the comparability of the communities identified by the Union and the Employer as appropriate comparables to New Glarus.

The Arbitrator finds the additional communities suggested by the Union too large or geographically too remote from New Glarus. The communities identified by the Employer are located no further than 76 miles from New Glarus, the mileage of Boscobel to New Glarus. Both Muscoda and Pardeeville are within 65-66 miles of New Glarus.

The Employer argues that the communities of Albany, Argyle, Belleville, Brodhead, Darlington, Judah, Monticello, Shullsburg, and South Wayne, which are located no further than 48 miles from New Glarus, should serve as the primary comparables to New Glarus. However, with the exception of Brodhead, these communities do not operate an electric utility. Furthermore, South Wayne with a population of 483 and Argyle with a population of 822 are much smaller than New Glarus with a population of 2113. The parties did not provide data concerning the presence of industrial property, such as breweries or cheese factories in the communities identified as comparables to New Glarus for the Arbitrator to ascertain a better picture of the tax base of New Glarus as contrasted to the communities proposed as comparables.

Both the Union and the Employer suggest communities that are not organized in their comparability grouping. Ordinarily, the Arbitrator relies on communities as comparables that are subject to the interest arbitration statute, communities that must negotiate and establish rates of pay under the statutory interest arbitration structure. However, since both parties look to organized and unorganized communities as comparables, the Arbitrator, makes no distinction, in this case, between the communities that are organized and those that are not.

The comparability factor, particularly factor “d” calls for a comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding, in this case, the two electric utility employees, the Lineman and the Line Crew Leader, the two Water/Wastewater employees, as well as, the two Laborers. To identify communities that are comparables that do not employ such classifications of employees may be useful in the application of

factor “e” (comparability of these employees to public sector employees generally) but it is of little use in determining comparability under factor “d.” For that reason, the Arbitrator determines that Argyle and South Wayne that are much smaller in population are inappropriate comparables to New Glarus.

The Arbitrator concludes that the primary comparability group are those communities identified by the Employer as “the Comparable Employment” grouping: Boscobel, Brodhead, Evansville, Lodi, Muscoda, Pardeeville, Prairie du Sac, Sauk City, Shullsburg, and Waterloo. Both the Union and the Village include Mount Horeb in this comparability group. Mount Horeb is much larger than New Glarus. Its population exceeds 6,000 as contrasted to New Glarus with a population of a little over 2,000. The range of population that the Arbitrator has used to identify comparable communities to New Glarus are those with populations that are between half and double the size of the Village. The Arbitrator, in the analysis that follows, calculates the average rates paid by the comparables both including and excluding Mount Horeb.

With regard to the group that the Village identifies as its primary comparables that are located geographically proximate to New Glarus, the Arbitrator has included those communities as secondary comparables. Since these communities do not operate an electric utility and the evidence concerning wastewater treatment and water service is not definitive, the Arbitrator has limited reference to these communities to evaluate the rates of the Laborer classifications.

The primary group of comparables on which the Arbitrator relies to determine this dispute are: Boscobel, Brodhead, Evansville, Lodi, Mount Horeb (limited reliance as noted above), Muscoda, Pardeeville, Prairie du Sac, Sauk City, the City of Shullsburg and Waterloo. These 11 communities provide more than an ample comparability grouping to properly compare the rates of these New Glarus employees to the rates paid by the comparables to employees similarly classified.

WAGES

Factor Given the Greatest Weight

The Public Service Commission regulates the rates that the Village may collect for the distribution of electricity in the Village. The evidence submitted by the Employer indicates that the electric utility suffered a loss, expenditures over revenue, of approximately \$120,000. The Employer overestimated revenue and underestimated expenditures. The Employer applied to the Public

Service Commission for an increase in rates. The surpluses pointed to by the Union which the Employer deposited into its reserve provide the Employer with the ability to weather these losses. The delay inherent in the application to the Public Service Commission for an increase in rates is a factor that the Arbitrator must weigh, in this case. Neither party argues that this factor is determinative. However, the Arbitrator concludes that the Employer has demonstrated that the regulatory scheme impacts its ability to make quick adjustments to its pricing of electricity to overcome revenue shortfalls. It also reflects a need for some caution when considering increases in the rates of the employees who work in the electric utility, the Lineman and the Line Crew Leader.

Comparability “d.”

In the discussion that follows, the Arbitrator compares the wage rates for each of the classifications of employees in New Glarus to the average of the comparables identified above. In the base year 2003, the average year end rate for the highest classified Laborer among the comparables (the eleven primary comparables plus Albany, Darlington and Monticello; (data was unavailable for Belleville and Juda) was \$14.52, and \$14.73 if Mount Horeb is included. In 2003, the New Glarus Laborer II rate topped out at \$16.11, and at \$18.30 at the Laborer III classification.

For 2004, including both the eleven communities (with Mount Horeb) the Arbitrator identifies above as comparable and the three additional communities the Employer identifies and the Arbitrator accepts as comparables to determine the Laborer rates, Albany, Darlington and Monticello.

The average year end rate paid to the highest classified Laborer among the comparables was \$14.93 without Mount Horeb, and \$15.19 with Mount Horeb. The Union proposal to increase the Laborer rates by 3% in 2004 generates a Laborer III rate of \$18.85. Under the Employer’s offer, a 2% increase in January and an additional increase in July in 2004, increases the Laborer III rate to \$18.67 effective January 1 and \$19.04 on July 1.

In 2005, the average rate for the highest classified Laborer end rate among 11 communities for which data was made available was \$15.35 without Mount Horeb and \$15.67 with Mount Horeb. Under the Union offer, the Laborer III rate topped out at \$19.51. Under the Employer offer the rate increased to \$19.42 effective January 1 and increased to \$19.81, some 30 cents above the Union’s rate, effective July 1, 2005. Whatever the comparability grouping, the Laborer rates in the Village of New Glarus should not increase four times over a two year period. The rates for Laborers in New

Glarus begin at a point well above the average of whatever comparability group one uses and only increases further away from the average under the Village's offer.

The Union's offer is only slightly less restrained at 3% in 2004 and an additional increase of 3.5% in 2005. Even the New Glarus Laborer II rate tops out in 2005 at \$17.44 under the Village offer and at \$17.17 under the Union offer, well above the average of the highest classified Laborer employed by the comparables. The rate of the New Glarus Laborer II only trails the highest classified Laborer in Lodi and Mount Horeb. A more modest increase at the Laborer classifications would have been more realistic given the disparity of the Laborer II and III rates from the average. This is particularly the case, since the Union attempts to obtain greater increases for the Lineman and Water/Wastewater classifications.

The Arbitrator emphasizes the end rates rather than the percentage increases generated by each offer at the Laborer classifications. These are the rates with which the parties will have to contend in the future. Furthermore, given the disparity from the average at the Laborer classifications, the comparability of the year to year increases are accorded little weight.

Inasmuch as, the Union's proposal results in less of an increase in the Laborer rates and generates a smaller disparity from the average of rates paid by comparable employers to Laborers, the Union's offer at the Laborer classification is preferred.

Lineman

In 2003, the base year, the New Glarus Lineman rate was \$19.61. The average paid by the comparables, the primary group of 11 identified above, without Mount Horeb, was \$19.60. With Mount Horeb, the average increases to \$19.85. In 2004, the rate paid to the Lineman increases to \$20.00 on January 1 under the Village offer and to \$20.40 on July 1. Under the Union's offer, the rate increases to \$20.59 and remains in place for the entire year.

The average rate among the comparables increases to \$20.17 in 2004 and to \$20.44 when Mount Horeb is included. Under the Village offer, the Lineman rate is seventeen cents below the average w/o Mount Horeb in January, and by the end of 2004 the rate is 4 cents below the average (including Mount Horeb). Under the Union offer, the rate increases to 42 cents above the average (w/o Mount Horeb) and to 15 cents above the average with Mount Horeb. Under both proposals the

end rate in 2004 is not far from the average. However, the Village offer brings the Lineman closer to the average than the Union's.

Evansville had not settled as of the date of hearing in this matter. In 2005, the average top rate paid to a Lineman was \$20.74 without Mount Horeb and \$21.09 with Mount Horeb. Under the Village offer, the Lineman rate increases to \$20.81 on January 1 and then increases July 1 to \$21.23. Under the Union offer, the rate increases on January 1 and remains in effect for the entire year at \$21.62.

Under the Union offer the Lineman rate increases to 53 cents above the average when compared to the average including Mount Horeb, while under the Village offer, the rate increases to 14 cents above the average, including Mount Horeb. The Village offer brings the Lineman closer to the average. It is preferred.

In 2003, there was an 80 cent per hour differential between the Line Crew Leader and the Line Technician. That differential will increase under either the Village or the Union's offers, inasmuch as both are stated as percentage increases. The differential exists as compensation for the incumbent serving as the Crew Leader. The evidentiary record does not allow for a detailed analysis of the Crew Leader rate as contrasted to the rate received by and paid by comparable employers. However the Crew Leader rate is built upon the Lineman. It is that rate that serves as the basis of the comparison and carries over into the rate established by the two offers for the Line Crew Leader. The Arbitrator's decision that the Lineman rate under the Village offer is preferred holds true for the Line Crew Leader, as well.

Wastewater Operator with Grade III Certification

New Glarus employs a Grade III Waste Water Treatment Operator and a Service Tech App. II who responds to water calls. Both the Employer and Union encountered difficulty establishing if and to what extent the comparables maintain a position similar to the New Glarus Service Tech.

The comparison becomes more difficult. Evansville employs a Water Operator OIC and Lodi a Grade II Waste Water Operator (in New Glarus the Operator is at Grade III). Mount Horeb maintains two Water Crews I and II, the latter is the higher classified. The Employer's suggested primary comparables, do not include employees in either the Water or Waste Water classifications.

The calculations that follow are based on Employer Exhibit 17A. Where there were split increases, such as in Mount Horeb, the Employer averaged the two increases and included that number in its calculation of the average rate paid by the comparables. The Arbitrator looks at the end rate to calculate the average.

The New Glarus salary schedule contains a higher classified Waste Water Operator at Grade IV with a wage differential that amounted to \$1.31 in 2003. It also contains rates for an Operator without certification that tops out at \$12.53 in 2003, and rates for Operators with certification at Grades I and II, as well. The data for the comparables does not clearly establish that the Grade III certified Operator in New Glarus is the same classification that serves as the basis of comparison to the classifications of Operators employed by the comparables. The parties acknowledged as much in their presentation. Although the New Glarus contractual salary schedule includes a Grade IV Operator, for purposes of this case only, the Arbitrator assumes that the New Glarus Grade III Operator is comparable to the highest classified Operator classification maintained by the comparables.

In the base year 2003, the average rate paid by the comparables (excluding Mount Horeb) to an Operator was \$16.80, with it was \$16.89. The New Glarus 2003 Grade III rate was \$17.77. In 2004, the average rate paid by the comparables increased to \$17.22 without Mount Horeb, and \$17.32 with Mount Horeb. Under the Village offer, the Wastewater Operator rate increased to \$18.13 effective 1/1/2004 and increased mid- year to \$18.49. Under the Union's offer, the rate increased to \$18.66.

In 2005, the rate in New Glarus increases under the Village offer to \$18.86 in January and to \$19.24 in July. Under the Union offer, the rate increases to \$19.59 in January. In 2005, the comparables pay the Operator on average \$17.31 without Mount Horeb and \$17.55 with Mount Horeb. In the absence of clear definitive evidence that the comparison here, Grade III Operator in Glarus to an Operator whose duties and credentials are unclear, the Arbitrator gives little weight to this evidence for the Wastewater Operator classification.

Percentage Increases Lineman and Waste & Water Operator Classifications

The City of Shullsburg granted a fixed cents per hour raise in 2004 and 2005. The Arbitrator converted that increase to a percentage, 2.8% at the Lineman classification, and 3% at the Waste Water Operator. The Arbitrator included these percentages in calculating the average increase provided by the comparables at these two classifications. The average increase in 2004 granted by

the comparables to the Waste Water/Water Operator was 2.5% and 2.27% at the Lineman classification. In 2005, Waste Water/Water Operator increased by 2.7% and the Lineman increased by 2.83%. The Employer proposes increases costing 3% in 2004 with a lift of 4%. The Union proposes a 5% increase.

In 2005, Brodhead provides a 6% increase to its Lineman. Prairie du Sac and Sauk City granted 3.5% increases to their Linemen. All the rest of the comparables grant increases of 3% or less to the Lineman and Waste Water/Water classifications. The Union offer of 5% in each of the two years of the successor agreement exceeds the average increase granted by the comparables at these two classifications by over 2% in each of the two years.

Summary

The Union offer for the Laborer classification generates a significantly smaller increase than the Village offer. Yet, the Union offer increases the Laborer rates from the average paid by the comparables to the highest classified Laborers they employ. The Arbitrator gives significant weight to the impact the Employer's proposal has on the end rates and the ever increasing distance from the average and the distortion created by the Employer's proposal at the Laborer classification. The Union offer at the Laborer classification is preferred.

The Employer offer is preferred at the Lineman classification. It is not clear from the data whether the comparison of the Grade III Operator to the rates paid by the comparables to their highest paid Operator establishes a firm basis for comparison. The Arbitrator gives the analysis at this classification little weight. However, the Employer's offer more closely tracks the percentage wage increases granted by the comparables to the Lineman and Waste Water Operator classifications. The Arbitrator concludes, therefore, that under this criterion the Employer offer is preferred.

Comparability -- Other Public Employees

The Village of New Glarus settled with the Union representing its police officers at the percentage wage rates offered by the Employer in this case. In addition, the increases provided to the non-represented range from no increase at positions such as Water Safety Instructor or 1.9% increase in 2003 to 2004 for the Chalet Curator position to an 11% increase for the Village Administrator.

One employee's rate increased from \$14.08 in 2003 to \$14.50 in 2004. The Arbitrator agrees with the Union argument that in the absence of mid-year increases and increases that range between 0 and 11%, this data hardly supports a conclusion that all employees, represented and non-represented, received the same pattern of across the board percentage increases. The data does not clearly establish a pattern of increases among public employees, generally, paid by the comparables. Rather the data references increases at particular classifications. The Arbitrator considered that evidence above.

With regard to factor "f" comparison of the employees in classifications in this unit in New Glarus compared to employees in the private sector in similar classifications, the only evidence on this point appears in Union Exhibit 10 at the Lineman and Line Crew Leader classifications. The three employers noted in that exhibit paid a 3.5% increase in 2005 over their 2004 rates, but wage rates paid by these private employers to their Lineman are much higher than the rates paid by the comparable public employers. There is no evidence in this record comparing the job duties and responsibilities of the private sector Lineman, nor does it list the benefits received by these private sector employees. One of the private sector employers provided no increase in 2005 over their 2004 rates. Neither factor "e" nor "f" provide serve to distinguish between the final offers of these parties.

Cost of Living

The Arbitrator uses the total package cost as the basis for comparison to the all urban consumer CPI data provided. The CPI includes increases in wages, health care, and other increases that a consumer would find in the market. Accordingly, the Arbitrator finds it appropriate to take into account all contractual increases, the total package increase, from which an employee benefits through a settlement or an interest arbitration award.

The increase in the CPI for all urban consumers for the period December 2002 to December 2003 was 1.9%. Since there is always a lag in applying the cost of living to the data in these interest arbitration cases, the Employer proposal for 2004 with a total package cost of 4.95% as contrasted to a total package cost of 6.36% for the Union is closer to the increase in the cost of living. Similarly, the Village's total package increase of 4.14% is closer to the increase in the CPI for all urban consumers for 2005. With a year to year increase in the cost of living through October 2004 of 3.2%, again the Village offer more closely approximates the increase in the cost of living than the Union's 4.34% increase in the total package for 2005 over 2004.

Overall Compensation

The Employer compares the benefits provided under the New Glarus agreement to those provided employees in comparable communities. The Employer notes that only three of the comparable communities pay the entire premium for dental insurance as does the Village of New Glarus. The Employer notes that New Glarus is the only municipality among the comparables that maintains life insurance coverage at double an employee's salary. The other municipalities maintain it at a level equal to an employee's salary. The Employer notes that it offers employees 14 holidays/personal days when only Boscobel offers 13.5 personal days/holidays, Mount Horeb 13 days and all others provide less than 13 holidays in a year. Furthermore, the Village notes that only Prairie du Sac and New Glarus have a provision for tuition reimbursement. As for other contractual benefits, such as vacation and pay out of sick leave, the Village pattern of benefits is competitive with those offered by the comparables.

The Union argues that this data should receive little weight from the Arbitrator. The total benefit level is not an issue in this case. There is no change to these benefits that is in dispute.

The statutory criteria require the Arbitrator to take into account the range of benefits offered under the Employer/Union contractual arrangement. The Arbitrator agrees with the Employer that this criterion supports selection of the Employer's offer for inclusion in the successor 2004-2005 Agreement.

Such Other Factors

The criterion "i" changes that have occurred during the pendency of the arbitration proceedings has no bearing on the determination of this case.

The "Such other factors" criterion impacts the outcome of this case. It is under this criterion that the Arbitrator considers internal comparability.

The Employer relies heavily on this criterion. It cites many cases in which arbitrators generally have accorded great weight, if not determinative weight, to internal comparability.

Most of the cases cited involve employers with multiple bargaining units represented by multiple unions. In the cases cited, one of the unions holds out in an attempt to get more than the established pattern of settlements.

Here, the Village of New Glarus has two bargaining units. The bargaining unit in question represents law enforcement personnel who are covered by a different statute and whose community of interest and bargaining needs differ substantially from the diverse unit represented by IBEW Local 965. Nonetheless, the police unit settled for 2% wage increases every six months. The Employer offers the same increase here. For its part, the Union points to the following additional changes agreed to by the Village and the law enforcement unit: severance payout, increase allowance for uniforms and personal equipment, compensation for loss or damage to personal items, payout for unused vacation, increased compensatory time off, and training pay. However, the pattern of wage increase in the law enforcement unit is consistent with the pattern that the Village offers, here.

The non-represented employees constitute a third grouping of employees in New Glarus. There is no pattern of increase for these employees. The Employer retains total control as to the amount of increases these employees receive.

This Arbitrator, along with others, provides substantial weight to internal comparability. As diverse as this 6-person unit is, the grouping of the non-represented is even more diverse. The Arbitrator takes some note that the non-represented did not receive the same pattern increase that the Employer offers, here.

The Arbitrator gives some weight to this factor. It is not given the great and substantial weight that ordinarily would be accorded this comparability factor in the classic case of multiple settlements and one hold out with no support from the external comparables for the hold out position. Yet, this factor supports the adoption of the Village final offer.

The Union offer obtains some support under this, "Such other factors" criterion. The Union has established that the Employer eliminated the Electric Superintendent in 2001 and allocated some of the duties of that management person to the Lineman Crew Leader and/or Lineman. The Union notes that there is no managerial person in place in New Glarus with knowledge of electric distribution who may assist the two bargaining unit employees, when and if, they should encounter a problem in the performance of their duties. The Union argues, and the Arbitrator agrees, that the increase in duties and responsibilities should be reflected in the rates paid to these employees. The

reimbursement for the increase in duties and responsibilities may be reflected in their rate of pay or in the form of a premium that would be paid until the Employer replaces the Electric Superintendent.

Under this criterion, on balance, the Employer offer is preferred.

HEALTH INSURANCE

As noted in the introduction, there is no current cost associated with this issue. Health insurance is an important issue. It should not be treated lightly. The Employer is well aware of its importance as evidenced by the excellent materials it submitted at Exhibit 24 concerning health insurance trends, particularly in Wisconsin. The Employer's evidence clearly identifies the trend; some level of cost shifting of the payment of premium from the Employer to the individual employee is commonplace.

The Employer proposes that employees not yet hired pay 3% of the cost of health insurance premiums. Since such individuals are not on the Employer's payroll, it has no cost. Normally, a future change in benefit levels that has no immediate impact is best left to the parties to resolve on their own, rather than have an arbitrator determine an issue where there is no need for an immediate decision. Comparability and "Such other factors"-- internal comparability are the factors among the statutory criteria that serve to distinguish between the final offers of the parties, on this issue.

The Employer achieved an agreement with the law enforcement unit on sharing the cost of premium, with the Employer paying 97% of the cost of health insurance premium for new employees as opposed to 100% for current employees and the new employees bearing 3% of that cost. The Employer proposes the same change to this agreement.

The Employer argues and quotes from many arbitrators' awards that recognize the importance of consistency of benefits. Such consistency eases the administration of those benefits. The Arbitrator agrees. However, the Employer proposal introduces a distinction between current employees and new employees who will have to make a contribution to insurance. This will complicate the administration of this benefit. If this were the only grouping of employees in which new employees did not share in the cost and payment of premiums, the Employer argument would carry the day. It is not. Although the Employer controls the benefits offered to non-represented employees and although the law enforcement agreement was achieved some time ago, the Employer has not established by resolution that non-represented new hires after January 1, 2004 should pay 3%

of the health insurance premium. This undercuts the force of the Employer's argument on the application of this factor, internal comparability to this issue.

The external comparables do not support the Employer's proposal. Of the 11 communities that the Arbitrator has identified as the primary comparables in this case, five participate in the state health plan. Six pay at between 100 and 105% of the lowest costing qualified plan. The other five require that the employee contribute some amount to the cost of premiums during the term of the agreement at issue here, 2004-2005. The external comparables do not support the Employer position. There is no strong pattern among the comparables that mandates that employees contribute to the cost of health insurance premiums.

The Employer refers to Albany, Belleville, Darlington, Juda and Monticello as primary comparables to New Glarus. No data was available for Belleville and Juda. Albany, Darlington and Monticello do require employee contribution to some of the costs of health insurance premiums, at least, the premium for family coverage.

The excellent articles presented by the Employer in its Exhibit #24 clearly sets forth the trends in health insurance. It details the steps employers take to stem the escalating costs of health insurance. This information clearly establishes the current existence of a health insurance crisis.

In the past, the argument that sharing the cost of premium by an employee or the assumption of some of the internal costs, such as deductibles, tend to moderate the increase in the cost of premium. However, there is no suggestion in the evidence submitted or the arguments made that anything that occurs in New Glarus will stem the tide or have any impact on the escalating cost of health insurance.

The Employer has failed to establish the need for a change or a basis for the change it proposes. If anything, its failure to implement the change among the non-represented only indicates the uncertainty of the Village leadership as to the benefit of its own proposal. Accordingly, the Arbitrator finds the Union proposal to reduce the Employer's contribution to 103% of the lowest qualified plan in 2004 and then to 100% of the cost of the lowest qualified plan in 2005 to be preferable to that of the Employer's.

SELECTION OF THE FINAL OFFER

In the above discussion, the Arbitrator reviewed the various statutory criteria and applied them to the wage and health insurance issues. The greatest weight factor, although not determinative, provides some weight favoring the Employer's offer.

The Union maintains that catch-up is necessary to bring up the Lineman rates. The Employer maintains that the argument for catch-up represents an attempt to open past agreements that resulted in the current relationship of rates of the unit in arbitration as compared to the rates paid by the comparables.¹ The lift at the end rates under the Employer proposal bring the Lineman rate in New Glarus within four cents of the average, inclusive of Mount Horeb. If catch-up were necessary, the Employer proposal accomplishes the task. It is not necessary to adopt increases substantially larger than those provided by the comparables, the Union's annual 5% increases as contrasted to annual increases of just under 3% provided by the comparables to their Lineman classification. The Union offer is too high.

The Union made a case for granting the Lineman and the Line Crew leader a higher rate or pay premium for the extra duties and responsibilities they must perform on a daily basis, after the Employer eliminated the managerial position of Electric Superintendent in 2001. This change has not been recognized either in the rates paid to these employees or the payment of a premium or differential in recognition of their performance of these additional duties. The Union does not suggest a percentage or fixed differential that should be paid to either or both the Line Crew Leader and/or the Lineman. If the Arbitrator were to pursue this point, he would be constructing the parties salary schedule. The Arbitrator's task is to apply the statutory criteria and select the final offer for inclusion in the successor agreement. Accordingly, the Arbitrator finds the Employer's proposal on the Lineman classifications is preferred.

The Arbitrator noted that the evidence concerning the rates paid to the Wastewater Operator and the Service Technician do not serve to distinguish between the final offers of the parties. However, here again, the percentage increase of 5% in each year at this classification as proposed by

¹The Employer cites many awards of many arbitrators in support of its argument. Since the Union failed to make a case on the catch-up issue, this Arbitrator need not address the Employer argument.

the Union is simply too high and there is no evidentiary base to support this proposal. Accordingly, the Employer proposal at this classification is preferred.

The Union offer on Laborer rates is preferred to that of the Village. Both are excessive. Both exacerbate a problem. Both proposals increase the Laborer wage rates further away from the average paid by comparable employers to their Laborers. An annual increase of 2% would have been a more reasoned increase at the Laborer classification, particularly, in the face of the Union's goal to increase the Lineman rates. As the lower of the two offers at the Laborer classification, the Union offer is preferred.

The Union proposal on health insurance is preferred. The Arbitrator would have selected the Employer position on the health insurance issue had it implemented it for the non-represented employees of the Village. The Employer argued the administrative burden is eased when all the employees of a municipality eligible for benefits, particularly an important benefit, such as health insurance, enjoy the same benefit. The Arbitrator agrees. Yet, under its proposal and inaction the administrative burden will increase. That is the effect of the village reaching an agreement with the law enforcement unit, failing to implement its own proposal for non-represented employees and insisting that its health insurance proposal be adopted by the interest arbitrator.

The result. The Union's proposed increase at the Laborer classification does not distort as much as the Employer's. However, the Union's offer on the other two classifications covering 4 of the 6 employees in this unit is too high. Its proposal is not supported by the comparables as a percentage increase or by the rate level produced by its offer.

The Union offer on Health Insurance is strongly preferred. The Employer offer is premature. There is no need for the change. It represents an attempt to get in this bargain, where it is not as important an issue as it should be, a change. One not justified by economics in New Glarus or the comparables. For reasons unexplained by this record the Village has not implemented the health insurance proposal for its non-represented employees.

In the end, the wage issue is the issue that should receive the greater weight. Although a larger wage increase than what is called for is more easily overcome and accommodated in the next bargain than a structural change to an Employer's health insurance program, the Union's offer is simply too high for the Arbitrator to issue an award in its favor. In the Award below, the Arbitrator adopts the final offer of the Employer for inclusion in the successor 2004-2005 agreement between the Village of New Glarus and IBEW Local 965.

Based on the above Discussion, the Arbitrator issues the following:

AWARD

Upon the application of the statutory criteria found at Sec. 111.70(4)(cm) 7, 7.g., and 7.r., a.-j., Wis. Stats., and upon consideration of the evidence and arguments presented by the parties, and for the reasons discussed above, the Arbitrator selects the final offer of the Village of New Glarus for inclusion in the agreement between International Brotherhood of Electrical Workers, Local Union No. 965 and the Village of New Glarus for calendar years 2004 and 2005.

Dated at Madison, Wisconsin, this 17th day of May, 2005.

Sherwood Malamud
Arbitrator