STATE OF WISCONSIN
BEFORE THE ARBITRATOR

In the Matter of the Interest Arbitration between	
CITY OF PLATTEVILLE	
and	
PLATTEVILLE CITY EMPLOYEES UNION LOCAL 823, AFSCME, AFL-CIO (WATER AND SEWER UNIT)	Case 28 No. 64259 INT/ARB 10333 Decision No. 31342-A Case 29 No. 64260 INT/ARB 10334 Decision 31343-A
and	
PLATTEVILLE CITY EMPLOYEES UNION LOCAL 823, AFSCME, AFL-CIO (DPW UNIT)	

APPEARANCES:

von Briesen and Roeper, S.C. by **James R. Korom**, appearing on behalf of the City of Platteville, Wisconsin and the City of Platteville, Wisconsin's Water and Sewer Commission.

Jennifer McCulley, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appearing on behalf of the Platteville City Employees Union, Local 823, AFSCME, AFL-CIO and its Water and Sewer Unit and DPW Unit.

JURISDICTION:

On June 14, 2005, the Wisconsin Employment Relations Commission, pursuant to Section 111.70 (4)(cm) (6) and (7) of the Municipal Employment Relations Act, appointed the undersigned to serve as the arbitrator in a dispute between the City of Platteville, Wisconsin, hereinafter referred to as the Employer or the City, and Platteville City Employees Union, Local 823, AFSCME, AFL-CIO, hereinafter referred to as the Union. A hearing was held in Platteville, Wisconsin on October 14, 2005. At that time, the parties, both present, were given full opportunity to present oral and written

evidence and to make relevant argument. Post hearing briefs and reply briefs were filed in this dispute, the last of which was received by the Arbitrator on December 24, 2005.

THE ISSUES:

Having reached tentative agreement in disputes concerning out-of-classification pay for both bargaining units; travel, meal and conference reimbursement for both bargaining units; clothing allowance for engineering technicians, and Housing Assistant wages, the issues remaining in dispute with both bargaining units concern wages, health insurance benefits and language addressing the duration of the collective bargaining agreement. The difference in the offers, as reflected in the final offers, is as follows:

The Employer proposes the following for both the City Hall general employees and the Water and Sewer Commission employees:

Wages:

Appendix A – Wages

January 1, 2005 – Across the Board Increase of 2%
July 1, 2005 – Across the Board Increase of 1%

January 1, 2006 – Across the Board Increase of 2%
July 1, 2006 – Across the Board Increase of 1%

January 1, 2007 – Across the Board Increase of 2%
July 1, 2007 – Across the Board Increase of 1%

Article 13 – Insurance

Amend Article 13.02 by deleting "January 1, 1999", and replacing with "January 1, 2005 as reflected in the Dual Choice Plan and Dean Care and Unity Health Insurance. (Plan changes retroactive to 1/1/05)."

Increase Employee co-payments on medical and dental premium in Article 13.03 (a) and 13.04 (a) as follows:

July 1, 2005	8%
January 1, 2006	9%
January 1, 2007	10%

Add Article 13.03 (e) to read as follows:

"On January 1, 2005, Prescription Medication co-payments rise to $5.00 on generic medications and $10.00 on brand name medications, with a maximum out of pocket for such co-payments of $800.00 per employee (single or family)."

Article 30 – Terms of this Agreement

Section 30.01: This Agreement shall remain in full force upon execution through December 31, 2007. Negotiations for a subsequent agreement shall commence on or after July 1, 2007.

Memorandum of Understanding

The City and Association agree to commence meetings prior to July 1, 2005 to hold informational meeting and discuss the feasibility of creating a post-employment health plan as well as the funding vehicle to provide for it.

In contrast, the Union seeks the following for both bargaining units:

Appendix A – Wages.

Effective January 1, 2005, increase all rates by 3%,
Effective January 1, 2006, increase all rates by 3%.
Effective January 1, 2007, increase all rates by 3%.

Article 13 – Insurance.

13.02 No Reduction in Coverages: The City agrees to maintain all levels of coverage and benefits for all insurance plans at no less than the level in effect on January 1, 1999, except for health insurance which, on January 1, 2005, will reflect the Dual Choice Plan with Dean Care and Unity Health Insurance. The Dual Choice Plan shall then be the minimum levels of coverage and benefits for health insurance.

Add Article 13.03(e) to read as follows:

Effective January 1, 2005 the prescription medication co-payments will increase to $3 for generic and $6 for name brands.

Effective January 1, 2006 the prescription medication co-payments will increase to $4 for generic and $8 for name brands.

Effective January 1, 2007 the prescription medication co-payments will increase to $5 for generic and $10 for name brands, with a maximum out of pocket for such co-payments of $800.

Article 30 – Duration.

30.01 Term: This Agreement shall be in full force and effect from January 1, 2005, to and including December 31, 2007. The Agreement shall be automatically renewed from year to year thereafter, unless the party desiring to modify, alter, or otherwise amend the Agreement or any of its provisions, gives to the other party written notice on or before October 1, 2007. In the event such notice is served, the parties shall operate temporarily under the terms and provisions of this contract until a new contract is entered into.

STATUTORY CRITERIA:

Wis. Stats. 111.70(4) (cm) (7) directs the Arbitrator to consider the factors cited there in deciding this dispute; to "give 'greatest weight' to any state law or directive lawfully issued by a state legislature or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal

Employer" and to "give 'greater weight' to economic conditions in the jurisdiction of the municipal Employer than to any of the factors specified in subd. 7r". Accordingly, this arbitration award will be rendered after considering these factors and the evidence and arguments advanced by the parties as it relates to these factors.

POSITIONS OF THE PARTIES; ANALYSIS AND DISCUSSION:

Greatest Weight; Greater Weight Factors:

In a discussion concerning the "greatest weight" and the "greater weight" factor cited in 111.70(4)(cm)7, the Employer grants the Arbitrator authority to determine the role these two factors will play in this dispute but asserts that the "interests and welfare of the public" and the "financial ability of the unit of government to meet the costs of any proposed settlement" factor cited in the other factors is relevant and arguments pertaining to them should properly fall under the "greatest" or "greater" weight elements of the statute. The Union, however, citing growth in the City's fund balance and the increase in the City's expenditure restraints, states that "it is no surprise that greatest weight has not been argued in this case." Since neither party has presented evidence relevant to either factor, they will not given weight in determining the reasonableness of the final offers.

Comparability:

With respect to comparables, the Employer asserts that great weight should be given to the internal comparables since two bargaining units have reached voluntary settlements and those agreements take into account external comparability, the interest and welfare of the public, local economic conditions, the cost of living and all other factors considered relevant to this dispute. In addition, charging that any set of external comparables selected by the Arbitrator "could do a disservice to the parties," the City maintains that the comparables selected by previous arbitrators in disputes involving the City lacked commonality and that the Union's currently proposed comparables are "more outcome based rather than analytical, objective or even reliable." Continuing, it declares there is "no supporting financial or comparable data that would warrant this Arbitrator dictating that both parties must accept any of the communities on the Union's proposed list as comparables for the foreseeable future." Nonetheless, based upon "population, median income, miles from a major metropolitan area, municipal rate changes and equalized value changes analysis, it suggests the Arbitrator should review data it has provided for Baraboo, Beaver Dam,

Chippewa Falls, Delavan, Dodgeville, Elkhorn, Fort Atkinson, Jefferson, Lancaster, Merrill, Monroe, Portage, Reedsburg, Sparta, Tomah, Two Rivers and Whitewater when considering external comparability and proposed Baraboo, Merrill, Portage, Reedsburg, Sparta and Tomah as primary comparables. The Union, based upon comparables established by previous arbitrations involving the City and population proposes the following as comparables: Baraboo, Dodgeville, Grant County, Lancaster, Monroe, Mt. Horeb, Prairie du Chien, Portage, Reedsburg, Richland Center, Sparta and Tomah.

Discussion: It is interesting that the Employer has provided evidence to be considered by this Arbitrator when reviewing external comparability and defined them as its primary comparables but urges that the Arbitrator identify no set of comparables in her decision. It is even more interesting to note that the Employer has urged that the Union's proposed comparables be rejected even though it included five of the twelve comparables proposed by the Union in its primary comparables. Further, it is interesting to note that the City contends that the comparables identified by arbitrators in earlier disputes involving it should not be considered but then includes three of the seven municipalities considered comparable by one of the previous arbitrators and four of the ten municipalities the other arbitrator considered comparable. In contrast, the Union urges that eleven municipalities and one county be considered comparable in this dispute, several of which were identified as comparables by one or both of the arbitrators in the previous arbitrations involving the City.

The Employer correctly states that an objective analysis of data such as population, median income, miles from a major metropolitan area, municipal rate changes and equalized value changes should be considered when analyzing whether a proposed municipality is comparable. In addition, there are other factors often considered by arbitrators. Among those demographic factors are geographic proximity; similar-sized workforce performing similar work and adjusted gross incomes, factors considered by the two arbitrators and the Union when each identified a set of comparables. Further, while the Employer asserts that this Arbitrator "could do a disservice to the parties" by identifying a set of comparables and "forever determin(ing) the 'Joneses' the City must try to keep up with, it has long been held by arbitrators that identifying a set of external comparables, whether voluntarily by the parties or through arbitration, helps both parties in future negotiations since the comparisons help to accurately reflect what municipalities similar to each other consider reasonable

and, consequently, provides some stability to the process. Concurring with these arbitrators, this Arbitrator has identified four municipalities which she considers comparable, based upon the comparability criteria considered by the City and geographic proximity to this community. They are Baraboo, Monroe, Portage and Reedsburg. These municipalities are similar in population size, have similar median incomes and have a similar tax levy rate.[1] In addition, Madison, Wisconsin is their primary metropolitan area and each municipality is within a two-hour drive of Platteville.[2] Since the parties both consider Sparta and Tomah comparable, they are being considered as secondary comparables since the demographics concerning these two cities does not, in this Arbitrator's view, make them comparable to Platteville.

Further, while this Arbitrator accepts the Employer's argument that weight should be given to the internal comparables since two bargaining units have reached voluntary settlements and those agreements take into account external comparability, the interest and welfare of the public, local economic conditions, the cost of living and all other factors considered relevant to this dispute and finds that internal comparables carry great weight when considering benefits such as health insurance, the statute, under other factors, specifically directs that external comparisons be made. Consequently, it is essential that an external set of comparables be established and considered when determining the reasonableness of both parties' offers.

Health Insurance/Drug Card:

Stating that it does not dispute the Union's assertion that the City's proposal regarding health insurance premium contributions asks the City's employees to contribute at a rate that is above many of the communities the Union considers comparable, the Employer, nonetheless, rejects this

[1] It is noted that the equalized value of all of the municipalities considered comparable is higher than that in Platteville but is it also noted that this same situation exists in all of the municipalities but two that either party proposed as comparables. Consequently, equalized value was not considered as a determinative criterion in identifying comparable communities.

[2] There would be a larger pool of geographically proximate comparables if municipalities identified as comparables by both parties as well as those identified by the previous arbitrators were included. That pool would include, among others, Baraboo, Dodgeville, Lancaster, Monroe, Portage, Prairie du Chien, Reedsburg, Sparta, Tomah and Whitewater. An analysis of their similarities, however, indicated that Whitewater is significantly larger in population and that Dodgeville, Lancaster and Prairie du Chien have significantly smaller populations. In addition, except for Dodgeville, all of those proposed comparables had lower median incomes than that in Platteville and all had lower tax levies. Further, several of these municipalities were geographically near more than one metropolitan area and had higher percentage increases in equalized value than did Platteville. For these reasons, they were not considered as primary comparables even though both parties suggested Sparta and Tomah were comparable communities. In addition, Grant County was not included as a comparable since except for the Union's assertion that some employees in the County perform work similar to employees within the City there was no evidence to support its inclusion.

argument. Declaring that many of those same communities have subscribed to the State Plan which requires Employers to contribute 100% of the premium for certain lower level plans with a reduced level of benefits, the Employer notes that its plan is far better than these plans. As proof, it states its plan provides first-dollar coverage for nearly every medical problem an employee might experience; that there is no deductible; that there is no co-pay for almost every benefit, and that in addition it self-insures to cover any employee out-of-pocket costs above the maximums. Further, with respect to the drug card issue, the Employer states that its proposal of a $5 generic and $10 name brand drug card is "completely" supported by the external comparables. Finally, the City, urging greater consideration of internal comparables than the external comparables, declares it is significant that the health insurance benefits for every represented bargaining unit in the City, including both plan design and employee contributions, has remained identical since 1996 and concludes this historical linkage and consistent pattern of bargaining should not be undermined.

The Union, however, argues that it should not be required to contribute toward the premium since the Employer is seeking to change the *status quo*. As support for its position, it cites criteria identified in WERC Case 26491-A and declares the City has failed to show a need for the change; has failed to show its proposal reasonably addresses any need for change; has failed to show that its proposal is supported by the comparables and has failed to offer a *quid pro quo* for the change. The Union adds that during negotiations for the 2005-07 collective bargaining agreement it permitted the City to make a change in the design plan and that this change has saved the City $18,803.40 in 2005.

Continuing, the Union states that providing health insurance in this country has continued to be a problem with costs going up despite the fact that employees are being asked to pick up more and more of the costs and that having employees contribute more toward their health insurance in these instances has not and is not going to stem the "rising tide of health insurance costs." As support for this assertion, it notes that the arbitrator in WERC Case 3055-A concurs.

The Union also argues that the external comparables do not support such a change. Making rate comparisons with its proposed set of external comparables, the Union declares that this change would cause it to be ranked second from the bottom in terms of employer contribution with seven of the comparable cities paying 100% or better of the employees' health insurance. The Union adds that when actual dollar contributions are compared with these comparables the City would be

contributing less toward the single plan than any other comparable employer and less than the average toward the family plan if an employee chooses the lowest cost option under the Union's proposal and slightly more than the average toward the family plan if an employee chooses the highest cost option. Finally, based upon these comparisons, the Union concludes that the employees in this City "are already paying more than almost all other employees" who are in the comparables and that if they are required to pay more they will fall "farther and farther behind" other employees in comparable municipalities.

Continuing, the Union asserts that the City has never offered a *quid pro quo* in exchange for the insurance premium change it is proposing and declares that while the City is seeking that employees pick up another 3% of the insurance cost over a three-year period it hasn't offered any additional monies to offset the cost of the increase to the employees. As support for its contention that the City's proposal should be rejected since no *quid pro quo* was offered, the Union cites WERC Case 30740-A in which the arbitrator concluded the Union's offer on health insurance premium contributions was more reasonable since the Employer did not offer a *quid pro quo.*

Finally, addressing the drug card issue, the Union asserts that its proposal gets the City to the same place the City's proposal does except that it is done more incrementally to make the change with as little pain as possible. It then adds, however, that the Employer's health insurance proposal would also erode the employees' dental insurance benefit, a circumstance that flies in the face of what other employers among the comparables are doing.

While the Union relies primarily upon external comparables to support its proposal it also charges that internal comparisons do not support the Employer's offer. First, it asserts that the City's reliance upon two internal settlements as a pattern that should be followed in these disputes is misplaced since the two units that settled represent a total of 20 employees while the two units in arbitration represent a total of 38 members. Continuing, it states that such a reliance would be similar to the "tail wagging the dog" and that, therefore, the voluntary settlements should not be given substantial weight. As support for this position, it cites a Lincoln County Voluntary Impasse arbitration in which the arbitrator concluded that internal comparisons were not persuasive given the County's entire bargaining history; its premium cost history; its premium cost relative to premium costs in other counties; a finding that the internal pattern was not controlling, and a finding that the *quid pro quo* was not sufficient.

Specifically addressing the internal comparables in this dispute, the Union states that the Police Union settlement has a different health insurance contribution than that of the Dispatch Union and the Employer's offer in these disputes. Based upon these differences in premium contribution, the Union declares that the City "cannot argue that they need the same health insurance concessions" from these units because they want uniformity with the other units. The Union also notes that there are other differences in the contracts as well and cites differences in allowed accumulated sick leave and the differences in holiday benefits as proof uniformity is not a high priority for the Employer.

Discussion: It is not surprising that the health insurance benefit is an item in dispute in this interest arbitration. Over the years, when the cost to provide health insurance coverage was an affordable item, public sector employees were able to negotiate excellent health insurance coverage, frequently paid for entirely by the employer. In the last few years, however, health insurance costs have skyrocketed and employers in the public sector have sought to have employees share in the cost of providing this benefit either through increased contributions toward the premium or a change in plan design.

In this dispute, the record establishes that in the past, the City has provided outstanding coverage for its employees. It also establishes that when the City was advised that the health insurance provider would no longer provide coverage for services provided through the Dean provider network with a year remaining on the collective bargaining agreement, the City negotiated a special one-year agreement with the health insurance provider that would allow employees to continue to use the Dean services through Dean providers. Further, it establishes that this option is still available to City employees under the Dual Choice plan. Under the Dual Choice plan those who opt for the Dean Plan presently pay 7% of a $50.00 per month family plan increase and those who opt for the Unity Plan pay 7% of a $130.00 increase. Under these plans, employees have no deductibles and no co-pays and relatively few other out-of-pocket costs. Further, the City self-insures to pay employee out-of-pocket costs above the maximums.

As an indication of the desirability of this plan, two bargaining units within the City have already voluntarily settled their new contracts with the City and in each contract the employees agreed to gradually increase their premium cost share from the current 7% to 10% by January 1,

2007.[3] Contrary to these voluntary settlements, the units in this dispute argue for no change. Despite the Union's assertion that the Employer's offer should not be found reasonable since it has failed to establish a need for the change and has failed to offer a *quid pro quo*, the internal voluntary settlements together with the fact that there has been no change in the plan design despite increasing premium costs strongly indicates that the City's health insurance offer, which is very similar to the settlements, is the more reasonable of the two offers and that the need for a *quid pro quo* is not great.[4]

Further, when the City's final offer on health insurance, including its drug card proposal[5], is compared with health insurance premiums and drug card payments among the external comparables, it is again concluded that the City's offer is more reasonable than that of the Union. Among the four municipalities deemed comparable, two municipalities pay the entire premium and no premium pay evidence was provided for the other two municipalities. The fact that Baraboo and Monroe both pay the entire premium is not reason to conclude that the Union's proposal for no change is more reasonable when compared with the external comparables since the record establishes that both of these municipalities have entered into the State insurance plan and are required to contribute 100% of the premium when subscribing to the lowest cost option. The same is true when the premium payment made by the City of Sparta and Tomah is considered. There, just as with Baraboo and Monroe, Sparta has opted for the State plan and there is no premium pay evidence available beyond 2005 for Tomah. Given this information, it must be concluded that the City's offer is also more reasonable than the Union's when external comparables are considered.

Wages:

There is only a slight difference in wages under the two proposals. The City offers a 2/1 split in each of the three years while the Union seeks a 3% increase in wages in each of the three years. The City argues that its proposal is more reasonable when a comparison of internal and

[3] The Police Union agreed to a 7% co-pay beginning January 2005 and a 10% co-pay in each of the following two years beginning January 2006. The Dispatch Union agreed to increase its co-pay to 8% in January 2005, 9% in January 2006 and 10% in January 2007.

[4] In arguing for no change in the premium co-pay the Union has pointed out that by entering into the Dual Choice plan, the City has saved nearly $19,000 over what it would have had to pay under the 2004 renegotiated plan. This argument is not persuasive since the City will still be paying a higher premium rate.

[5] The City proposes $5.00 for generic drugs and $10.00 for brand name drugs while the Union proposes $3.00/$6.00 in 2005; $4.00/$8.00 in 2006 and $5.00/$10.00 in 2007. An analysis of the amounts paid by employees in the primary comparables as well as the secondary comparables indicates that the City's proposal is consistent with the amounts paid among both sets of comparables.

external settlements among the comparables is made. The Union, however, argues that its offer is more reasonable when a benchmark analysis is made.

Discussion: It is noted that while the City's cost would be slightly less if adopted, the wage rate for the employees in both bargaining units will be the same since both offers result in the wage rate being increased by 3% in each of the three years. Given this fact, the Union's benchmark argument is not persuasive. Further, it is concluded that the City's offer is more reasonable given the wage settlements arrived at among the internal and external comparables. Internally, the other two bargaining units (approximately one-third of the City's organized employees) have voluntarily agreed to a 2%/1% split in each of the three years. These settlements are identical to the offer the City is making to the two bargaining units in this dispute. Further, when the wage settlements among the four municipalities are compared with the parties offers in this dispute, the comparisons show that the City's offer is more reasonable in 2005 – Baraboo has a 3% wage settlement; Portage has a 2%/1% wage settlement; Monroe has a 2.7% wage settlement and Reedsburg has a 2.75% wage settlement. The same holds true when secondary comparables are added in. While the Sparta settlement reflects a 3.75% wage increase, Tomah's settlement is at 2.5%. Given these percentage increases in 2005 and limited information that indicates settlements in 2006 and 2007 will be similar to the 2005 settlements, the reasonableness of the City's offer is not lessened.

While both parties provided Consumer Price Index information to support the reasonableness of its offers under the cost of living factor, there is no need to address this factor since the wage offers are essentially identical. Further, the internal and external comparables wage settlements establish that both offers are reasonable under the cost of living factor.

Duration:

The parties' final offers differ with respect to language establishing the duration of the collective bargaining agreement although both provisions set the term of this collective bargaining agreement at three years. During the hearing, neither party addressed this issue but in its brief, the Union charged this language was never proposed during bargaining and declares that the City's proposed language is ambiguous and should, therefore, be rejected. In response, the City challenged the Union's assertion that the language was never bargained and asserts the Union's attempt to raise the issue in its brief is "fundamentally unfair to the Employer, the Arbitrator and the process itself."

Discussion: While it appears that the City is proposing language which will result in a collective bargaining agreement that expires at the end on December 31, 2007, it did not address this issue during the hearing and the Union did not raise an objection to this proposed language then. There is nothing that prevents the Union from raising an objection to that language in its brief but one wonders why this issue was not raised at the hearing or before the WERC since it is obvious the City's proposed language has existed in its final offer since April 11, 2005. If the Union truly believed this issue had not been discussed and had a serious objection to it, it could have objected at the time the final offers were filed with the WERC. Since it did not, it must be concluded that the Union was well aware of this proposed language. Further, since neither party produced evidence for retaining the current language or modifying it as the City proposed the reasonableness of the two offers will not be determined.

CONCLUSIONS:

Following is a summary of the conclusions reached in this dispute:

The appropriate set of comparables consist of four municipalities – Baraboo, Monroe, Portage and Reedsburg. A secondary set of comparables includes Tomah and Sparta. These two municipalities are considered as secondary comparables only because both parties included them in their proposed set of comparables although neither is comparable to Platteville when the demographic criteria provided by the parties is considered.

Based upon the internal settlement pattern and a comparison of data provided concerning the primary and secondary external comparables as well as the parties' wage offers compared to the cost-of-living establishes that the City's wage proposal is as reasonable as that proposed by the Union.

Finally, based upon the health insurance settlement pattern within the City and the fact that the City's proposed language is reasonable when compared with health insurance provisions among the external primary and secondary comparables, it is concluded that the City's offer is more reasonable than the Union's proposal. It is also concluded that there is no need for a *quid pro quo* since the insurance coverage offered by the City is acceptable to two bargaining units within the City and since it far exceeds the insurance benefit enjoyed by employees among the primary and secondary comparables.

AWARD

Having given consideration to the statutory criteria set forth in Wis. Stats. 111.70(4) (cm) (7); having considered the arguments and evidence advanced by both parties, and having reached the above conclusions, it is determined that the final offer of the City, together with the stipulations of the parties and those terms of the predecessor collective bargaining agreement which remained unchanged thoughout the course of bargaining shall be incorporated into the 2005-2007 collective bargaining agreement for both bargaining units.

Dated January 23, 2006 at La Crosse, Wisconsin.

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Sharon K. Imes, Arbitrator

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