BEFORE THE ARBITRATOR

In the Matter of the Interest
Arbitration of a Dispute Between

**ROCK COUNTY EMPLOYEES,
LOCAL 2489, AFSCME, AFL-CIO**

Case 371
and No. 65996 INT/ARB-10750
Decision No. 32137-A

ROCK COUNTY

Appearances:

Mr. Thomas Larsen, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 1734 Arrowhead Drive, Beloit, Wisconsin 53511-3808, appearing on behalf of the Union.

Attorney Eugene R. Dumas, Deputy Corporation Counsel, Rock County, Rock County Courthouse, 51 South Main Street, Janesville Wisconsin 53545-3978, appearing on behalf of the County.

ARBITRATION AWARD

By Order dated July 12, 2007, the Wisconsin Employment Relations Commission, herein "WERC," appointed Dennis P. McGilligan as the Arbitrator "to issue a final and binding award, pursuant to Section 111.70(4)(cm)6. and 7. of the Municipal Employment Relations Act," to resolve the impasse between the above-captioned parties "by selecting either the total final offer of Local 2489, AFSCME, AFL-CIO or the total final offer of Rock County."

A hearing was held in Janesville, Wisconsin, on September 24, 2007. The hearing was not transcribed. The parties completed their briefing schedule on November 23, 2007.

After consideration of the entire record and the arguments made by the parties, the Arbitrator makes and renders his decision and Award.

BACKGROUND

Facts Leading to the Instant Dispute

Local 2489, AFSCME, AFL-CIO, herein "Union," represents for collective bargaining purposes a Courthouse unit of certain clerical, non-professional employees of Rock County, herein "County" or "Employer." The unit consists of all regular full-time and regular part-time employees in the Rock County Courthouse (Janesville), the Rock County Department of Human Services, the Rock County Public Works Department, non-deputized employees of the Rock County Sheriff's Department (correctional officers), and the Rock County Communications

Center (dispatchers), but excludes certain employees as certified by the WERC on March 9, 1981, Case CXXVI, No. 27374, ME-1960, Decision No. 18446.

The Union filed an interest arbitration petition on June 21, 2006, with the WERC. The WERC appointed Karen J. Mawhinney, a member of its staff, to conduct an investigation which she completed and then closed by June 11, 2007. On July 12, 2007, the WERC issued an Order appointing the undersigned to serve as the Arbitrator.

The parties have agreed on all issues except wages for a 2006 collective bargaining agreement.

Recent Bargaining History

There are nine other bargaining units in the County. They include Local 1258, AFSCME (Nursing Home/Health), Sheriff's Department Deputies, Association of Mental Health Specialists-Human Service Professionals, Association of Mental Health Specialists-Health Care Center Professionals, Deputy Sheriff Supervisor's Association, SEIU District 1199W/United Professionals for Quality Health Care (Nurses), Attorneys, Juvenile Detention-WPPA/LEER and Local 1077, AFSCME (DPW). There also are non-represented employees.

The County's collective bargaining agreements with all ten (10) bargaining units expired at the same time at the end of the 2003 contract term. The County then began negotiations with all ten (10) bargaining units. Local 1258, AFSCME was the first bargaining representative to settle with the County. Local 1258 settled a two year contract with a 2% wage increase effective January 1, 2004, a 1% wage increase effective September 12, 2004 and a three tier prescription drug plan ($7.50/$15/$35) effective September 26, 2004. The parties agreed to a 2% wage increase for 2005.

Local 1258, AFSCME and the County subsequently agreed to a one year contract for 2006 which included a 3% wage increase and, effective upon ratification, health insurance modifications including the addition of a $15 office co-pay and an increase in the out-of-pocket maximum to $550 single/$1100 family.

The following bargaining units agreed to a three (3) year contract for the period 2004-2006: Association of Mental Health Specialists-Human Service Professionals, Association of Mental Health Specialists-Health Care Center Professionals, Sheriff's Department Deputies, Deputy Sheriff Supervisor's Association, Juvenile Detention-WPPA/LEER and Attorneys. These parties agreed to the following terms for 2004: a 2% wage increase effective January 1, 2004, a 1% wage increase effective July 1, 2004. In 2005 there was a 2% wage increase effective January 1, 2005 and a 1% wage increase effective July 1, 2005. Effective January 1, 2005, the parties also agreed to a $15 office co-pay, a three tier prescription drug plan as noted above and an out-of-pocket maximum of $500 single/$1000 family. For 2006 the parties agreed to a 1.5% wage increase effective January 1, 2006 and a 1.5% wage increase effective July 1, 2006. Effective January 1, 2006 the out-of-pocket maximum was increased to $550 single/$1100 family. Non-represented employees received these same wage increases and health insurance modifications for the three (3) year period 2004-2006.

SEIU District 1199W/United Professionals for Quality Health Care agreed to a 2004-2006 collective bargaining agreement with the County that provided for a wage increase of 2% effective January 1, 2004, 1% effective July 1, 2004, 2.5% wage increase effective January 1, 2005, 2% wage increase effective July 1, 2005, 2% wage increase effective January 1, 2006 and 2% effective July 1, 2006 and an additional step at 180 months which is 2% above the 78 month step as well as the modified health insurance changes noted above.

Local 1077, AFSCME and the County were unable to agree voluntarily to a successor collective bargaining agreement. The parties ultimately selected Arbitrator Herman Torosian as the arbitrator and he selected the County's final offer to be incorporated in the 2004-2005 collective bargaining agreement between the parties. *Rock County (Department of Public Works), Decision No. 31679 (Torosian, 3/29/07).* The County's final offer included a 2% wage increase effective January 1, 2004, 1% wage increase effective July 1, 2004, 2% wage increase effective January 1, 2005 and 1% wage increase effective July 1, 2005. The following health insurance changes also went into effect January 1, 2005: a three tier prescription drug plan as noted above, an out-of-pocket maximum increase to $500 single/$1000 family annually and a $15 office co-pay.

Local 1077, AFSCME and the County agreed to a one year contract for 2006 which provided for 1.5% wage increase effective January 1, 2006 and 1.5% wage increase effective July 1, 2006 and out-of-pocket maximums of $550 single/$1100 family.

During their negotiations for a successor agreement to the contract that expired at the end of 2003, the Union and the County tentatively agreed to the 3 year agreement that included the modified health insurance changes noted above but the settlement agreement was voted down by the Union membership. Thereafter during mediation with WERC mediator Bill Houlihan, the Union agreed to a two year contract with basically the same 2004-2005 wage settlement that Local 1258, AFSCME agreed to (a wage increase of 2% effective January 1, 2004, a 1% wage increase effective July 1, 2004 and a 2% wage increase effective January 1, 2005) with the three tier prescription drug plan effective September 1, 2005.

FINAL OFFERS

The Union's final offer states:

1. Add language of Section 10.07 to both paragraphs of Section 10.10.

2. Modify Section 10.10 to change February "1last" to February 1st.

3. Modify Article 14 to delete Section 14.01(E)(1).

4. Wage adjustment as follows: 3% effective 1/1/2006
   1% effective 12/31/2006

5. Insurance changes effective 12/31/2006 as follows:

a. $15 office co-pay which does not apply to deductibles or out-of-pocket limits;
b. Out-of-pocket limits $550/$1100.

6. Provide for a term of agreement of one year, January 1, 2006 through December 31, 2006.

The County's final offer states:

1. Accept health insurance changes as follows:

   a. Out-of-pocket maximum increase as follows:
      Effective 12/31/06
         Single: From $425 to $550 annually
         Family: From $900 to $1100 annually

   b. Office co-pay: $15 per office visit, not subject to co-pay or out-of-pocket limits. Effective 12/31/06

2. Wages:

   1.5% - 1/106
   1.5% - 7/1/06

3. All tentative agreements previously agreed between the parties as follows:

   a. Correct typo in Section 10.10 from "February 1last" to "February 1st".

   b. Delete from Section 14.01(E)(1). Hours of work for jail kitchen staff. (County no longer has jail kitchen staff.)

   c. Add language of Section 10.07 to both paragraphs of Section 10.10.

The parties are in agreement that the only issue in dispute is wages. All other matters have been agreed to.

STATUTORY CRITERIA

In deciding the issues presented, Section 111.70(4)(cm)7, Stats., requires the Arbitrator to consider the following factors:

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 or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

POSITIONS OF THE PARTIES

The parties filed thoughtful and well-reasoned briefs. The parties' positions, arguments and cases cited are not reproduced in detail; instead they are summarized below. The parties' main arguments are discussed below in the **DISCUSSION** section of the Award.

Union's Position

The Union basically argues that a quid pro quo pay increase is strongly supported since the County's other bargaining units received the same adjustment when the same plan changes were implemented. The Union asserts the general wage increase it asks for reflects the same increase the County has agreed to with other bargaining units.

The Union also argues that the greatest weight factor is not applicable in the instant dispute because the County failed to enter evidence into the record demonstrating that any state-imposed expenditure or revenue restriction prohibits it from meeting the Union's offer.

The Union next argues that the cost of living data is not determinative in this matter since both parties' offers are consistent with the cost of living increase.

The Union further argues that the wage adjustment it has proposed will not alter the relative ranking of bench mark positions with comparable communities.

The Union concludes that an analysis of the two final offers using the statutory criteria reveals that the Union's offer is fair, reasonable and appropriate; and should prevail in this matter.

County's Position

The County initially argues that the "greatest weight" and the "greater weight" factors support its final offer but are not determinative in this case due to the relatively small difference in the cost of the parties' final offers. Instead, the County opines that the greatest weight should be accorded those factors which properly fall into the category of "[o]ther factors considered" under Section 111.70(4)(cm)7r. Stats.

The County next argues that the Union's final offer is inconsistent with a strong pattern of internal settlements. The County adds that this is a classic we can't reward the last "lone holdout" case.

The County also argues that its final offer is consistent with wage settlements among the external comparables. While acknowledging that the Union has abandoned any claim for "catch up" with external comparable groups of employees, the County opines that the clear pattern of internal settlements should prevail.

The County further argues that its final offer is reasonable when compared to the cost of living factor. In this regard, the County maintains that its offer is generous in comparison with the Consumer Price Index for 2006 of 2.4%. The County also maintains that its offer is a far more accurate measure of the local cost of living when you compare the regional and internal patterns of settlement.

Finally, the County argues that the interests and welfare of the public are better served by the County's final offer. In this regard, the County maintains that selection of the Union's final offer would undermine County efforts to coordinate approaches for controlling the costs of the County's health insurance program and to establish uniform fringe benefits for all employees. The County adds that the Union now seeks to have the Arbitrator impose a result that rewards the Union for its failure to work with the County, as other bargaining units have done, to control health insurance costs. The County claims that the Union's failure to accept the health insurance changes in the prior bargain has cost the County money.

For all the forgoing reasons, the County believes its offer should be selected.

DISCUSSION

The only issue in dispute is the amount and manner of wage increases proposed.

The Union proposes a 3% wage increase effective January 1, 2006. The Union also proposes that as a quid pro quo for agreeing to the changes in the health benefit plan an additional 1% wage bump be given effective December 31, 2006.

The County instead proposes a 1.5% wage increase effective January 1, 2006 and an additional 1.5% wage increase effective July 1, 2006.

The County concedes that two of the statutory factors set forth above do not determine the outcome of this case due to the relatively small difference in the cost of the parties' final offers. They are the "greatest" and "greater" weight provisions of subsections 7 and 7g. Consequently, these criteria will not be given weight in determining the reasonableness of the parties' final offers.

Further, the parties do not rely on all of the statutory criteria in support of their offers. The criteria not relied upon include the "lawful authority," stipulations of the parties, the "ability to pay," comparison with private sector settlements, the "overall compensation" and "changes

during pendency" provisions of 7r a, b, c, f, h and i. Since said criteria are not addressed by the parties, the Arbitrator, like the parties, finds them to be non-determinative of the issues presented. *Sawyer County, Decision No. 31519-A, p. 6 (Torosian 9/20/06).*

With respect to the remaining criteria, the "interests and welfare" of the public provision of 7r c was addressed, but it is not as significant as the primary criteria of 7r d and e; external and internal comparables, the "cost of living" criterion of 7r g or the "such other factors" criterion of 7r j. Consequently, the Arbitrator does not find the "interests and welfare" criterion to be determinative of the outcome of this case. Its relative significance will, however, be discussed below.

The Arbitrator turns his attention to the issue in dispute.

The "Interests and Welfare" of the Public

The County argues that this factor favors its position because selection of the Union's final offer would undermine County efforts to generate a more coordinated, uniform approach for addressing health insurance issues by encouraging the Union and others to abandon this more collaborative approach to collective bargaining and go it alone on the very central issue of controlling health insurance costs. However, this argument is more appropriately addressed under the "such other factors" criterion of 7r j, and will be discussed below.

The parties make no arguments, and the record does not support a finding, that either party's offer materially affects the morale of employees in the bargaining unit or the efficient, fiscally responsible operation of County government. Consequently, the Arbitrator is unable to determine that this criterion significantly favors selection of the final offer of either party in these proceedings.

External Comparables

It is clear that the Union is not making a claim that "catch up" with external comparable groups of employees justifies the Union's final offer on wages. Instead, the Union argues its benchmark comparisons illustrate that the wage adjustment proposed by the Union will not alter the relative ranking as compared to the external comparables 2004-2006 wage rates. That may be. However, as discussed below, since the internal comparisons, cost of living and bargaining history criteria are determinative of the outcome of this case, the Arbitrator finds that the external comparables criterion does not favor either party's final offer.

Internal Comparables

There is considerable arbitral authority to provide that where a pattern exists among internal comparables, significant weight should be given to the internal pattern.

In *City of Milwaukee, Decision No. 25223-B, pp. 6-7 (9/16/88),* Arbitrator Zel Rice held:

> Forgetting the concept of parity, the mainstream of arbitral opinion is that internal comparables of voluntary settlements should carry heavy weight in arbitration proceedings. . . If the Employer is to maintain labor peace with the many bargaining units with which it negotiates, changes in wages and benefits must have a consistent pattern.

More recently, Arbitrator Thomas Yaeger in *City of Tomah, Decision No. 31083-A (2/18/05)* stated the significance of internal comparisons as follows:

> Fourth, as most arbitrators have concluded, including this one, an employer's ability to negotiate to a successful voluntary agreement with other unions the terms that it proposes in arbitration is a factor to be accorded significant weight, if not controlling weight, absent some unusual circumstance surrounding such an agreement(s) that diminishes it[s] persuasive value. *See pp. 21-20 and the cases cited therein.*

Likewise, Arbitrator Herman Torosian has held internal comparables to be of significant importance. *Sawyer County, supra, p.12.* In *Washington County (Department of Social Services), Decision No. 30459-A, p. 20 (5/7/03),* Arbitrator Torosian explained the issue as follows.

> Generally stated, both employers and employees have the same interest when it comes to internal comparables. Both recognize that consistency among various bargaining units and equitable treatment of employees promotes stability in the collective bargaining process and positively impacts employee morale. It is for said reason that arbitrators favor internal comparables over external comparables where a pattern exists, unless there is good reason to deviate. *p. 21.*

Finally, as pointed out by the County:

> Enhanced weight may be placed on internal comparison, however, in at least two situations: first, where certain fringe benefits, such as group medical insurance coverage, can be most efficiently and economically provided and administered when it is uniform for all employees; and/or, second, where multiple bargaining units with a single employer have established a pattern of settlements which is the most persuasive indication of the settlement the parties would have reached at the bargaining table, had they been able to do so. In the latter connection, relative uniformity of settlements is also conducive to successful ongoing collective bargaining within multiple bargaining units, and an arbitrator should be reluctant to undermine such uniformity in the absence of persuasive evidence justifying such action. *Outagamie County, Decision No. 31400-A, p. 21 (Petrie 2/7/06).*

Contrary to the Union's assertion, most of the County's other bargaining units (7 of the other 9) have voluntarily settled for the same wage increase included in the County's final offer herein: 1.5% wage increase effective January 1, 2006 and an additional 1.5% wage increase effective July 1, 2006. (Union Exhibit No. 6; County Exhibit No. 9g). The record also

indicates that the unilateral employees' pay play (County Exhibit No. 9e) included the same wage increases for 2006. The only bargaining unit to settle for a 3% wage increase effective January 1, 2006 as requested on the front end by the Union herein is the Nursing Home bargaining unit employees represented by Local 1258, AFSCME. They, unlike the Union, made concessions by eliminating free meals and an incentive day off for not using sick leave in order to receive a 3% wage increase on January 1, 2006. (Testimony of Human Resources Director John Becker). The only other bargaining unit to receive a higher wage increase in 2006 was the public health nurses represented by SEIU District 1199W/United Professionals for Quality Health Care. (Union Exhibit No. 6). Market forces were an important factor in this disparity. (Testimony of Becker). They are not a factor in this proceeding. Based on the foregoing, internal comparisons clearly support the County's final offer.

Prior bargaining history of the County's bargaining units also favors the internal comparison criterion. In this regard, the Arbitrator points out that since 1996 there has been a great deal of uniformity in the general wage increases. (Union Exhibit No. 6).

Consumer Price Index (Cost of Living)

Each party claims the Consumer Price Index ("CPI") favors its offer. The statute requires an arbitrator to consider "the average consumer prices for goods and services, commonly known as the cost of living."

It is well established the total package cost of the parties' offers is the appropriate measure to use in a comparison with inflation indices. *River Falls School District, Decision No. 30959-A, pp. 22, 31 (Torosian, 3/22/05); Buffalo County, Decision No. 10337-A, p. 30 (Hempe, 5/16/06).* Also, many arbitrators have noted that an analysis of CPI changes should focus on the previous one-year period. *City of South Milwaukee, Decision No. 31993-A, p. 30 (Hempe, 10/08/07).* If that were done in this matter, the CPI comparisons would focus on the annual 2005 CPI figures (for analysis of 2006 contract proposals). In doing so, the Arbitrator rejects the County's suggestion that the applicable CPI is for 2006.

The parties are in agreement that the CPI for 2005 was 3.2%. (Employer Exhibit No. 7; Union Exhibit No. 9). The overall % increase for the County's offer is 2.9965%. (County Exhibit No. 4). The overall % increase for the Union's offer is 3.57144%. (County Exhibit No. 5). That means the County's offer is about .2% under the CPI while the Union's offer is about .4% over it. The County's offer is closer to the CPI.

In addition, as pointed out by the County, local settlement patterns also cast light upon the cost of living in any given geographical area and better reflect the context for appropriate wage offers in any given geographical area. *City of Rice Lake, Decision No. 31757-A, p. 12 (Schiavoni, 1/20/07).* Internal and external settlements establish relevant settlement patterns. *City of Rice Lake, supra, p. 13.* Here, the internal settlements clearly favor the County's offer while the external settlements are not a factor in favor of either party's offer.

Based on the foregoing, the Arbitrator finds that the cost of living criterion favors the County's offer.

Such Other Factors

Quid Pro Quo

The bargaining history shows that in the previous round of bargaining the parties voluntarily reached an agreement which was out of step with the pattern established by the majority of the County's bargaining units. The other units had agreed to change the health insurance plan by adding a $15 office co-pay as well as increased out-of-pocket maximums. The bargaining unit involved in this case chose to forgo the office co-pay and increased out-of-pocket maximums in return for a general wage increase which was one percent (1%) less than the other units.

The Union points out that in the current negotiations for the 2006 contract, the County indicated its strong desire that the health insurance plans for the bargaining units be consistent. The Union also points out that, to that end, it has agreed to bring its benefit levels back in line with the other units. The Union further notes that in the instant matter, the County's final offer fails to include a quid pro quo for the health insurance concessions it sought; a quid pro quo provided to other County employees who have accepted the changes to the health insurance plan. The Union opines that in the interest of consistency and fairness the County should be required to provide a quid pro quo in order to gain the health insurance changes agreed to by the Union.

The Union correctly points out that the County by its own actions has demonstrated its recognition that it was necessary to provide a quid pro quo in order to gain the health insurance changes it sought. (Emphasis in the Original). Also as noted by the Union, consistency and fairness in these matters is preferred. In this regard, the Union cites favorably the following comments by Arbitrator Mary Jo Schiavoni in *Columbia County, Decision No. 28983-A, pp. 17-18 (9/3/97)*:

> The County argues that it need not offer a quid pro quo for its proposed change, given the necessity for the change. . . .
>
> Nor has the County persuaded the undersigned that it is treating all of its internal bargaining units with consistency at this point in time. For this reason, the undersigned believes that the internal comparables favor the Union's proposal, given the County's offer of a quid pro quo to the nurses without a commensurate quid pro quo to this unit.

as well as these comments by Arbitrator Chris Honeyman in *Village of Germantown, Decision No. 31006-A, p. 17 (3/28/05)*:

> Finally, the "quid pro quo" element is not met, in an environment in which the Employer proposes a .5% wage add-on in the second year of the contract plus a 1% add-on for the future (with the same current percentage increase during the third year as the Union's offer) in wages, where apparently it has provided a much

larger incremental improvement in wages to be an acceptable trade-off to obtain the same insurance provision.

While agreeing with the Union that consistency and fairness in the matter of offering quid pro quos is preferred, the Arbitrator rejects the County's contention that this is a classic "lone holdout" case. Under this standard, arbitrators are reluctant to reward the Union that holds out when all others have agreed to a provision, particularly where the issue in dispute concerns a benefit. *City of New Berlin, Decision No. 29683-A, pp. 17-18 (Dichter 5/18/00) and the cases cited therein*. Here, the Union is not holding out. It has agreed to the proposed health insurance changes; it simply wants the same quid pro quo afforded other bargaining units in exchange for the health insurance changes in question. In addition, the classic "lone holdout" case normally involves the same contract period in which the "lone holdout" bargaining unit rejects, for example, the health insurance changes agreed to by everyone else. The appropriate time for the County to have made the argument to bring this alleged "lone holdout" in line with the rest of its bargaining units would have been during negotiations for the 2004-2005 collective bargaining agreement. The County could have forced the Union to go to arbitration on the issue of the health insurance changes but chose not to. Instead, the County voluntarily agreed to a collective bargaining agreement with the Union on terms it apparently found satisfactory at the time.

Ordinarily, the Arbitrator would agree with the Union that, in the interests of fairness and consistency, if the County offered a quid pro quo to other bargaining units in return for accepting the health insurance changes it should offer a quid pro quo to this Union for accepting those same changes. That would be particularly true if the Union had agreed to the same split 1.5% wage increases on January 1 and July 1, 2006 that seven (7) of the County's other nine (9) bargaining units agreed to. Instead, the Union asks for significantly more money in actual wages for 2006 than those units. In this regard, the Arbitrator points out that the Union's final offer of a 3% wage increase effective January 1, 2006 costs the County 3% in additional money for 2006 while the County's final offer of a 1.5% wage increase on January 1, 2006 and an additional 1.5% in wages on July 1, 2006 costs only about 2.25%. In salary alone, this difference in the two parties' wage offers is $81,512. (County Exhibit Nos. 4-5). The Union, however, offers no persuasive evidence or argument in support of the higher amount.

The County's final offer, on the other hand, contains no quid pro quo for the health insurance concessions it successfully sought in 2006 with this Union, a quid pro quo previously provided to other County employees who had accepted the changes to the health insurance plan. The County argues that such an omission is appropriate because the Union's earlier failure to agree to the same health insurance changes that virtually all other bargaining units had already agreed to accept has cost it approximately $83,000.00 over a two year period from 2005 through 2006. (Testimony of Becker). However, the record indicates that in the previous bargain the Union chose to forgo the office co-pay and increased out-of-pocket maximums in return for a general wage increase which was <u>one percent (1%) less than the other units</u>. (Emphasis added). The record contains no evidence as to what cost savings the County enjoyed during this same time period of 2005-2006 as a result of the bargaining unit receiving 1% less in wages than most of the other County employees. Given the size of the instant bargaining unit, however, the Arbitrator assumes those savings were considerable. (Union Exhibit No. 3, pp. 1, 26-28).

The County also argues that it is difficult to quantify all the economic impacts of the Union's failure to agree to the health insurance changes earlier. However, the County offered no evidence of such impacts. Therefore, the Arbitrator likewise rejects this argument of the County.

Other Bargaining Considerations

The County also argues that selection of the Union's final offer would undermine its efforts to coordinate approaches for controlling the costs of the County's health insurance program and to establish uniform fringe benefits for all County employees. The County adds that selection of the Union's final offer would impose a result that rewards the Union for its failure to work with the County, as other bargaining units have done, to control health insurance costs.

The County correctly acknowledges one factor "normally or traditionally" considered is "the intrinsic value of voluntary settlement as it contributes to labor relations, to the work environment and productivity, as well as its avoidance of the transaction costs associated with failing to settle." (Emphasis added). *Frederic School District, Decision No. 31361-A, p. 4 (Bellman 12/29/05)*. However, if the County wants a more uniform, cooperative approach to controlling health insurance costs shouldn't it have a more uniform, consistent approach to the method(s) used to achieve those results? If the County had offered a quid pro quo to the Union for the agreed-upon health insurance changes the County might have encouraged a voluntary settlement of the only issue in dispute, wages, thus avoiding the cost of this proceeding. In fact, the Union has agreed to the health insurance changes sought by the County thus bringing its benefit levels back in line with the other bargaining units and achieving the uniformity sought by the County. In the Arbitrator's opinion, the County's bargaining stance is more likely to achieve the exact opposite of the goal that it has set for itself – a commendable goal of establishing "an effective partnership with its bargaining unit representatives to address the challenges of escalating health care costs in a broad manner that goes beyond the question of health insurance premiums and deductibles."

Conclusions

This is a close call. On the one hand, the Union has established that its members deserve a quid pro quo for the health insurance changes it has agreed to. On the other hand, the Union's final offer on wages is not consistent with the appropriate internal comparisons and would cost the County significantly more in 2006 than those other bargaining units. The Union has not shown why it is entitled to this additional money. If the Union had proposed in its final offer the same 1.5% split in wage increases for 2006 that the other bargaining units have agreed to the Arbitrator's decision would be easy. However, because of this "reach" for more money on the Union's part, which as pointed out by the County, actually rewards the Union for being the last bargaining unit to agree to the health insurance changes in question, the Arbitrator finds that bargaining history and the "such other factors" criterion favors the County's offer. The Arbitrator reaches this conclusion notwithstanding the fact that the County might have achieved the uniformity it so desires by offering the Union a 1% quid pro quo for the health insurance changes along with the 1.5% split wage increases offered and accepted by the other bargaining

units in 2006 thus either avoiding arbitration through a voluntary settlement or likewise making the Arbitrator's decision easy.

Selection of the Final Offer

Having considered the statutory criteria, the evidence, and arguments presented by the parties, the Arbitrator, based on the above and the record as a whole, and in particular on the internal comparables, cost of living and "such other factors" criteria, concludes that the offer of the County is more reasonable than the offer of the Union, and to that effect the Arbitrator makes and issues the following

AWARD

The County's offer is to be incorporated in the 2006 collective bargaining agreement between the parties, along with those provisions agreed upon during their negotiations, as well as those provisions in their expired agreement that they agreed were to remain unchanged.

Dated at Madison, Wisconsin, this 7th day of December, 2007.

By _____
Dennis P. McGilligan, Arbitrator