

ARBITRATION DECISION

Waukesha County Highway Department
and
Teamsters "General" Local 200

Case No. LI 22869 Med-Arb. 80
Hearing Date: August 1, 1978
Decision: Nov. 14, 1978
Arbitrator: Gordon Haferbecker

Decision No. 16438-A

BACKGROUND

This is a Municipal Interest Arbitration case involving Waukesha County (Highway Department) and Teamsters Local 200. It concerns the contract for calendar years 1978 and 1979.

After expiration of their 1976-77 labor agreement the parties conducted six collective bargaining sessions but were unable to reach an agreement on a wage increase. On April 6, 1978, Teamsters "General" Local Union No. 200 ("the Union") filed a petition requesting the Wisconsin Employment Relations Commission to initiate mediation-arbitration pursuant to Section 111.70(4)(cm)6 to resolve an impasse between the Union and Waukesha County ("the County") with respect to employees of the Waukesha County Highway Department (the "Highway Department").

On June 1, 1978, the parties executed a stipulation setting forth their own procedures for final and binding arbitration. Pursuant to that stipulation the Arbitrator is to select the final offer of one of the parties without modification (Joint Exhibit 1). In reaching his decision the Arbitrator is to give weight to the same factors as set forth in Section 111.70(4)(cm) 7 Stats. (Tr. 4; Joint Exhibit 1, 13).

On June 21, 1978, the WERC notified Mr. Herman Rauch of Milwaukee that he had been selected by the parties to hear this interest arbitration case.

The arbitration hearing was held on August 1, 1978, at the Waukesha Exhibition Center, Waukesha, Wisconsin. Marshall R. Berkhoff and Myron L. Cauble, Jr., appeared on behalf of the Waukesha County Highway Department. They are from the firm of Michael, Best & Friedrich of Milwaukee. The Union was represented by Alan M. Levy and Timothy G. Costello of the firm of Goldberg, Previant & Uelman of Milwaukee. Duane Kraemer of Milwaukee appeared as a Business Representative on behalf of the Union.

The parties presented exhibits and witnesses. The proceedings were recorded by Jill M. Henrichs, a court reporter with the firm of Anthony C. Gill and Associates, Inc., of Milwaukee. The transcript was completed on August 15, 1978, and sent to the parties.

At the hearing, the Arbitrator, Herman Rauch, and the parties agreed that the Briefs would be filed with him by September 11, 1978.

Briefs for the Union were received by Arbitrator Rauch on September 9 and for the County on September 12.

Mr. Rauch died unexpectedly after he had received the materials related to the case and prior to his making a decision.

On October 9, 1978, Gordon Haferbecker of Stevens Point, Wisconsin, was invited by the parties to conclude the case and make a decision on the basis of the exhibits, the transcripts, and the briefs which had been submitted to Mr. Rauch. There would be no further hearing, argument, or commentary. Mr. Haferbecker accepted the appointment on October 16. The WERC sent the records in the case to Mr. Haferbecker on October 20, 1978, and these were received by him on October 21, 1978. The WERC officially appointed Mr. Haferbecker as arbitrator in the case on October 26, 1978.

STATEMENT OF THE ISSUE

The sole issue before the Arbitrator is wages. The County's final offer is a wage increase for all bargaining unit members of six per cent effective December 31, 1977, and an additional six per cent effective December 30, 1978. The Union's final offer as to wage increase for bargaining unit members is a seven per cent increase in wage rates retroactive to January 1, 1978, and an additional seven per cent increase on January 1, 1979 (Joint Exhibit 2(a) and 2(b)).

POSITION OF THE UNION

The principal arguments advanced by the parties will be summarized by the Arbitrator who will then proceed to analyze the issues in more detail.

The Union charges that the County failed to bargain in good faith because of the predetermination of a six per cent across-the-board increase in wages by the Negotiating Advisory Committee. The County Negotiating Committee had no power to vary from these figures.

The Union points out that the cost of living rose 6.8% in 1978. It points out that in applying the cost-of-living standard in arbitration concern must be paid to reasonable expectations and tendencies, not merely past records. The cost of living for 1978 will probably exceed the 1977 increase of 6.8%. Although the Milwaukee regional index was lower than the national index in 1977, there is no assurance that this will be the case for 1978 and 1979.

Under the County's proposal of a six per cent increase, a truck driver would gross an annual salary of \$12,708 but the Bureau of Labor Statistics of the U. S. Department of Labor states that a family of four in Milwaukee requires \$18,230 a year to maintain an intermediate standard of living.

The Union compares Highway Department wages with those provided for truck drivers who do the same type of work. The contract with the Teamsters Local 200 and the Southwestern Wisconsin Construction Materials Association, Inc., provides for a wage of \$8.74 an hour but this will increase to \$9.59 an hour upon the expiration of the current agreement (Union Exhibit 4, p. 47). Adjusting for seasonal unemployment, the seasonal private sector drivers would earn \$13,631 for 1978 while the Waukesha County truck drivers would earn \$12,708.

Highway Department truck drivers from surrounding counties earn substantially more than Waukesha County truck drivers. Milwaukee County drivers can make up to \$15,995 a year and Washington County truck drivers can make up to \$13,665 a year (Union Exhibit 3).

The County, in defending its wage offer, uses as partial justification, the reclassification of sixteen patrolmen but this is only 19 per cent of the unit labor force and the effect is only about three-tenths of one per cent. The uniforms to be provided by the County are being furnished for safety reasons and are not really an economic benefit.

The County has agreed to pick up the increased cost of medical insurance but this represents no change in the level of benefits. The cost of this insurance is not rising as rapidly as in earlier years. The 1975 and 1976 increases were 26.9 per cent and 21.7 per cent. The 1977 and 1978 increases were 12.2 per cent and 17.4 per cent. These recent increases are below the four-year average of 19.4 per cent that the County is using in its cost data.

The County's generosity is not as great as it claims in view of the fact that the number of bargaining unit employees has decreased over the past ten years from 100 to 84 while the number of miles of highway for which the County is responsible has decreased only from 710 miles to 680 miles. Thus there has been a work force reduction of 16 per cent and a workload reduction of only 4.4 per cent.

Union Exhibit 1 provides data on Waukesha County and neighboring counties concerning highway mileage, number of permanent full-time employees in the department and department budgets.

Union Exhibit 2 provides data concerning Waukesha and neighboring counties. It shows Waukesha County ranking above Milwaukee, Washington, Racine, Dodge, and Jefferson Counties in median effective buying income (1976) and adjusted per capita gross income (1975).

Union Exhibit 3 compares the wage rates for various classifications of highway employees in Waukesha County and the counties of Milwaukee, Washington, Racine, Dodge, and Jefferson and also the municipalities of New Berlin, Menominee Falls, and Waukesha. This exhibit is the one used to point out that Milwaukee County and Washington County truck drivers earn more than those employed by Waukesha County as cited earlier.

POSITION OF THE COUNTY

The County's first contention is that great deference should be given to the fact that four Waukesha County bargaining units have agreed to the general 6 per cent across-the-board wage increase. Only one union, other than the Highway Department, has failed to settle its 1978-79 contract. That union is the largest, AFSCME. In past municipal interest arbitration cases, arbitrators have given great weight to the effort of a county or city to treat its various groups of employees with some degree of consistency. Granting the seven per cent wage demand of this Union while other units have settled for six per cent would cause dissatisfaction among employees in other units and would be detrimental to good labor relations. There is no evidence here of any wage inequity to justify different treatment of Highway Department employees.

For 1978, the County's last offer should be valued by taking into account all fringes including the increase in health insurance premiums. The County's last offer included a 6% increase in wages, providing uniforms for the first time, picking up all increases in medical insurance premiums, and reclassifying some patrolworkers which will effectuate an immediate wage increase of 13¢ per hour for 12 of the unit employees. The wage increase, the uniforms, and the medical insurance premiums represent an increase of 7.14% in 1978 wages and fringes over 1977 wages and fringes. If the 13¢ per hour reclassification increase for 12 men is spread over the entire 86-man unit, this would add 3/10 of 1%, bringing the 1978 wage and fringe increases to a total of 7.44%. If the effects of longevity, including increased longevity pay and vacation are taken into account, then the 1978 increase is calculated to be an 8.1% wage and fringe increase for 1978 over 1977 (County Exhibit 5).

For 1979, the County's offer will result in a 6% increase in wages and fringes, not including health insurance increases. Health insurance increases for 1979 are not known at this time. If the average of the past four years were used, it would bring the increase to 7.2% on wages and fringes. If the increase were estimated at its four-year low, it would be a 6.7% increase; if the four-year high is used, it is 7.6%.

The Union has argued that the health insurance premium increase cannot be considered in the overall cost of benefits to the Union since it represents no increase in coverage. The County cites various municipal interest arbitrators who have held that this is still a benefit to employees since it represents the County's assuming an expense that the employees would otherwise bear and it is a wage-related expense to the County. It is an offset to increases in the C.P.I.

The County contends that its overall offer exceeds the cost of living increase for 1978 and the probable 1979 increase. The Consumer Price Index for Milwaukee in February, 1978, showed a lower rate of annual increase, 5.5%, compared to the national C.P.I. of 6.8% for 1977.

The County's assumption of cost increases in health insurance insulates the employees from one important component of the cost of living index. The C.P.I. also does not take into account 1977 federal tax reductions which were effective in April of 1978. These affect the employee's real income (County Brief, p. 13).

Using the Milwaukee inflation rate of 5.5%, the value of the County's wage and fringe offer for 1978 would be \$8.777, compared to \$8.568 needed to "stay even" (County Brief, p. 13).

The 1979 comparison. Usually wage increases are based on past years' C.P.I. increases because it is so speculative to consider future increases. Such future changes can be made up in the next round of negotiations. If the C.P.I. increase for the remainder of 1978 is assumed to equal 6.1%--the recent Milwaukee May, 1978 increase--the resulting 1979 "stay even" of \$9.091 is \$.214 per hour less than the County's 1979 offer valued at \$9.305 which ignores any increase in health insurance premiums for the year 1979. It would take an inflationary rate of 8.6% for the remainder of 1978 to produce a 1979 "stay even" wage plus fringes equal to that offer (\$8.568 plus 8.6% = \$9.305) (County Brief, p. 15).

If the inflation rate increases further in 1978, it would be reasonable to expect higher health insurance increases, thus providing some additional offset.

Comparable wages, public sector. The County contends that the Union's wage comparisons did not take into account Waukesha County's liberal longevity pay and that the Union's survey stressed truck drivers rather than patrolworkers who are the most important job classification (in terms of numbers of employees within the unit).

Even under the Union's public sector survey, the County's last offer for patrolworkers was 37¢ more than the average of the Union's comparables. Longevity pay and other differences would widen the gap to 62¢ per hour.

If longevity is taken into account, the County's last offer for patrolworkers, mechanics and truck drivers (including operators) exceeds the averages of the Union's comparable communities by 55¢, 31¢, and 22 1/2¢ respectively (County Brief, p. 21).

The County's last offer for patrolworkers of \$6.40 including longevity, is 22¢ higher than the average of all the units within Waukesha County and 62¢ higher than the average of all 36 units surveyed (Waukesha County units and neighboring counties) (County Exhibit 12 and County Brief, pp. 19-20).

The County provides details on its longevity pay plan (County Brief, p. 22) and argues that neither logic nor prior arbitration decisions can support the Union's failure to include the longevity pay in its wage comparisons.

In choosing its comparables within Waukesha County, the Union chose Menominee Falls and New Berlin, which had median family incomes, population density, and growth rates above the Waukesha County average (Union Exhibit 2). The Union survey is biased by omitting other Waukesha communities with lower family incomes, population densities and/or growth rates. The County survey was broad based and included all the Waukesha municipalities (except for a few smaller communities) listed by the Department of Revenue.

In view of the comparable wage comparison cited earlier, the demographic data and productivity figures cited by the Union do not justify a larger differential for Waukesha County employees.

Private sector comparisons. These are more difficult than public sector comparisons because of the difficulty of equating job duties of truck operators who drive larger equipment and the impact of seasonal employment in the construction industry.

The County has been able to employ personnel from private contractors at rates less than the cost to the County of using its own men (County Exhibits 8, 9, 10).

The County operates 45 single axle trucks. It owns only six dual axle trucks which are used primarily for back-up, for example, when there is very heavy snowfall or when the regularly assigned single axle trucks break down.

During the hearing, Duane Kraemer, Union Business Agent, testified that a truck driver for Payne and Dolan would have been paid \$8.29 per hour under one of P & D's contracts driving the Waukesha type of equipment (Transcript, p. 74). However, that contract shows the rate to be applicable only to tri-axle and semi-trailers (Union Exhibit 4, p. 47). The County does not own any tri-axle or any trucks with trailers (letter to H. Rauch from M. Cauble, August 15, 1978). Also, that Payne and Dolan contract does not have any job classifications covering single axle equipment (Union Exhibit 4, p. 47). Therefore, this Union wage comparison is of limited relevance to Waukesha's patrolworkers who drive single axle equipment.

The County cites exhibits and data showing that truck drivers in manufacturing typically earn lower wages than non-manufacturing truck drivers (County Exhibit 14, and County Brief, p. 32). Such differences are due to the seasonal nature of the construction and road building industry and to the larger equipment used there. The median rates for truck drivers as shown by a Milwaukee-Waukesha association of manufacturers' survey (County Exhibit 13) are from \$5.63 to \$6.07 for April of 1978. Thus they average around 55¢ below Waukesha's \$6.40 rate for a patrolworker.

On the issue of productivity the County pointed out that the reduction in manpower was made possible in part by the use of trucks with hydraulic transmissions and through the use of heavier trucks (Transcript, p. 61).

The County's final contention is that its high job application rate and low employee turnover are good indications that Waukesha County has a high rate of compensation (Transcript, 26-27).

ARBITRATOR'S ANALYSIS

Waukesha County's 6% Pattern. The Union contends that the County did not bargain in good faith because of the pre-determination of a 6% across-the-board increase in wages by the Negotiating Advisory Committee. I do not feel that the testimony at the hearing supports the charge. It is certainly common practice in collective bargaining for the Employer, in this case the County, to establish general instructions or guidelines for the negotiating team. The negotiating team did have the right to return to the County to seek additional authority and this possibility "was discussed extensively with the negotiating committee and all other committees involved" (Transcript, p. 34).

The fact that the County has settled at 6% with four other bargaining units is of significance in this case although as the Union points out, the largest County unit, the AFSCME unit, had not yet settled at the time of the hearing. This also has significance and the County's case for uniformity is not as strong as it would be if the AFSCME unit had also settled for 6%.

Private Sector Wage Comparisons. If the County has established a pattern through collective bargaining with other unions, the arbitrator must consider whether there are inequities in the wage and fringe benefits of this bargaining unit that would justify a different wage increase. Here he looks at the wages of comparable employees in the public and private sector.

The Union's principal Exhibits for the private sector is the contract between Teamsters "General" Local Union No. 200 and the Southeastern Wisconsin Construction Materials Association, Inc. (Union Exhibit 4). I think that the County refuted the relevancy of this comparison by its showing that the types of trucks involved are not the single axle trucks which are the predominant equipment used by the County.

The County's Exhibits cited earlier do show that County wages for patrolworkers do compare favorably with truck driver rates in manufacturing which seems to be a more pertinent comparison than in non-manufacturing and construction where the seasonal nature of the work and the type of equipment may differ substantially from the work of County highway employees (County Exhibits 13 and 14).

Public Sector Comparisons. Here the County stresses the fact that its wage comparisons include nearly all the governing units within Waukesha County while the Union's comparisons are limited to fewer municipalities and counties. The County also believes that the County's generous longevity plan should be taken into account in comparing wages. The Arbitrator notes that the County did not include neighboring Milwaukee County in its county comparison (County Exhibit 12) and he also notes that even when longevity is taken into account there are five Waukesha County units that provide higher patrolman pay than Waukesha County and in the county comparisons, Washington County is above Waukesha County (County Exhibit 12).

Patrolman wage comparisons are probably somewhat more pertinent than truck driver wage comparisons in this employment unit because of the greater number of patrolmen but both have significance.

The Arbitrator feels that the substantial wage differential that the County shows in its comparisons with the averages of other Waukesha County and neighboring county units is a valid comparison which supports its wage proposal (County Exhibit 12 and County Brief, pp. 19, 20, 21). It is appropriate to use averages and to include longevity. It does not seem reasonable to require that a county-wide unit, such as the Highway Department, needs to have a wage level in excess of every municipality within the County. As the County points out, Menominee Falls and New Berlin had median family incomes and growth rates above the Waukesha County average (Union Exhibit 2). Neither the Union nor the County provided much data or rationale for the inclusion or exclusion of Milwaukee County in wage comparisons or concerning the pertinency of such comparisons. The County rates, including longevity, do compare favorably with the City of Waukesha. This would be an important comparison in this case.

Fringe Benefit Comparisons. The County did establish in its Exhibits 11 and 12 that the fringe benefits available to the Highway employees compared favorably with those provided by other counties and municipalities.

Ability to Pay. The County has not used ability to pay as a defense of its position. The Union has shown favorable economic data including high median incomes for Waukesha County families. It would appear that these income and economic differences are reflected to some extent now in the favorable employee wage comparisons for Waukesha County Highway employees as compared to most other counties. The Arbitrator concludes that Waukesha County could pay more if necessary but that that decision should rest on the total analysis of the case and not merely on ability to pay.

Cost of Living. At the hearing the Union noted that the national cost of living increased 6.8% in 1977. It referred to a current rate of 10-11% for calendar 1978. The Union Brief cites Federal Reserve Chairman, G. William Miller, as predicting that the increase will "run over" the seven per cent mark for 1978 (his June 29 testimony to the Joint Economic Committee).

The County agrees that the national C.P.I. rose 6.8% in 1977 but points out that the Milwaukee area increase was somewhat less, 5.5% from February, 1977 to February, 1978 (Transcript, p. 5, County Brief, p. 11). The County notes that the recent Milwaukee rate is 6.1% for May of 1978 and states that it would take an inflationary rate of 8.6% for the remainder of 1978 to produce a 1979 "stay even" wage plus fringes equal to the County's offer (\$8.568 plus 8.6% = \$9.305) (County Brief, p. 15 and County Exhibit 5).

One of the costliest fringe benefits provided by the County is health insurance. The Union and the County differ as to whether this should be counted in the 1978 and 1979 computations of wage and fringe benefit increases. The Union states that this is not a new benefit and that contract coverage has not changed. The Arbitrator agrees with the County that it should be counted. It is an important wage related cost. Its payment by the County insulates the employees from one important component of the cost of living index. Because the cost is not subject to the personal income tax, it is worth more to the employee than an equivalent wage increase.

The Union also questions the inclusion in the County's wage proposal of the reclassification of 12 men at a cost of 13¢ per hour. While this is not an across-the-board increase, it does provide additional wages to a significant number of employees (12 now and eventually 16) and it is part of the total wage costs to the County. It should be counted as part of the wage increase.

The provision of uniforms by the County is not as clearly an economic benefit. It is being done for safety reasons but it will also have some effect on employees' costs for work clothing. I do not believe that the Union questioned the other wage and fringe cost data provided by the County in Exhibit 5.

The parties differ as to what will be the increase in health insurance costs for 1979. The Union thinks the County's use of the average increase for the last four years may be too high since increases in 1977 and 1978 were smaller than those for 1975 and 1976 (County Exhibit 4).

The County computes its 1979 wage proposal as a 6% increase in both wages and fringes, not including a probable health insurance increase (County Exhibit 5). Depending upon the size of the health insurance increase the increase in wages and fringes could be from 6.7% to 7.6% with a 7.2% figure being the one to be used if the 1979 health insurance increase were computed at the average of the last four years.

It is clear that the County's proposed 1978 wage and fringe increase does exceed the 1977 national C.P.I. increase of 6.8%. The County's figure is 8.1%. If the uniforms and the wage increase for the reclassified patrolmen were omitted, the increase would still be 7.7%, about 1% above the C.P.I. increase.

The situation for 1979 under the County offer is not quite as favorable because the combined wage and fringe benefit increase will be smaller than for 1978 and because the probability is that the national C.P.I. will rise more than it did in 1977.

However, the Arbitrator concludes that taking into account the lower Milwaukee C.P.I., the County's offer does meet the 1978 cost of living increases as shown at the time of the hearing.

If C.P.I. increases for the remainder of 1978 and for 1979 are larger than predicted in August of 1978, this will need to be taken into account in the 1979 bargaining for 1980. This will apply not just to the Highway employees but also to the other Waukesha County unions that have had a similar wage settlement.

SUMMARY

This was a difficult decision to make because of the closeness of the final offers of the parties. Both offers were reasonable.

The strongest points in the Union case included (1) the probability that the cost of living will increase more in 1978 than in 1977 and therefore the need for a higher wage adjustment than the County is proposing. (2) Highway employee pay for Waukesha County employees is below that of Washington County and Milwaukee County. (3) Waukesha County rates very high in median family income and other economic measures and could afford to pay its Highway employees higher wages.

The strong points in the County's favor are as follows: (1) the County has bargained similar wage contracts with four other unions and no inequity has been proven by the Union that would justify a different pattern here. (2) The County has provided for wage and benefit increases in excess of the cost-of-living increase for 1977 and the probable increase for 1978, at least as the situation looked in August of 1978 at the time of the hearing. (3) The Exhibits presented by the County clearly establish that its wages and fringe benefits for Highway employees compare very favorably with Highway employees in other Wisconsin counties, and with nearly all municipalities within the County. (4) Private sector comparisons with comparable truck drivers in manufacturing industries show the Waukesha County Highway employee rates to be higher.

On the basis of the transcript of the hearing, the exhibits of the parties, the Briefs, and taking into account the statutory criteria, I find the County's case to be more persuasive and I select the County's last offer as the more reasonable.

AWARD

The County's last offer of a wage increase for all bargaining unit members of six per cent effective December 31, 1977 and an additional six per cent effective December 31, 1978, is selected.

November 14, 1978

Gordon Haferbecker /s/
Gordon Haferbecker, Arbitrator