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In the Case of the Final and Binding
Arbitration between

BUFFALO COUNTY SOCIAL SERVICE
EMPLOYEES, Local 1625-A, WCCME,
AFSCME, AFL-CIO

-and-

BUFFALO COUNTY (Department of
Social Services)

* * * * *

Case XVI No. 25716
MED/ARB -613
Dec. No. 17744-A

INTRODUCTION

The Buffalo County Social Service Employees, Local 1625-A, WCCME, AFSCME, AFL-CIO (hereafter Union) and Buffalo County, Department of Social Services (hereafter County) reached an impasse in bargaining over the terms of a collective bargaining agreement and the Union petitioned the Wisconsin Employment Relations Commission (WERC) for the appointment of a mediator/arbitrator to resolve the impasse. The parties selected Arlen Christenson of Madison, Wisconsin, from a panel provided by the WERC to act as mediator/arbitrator.

The parties met with the mediator/arbitrator on June 12, 1980 at the Buffalo County Courthouse in Alma, Wisconsin. After mediation proved unsuccessful, the parties agreed to waive the provision of Wis. Stats. 111.70 giving the parties ten days within which to withdraw final offers and proceed immediately to the arbitration hearing. A hearing was held at which both parties had full opportunity to present evidence and argument. Post hearing briefs were received by the arbitrator by July 9, 1980.

APPEARANCES

Daniel R. Pfiefer, District Representative, appeared for the Union.

Stephen L. Weld, Attorney, Mulcahy & Wherry, S.C., appeared for the County.

ISSUES

The issues posed by the final offers of the parties are as follows:

I. WAGES

A. County Position: The County has proposed to increase the wages of the Buffalo County Social Service Employees by 8.0% on January 1, 1980 and 5.0% on July 1, 1980.

B. Union Position: The Union has proposed that the wage rate of the Social Services employees be increased by 9.0% on January 1, 1980 and 5.0% on July 1, 1980.

II. VACATION

A. County Position: The County has proposed the following vacation schedule for 1980:

<u>After Years of Service</u>	<u># of Days</u>
6 months	5 days
1 year	10 days
8 years	15 days
20 years	20 days

B. Union Position: The Union has proposed the following vacation schedule for 1980:

<u>After Years of Service</u>	<u># of Days</u>
6 months	5 days
1 year	10 days
2 years	12 days
5 years	15 days
9 years	18 days
14 years	20 days

III. MILEAGE REIMBURSEMENT

A. County Position: 20¢ per mile or the County Board reimbursement rate, whichever is greater

B. Union Position: Effective January 1, 1980 - 20¢ per mile. Effective July 1, 1989 - 23¢ per mile or the rate received by the County Board of Supervisors, whichever is greater.

IV. COMPENSATORY TIME:

A. County Position: Add the following sentence to Article VII:

Compensatory time shall only be taken with the prior approval of the Director or his/her designee.

B. Union Position: Status quo language.

V. 1979 WAGE RATE FOR TERMINAL OPERATOR I:

A. County Position:

1979 starting rate - \$588.00/month
1979 six month rate - \$618.00/month

B. Union Position:

1979 starting rate - \$618.00/month
1979 six month rate - \$648.00/month

DISCUSSION

Criteria

Section 111.70 Wis. Stats. establishes the criteria to be used by an arbitrator appointed under that section in choosing between the final offers of the parties. At the outset of this discussion it is necessary to devote a few words to a consideration of arguments advanced regarding two of the critical criteria.

First the statute provides that the arbitrator shall take into account "the average consumer prices for goods and services commonly known as the cost of living." The County contends that the U.S. Department of Labor's Consumer Price Index (CPI), the most commonly used measurement of average consumer prices, is inadequate because it does not reflect changes in expenditure patterns or the introduction of new products or services and ought not be used in this proceeding. Instead the County urges the use of an index derived from the U.S. Commerce Department's quarterly report on the gross national product known as the personal-consumption expenditure (PCE) deflator, because it does measure real market place consumer behavior. The Union, on the other hand, prefers to rely solely on the CPI.

The first question to be addressed in resolving the dispute over the CPI is whether or not the governing statute requires its use. Section 111.70(4)(cm)(7)e does not specify

the Department of Labor's CPI as the standard for measuring average consumer prices. Certainly the drafters of the statute could have done so if they wished. Had they done so it might have introduced a new set of issues regarding, for example, the appropriateness of incorporating a federal standard into a state statute. Because the statute is worded as it is, I conclude that arbitrators are free to consider other relevant and reliable indicators of consumer prices or "cost of living."

The CPI has been justly criticized for its inability to adapt to changing conditions and its over-emphasis on mortgage interest rates. The PCE provides an appropriate corrective although I believe it would be a mistake to rely entirely on this relatively untested indicator. It seems proper, given the evidence and arguments in this proceeding, to use both indicators in arriving at a conclusion regarding the "cost of living" criterion.

The parties also disagree over the application of the statutory criterion requiring the arbitrator to consider wages, hours and conditions of employment of similar employees in "comparable communities." As usual in these cases, the parties disagree on which communities are "comparable." In my view comparability is inevitably a matter of degree. No two communities are in all respects comparable and almost all communities have at least something in common. The relevant question is whether or not communities for which data are offered are comparable enough so that the data ought to be considered in reaching a decision. In this sense all of the communities cited by the parties are sufficiently comparable to warrant consideration.

A further issue with respect to comparability is whether or not, as the County contends, Jackson, Pepin and Trempeleau

counties are comparable to Buffalo county in such a degree that they ought to be specifically considered in the application of this criterion. It is certainly true that LaCrosse and Eau Claire counties are so much larger and more urbanized than Buffalo county that the impact of their geographic proximity is diminished. On the other hand it hardly seems appropriate to lump Dunn and Pierce counties into the same category of "urban industrialized" counties and treat them similarly. I conclude that all eleven counties cited by one or the other of the parties are comparable enough to be relevant but that data from counties with populations and resources nearer that of Buffalo county should be weighted more heavily.

The Issues

The final offers of the parties include five issues in dispute. The real dispute, however, seems to be largely limited to three of the five. The County's proposal that language be added to the agreement governing the use of compensatory time and the issue regarding rates for the new position of Terminal Operator I have generated little discussion in this proceeding. On the basis of the information made available I am inclined to agree with the Union on the rates for the new position and with the County on the compensatory time language but I do not consider either issue to have a substantial effect on the outcome of this dispute.

The three issues that are controlling are wages, vacations, and mileage compensation. These are the three principle cost items and are the issues emphasized by the parties at the hearing and in their briefs. The final offers are so close together on wages that one must draw some very fine distinctions to arrive at a basis for argument that one should prevail over the other. Implementing either offer would mean that the various categories of employees would retain the same relative position

in comparison with similar employees in other communities. Both offers would provide increases very near those received by other employees of Buffalo County--the County's perhaps slightly less than some and the Union's slightly more. Neither offer deals significantly with the problem that wages paid employees presently on the staff are not in line with the schedule negotiated for newly hired employees which appears to be on the low side.

The offers are farther apart with respect to vacations. The County offer maintains the existing vacation schedule which is consistent with vacation benefits received by other county employees. Because the Union believes these benefits to be behind those of comparable employees in comparable communities its final offer contains a substantial improvement in vacation benefits. Due to the variables involved it is extremely difficult to compare the vacation benefits provided under one collective bargaining agreement with those of another. My review of the evidence presented, however, leads to the conclusion that the Union has a good argument based on these comparisons. Taking into account the number of vacation days provided and the amount of time an employee must be employed to be entitled to those days I conclude that 7 of the 11 counties on the County's list of comparables have vacation schedules better than that provided for the Buffalo County unit, 3 (Clark, Jackson, and Monroe) are essentially equivalent and 1 (St. Croix) is worse. Moreover, of the 3 bargaining units the County contends should be considered most comparable and therefore given greater weight, 2 have significantly better vacation benefits than Buffalo County. In Trempeleau County a social services employee received 12 days of vacation each year from 1 to 6 years of employment compared with 10 in Buffalo County. After 6 years the Trempeleau county employee receives 15 days until the 10th year when the schedule provides 20. A similar Buffalo County employee does not receive

15 days until after 8 years and receives 20 days only after 20 years. In Pepin County an employee receives 12 days after 1 year of service, 15 after just 5 years, 18 after 10 and 21 after just 15 years of service. The impact of these differences can be illustrated by looking at the 10 year employee in Buffalo County who receives 15 days or 3 weeks of vacation and cannot expect 4 weeks for 10 more years. In Trempeleau County a similar employee would already have his or her 4 weeks vacation. In Pepin County he or she would have 18 days with 21 coming at the 15 year mark.

The County argues that because it has established a "clear pattern of uniform vacation benefits" for its employees the statutory criteria require that that pattern be respected. Both the statute and basic considerations of fairness and equity require consideration of benefits provided for other employees of the same employer in arriving at a conclusion regarding an issue like this. In fact, however, the County has not established a pattern of uniform vacations consistent with its final offer. Its highway department employees are governed by a different schedule. Their benefits, as the County points out, are less than those contained in the County's final offer but they are nevertheless different. The difference is presumably justifiable in the light of prevailing market conditions, other benefits, or other reasons. The same is arguably true of a difference between vacation benefits for social service employees as distinguished from courthouse employees. In any event the comparisons with other similar employees of comparable employers supports the conclusion that the Union's final offer is preferable to the County's with respect to vacations.

The Union's final offer provides for an increase in mileage reimbursement for employees using their automobiles on county business to the greater of 23 cents a mile or the rate

received by the County Board of Supervisors effective July 1, 1980. The County's offer is 20 cents a mile or the Board of Supervisor's rate whichever is higher. The Union contends that the proposed increase in compensation is justified by the "skyrocketing" increase in gasoline prices. The County argues that its offer is consistent with the reimbursement provided for all county employees and that any improvement required by the increase in gasoline prices is provided for by the language that the reimbursement rate will be increased to match that paid the County Board of Supervisors. In this instance the County does have a uniform policy with respect to all its officers and employees and the Union's proposal would make the Social Services Department the only unit out of line with that uniform policy. Under the statutory criteria this fact is entitled to substantial weight. Moreover, the Union offer would establish a reimbursement rate higher than any other identified in any comparable county by either party. Under these circumstances the County's offer is clearly preferable on the mileage reimbursement issue.

CONCLUSION

I have concluded that on the three determinative issues in dispute the Union's proposed vacation benefits are preferable, the County's mileage reimbursement is preferable and the wage proposals are so close together and the consequences of their application so similar that one must engage in virtual hair splitting to conclude that one is better than the other. The resolution of the dispute must then be based on a consideration of the impact for the two offers as a whole.

The evidence tends to support the County's argument that the CPI overstates the impact of rising prices. On the other hand, the evidence is not sufficient to justify the conclusion

that the PCE is a better measure of that impact. It does, however, justify the conclusion that the true impact of inflation on the wage earner is measured by a percentage figure somewhere between the two indices. The total cost of the Union's final offer is 13.5% This is .1% higher than the calendar year increase in the cost of living measured by the CPI and 3.7% higher than the PCE index. The County's offer is worth 11% or 1.4% less than the CPI and 1.2% more than the PCE index. Thus, taken as a whole and measured against the cost of living criterion, the County's offer seems to be the more reasonable. The difference is slight. The two offers are very close together. It is necessary, however, to choose between the two. The measurement of the offers against the cost of living criterion and the fact that the County's final offer is so clearly the better on the mileage issue provide a sufficient basis for choosing the County's final offer over the Union's.

AWARD

It is my Award that the County's final offer should be and is hereby adopted. The collective bargaining agreement between the parties shall contain the terms of the County's final offer.

Dated this 27th day of August, 1980.


Arlen Christenson, Arbitrator