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In the matter of the petition of:

OUTAGAMIE COUNTY PROFESSIONAL EMPLOYEES
LOCAL 2416, AFSCME, AFL-CIO

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

To initiate mediation/arbitration between
said petitioner and

Decision No. 20416-A

OUTAGAMIE COUNTY (DEPARTMENT OF SOCIAL SERVICES)

Appearances: Gregory N. Spring, Staff Representative, for the Union
Roger E. Walsh, Attorney at Law, for the Employer

The Outagamie County Professional Employees, Local 2416, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization and has been and is the exclusive collective bargaining representative of certain employees of Outagamie County, hereinafter referred to as the Employer, in a collective bargaining unit consisting of all professional employees of the social services department. The Union and the Employer have been parties to a collective bargaining agreement covering wages, hours and working conditions which will expire on December 31, 1983.

On November 5, 1982 the parties exchanged their initial proposals on matters to be included in an existing collective bargaining agreement pursuant to the reopener provision in the agreement. Thereafter the parties met on two occasions in an effort to reach an accord. On December 27, 1982 the Union filed a petition requesting the Wisconsin Employment Relations Commission, hereinafter referred to as the Commission, to initiate mediation/arbitration pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act. A member of the Commission's staff conducted an investigation which reflected that the parties were deadlocked in their negotiations and that the parties remained at impasse.

The Commission found that the conditions precedent to the initiation of mediation/arbitration had been met and ordered the parties to select a mediator/arbitrator from a panel submitted by it. Upon being advised that the parties had selected Zel S. Rice II as the mediator/arbitrator the Commission appointed the undersigned as mediator/arbitrator to endeavor to mediate the issues and disputes and should such endeavor not result in a resolution of the impasse between the parties, to issue a final and binding award to resolve the impasse by selecting either the total final offer of the Union or the total final offer of the Employer.

A mediation session was conducted at Appleton, Wisconsin, on August 2, 1983. When it became obvious to the mediator/arbitrator that neither of the parties was able to make concessions that would lead to a resolution of the dispute he declared the mediation phase of the proceedings at an end and proceeded with the arbitration hearing.

The final offer of the Union, attached hereto and marked Exhibit "A" proposed that 5 percent be added to all monthly wage rates effective January 1, 1983. The final offer of the Employer, attached hereto and marked Exhibit "B" proposed to increase all rates by 2 percent effective January 1, 1983.

The Union relies on a comparability group consisting of Brown County, Winnebago County, Outagamie County, Sheboygan County, Fond du lac County, Manitowoc County, Waupaca County, Shawano County and Calumet County, hereinafter referred to as Comparable Group A. All of those counties are somewhat similar in makeup except Waupaca County, Shawano County and Calumet County. The Union chose to include the latter three communities in its comparability group even though they are somewhat different from the other six because they are contiguous to the Employer. The 1981 full value of Comparable Group A ranged from a low of \$740,140,900.00 in Calumet County to high of \$3,948,027,800.00 in Brown County. The Employer has a full value of \$2,750,302,100.00 and has the third highest valuation in Comparable Group A. The per capita full value in Comparable Group A ranges from a low of \$20,287,000.00 in Manitowoc County to a high of \$24,007,000.00 in Shawano County. The Employer ranks eighth in Comparable Group A with a per capita value of \$21,221,000.00. The 1981 county tax rate in Comparable Group A ranged from a low of .00240 in Waupaca County to a high of .00446 in Calumet County. The Employer had the third lowest county tax rate of .00271. The 1981 estimated population in Comparable Group A ranged from a low of 31,386 in Calumet County to a high of 177,142 in Brown County. The Employer was third highest with the 1981 population of 129,603. The Employer's 1984 population is projected to be 134,100 which would be second highest in Comparable Group A.

The unemployment rate in Comparable Group A during May of 1983 ranged from the Employer's low of 8.8 percent to a high of 15.5 percent in Calumet County.

During 1983 a Social Worker in Brown County is in a pay range from \$8.95 an hour to \$10.45 per hour. A Social Worker II is paid between \$11.58 per hour and \$9.27 per hour. A Social Worker I in Calumet County is in a pay range between

\$8.89 per hour and \$9.70 per hour while a Social Worker II is in a pay range between \$9.68 per hour and \$10.56 per hour. In Fond du Lac County an Income Maintenance Worker receives a 1983 salary in a range between \$5.54 an hour and \$7.01 an hour. A Social Worker I is in a pay range between \$8.14 an hour and \$10.06 an hour. A Social Worker II is paid at a rate between \$9.90 per hour and \$10.99 per hour. Manitowoc has not yet reached an agreement on a 1983 salary for either a Social Worker I or a Social Worker II. Shawano County Social Workers are not represented by a union and received a 30 cents per hour wage increase for 1983. During 1983 Sheboygan County pays a Social Worker I at a rate between \$7.35 an hour and \$7.94 per hour. It pays a Social Worker II between \$7.67 per hour and \$8.58 per hour. The Social Workers in Waupaca County are not represented by a union and the Employer is still discussing the increase it will give them. During 1983 Winnebago County pays its Income Maintenance Workers at a rate between \$5.79 per hour and \$6.74 per hour. It pays a Social Worker I at a rate between \$7.99 per hour and \$9.71 per hour. During 1983 it pays a Social Worker II at a rate ranging from \$10.14 per hour to \$11.91 per hour.

The Union has proposed that its Income Maintenance Workers be given a 4 percent increase on July 1, 1983 and an additional 2 percent on July 1, 1983. The Union proposes that the Social Worker I have a 1983 pay range between \$7.53 an hour and \$8.46 an hour which would be a 5 percent increase. The Employer proposes a pay range between \$7.31 an hour and \$8.22 an hour which would be a 2 percent increase. The Union's proposed rate for a Social Worker II would be in a pay range between \$7.99 per hour and \$9.86 per hour during 1983 which would be a 5 percent increase. The Employer proposes a 2 percent increase which would place the rate in a pay range between \$7.62 per hour and \$9.58 per hour which would be a 2 percent increase. The Employer and Calumet County are the only counties in Comparable Group A that do not pay longevity to their Department of Social Services employees. The longevity payments remain the same during 1983 as they were in 1982 in all of the other counties in Comparable Group A.

Most of the counties in Comparable Group A paid 100 percent of a single health insurance premium in 1982 and in 1983. The percentage of the family policy paid by the counties in Comparable Group A range from a low of 90 percent in some counties to 100 percent. The family health insurance premiums in

Comparable Group A during 1983 ranged from a high of \$185.65 a month in Brown County to a low of \$147.30 in Fond du Lac County. The Employer's family health insurance premium for 1983 is \$181.94 per month. The dollar amount of the health insurance premium paid by the counties ranges from a high of 176.37 per month by Brown County to a low of \$135.79 by Winnebago County. The amounts paid by the employees for family health insurance during 1983 in Comparable Group A ranged from nothing in Sheboygan County, Manitowoc County and Winnebago County to a high of \$30.94 paid by the Social Services employees of the Employer.

Seven of the nine counties in Comparable Group A have reached agreement on wage increases for their Social Services employees during 1983. Those increases range from a low of 4 percent in Shawano County to a high of 7.5 percent in Winnebago County. The Winnebago County increase is the second year of a two year agreement. All the other increases are 1983 agreements and are around 5 percent. The City of Appleton, in which the Employer is located, has reached agreements with its twelve bargaining units that give 1983 wage increases of 4 percent or more. These settlements should be compared with the Union's offer of a 5 percent increase and the Employer's offer of a 2 percent increase during 1983.

During 1983 the Employer will spend \$40,290.00 on health insurance for the bargaining unit and \$31,500.00 for contributions to the Wisconsin Retirement Fund. The 1983 stand by pay cost to the Employer is \$3,640.00. The Union's 1983 wage proposal of 5 percent would cost \$739,725.00 making a total of \$815,175.00 which is a 6.18 percent increase. The Employer's offer of a 2 percent wage increase for 1983 would cost \$718,609.00 making a total package cost for the year of \$794,039.00 which would be a 3.43 percent increase.

The Employer concluded its 1982 fiscal year in a sound financial condition. Its economy, like that of the other counties in Comparable Group A continued to be depressed and it anticipated a reduction of state and federal revenues. During 1980 the Employer had total tax revenues of \$6,809,280.00 and total revenues of \$63,493,851.00. Its total assets in 1980 were \$50,279,046.00. In 1981 the Employer had total tax revenues of \$7,399,040.00 and total resources available of \$72,142,782.00. Its total assets in 1981 were \$55,578,955.00 which was an increase of about 10 percent. The Employer's 1982 total tax revenues were \$7,773,876.00. Its total assets had increased to \$63,790,051.00 by the end of 1982. At the end of 1980 the Employer had restricted and unrestricted fund

balances totaling over \$28,852,000.00. By the end of 1981 those restricted and unrestricted fund balances had increased to over \$33,135,000.00 and by the end of 1982 those balances were over \$33,768,000.00.

The Employer had 37 full time and two part time professional employees on January 19, 1983. It had three Social Workers I, ten full time Social Workers II and two part time Social Workers II, seven Social Workers III and eight Social Workers IV and nine Social Workers V. It had 1982 total wage costs of \$704,519.00. The Employer's proposed wage increase would cost \$14,090.00. The step increase due employees would total another \$10,321.00. Employer pension and FICA contributions would total \$3,051.00 and the stand by pay increase would total \$520.00. The employee pension increase cost would total \$888.00 and the health insurance increase would be \$11,330.00 making the increase in costs of the Employer's proposal for 1983 total \$40,200.00. The Union's 1983 final offer of a 5 percent wage increase would cost \$35,226.00. The cost of pension and FICA taxes would increase \$5,693.00 under the Union's proposal. The increases resulting from the step increments, stand by pay, employee pension increase and health insurance increase would be the same under the Union's offer as under that of the Employer. The total increase in costs for salaries and fringes during 1983 under the Union's proposal would be \$63,978.00.

The consumer price index increased from 282.1 in January of 1982 to 290.1 in June of that year. The percentage of increase over the preceding year at the end of June in 1982 was 6.9 percent. By the end of December of 1982 the consumer price index had increased to 292 and the percentage of increase over the preceding year had dropped to 3.9 percent. By May of 1983 the consumer price index had risen to 296.3 and the percentage of increase in the preceding year was 3.4 percent. In January of 1982 the unemployment rate in Wisconsin was 8.3 percent. By January of 1983 that rate had increased to 11.6 percent.

The Employer has over 900 employees. It has reached an agreement with the Deputy Sheriffs which include 77 employees. They received a one percent wage increase costing \$13,520.00 and step increases totaling \$14,028.00. They received Employer retirement and FICA increases of 17.5 percent which cost \$4,821.00 and employee pension increases of \$900.00. Their health insurance increase was \$46,804.00. The Employer picked up 100 percent of the cost of the health insurance as compared to 80 percent in prior years. The total cost of the Employer's settlement with the Deputy Sheriffs was \$80,073.00 for the 77

employees. The Employer has all employees in the health center that are not represented by a labor organization. Two hundred two of those employees are full time employees and 109 are part time. The Employer gave those employees a wage increase of 24¢ per hour across the board effective January 1, 1983. That 24¢ per hour resulted in an increase of 3.9 percent for the lowest classifications and 1.1 percent at the highest paid classifications. The average increase was 3.2 percent. The health insurance costs for the Employer's health center increased \$42.34 a month for the family plan and \$18.84 per month for the single plan. The Employer paid 86 percent of the health insurance costs. The 1982 total wage costs of the Employer including overtime at the health center was \$5,145,600.00. The new wage increases cost \$163,630.00. The Employer's retirement and FICA increase totaled \$20,454.00 and the health insurance costs increased \$91,592.00. The total cost of the wages and fringes at the Employer's health center increased by \$275,676.00 during 1983.

The Employer is in mediation/arbitration with three other bargaining units represented by the Union. The items in dispute in the bargaining unit at the health center represented by the Union are health insurance for part time employees and a wage increase. The Union would extend a pro-rata premium contribution to the part time employees and the Employer would not. The Union proposes to upgrade the health records clerk one grade and it proposed a 5 percent wage increase effective January 1, 1983 while the Employer proposed a 2.5 percent increase. The bargaining unit in the Employer's courthouse represented by the Union has a dispute over the wage increase. The Employer proposes an increase of 10¢ an hour effective January 1, 1983 while the Union proposes an increase of 4 percent on January 1, 1983 and 2 percent July 1, 1983. In the Employer's highway department the bargaining unit represented by the Union is involved in mediation/arbitration over wages. The Employer's last offer is 1.5 percent effective January 1, 1983 while the Union proposes an increase of 3 percent on January 1, 1983 and another increase of 2 percent on July 1, 1983.

The entry level salary for Social Workers with bachelors degrees in Comparable Group A ranges from a low of \$1,040.00 in Shawano County to a high of \$1,414.00 in Brown County. The Employer has two or three employees in the classification of Social Worker I who receive \$1,165.00 per month. It hires at the Social Worker II level and the entry level salary there is \$1,237.00 per month. That was the fifth highest entry level salary in Comparable Group A

during 1982. The 1982 maximum salary for Social Workers with bachelors degrees ranged from the Employer's high of \$1,657.00 per month to a low of \$1,444.00 per month at Waupaca County. The 1982 entry level salaries in Comparable Group A for Social Workers with masters degrees ranged from the Employer's low of \$1,453.00 per month to a high of \$1,797.00 per month in Brown County. The 1982 maximum salaries in Comparable Group A for Social Workers with masters degrees ranged from a low of \$1,379.00 in Waupaca County to a high of \$1,890.00 per month in Manitowoc County. The Employer had the third highest salary level in Comparable Group A during 1982 for a Social Worker with a masters degree with a monthly salary of \$1,774.00. In 1983 the entry level of salaries in Comparable Group A for Social Workers with bachelors degrees range from a low of \$1,089.00 in Shawano County to a high of \$1,454.00 a month in Brown County. The Employer's proposal of \$1,262.00 per month would make its entry level salary the fourth lowest in Comparable Group A. The Union's proposal of \$1,299.00 would place the entry level salary fourth from the top. The 1983 maximum salaries in Comparable Group A for Social Workers with bachelor degrees range from a low of \$1,375.00 in Shawano County to a high of \$1,718.00 in Calumet County. The Employer's proposal of \$1,690.00 per month would make its bachelor degree maximum salary for Social Workers the third highest in Comparable Group A while the Union's proposal of \$1,740.00 a month would make its maximum bachelor degree level salary for Social Workers the highest. The 1983 masters degree entry level salary in Comparable Group A ranged from a low of \$1,325.00 a month in Waupaca County to a high of \$1,882.00 in Brown County. The Employer's proposal of \$1,482.00 a month would make its entry level salary for Social Workers with master degrees sixth highest and second lowest in Comparable Group A. The Union's proposal of \$1,526.00 a month would make its master degree level salary sixth highest in Comparable Group A and second lowest. The 1983 maximum salary in Comparable Group A for Social Workers with masters degrees ranged from a high of \$1,994.00 a month in Brown County to a low of \$1,459.00 per month in Waupaca County. The Employer's proposal of \$1,809.00 a month would be next to the lowest in Comparable Group A and the Union's offer of \$1,863.00 a month would be next to the lowest.

UNION'S POSITION

The Union argues that the Employer is financially sound and able to fund the modest wage increase it has proposed. The Employer concluded the

fiscal year 1982 in a sound financial condition and it has presented no evidence in support of any inability to pay argument. The Union takes the position that comparability is a primary factor to be considered by the arbitrator. It points out that similar employees in Comparable Group A have received wage increases ranging from 4 percent to 7.5 percent. It argues that the employer's offer of a 2 percent wage increase is unreasonable in view of the increases received by employees doing similar work in Comparable Group A. It contends that its request of a 5 percent wage increase is more appropriate and will maintain historic relationships with the employees doing similar work in Comparable Group A. The Union takes the position that the agreement reached by the Employer with the 77 employees of the Sheriff's Department should not decide the financial fate of the other 900 employees of the Employer. It asserts that the increase given by the Employer to its unrepresented employees has no validity since those employees had no recourse other than to accept the Employer's offer. It points out that four of the five bargaining units of the Employer have resorted to the mediation/arbitration process and one of them has received an award comparable to the position of the Union. The Union points out that the City of Appleton in which the Employer is located has reached agreement with twelve bargain units giving wage increases of at least 4 percent for 1983. The Union takes the position that even though the Employer's health insurance premiums have increased substantially, it still pays a smaller percentage of the family health insurance premium for its social service employees than any other county in the Comparable Group and two of the counties and the City of Appleton pay a higher dollar figure. The Union asserts that the relative overall compensation for social service employees will be reduced if the Employer's last offer is selected. The Union points out that the other counties in Comparable Group A have reached settlements that include salary increases ranging from 4 percent to 7.5 percent for wages alone while the Employer has offered its employees an increase of 5.35 percent of its 1982 wage costs reduced by the increases in the health insurance, pension plan, step increases and roll-ups in the contribution to social security and pension plan, leaving 2 percent for a general wage increase. Conceding that the Employer has had a substantial increase in its health insurance premium, the Union points out that every other county in Comparable Group A paid more towards the health insurance premium in 1983. Those increases range from a low of \$10.00 per month in Winnebago County to a high of \$46.00 per

month in Shawano County.

EMPLOYER'S POSITION

The Employer argues that the total economic increase of the Union's proposal including wage, pension and health insurance would be 6 percent which is substantially higher than the increase in the cost of living during 1983. It asserts that there is no justification for a wage increase that is substantially higher than the inflation rate during a period when the economy is flat. The Employer points out that of its 900 employees, 388 have had their 1983 compensation established in line with the proposal made by the Employer to the 39 professional employees represented by the Union. Seventy-seven of those employees 388 are deputy sheriffs and their collective bargaining representative voluntarily accepted a settlement similar to that offered to the Union and the 311 management supervisory and unrepresented employees received similar compensation increases. It argues that its social services employees have no unique problem that would justify their receiving a substantially larger increase in their 1983 compensation than the deputy sheriffs and the unrepresented employees. The Employer contends that its offer still provides its social services professionals with rates that are average or above average when compared to the rates of the other counties in Comparable Group A.

DISCUSSION

There is no evidence that there is any question about the lawful authority of the Employer to implement either its offer or the proposal of the Union. The stipulations of the parties have no impact on the negotiations other than the agreement of the Employer to pay part of the increase in the cost of the health insurance premiums. That will be considered later in this discussion. It is undisputed that the Employer is in a sound financial condition and there is no evidence of an inability to pay the wage increase proposed by the Union. A comparison of wage increases received by social services employees in the comparable counties surrounding the Employer would indicate that the proposed increase falls far short of that given by all other counties in Comparable Group A. The 2 percent wage increase proposed by the Employer is unreasonable at a time when employees doing comparable work in the comparable counties are receiving wage increases ranging from 4 percent to 7.5 percent. It is true that the Employer has reached agreement with its deputy sheriffs on a wage increase that is even smaller than that proposed to this bargaining unit but that only

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involves 77 employees. A bargaining unit of 77 employees that reaches agreement with the Employer does not establish a pattern that should be imposed on over 50 percent of the Employer's employees who have the right to bargain, especially in view of the fact that the bargaining units representing them have all resorted to the mediation/arbitration process and the one award issued resulted in a wage increase for those employees comparable to the one sought by the Union in these proceedings. The fact that 311 employees who do not have the right to bargain received a wage increase comparable to that proposed by the Employer has very little meaning since those employees had no option other than to accept the offer of the Employer. While the City of Appleton does not employ social services professionals it is the place where the Employer is located and it has agreed on wage increases of 4 percent or more for the 12 collective bargaining units with which it negotiates.

The Employer argues the total economic increase of the Union's proposal would be 6 percent which is substantially higher than the increase in the cost of living during 1983. Arbitrator Gordon Haferbecker pointed out in an award involving this Employer and Union on the 1983 wage increase for another collective bargaining unit that the increase in the Consumer Price Index for the calendar year 1982 is most pertinent. The Employer's proposed wage increase falls far short of the increase in the consumer price index during 1982. While the Union proposal exceeds the 1982 consumer price index increase, it fits into the pattern of increases negotiated by social services employees in comparable counties. Even in a flat economy the Employer can be expected to pay wage increases comparable to that paid by comparable counties to similar employees doing similar work. The assertion of the Employer that the 39 employees of this bargaining unit should accept the wage increase agreed to by the 77 employees of the deputy sheriff's bargaining unit and the 311 unrepresented employees is without validity in view of the fact that more than 500 of the employees of the Employer are using the mediation/arbitration process because the Employer has offered a wage increase substantially below that offered by comparable counties to comparable employees.

The Employer takes the position that the social service employees have no unique problems that would justify their receiving a substantially larger increase in their 1983 compensation than the deputy sheriffs and the unrepresented employees. It would appear that the reverse is true. The deputy

sheriffs may very well have had a unique circumstance that resulted in their acceptance of a substandard wage increase. There is no question that the unrepresented employees had a unique situation in that they had no other recourse than to accept the Employer's offer. The Employer's contention that its offer still provides its social service employees with rates that are average or above average when compared to the rates of other counties in Comparable Group A has validity. However, the fact is that the Employer has always paid its social services professionals salaries that ranked near the top of the comparable group and it presented no evidence that would justify a failure to maintain the historic relationships with similar employees doing similar work in the comparable counties.

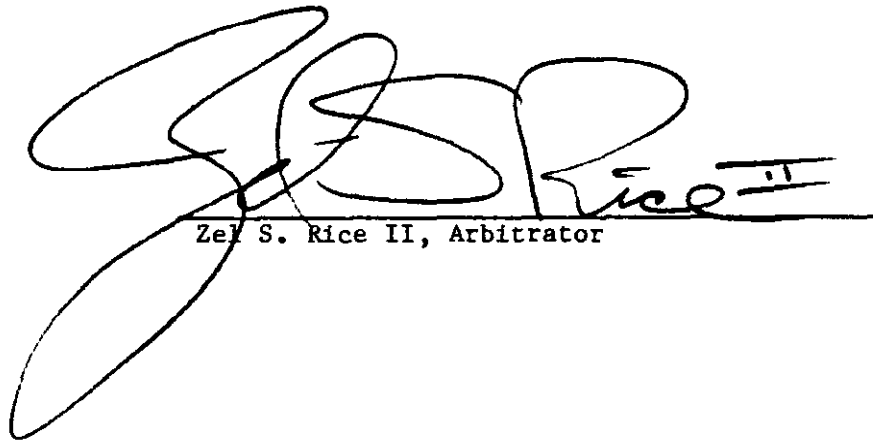
The Employer attempts to justify the small increase in its wage proposal by pointing out that its insurance premiums increased 37 percent resulting in an additional cost of \$49.00 a month in the family premium for each employee. While there was a substantial increase in the Employer's monthly family health insurance premium, the average contribution towards the family health insurance premium for social service employees in Comparable Group A is \$149.45 a month and the Employer's contribution under the new rate is \$151.00 per month. The Employer's increase in the contribution to the family health insurance premium of \$41.00 per month is only the second highest increase in Comparable Group A. The evidence establishes that other counties have had substantial increases in the cost of their health insurance premiums and a number of them contribute as much or more towards those premiums than the Employer. Those counties have given their social services professionals wage increases at least two times greater than the Employer proposes.

The Union proposal of a 5 percent wage increase is justified considering the wage increases given to municipal employees in the same community and in comparable communities. The Employer's offer of 2 percent would clearly damage its social service professional employees relative position with the comparable counties. The Union's proposal is reasonable and the Employer has failed to show that its financial circumstances are so desperate that it can pay only one-half of the increase paid to social services professionals in any other of the comparable counties.

FINDINGS AND AWARD

After full consideration of the criteria listed in the statute and after careful and extensive examination of the exhibits and arguments of the parties the arbitrator finds that the Union's final offer attached hereto and marked Exhibit A is preferable to that of the Employer and directs that the Union's proposal be incorporated into an agreement containing the other items to which the parties have agreed.

Dated at Sparta, Wisconsin, this 30th day of August, 1983.



Zel S. Rice II, Arbitrator

Co.'s F.O.

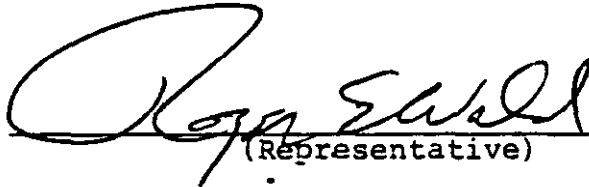
EXHIBIT B

Name of Case: OUTAGAMIE COUNTY (DEPT. OF SOCIAL SERVICES)

The following, or the attachment hereto, constitutes our final offer for the purposes of mediation-arbitration pursuant to Section 111.70(4)(cm)6. of the Municipal Employment Relations Act. A copy of such final offer has been submitted to the other party involved in this proceeding, and the undersigned has received a copy of the final offer of the other party. Each page of the attachment hereto has been initialed by me.

3-3-83

(Date)



(Representative)

On Behalf of: OUTAGAMIE COUNTY
