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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

BEFORE THE MEDIATOR - ARBITRATOR

In the Matter of the Petition of :
CUDAHY EDUCATION ASSOCIATION :
To Initiate Mediation-Arbitration : Decision No. 21849-A
Between Said Petitioner and : Stanley H. Michelstetter II -
SCHOOL DISTRICT OF CUDAHY. : Mediator-Arbitrator

Appearances:

James Gibson, Executive Director, appearing on behalf of the Association.

Mulcahy & Wherry, S. C., Attorneys at Law, by Robert W. Mulcahy, appearing on behalf of the Employer.

MEDIATION - ARBITRATION AWARD

Cudahy Education Association, herein referred to as the Association, having petitioned the Wisconsin Employment Relations Commission to initiate Mediation-Arbitration, pursuant to Section 111.70(4)(c)(m) Wis. Stats., between it and School District of Cudahy, herein referred to as the Employer, and the Commission having appointed the Undersigned as Mediator-Arbitrator on July 26, 1984; and the Undersigned having conducted mediation and a hearing in the above-entitled matter on September 24, 1984, in Cudahy, Wisconsin, the last of which was received October 9, 1984.

ISSUES

The following is a summary of the positions of the parties:

1. The sole issue is the wage increase for the 1984-1985 school year. The Employer proposes to retain the current salary schedule, but not to advance any teacher to the next step. It proposes to increase the B.A. base by \$436.00 and to keep the current longevity plan. Its wage increase is 2.9%, the total package is 3%.

2. The Association proposes to retain the current salary schedule and to advance teachers one step on the current schedule. It proposes to increase the base by \$785.00, it also proposes to increase the longevity plan. Its wage increase is 7.3%, its total package is 7.2%.

The current salary schedule is attached hereto and marked Appendix A, the Employer's final offer is attached hereto and marked Appendix B; and the Association's final offer is attached hereto and marked Appendix C.

POSITIONS OF THE PARTIES

The Association relies primarily on the comparison of the wages of unit employes to those of similar employes in comparable units. It relies principally upon the comparison group established by Mediator-Arbitrator Zeidler in South Milwaukee, Case No. 247554; Med/Arb 438. It adds to this group; Glendale, Fox Point, Maple Dale, Cedarburg, Grafton, Fredonia, Mequon-Thiensville, Oconomowoc, West Bend. It re-

lies both on wage rates, comparison data and settlement data. It notes that School Boards in most comparable districts have already offered more than Cudahy has (South Milwaukee 3.6%, St. Francis 7.3%, Oak Creek 4%). Similarly, Franklin has offered 6% and Greendale's Arbitrator result is 5.13%. It relies on the average of 13 voluntary settlements in the regionally comparable group, 6.8%. It notes that by bench mark analysis, its position relative to comparable districts has generally deteriorated. It argues that the Employer has shown no justification for its unusual position in freezing Employees on step (no increment), and should, for this reason alone, have its position denied. It denies that the economic climate in Cudahy is bad. It cites Milwaukee articles and reports indicating area firms expect to expand sales. It notes no one in Cudahy protested the tax rate increase at the Employer's annual meeting. It takes the position that this Employer has enough money to pay for the Association's proposal. It argues there is no evidence the tax rates set for 1984-1985 in Cudahy are any higher than anywhere else. It denies that, "local economic conditions," are synonymous with, "interest and welfare of the public," because School Boards around the state are lobbying to add the latter as a criterion to the Statute.

Finally, it argues:

1. That consistency is important in public schools in good times and bad;
2. That teachers should not be made scapegoats for profit-motivating cutbacks in the private sector; and
3. That the concept of "local economic conditions" is not adequately defined.

It is the position of the Employer that the interest and welfare of the public is best served by adopting its offer, in that the local economic conditions of the city of Cudahy are depressed. Relying on a prior arbitration award between the parties, School District of Cudahy (19365-A), Gundermann 10/82, it argues that, among other things, the reduction in the income levels of much of the general populace implies that the hard-pressed public should not be required to pay added taxes to support the Association's demands. It argues that the City of Cudahy is unique among Milwaukee suburbs in that it is socio-economically less advantaged than the other Milwaukee suburbs and, thus, should not be required to sustain high labor costs for public services. In support of this position, it notes the population of Cudahy has declined 11.46% from 1970 to 1980 and, since then, has lost 275 residents. By contrast, most other Milwaukee suburbs have significantly increased their populations in the same period. Additionally, demographically, Cudahy's population is older and income levels are low by comparison to other Milwaukee suburbs. Many older persons are on fixed incomes. Fewer people in Cudahy have college degrees than in most other suburbs and, thus, are likely to be lower paid. It notes that this position is supported by direct evidence, as well. Cudahy has the lowest area per capita income, \$7,855, which is \$2,997 less than the average per capita income for Milwaukee suburbs. It also argues that the local business climate has permanently, sharply declined, while comparable areas have had economic recoveries. It indicates Cudahy's economic base, which is in manufacturing, has permanently declined, resulting in lost jobs, lower community wage levels and a declining property tax base. Specifically, Ladish Company has declined from 4,600 employees to 2,400. Remaining employees have had their salaries frozen or only minimally increased. Patrick Cudahy, Inc., sought wage and benefit

concessions from its employees to remain in business. It also reduced substantially, its total employment. Patrick Cudahy nearly closed its doors and may yet seek deeper concessions. George J. Meyer, which once employed 800, has moved its operation south, and now employs 40. Bostrom moved its operations and dropped from 600 employees to 125. Similarly, Kohl's Food Stores, World's Best, Trinity Hospital and other local employers have cut wage and/or laid off employees. It argues that City taxpayers will be required to bear a \$2 per thousand tax increase in order to offset a \$560,000 deficit, which the City of Cudahy incurred and which must, due to State arbitrage laws, be collected in taxes. Further, both the City and the School District are required to rebate property taxes to Ladish Company and George J. Meyer because of their successful appeals on past property taxes. The total rebate to both by both employers is \$534,000.

It argues that when the local economy is depressed, heavy emphasis should be placed on local, private and public settlements and units which may be dissimilar. Thus, it relies on private sector settlements in Cudahy, almost all of which were well below what the Association actually received in its previous contract. It argues that its agreements of 5% each for 1984-1985 with its clerical and custodial units were appropriate when made in late 1983 and early 1984, but that the rate is no longer justified because of the developments with respect to rebates and Patrick Cudahy, Inc. In any event, it argues that, since the teachers exceeded the settlements the others got in previous years, the settlement with teachers herein should be slightly less than the others received this year. It relies, also, on the City of Cudahy settlements with most of its units for 1984 at 5% (which occurred in 1982 and 1983). It relies very heavily on the wage freeze voluntarily accepted by Cudahy Technical Health Services Association, /1/ and the initial contract, with a wage increase retroactive to 1982. The adjustment for 1984 is 6% (11/84, 0% 11/85).

It argues that unit employees' wages have historically exceeded changes in the cost of living and that its offer more nearly meets the current such change. Finally, it argues that, although, in the past, "both parties have always looked to the wage increases received by teachers in comparable districts," the severe economic conditions make it impossible for the Employer to continue to do so.

DISCUSSION

The essence of the Employer's position is that the deterioration in the local economy, in and of itself, justifies granting unit employees a wage adjustment which is less than that which they otherwise would receive. The essence of the Association's position is that wage rates ought to be maintained at appropriate levels by comparison to comparable districts' wage rates, unless the local unit is unable to pay. The decision I make today concludes that the nature of the local economy is a "other factor," under subparagraph (h), which can be considered in applying the comparison factor (d) and, weighed with other factors and information, could be an element in giving heavy weight to subparagraph (c). Under the facts of this case, I find the comparison factor (d) and the interest in welfare of the public (c) both favor the Association's position herein. I place the burden to prove the applicable impact upon the Employer.

/1/

Cost of Living

The change in the cost of living from July 1983 to July 1984 is 4.1%. This matches more closely to the Employer's final offer than the Association's.

Comparison to Like Units in Comparable Districts

The Employer stipulated at the hearing that based upon the comparability criteria alone, the Association's final offer is appropriately selected. The evidence indicates that among reasonably comparable districts, settlements are, in fact, going for about 6.8%, or \$1,818 per teacher, wage only increase. The Association herein is proposing 7.3%, or \$1,890, while the Employer is proposing a 2.9% wage increase or \$1,051 total package (wage and benefits combined) increase. Although there has been a change in economic circumstances, both parties continued to agree that the comparability grouping set out by Mediator-Arbitrator Frank Zeidler in South Milwaukee (case no. 24754, Med/Arb 238) is still appropriate. Cudahy still is a suburb of Milwaukee and shares a close community of interest with its blue collar, closely comparable suburbs of St. Francis, South Milwaukee and Oak Creek. Much of the evidence of economic deterioration presented herein is substantially applicable to these communities, as well. Further, the loss of manufacturing and other jobs, and reduction in certain blue collar rates appears to be a process occurring throughout the Milwaukee area, which disproportionately impacts in Cudahy. Accordingly, the deterioration in economic circumstances herein does not warrant a change in comparability groupings.

As it relates to this case, the comparative evidence indicates that approximately 3/4 of this unit is above salary schedule (longevity). Of the 200.2 full-time equivalent teachers, 37.5 teachers are in the B.A. columns, while 78.5 are at the B.A. column longevity maximums. Sixty-five teachers are at the longevity maximum in the M.A. lanes. Taking the fact that 3/4 of the unit is above salary schedule into account, the top salary schedule bench marks are generally most important. The 1983-1984 salary schedule comparison data demonstrates that Cudahy was four out of the four closely comparable suburbs at the B.A. maximum, three out of four at the M.A., step ten, three out of four at M.A. maximum, three out of four at the M.A.-plus 30 maximum salary. The closely comparable suburbs are Cudahy, South Milwaukee, St. Francis and Oak Creek. At the M.A.-plus ten and M.A. maximum (including longevity) salary schedule bench marks, Cudahy is behind nearly all of the following Milwaukee area suburbs: Franklin, Greendale, Greenfield, Whitnall, Brown Deer, Elmbrook, Germantown, Menomonee Falls, Muskego, New Berlin, Nicolet, Shorewood, Wauwatosa, West Allis, Whitefish Bay, Glendale, Fox Point and Maple Dale. The result is about the same for the maximum at M.A.-plus 30.

For 1983-1984, Cudahy was two out of four in the close comparability group at the B.A. minimum, and generally behind almost all other comparable districts. At the B.A. maximum (including longevity), it is about \$250 ahead of the average such districts. This difference is basically attributed to the maximum of the B.A. column including longevity. Thus, except for the group at the B.A. maximum, most of the employees in Cudahy are generally paid at the minimum levels among comparable groups. Thus, comparability both with respect to the size of increase and comparison between salary schedules, among units of similar employees in comparable communities, favors the Association's position.

Internal Comparisons

The following were the Employer's settlements with its units and administrative staff:

<u>Unit</u>	<u>1983-84 Wage Only Increase</u>	<u>1984-85 Wage Only Increase</u>	<u>Date of Settlement</u>
Administrative	0-4.4%	No Settlement	- -
Custodial/ Maintenance	5%	5%	10/5/83
Clerical	5%	5%	1/84
Teachers	7.12%	Board: 2.9% Assn.: 7.3%	- -

The Employer has advanced three reasons why it should propose less to its teachers than to its other employees: 1) Economic circumstances worsened because of the threatened closing of Patrick Cudahy, Inc.; 2) Employer is required to pay tax rebates; and 3) Teachers previously had larger settlements. The first two reasons offered by the Employer are mere rationalizing, and the third was not sufficiently explained. Accordingly, the internal comparisons are about even. They favor the Association if the need to maintain its salary schedule is considered and slightly favor the Employer if it isn't.

One assumption underlying the position of the Employer is that a decline in the economy of an area necessarily implies that wage rates in an area decline. This may or may not be true.

Comparison to Private and Public Sector Settlements in Dissimilar Units

The evidence establishes a general elimination of blue collar manufacturing jobs and wage limitations for blue collar work throughout Milwaukee, which adjustments have disproportionately impacted in Cudahy. There is no evidence that blue collar and/or professional wage levels have dropped here further than in comparison to similar wage levels in the Milwaukee area. However, the magnitude of the effect in Cudahy does suggest downward wage pressure in the Cudahy area, particularly for blue collar workers. There is no evidence in this case of an historical relationship between teachers' wages here and blue collar, private sector wages: In fact, the Employer takes the opposite position herein. Certainly, if the teachers' wages didn't rise as quickly as those in the private sector wages, they shouldn't fall as quickly. For the reason, an evaluation of the effect of downward wage pressure should be made from local public sector settlements, particularly if it can be shown they are significantly different from those in comparable communities. The City of Cudahy has settled as follows:

<u>Bargaining Unit</u>	<u>Wage Increase</u>	<u>Effective Date of Wage Increase</u>	<u>Date of Settlement</u>
Public Works Dept.	5%	1/1/84	8/24/83
Firefighters	1.75%	1/1/84	10/20/83
	1.75%	7/1/84	
Police (W.P.P.A.)	5%	1/1/84	12/13/82
Police Supervisors' Association	5%	1/1/84	12/10/82
Cudahy Technical & Health Services	6%	1/1/84	8/10/84
	0%	1/1/85- <u>12/</u>	

12/ Wage increases are retroactive, however, to January 1982.

Settlements in the City for 1984 seemed to compare to the school district for 1984-1985. The most recent settlement occurring with the Technical & Health Services Association, particularly as it relates to 1985, tends to support the position of the Employer. However, the size of retroactivity and the use of a 1% additional increase in 1984, suggests that this settlement may be front-loaded and, thus, is not as strong support as the Employer suggests. Taking into account the overall nature of these settlements, I conclude that this factor is about even. It favors the Association if the need to maintain a salary schedule is considered and favors the Employer if it isn't.

Interest and Welfare of the Public
and the Financial Ability of the Unit of Government
to Meet the Costs of Any Proposed Settlement

The Employer's position also turns largely on the burden higher wage rates would ultimately place on its taxpayers. The assumption underlying this aspect of the Employer's position is that the price for teacher labor should vary essentially directly in accordance with a decline in the ability of the local economy to bear taxes. This argument is frequently used by employers in such areas. Certainly, few employers in well-off areas concede they ought to pay more than is comparable merely because the economy is strong. The difficulty with this argument is that the market value of goods and services does not necessarily respond to the ability of the purchaser to pay. Certainly the cost of the last vehicle the school district bought was not so directly affected, if at all. For this reason, mediator-arbitrators must avoid a deceptively simple approach and balance carefully; maintaining needed services against the potential damage to those services occasioned by improperly paying affected employees. In view of the risks, the employer advancing this argument ought to bear the burden to prove not only the downturn, but the facts and circumstances justifying different treatment. The evidence supports the Employer's position that

taxpayers in the Cudahy area are the least able to support property tax increases. The following table indicates that Cudahy has fallen way behind comparable districts with respect to the property tax base available to support education:

<u>District</u>	<u>1978-1979 Equalized Value</u>	<u>1983-1984 Equalized Value</u>	<u>% Increase</u>
Brown Deer	93,983	222,712	136.9%
Cudahy	87,407	137,636	57.4%
Elmbrook	118,302	266,978	125.6%
Franklin	66,081	147,937	123.9%
Greendale	86,263	171,217	98.5%
Greenfield	98,941	216,827	119.1%
Menomonee Falls	90,579	203,507	124.7%
Muskego	60,988	128,113	110.0%
New Berlin	96,958	185,751	91.6%
Nicolet U.H.S.	179,297	841,355	369.3%
Oak Creek	101,300	171,172	69.0%
Saint Francis	84,784	168,242	98.4%
Shorewood	125,926	232,540	84.7%
South Milwaukee	91,291	140,697	54.1%
Wauwatosa	171,355	318,518	85.6%
West Allis	153,859	236,433	53.7%
Whitefish Bay	111,127	229,595	106.7%
Whitnall	98,880	218,515	121.0%

Further, income in Cudahy is comparatively low,

	<u>Per Capita Income</u>	<u>Mean Family Income</u>	<u>Median Family Income</u>
Cudahy	\$ 7,855	\$24,536	\$22,523
Bayside	18,028	61,284	45,884
Brown Deer	9,704	21,028	28,597
Brookfield	11,551	39,538	33,507
Butler		Information not available	
Elm Grove	18,423	63,713	43,247
Franklin	8,787	29,105	27,647
Fox Point	18,633	58,219	40,635
Glendale	11,387	36,323	31,111
Greendale	9,464	32,924	29,862
Greenfield	9,267	27,131	25,250
Hales Corners	10,003	32,263	28,820
Menomonee Falls	9,097	31,269	28,514
Muskego	8,249	28,999	26,740
New Berlin	9,359	32,667	30,110
Oak Creek	8,194	27,431	25,991
River Hills		Information not available	
St. Francis	8,120	24,807	24,286
Shorewood	10,947	32,305	27,082
South Milwaukee	7,875	25,141	23,825
Wauwatosa	10,579	31,564	27,092
West Allis	8,412	23,766	22,259
West Milwaukee	8,747	20,751	19,795
Whitefish Bay	13,068	39,610	32,198

(1979) 1980 Census of Population: U. S. Department of Commerce,
Bureau of Census

Other data suggests this difference has increased in recent years. Taken with economic deterioration, I conclude that serious consideration must be given to the burden taxes will have on the public.

Although there is a very limited economic base to draw upon for Cudahy schools, taxpayers are already receiving school services at a comparatively low tax rate. The following chart relates to 1984 tax rate:

<u>District</u>	<u>1984 Full Value Tax Rate</u>
South Milwaukee	\$15.00
Cudahy	14.09
St. Francis	14.24
Oak Creek	10.81
Franklin	17.14
Greendale	15.33
Greenfield	13.34
Whitnall	16.50
Brown Deer	16.13
Elmbrook	14.82
Germantown	15.48
Menomonee Falls	15.04
Muskego	13.07
New Berlin	16.49
Nicolet	12.34
Shorewood	16.47
Wauwatosa	12.43
West Allis	17.23
Whitefish Bay	17.18
Glendale	
Fox Point	
Maple Dale	
Cedarburg	13.86
Grafton	14.50
Fredonia	
Mequon-Thiensville	13.72
Oconomowoc	
West Bend	
Average of 1-19	\$14.90

The Employer also relies very heavily on the City of Cudahy cash flow problems and the fact it and the City will have to pay large tax rebates. The City of Cudahy shares the same economic circumstances as the school district. The city has consistently borrowed money to meet its cash flow needs in the past. It has invested part of those funds and received interest exceeding the interest it paid. In January, 1984, it learned this process was in violation of state arbitrage laws and that the city would have to increase the property tax, instead, to develop a cash reserve fund. As of January, 1984, the city anticipated raising its tax rate \$2 per thousand of assessed valuation. The city of Cudahy and school district are jointly required to rebate approximately \$538,000 total to Ladish and George J. Meyer Mfg. The District's share of this is \$146,000. City taxes will have to be raised about \$1.70 per thousand, if this is to be repaid in one tax year. The city has not yet determined how it will repay this amount. The District has not included this rebate in its tax rate, as of this date.

These rebates present two problems: First, and most important, each of these municipal employers has a one-time cash flow problem. Ordinarily, cash flow problems should not be taken into account in determining long-term wage rates. The second problem is that the tax rebates indicate a reduction of the taxes paid by these two large taxpayers. This burden must be redistributed to the tax-paying public permanently. This will increase slightly the amount of taxes that Cudahy taxpayers will have to pay. However, because the tax rebates date back to many previous tax years, the amount redistributed on an annual basis is significantly less than \$538,000.

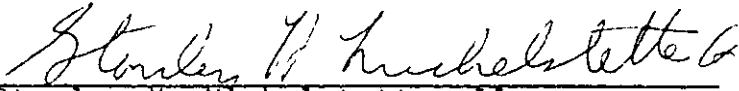
There is one factor which is very important: The Employer has offered evidence that there have been some layoffs on a regular basis in this unit, and some postponement of projects. However, the evidence is insufficient to demonstrate a general attempt to reduce the level of non-essential government services provided by the Employer. In general, a political consensus that taxes are a burden to the tax-paying public, would generally result in a lessening of governmental services which are non-essential.

The balance presented herein is one of the more difficult to make. When public employe wage rates are already low and taxes a heavy burden on the public, the competing interests are each very strong. Under those circumstances, particularly, heavy emphasis must be placed on the degree local efforts have been made to reduce excess public expenditures, as this is the best indicator of social consensus as to the tax burden. Lacking that evidence in this case, I conclude the public interest is better served by granting an increase comparable to that of other teachers elsewhere.

AWARD

That the parties' 1984-1985 collective bargaining agreement contain the final offer of the Association.

Dated at Milwaukee, Wisconsin, this 28th day of November, 1984.



Stanley H. Michelstetter II
Mediator-Arbitrator