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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN

BEFORE THE ARBITRATOR

* * * * *

* In the Matter of the Petition of * *

* ROCK COUNTY PUBLIC WORKS DEPARTMENT * *

* EMPLOYEES, LOCAL 1077, AFSCME, * *

* AFL-CIO * *

* To Initiate Arbitration * Case No. 217 *

* Between Said Petitioner And * No. 38074 ARB-4225 *

* * Decision No. 24319-A *

* ROCK COUNTY (DEPARTMENT OF * *

* PUBLIC WORKS) * *

* * * * *

APPEARANCES

On Behalf of the Employer: Bruck K. Patterson, Employee Relations Consultant

On Behalf of the Union: Thomas Larsen, Staff Representative Wisconsin Council 40, AFSCME

I. BACKGROUND

On October 13, 1986, the parties exchanged their initial proposals on matters to be included in a new collective bargaining agreement to succeed the agreement which expired on December 31, 1986. Thereafter, the parties met on four occasions in efforts to reach an accord on a new collective bargaining agreement. On January 2, 1987, the Union filed the instant petition requesting that the Commission initiate Arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. On February 23, 1987 a member of the Commission's staff, conducted an investigation which reflected that the parties were deadlocked in their negotiations, and, by February 23, 1987, the parties submitted to the Investigator their final offers as well as a stipulation on matters agreed upon. Thereafter, the Investigator notified the parties that the investigation was closed and advised the Commission that the parties remain at impasse.

Subsequently, the Parties were ordered to select a Mediator-Arbitrator. The undersigned was selected and appointed March 30, 1987. The Parties agreed to meet on June 18, 1987 for the purposes of presenting evidence and argument. Post hearing reply briefs were submitted July 1, 1987.

The following award is based on the evidence, the arguments of the Parties and the relevant statutory criteria.

II. ISSUE

The only issue in dispute is the appropriate wage increase for 1987. The Employer offer equates to 2.1% and the Union offer is 5.0%.

III. ARGUMENTS OF THE PARTIES

A. The Union

As background, the Union notes that the Parties last arbitrated in 1985 (Case No. 192, No. 34332, MED/ARB-3114). In that case, Arbitrator Grenig awarded for the County because of the implications of a Union language proposal. Arbitrator Grenig concluded the language issue outweighed the wage issue even though he thought the Union wage proposal to be more reasonable. He stated:

"Because the Union's offer is much closer to the 1985 pattern of settlement established in the comparable employers and because the County's wage rates are below those of the comparables, it is concluded that the Union's wage offer is more reasonable than the County's."

In conclusion he indicated:

"The Arbitrator has no power to pick and choose among the issues, but must choose one or the other offer based on the statutory criteria. This can be a difficult choice where there are two offers and one is more favorable to the Union and the other more favorable to the County.

"Although the wage offer is of considerable importance to both parties, a wage increase below the established settlement pattern can be adjusted during the next round of bargaining. On the other hand, once a language item, such as the work schedule proposal, is in the contract it is very difficult to have the proposal removed from the contract in the future. Because the impact of the work schedule proposal is so uncertain, it must be concluded that the County's final offer is more reasonable than the Union's."

The Union recognizes that the other two AFSCME units have settled for 1986 and 1987 (two-year agreements). However, since the parties in this case agreed to a one-year package in 1986, they argue it should be obvious that the Parties intended to sever a direct tie between the D. P. W. unit and the Employer's other bargaining units for this bargaining. Thus, it is their position internal comparables reached as part of a two-year

package agreement should not be binding on this unit.

In terms of external comparables, they note they were established by Arbitrator Grenig in 1985. They also note that in these communities even under the Union's offer Rock County DPW employees continue to lag the average of the comparable counties by a substantial margin (more than 10%). In addition, they suggest the county employees will continue to lag the average wage in the cities of Beloit and Janesville under the Employer's final offer. They also believe the cost-of-living factor favors their offer since recent trends in the cost-of-living index has shown that inflation is running at a rate of 6.1% for 1987 (CPI-W Dec. '86 - Apr. '87).

B. The Employer

The Employer analyzes the final offers relative to the various statutory criteria. First, with respect to the interest and welfare of the public and the financial ability of the unit of government to meet these costs, the County asserts that this criteria would best be satisfied if its employees received a uniform wage benefit improvement for the term of this contract. In this regard, the "new " money offered these employees is consistent with the County's eight voluntary settlements, reached as of the date of the hearing before the Arbitrator. Those units represent 81% of unionized county employees. In addition, the County Board has implemented similar wage increases for employees in its unilateral (non-union) pay plan. Only two other units have opted for arbitration.

Next, they examine the offers relative to a comparison of wages, hours and conditions of employment of the employees involved in arbitration proceedings. In this regard, they believe the internal comparability factor to be the most significant factor to be considered. As detailed above, they believe their offer is more internally consistent. They illustrate and highlight the importance of the internal comparability factor with numerous case citations. It is also suggested that if the Arbitrator selects any position other than the County's this will simply invite all County units to forsake voluntary settlements for arbitration and hence, cause irreparable harm to the collective bargaining relationship between Rock County and its twelve groups of unionized employees.

Last, they believe their offer is most reasonable relative to the cost of living and is also favored by the "catch-all" factor. In the latter respect, they call attention to the lack of turnover in the bargaining unit jobs. They point to the following data. Since 1984, of the 17 terminations, 13 have been for retirement; 1 death; 1 to enter school; 1 quit for other work and; 1 terminated for cause. In the same time, the County has received a total of 1763 employment applications for those vacancies. 93% of those applicants were Rock County residents. Based on virtually no turnover and a significant

pool of applicants, Rock County believes its wage and benefit package is sufficient to attract and retain workers capable of providing the services required by its residents and the County Board.

IV. OPINION AND DISCUSSION

It is helpful to note several things at the outset. There is no inability to pay argument. Nor are any comparisons made to private employment. Instead, Management relies on internal comparables and the Union relies on comparisons to public employees doing similar work in comparable communities or in other words "external comparables." Additionally, there is no challenge as to the Union's choice of external comparables or benchmark positions for comparison purposes. Both are consistent with previous arbitration awards.

It is no surprise that the internal comparisons favor Management and the external comparisons favor the Union. The critical question is which is more indicative of the reasonableness of the offers and thus which should be given most weight. Both are important criteria and both have been relied on to the inclusion of the other in awards across the state. Thus, as a general matter, the relative weight to be given each factor depends on the facts and circumstances of each case.

It is this Arbitrator's opinion that where a consistent internal pattern of wage rate increases can be shown in the contract year, this internal pattern should be given controlling weight unless the Union can demonstrate that acceptance of the Employer's offer would result in significant disparities in wage rate levels relative to the external comparisons. In other words, consistent internal comparisons, even though they involve dissimilar employees, should be adhered to unless the wage rates of the bargaining unit are just too far out of line. There are very strong equity considerations which arise when an internal pattern is established. Instability in bargaining, dissension and morale problems can occur when one group is treated differently than the others. However, it must also be recognized there is external equity as well relative to other employees in public employment doing similar duties. This consideration can't be ignored and a reasonable balance must be maintained between internal and external equity. Some disparity in external rates is inevitable and a mere difference isn't enough to justify breaking the internal pattern. While the internal pattern generally deserves great weight, it cannot control where the evidence is convincing that following the internal pattern causes enough external disparity to impress the reasonable mind as being simply "too much" of a difference.

There is another factor in this case as well that must be kept in mind and that is that some of the disparity in rates is because the Union--based on its own language proposal--lost the

1985 arbitration. Thus, a difference in external rates based on this fact alone wouldn't justify breaking the internal pattern. The Union took a gamble in 1985 by including a unique language proposal in their final offer and lost. Thus, catch-up only on this basis wouldn't be justified. They must show a more significant disparity. Moreover, they must show their present proposal reasonably addresses any disparity. The following wage data is relevant:

1987 WAGE COMPARABLES¹

<u>County</u>	<u>Truck Driver</u>	<u>Patrolman</u>	<u>Mechanic</u>
Brown	\$10.57	\$10.57	\$11.15
Racine	11.79	11.79	12.27
Winnebago	9.85	10.09	10.21
Outagamie	9.68	9.68	10.82
Kenosha (1986)	13.07	13.07	13.46
Marathon (1987)	9.41	9.41	9.64
Sheboygan (1986)	9.75	9.85	9.95
Janesville	9.50	9.50	10.33
Beloit	9.38	10.04	10.51
Average	----- 10.32	----- 10.43	----- 10.91
ROCK COUNTY:			
Employer Final Offer	9.36 -.96/-10.2%	9.36 -1.07/-11.4%	9.64 1.27/-13%
Union Final Offer	9.62 -.70/-7.2%	9.62 -.81/-8.4%	9.91 - 1./-10%

In this case, the Arbitrator must conclude that the Union has satisfied its burden--albeit marginally. The Employer offer would result in truly significant disparities when all the comparable's rates are averaged together. The rates for truck driver, patrolman and mechanic would be 10%, 11.4% and 13% below the average. This is somewhat beyond what would be acceptable, in spite of the fact progress toward closing the gap

1. Rates for Kenosha and Sheboygan are 1986 rates.

has been made in the past. Accordingly, the equities favor the external comparison and the internal pattern must give way under these unique circumstances.

In contrast to the Employer's offer, the Union's offer brings the wage rate levels to a more acceptable level. As noted, absolute parity isn't reasonable especially since the average rate is skewed by exceptionally high salaries in Racine and Kenosha counties, which are heavily influenced by the Milwaukee-Chicago metroplex. Thus, recognizing this, the Union's offer doesn't go too far toward addressing the disparity and strikes a more reasonable balance between internal wage increases and external wage levels.

Relative to the cost of living criteria this factor must take a back seat to the external comparability factor where an offer is found to reasonably address a wage inequity. Relative to the "catch all" factor, this cannot outweigh the comparability factor, especially since this data may be indicative in part of the unemployment situation generally in Rock County and not just the appropriateness of wage rates for public sector employees.

AWARD

The Final Offer of the Union is Accepted.



Gil Vernon, Arbitrator

Dated this 21st day of August, 1987 at Eau Claire, Wisconsin.