STATE OF WISCONSIN

BEFORE THE ARBITRATOR

In the Matter of the Petition of the MONROE COUNTY HIGHWAY EMPLOYEES, LOCAL 2740, WCCME, AFSCME, AFL-CIO To Initiate Arbitration Between Said Petitioner and MONROE COUNTY	Case 81 No. 41796 INT/ARB - 5185 Decision No. 26166-A

APPEARANCES:

Daniel R. Pfeifer, Staff Representative, AFSCME Council 40, on behalf of the Monroe County Highway Employees

Edward G. Staats, Personnel Director, on behalf of Monroe County

INTRODUCTION

On October 30, 1989, the Wisconsin Employment Relations Commission (WERC) appointed the undersigned to act as Arbitrator pursuant to Section 111.70(4)(cm)6 and 7 of the Municipal Employment Relations Act (MERA) in the dispute existing between the Monroe County Highway Employees (hereinafter the "Union" or "Employees") and Monroe County (hereinafter the "County" or "Employer"). On December 19, 1989, an arbitration hearing was held between the parties pursuant to statutory requirements and the parties agreed to submit briefs and reply briefs. Briefing was completed on February 5, 1990. This arbitration award is based upon a review of the evidence, exhibits and arguments, utilizing the criteria set forth in Section 111.70 (7), Wis. Stats. (1987-88).

ISSUE

Shall the final offer of the Union or that of the County be incorporated in the labor agreement between the parties?

THE FINAL OFFERS

There are four issues before the Arbitrator in this proceeding. Both parties urge adoption of the wage schedule contained in its Final Offer. The remaining three issues relate to Funeral Leave, Sick Leave and Health Insurance Premium Contributions. In each area, the County has proposed alterations in the contract language. In each area, the Union would ask the Arbitrator to leave the present contract language in place.

It is customary for Arbitrators to set forth a detailed analysis of each separate issue, subjecting each in turn to the standards established by the Statute before arriving at a

decision. Moreover, this Arbitrator and others have applied special tests to proposed changes in contract language.

The dispute between Monroe County and its Highway Department employees differs from many such disagreements. Here there appears to have been a settlement worked out during bargaining which was rejected by one of the parties during ratification owing to dissatisfaction over one issue. This issue is the size of the employee's contribution to health insurance premiums.

Thus, the attention of the Arbitrator is focused by the parties. Unless it is clear upon analysis that the less controversial issues are, in fact, of over-riding importance it seems as though the joint judgment of the parties must be respected.

A thorough review of the Wage, Sick Leave and Funeral Leave issues in light of the statutory criteria and the "proposed language change" standard has led this Arbitrator to support the Union's position on Funeral and Sick Leave and the County's position on Wages. The Wage proposal appears more acceptable not because it is more generous but because it is more in line with the cost of living index and the wages paid to comparable workers in public employment, including internal comparables.

At this juncture, we must turn to the issue of Health Insurance Premium Contributions to determine which of the two Final Offers shall be accepted here.

HEALTH INSURANCE PREMIUM CONTRIBUTIONS

The County's Position:

The Employer's Final Offer is founded upon two propositions, either of which, in its view, entitles it to prevail here.

The first is its belief that its employees should begin to contribute more generously to ever-rising health permium costs. The present contract language has been in place for a period of years in which premium costs have risen sharply. Because the monthly premium deduction has remained at a fixed dollar amount, it has constituted an increasingly small percentage of the total cost of providing health insurance to the workers.

At the time the present fixed dollar contribution was put in place, the County's share of the cost was 86% of the total. Since 1985 that share has increased to 90% for family plans and 92% for single coverage. Further increases are anticipated which would tend to widen the gap even further in future plan years.

The County believes the present contribution level is obsolete and places an increasingly burdensome expense upon the tax-payers of Monroe County. In light of the changes in cost experienced in recent years a return to the status quo as it existed before 1980 is reasonable and proper.

The second foundation upon which the County bases its offer is internal comparables. The County has successfully instituted or bargained for adoption of its proferred contribution plan with all its other employees with the exception (at the time of the hearing) of persons employed at the Rolling Hills Institution where the same proposal is under consideration.

Monroe County believes that to treat the Highway Department employees in a different way would be terribly disruptive to morale and would make future contract bargaining difficult if not chaotic.

The Union's Position

The Union would have the Arbitrator find that the Final Offer of Monroe County fails for two reasons. The first is that the request is unreasonable and the second is that it has offered its Highway Department workers an unsatisfactory quid pro quo for making changes in the labor agreement.

The present health insurance contribution language has been in place since 1980. with the only change occurring in 1985 when the accounting method was changed to institute a Premium Only Plan which benefited the County because the workers increased their contribution and benefited the employees because they were able to claim an income tax deduction for their out-of-pocket costs. Thus the present arrangement has been in place for a long time and has come to be relied upon by the members of the bargaining unit.

The Union believes the employer is subject to health insurance costs which are below those incurred by comparable employers and receives a contribution toward those costs which is comparable to that assumed by employees of those employers. In other words, the net premium cost to the Monroe County taxpayer is comparable to other units because its gross cost is on the low side and the level of contribution is on the high side. The County's offer of approximately 85% is thus unreasonable.

Turning to internal comparables, the Union would exclude non-organized employees, those represented by other labor organizations, and those employed by the semi-automonus Rolling Hills County Institution.

That leaves only the professional and the non-professional and clerical workers. Both these units are represented by AFSCME and are the only truly comparable internal units. Both these have agreed to premium contribution levels the same as those contained in the County's Final Offer here.

However, the agreement of these units was obtained by substantial wage adjustments which have not been offered to the Highway Department workers. For those workers a percentage increase was coupled with step increases, resulting in generous increases to individual workers. As a result, the Union affirms, a Clerk-Typist would be increased a total of 17.2% over a two-year period and a Financial Aide would receive increases of 22.7%. Both these examples go to prove that the County purchased their agreement by means of a quid pro quo not to be attained by members of this unit. Even a Social Worker in the professional bargaining unit would receive an increase of 13.7% over two years, a benefit far in excess of that offered here.

The Union feels that Monroe County and its taxpayers will be better served if they grant its employees a benefit they want rather than a wage increase they do not want.

For these reasons the Union asks the Arbitrator to find the Final Offer of Monroe County to be unreasonable and that the wage offer is an inadequate quid pro quo making acceptance improper.

DISCUSSION

The Union has made a quid pro quo argument in this proceeding. Arbitrators have found it to be difficult to evaluate the adequacy of an offer made to induce changes in contract language. It goes without saying that were the quid pro quo adequate, the matter would have been resolved in bargaining without resort to the arbitration process. In all but the most intransigent of situations, another basis for analysis is preferred.

Therefore, the County, as the party seeking to alter the contract language, will have the burden of showing:

(1) Does the present contract language give rise to conditions that require change?

(2) Does the proposed contract language remedy the situation?

(3) Does the proposed contract language impose an unreasonable burden upon the other party?

The condition that requires change here is not to be found in the dollar cost or contributions level. The condition is to be found in the relationship between this unit of employees and the other employee groups, both represented and non-represented in Monroe County government.

The Union argues that acquiescence on the part of the other units was "purchased" by wage increases far in excess of that offered to its members. It may be that this happened to be an adequate quid pro quo to those other workers. And yet the record is not clear as to how these other workers compared for wages before they received their wage increase. There is a considerable difference between granting increases justified on grounds other than those related to "purchasing" a change in health insurance premium contributions and increases that constitute a quid pro quo alone. The adequacy of a quid pro quo shall not be the basis for a decision here.

What does presently exist is an important difference between the contract language as it applies to this unit and to other units. One of the basic rationales of this arbitration process is to obtain unity so far as it may be achieved between the bargaining unit concerned and other comparable bargaining units. The County is correct in asserting that the most important comparable group is the internal comparable group and the present contract language does in fact give rise to conditions that require change in order to conform with language contained in those contracts.

The response to the first criterion holds within itself the answer to the second. By instituting the same contract language here that is contained in the other contracts with represented employees the proposed contract language is found to remedy the condition.

The burden of the third criterion is harder to satisfy, from the County's position. It is attempting to establish an entirely new method of computing premium contributions, one based not on a fixed dollar but on a total premium cost which historically has risen far faster than other benefit costs or wages. The Union, for its part, must exchange a known benefit cost for an unknown, always a difficult pill to swallow.

However, it is reasonable to expect a worker to participate in controlling benefit costs of its employer. Avenues other than premium contribution levels are available to the parties so that future increases may be held to a minimum. There is nothing in this record to suggest that the parties have worked together in the past to contain these increases.

Finally, the Union here has asked the Arbitrator to find that contract language which is acceptable to other represented bargaining units is not reasonable when included in its contract. This is clearly not the case and, based primarily upon the internal comparables in place in Monroe County, the proposed contract language is found to impose a burden upon the other party that is reasonable.

Therefore, the County is found to have sustained the burden arising from its proposed contract language.

AWARD

Based upon the foregoing discussion. the Final Offer of Monroe County shall be incorporated in the collective bargaining agreement between the parties.

Dated this 6th day of September, 1990.

ROBERT L. REYNOLDS, JR., Arbitrator