EDWARD B. KRINSKY, ARBITRATOR

In the Matter of the Petition of GENERAL TEAMSTERS UNION, LOCAL 662 affiliated with the IBTCW & H of A To Initiate Arbitration Between Said Petitioner and CITY OF MARSHFIELD ELECTRIC & WATER UTILITY	Case 86 No. 43598 INT/ARB-5592 Decision No. 26752-A

Appearances:
Mr. James J. Newell, President, General Teamsters Union, Local 662, for the Union.
Ruder, Ware & Michler, S.C., Attorneys at Law, by Mr. Dean R. Dietrich, for the Employer.

On February 27, 1991, the Wisconsin Employment Relations Commission appointed the undersigned as arbitrator "to issue a final and binding award, pursuant to Sec. 111.70(4)(cm)6. and 7. of the Municipal Employment Relations Act. . ." and to resolve the impasse between the above-captioned parties by selecting the total final offer of one party or the other.

A hearing was held at Marshfield, Wisconsin, on June 7, 1991. No transcript of the proceeding was made. At the hearing the parties had the opportunity to present evidence, testimony and arguments. The record was completed on July 31, 1991, with receipt by the arbitrator of the parties' reply briefs.

The unresolved issues are wages and health insurance for calendar years 1990 and 1991. The Union's final offer is to increase wages by 2.5% on 1/1/90 and an additional 2.5% on 1/1/91. It offers to change the schedule for Journeyman/Lineman so that the maximum wage is attained after 6 years in 1990, and 5 years in 1991. The current maximum wage is attained after 7 years. The Union offers to maintain the Employer's 100% premium contribution to the Greater Marshfield Community Health Plan.

The Employer offers a 2% wage increase effective 1/1/90, an additional 2% increase to Plant, Water, Meter & Line Departments effective 7/1/90 and a 2% lump sum payment to Office Department employees effective 7/1/90 which is not to be applied to the wage rates. The Employer offers to repeat these wage increases in the same manner in 1991.

For Lineman Journeyman the 1990 maximum rates are: Kaukauna ($16.19); Menasha ($14.74); Wisconsin Rapids ($16.61). Under the Employer's offer the rate is $14.31 on 1/1/90 and $14.60 on 7/1/91. The Union's offer for 1991 is $14.38.

For Lineman Journeyman the 1991 maximum rates are Kaukauna (not settled); Menasha ($15.33); Wisconsin Rapids ($17.19). The Employer's offer is $14.89 on 1/1/91 and $15.19 on 7/1/91. The Union's offer for 1991 is $14.74.

For Apprentice Lineman the 1990 maximum rates are: Kaukauna ($12.15); Menasha ($11.67); Wisconsin Rapids ($16.61). The Employer's offer is $13.16 on 1/1/90 and $13.42 on 7/1/90. The Union's offer is $13.22.

For Apprentice Lineman the 1991 maximum rates are: Kaukauna (not settled); Menasha ($12.14); Wisconsin Rapids ($17.19). The Employer's offer is $13.69 on 1/1/91 and $13.96 on 7/1/91. The Union's offer for 1991 is $13.55.

For Meter Reader Repair, the 1990 maximum rates are: Kaukauna ($13.94); Menasha ($12.75); Wisconsin Rapids ($13.67). The Employer's offer is $12.54 on 1/1/90 and $12.79 on 7/1/90.

For Meter Reader Repair in 1991, the maximum rates are: Kaukauna (not settled); Menasha ($13.26); Wisconsin Rapids ($14.15). The Employer's offer is $13.05 on 1/1/91 and $13.31 on 7/1/91. The Union's offer is $12.92.

For each of these classifications the parties' relationship with the other utilities does not change significantly from 1990 to 1991, or from 1989 to 1990 (not shown). The Employer's offer results in higher rates than does the Union's during the life of the proposed Agreement. The Employer's offer better retains the relationship between the rates paid to the bargaining unit and the rates paid in the other utilities. Also, as the Employer correctly argues, its offer serves to reduce the need for "catch-up" increases for these employees in subsequent years.

The Union acknowledges that its offer results in lower wage rates than the Employer's offer, and that its offer does not close the wage gap with other utilities. This is done intentionally, it argues, as a quid pro quo to the Employer to maintain the present health insurance arrangements. That will be discussed below.

If only wages for line and meter personnel are considered, the arbitrator favors the Employer's final offer more than the Union's in relationship to the other utilities.

The Employer also provides figures for clerical classifications. First it compares its Account/Payroll Clerk I to the Customer Service Clerk at Kaukauna, the Data Processing Clerk at Menasha, and the Accounts Receivable Clerk Assistant at Wisconsin Rapids.

The maximum rates for 1990 are: Kaukauna ($11.68); Menasha ($11.67); and Wisconsin Rapids ($11.48). The Employer's offer for 1990 is $9.70 on 1/1/90 and a 2% bonus, not added to the rate, on 7/1/90. The Union's offer is $9.75.

The maximum rates for 1991 are: Kaukauna (not settled); Menasha ($12.14) and Wisconsin Rapids (not settled). The Employer's offer for 1990 is $9.89 on 1/1/91 and a 2% bonus, not added to the rate, on 7/1/91. The Union's offer is $9.99.

The Employer makes comparisons also between its Account/ Payroll Clerk II and the Billing Clerk at Kaukauna, the Accounting Clerk at Menasha, and the Accounts Receivable Clerk at Wisconsin Rapids.

The maximum rates for 1990 are: Kaukauna ($12.01); Menasha ($13.38); and Wisconsin Rapids ($11.48). The Employer's offer for 1990 is $10.23 on 1/1/90 and a 2% bonus, not added to the rate, on 7/1/90. The Union's offer is $10.28.

The maximum rates for 1991 are: Kaukauna (not settled); Menasha ($13.92); and Wisconsin Rapids (not settled). The Employer's offer for 1991 is $10.43 on 1/1/91 and a 2% bonus, not added to the rate, on 7/1/91. The Union's offer is $10.54.

The Union objects to the Employer's offer of the 2% bonuses which are not added to the rates, and argues that the Employer has presented no rationale for such arrangements. In fact, the Employer has made arguments justifying its offer. It argues that it offers the 2% bonuses so that clerical employees will not be treated less favorably than other members of the bargaining unit. It argues that when internal comparisons, and external comparisons in the Marshfield area (see below), are made, there is justification for not increasing clerical wage rates.

Both parties' offers for clerical employees will continue their wages in a position below those paid in the comparison utilities. The Union's offer results in slightly higher wage rates (5-11 cents) than does the Employer's offer, but the employees are better off financially under the Employer's offer because of the 2% July bonuses.

Based solely on wage comparisons with other clerical employees in other utilities, the Union's final offer is favored because there is no evidence that bonuses, as opposed to rate increases, are being paid elsewhere, and the Union's offer maintains a closer relationship to the wage rates paid in the other utilities.

In conclusion, on the wage issue in comparison to other utilities, the arbitrator favors the Employer's offer with respect to line and meter personnel, and the Union's offer with respect to clerical personnel. However, the support for the Union's position on clerical wage rates is tempered by the fact that the clerical employees are better off financially under the Employer's offer during the term of the Agreement.

With respect to the health insurance issue, the data show that for 1990 the other comparable utilities (Kaukauna, Menasha and Wisconsin Rapids) each paid the full cost of their employees' health insurance. That is also what the Employer proposes for 1990 in the present dispute.

For 1991 the comparable utilities continued to pay the full cost of health insurance, although in Menasha there is an agreement that there will be some monthly cost sharing by employees in 1992 ($20 family; $8 single).

In the present dispute, as previously mentioned, the Employer proposes to pay 90% of the premium in 1991; the Union proposes that the Employer continue to pay 100%. Under the Employer's offer, the employee's share would be $19.71 single and $43.35 family per month.

The external comparisons with utilities favor the Union's final offer on health insurance.

Factor (e) requires the arbitrator to consider comparisons with ". . . other employees generally in public employment in the same community and in comparable communities."

There are six bargaining units in the City of Marshfield, including one (Wastewater employees) represented by Teamsters Local #662. In 1990 four of these units, and the non-represented employees received a 2% increase on 1/1/90 and an additional 2% increase on 7/1/90. This is the same increase offered by the Employer in the current dispute. Two of the other units of the City received an additional 1% adjustment on 12/31/90 (Clericals and Department of Public Works). There is no explanation provided in the record for these additional adjustments.

For 1991 the data were incomplete at the time of the arbitration hearing. The only City unit which had settled was the Clerical unit which received a 3% increase 1/1/91, a 9 cent per hour adjustment on 1/1/91, and a 2% increase on 7/1/91.

There was evidence in the record that three other units had not yet ratified tentative agreements. The Firefighters had been offered 3% on 1/1/91 and 2% on 7/1/91, plus $20 per month increases to two classifications. The Public Works unit had been offered 3% on 1/1/91 and 2% on 7/1/91. In addition there was a 17 cent per hour across-the-board increase on 7/1/91. The Police unit and Wastewater unit had been offered 3% on 1/1/91 and 2% on 7/1/91.

All of these units were offered more in 1991 than the Employer is offering in this dispute. However, as mentioned earlier, the Employer's wage offer is more generous to employees than is the Union's. Therefore, if only wages were being considered in this dispute, the internal comparables would favor the Employer's final offer, as the higher of the two final offers and the one which keeps pace more closely with the overall wage increases offered to the other units in the City. Looking only at wage rates, the Employer's wage rate offer for clerical employees, in comparison to what is paid to clerical employees who work for the City, is more reasonable, but the Union's wage rate offer is more reasonable for secretarial positions:

1991 Max. Rate Account Clerk I			Account Clerk II	Secretary	Clerk-Typist
Employer	1/1	$ 9.89	$10.43	$ 8.32	$ 7.83
	7/1	+ 2% bonus	+ 2% bonus	+ 2% bonus	+ 2% bonus
Union		$ 9.99	$10.54	$ 8.41	$ 8.41
City Offer	1/1	$ 8.40	$10.19	$ 8.40	$ 8.40
	7/1	$ 8.57	$10.39	$ 8.57	$ 8.57

With respect to the health insurance issue, the internal comparisons show that the employees in the other bargaining units were paying a portion of the health insurance premium under their 1989-90 Agreements. Thus, for example, in the police, firefighters, clerical and dispatcher units the City paid 85% of the premium for the Greater Marshfield Plan in 1989 and 1990. If the employee opted for the alternative plan offered by the City to these units, the City paid 95% of the premium, up to the dollar amount equal to 85% of the Greater Marshfield Plan.

The data show also that these arrangements have been continued in the offers made by the City for 1991-92 Agreements and additional benefits such as drug and vision plans have been offered to those employees. (Neither an alternative plan, nor drug and vision plans, have been offered to this bargaining unit in this proceeding.)

If only the health insurance issue is considered, the internal comparisons strongly support the Employer's position, even though what is offered to the bargaining unit is not as generous as the offer to City units. All other City bargaining units pay a portion of their health insurance premiums, and have done so since at least 1988.

It should be noted also that the Employer has been trying for some ten years at the bargaining table to persuade the Union to contribute to health insurance premiums. Those efforts have not succeeded. Of course, the arbitrator does not know what else was offered in the various bargaining proposals of both parties, and therefore he is not in a position to judge the reasonableness of the Employer's proposals in those past bargains, or of the Union's rejection of the Employer's offered health insurance arrangements.

It is an important consideration that the Employer's position does not represent a sudden change. Rather, the Employer has signaled its intent to the Union over many years to have cost sharing, and its position is now a reasonable one in light of the agreements in effect with other City bargaining units. While not disputing that the Employer has made proposals for cost-sharing in the past, the Union believes that the Employer should be required to offer a quid pro quo for the Union's acceptance of these new arrangements. That argument is discussed below, at factor (j).

The Employer presented data also for Wood County and cities in the Marshfield area: Wausau, Wisconsin Rapids and Stevens Point. There is no evidence that the parties have used these cities for comparison purposes. While these cities employ clerical and secretarial employees, it is not clear that they employ people in comparable positions to the line and meter personnel in the bargaining unit. These comparisons (not detailed here) favor the Employer's position more than the Union's.

Factor (f) requires the arbitrator to consider comparisons with ". . . other employees in private employment in the same community and in comparable communities."

The Employer has presented data for 9 companies in Marshfield with hourly work forces ranging in size from 35 to 2,138. The median hourly work force is 171.

These comparisons show that only 2 of the 9 employers (with 170 and 43 hourly employees, respectively) pay the full cost of health insurance for their employees, and one of them will contribute 90% as of 1992. One other employer (131 hourly employees) pays 95%. Five of the others pay 90% or less. The percentage paid by the remaining employer cannot be determined from the data. The Union points out with respect to these comparisons that there is no data showing the history of these arrangements, and there is nothing presented to show which of the arrangements have been bargained.

The Union's point with respect to not knowing the bargaining status of these private employees is an important one. Still, it is clear that the private sector employment arrangements in Marshfield appear to show clearly that fully-paid health insurance by the employer is the exception, not the rule.

The limited private sector data pertaining to office employees favor the Employer's final offer more than the Union's, but they are not detailed enough about such things as the nature of the jobs, or who the employers are, for them to be very meaningful for wage comparison purposes.

Factor (g) requires the arbitrator to consider the cost of living. The Union presented data showing that for Urban Wage Earners and Clerical Workers in Non-metropolitan Urban Areas in the North Central States, the average monthly increase in the Consumer Price Index during 1989 compared to 1990 was 5.07%.

The Employer calculates its final offer for 1991 to be 4.62%, and it calculates the Union's offer to be 5.06%. Those same calculations were done by the Employer for 1990 and are 3.83% and 3.66%, respectively.

For 1991 both offers are below the change in the cost of living from 1989 to 1990. The Union's offer costs slightly more than the Employer's offer in 1991 and slightly less in 1990, using these cost figures. There is very little difference in the parties' final offers in terms of total costs. Based on the data presented, and the absence of 1990 to 1991 cost-of-living data, the arbitrator does not view the cost-of-living factor as clearly favoring either party's final offer.

Factor (h) requires the arbitrator to consider the "overall compensation" of these employees. In both years of the proposed Agreement, the Employer's wage costs are greater than the Union's. The effect of the higher wage rate in 1991 is reduced from the Union's standpoint, by the fact that the employee has to make a contribution to health insurance.

Both parties presented examples to show the effects of their offers. The Employer shows that for a Journeyman/Lineman at the maximum rate, the amount per hour by which the Employer's offer exceeds the Union's for wages and health insurance is 22 cents in 1990 and 20 cents in 1991. The Union argues, however, that for an Office Secretary, the amount of additional money granted in wages for 1991 will be offset completely by the deduction that the employee will have to pay for health insurance.

In the arbitrator's opinion, the parties' offers are close enough to one another economically that he does not view either one as clearly preferable to the other in terms of overall compensation.

Factor (j) requires the arbitrator to consider other factors which are normally taken into account by arbitrators. Arbitrators generally agree that it is the burden of the party which is seeking to change the status quo to show why this should be done through arbitration, as opposed to voluntary collective bargaining. Part of what is normally expected of a party seeking to make such a change is an offer to the other party of a quid pro quo which demonstrates the reasonableness of the offer by the party which is seeking to make the change, and the importance of making it.

In the current proceeding there are three changes from the existing arrangements which the parties have put into their offers. The Employer has offered for the first time to pay bonuses to office employees which are not included in the wage rates. It has not offered a quid pro quo for this change. Similarly, the Employer has not offered a quid pro quo in seeking to have employees pay for a share of their health insurance premiums. Up until now the Employer has paid the full premium.

For its part, the Union is seeking to change the current wage progression for Journeymen/Linemen (discussed below), and it has not offered the Employer a quid pro quo for this change. The Union argues that it is offering the Employer a quid pro quo of low wage increases in order to retain fully paid health insurance by the Employer. (It argues also, without demonstrating its case, that in the past it has offered low wage increases as a means of continuing to receive fully-paid health insurance.)

In the arbitrator's opinion, whichever final offer is selected, there will be implementation of some changed condition(s) without a quid pro quo being offered. What the arbitrator must determine is whether any of these changes made without a quid pro quo being offered should result in the moving party's final offer being rejected for that reason.

Considering first the bonus paid to office workers, the arbitrator believes that the Employer has adequately demonstrated that in relationship to internal comparisons it has no need to raise clerical wage rates, although that is not clear with respect to secretarial wage rates. What the Employer is offering in wage rates to office employees is only slightly lower than what the Union is offering and thus the relationship to wage rates at other utilities is not affected significantly. At the same time, the Employer is providing better increases in income to the office employees because of the bonuses. While the arbitrator understands that the Union prefers any increases to be put on the wage rates in order to provide a higher starting point for future negotiations, a lump sum payment such as is offered here is not unreasonable in a situation in which there is justification for not raising wage rates. The arbitrator does not view a quid pro quo as necessary for the payment of additional money which is paid in the form of lump sum increases where there are reasonable circumstances which justify it.

With respect to the health insurance issue, the lack of a quid pro quo is more troublesome. The Employer seeks to make a change in a long-standing arrangement of full payment of health insurance premiums, a matter which affects the entire bargaining unit, and it offers nothing in return for doing so. Granted, its wage offer is higher than the Union's, but that is not an adequate quid pro quo for changing insurance payment arrangements, especially when the wage offer is less than is being offered to City employees. This is especially significant because the Employer seeks an employee health insurance contribution in large part because such contributions have been, and continue to be, made by City employees.

The arbitrator fully understands the Employer's desire to have the same, or similar health insurance benefits among the internal comparables, but it has offered little or nothing as incentive to make the change.

It is true, as the Employer argues, that the Union has enjoyed fully paid health benefits longer than other City employees, but the Employer agreed to those past arrangements. In 1989 the bargaining unit had smaller wage increases than other City units, which may have been a factor in the Employer's agreement to continue the health benefits, but no evidence was presented on that point. While it is true, also, as mentioned above, that the Employer has been frustrated by not being able to accomplish health insurance cost-sharing over a long period of time, the arbitrator is not able to evaluate the reasonableness of those past bargains. Looking solely at the current dispute, if the Employer's offer is awarded here, the employees will have to make a health insurance contribution and they will receive smaller wage increases than those which have been offered to all other employees of the City.

In the arbitrator's opinion, the lack of a quid pro quo by the Employer on this issue favors the Union's position. However, this must be weighed against the fact that there is no readily apparent justification for the fact that these employees are the only ones employed by the City who are continuing to receive fully-paid health insurance benefits.

With respect to the issue of Journeyman/Lineman progression, the Union has not offered a quid pro quo to the Employer to make the change, but the arbitrator does not see this as being of particular significance where the only comparable data show clearly that Journeymen/Linemen progress to the maximum in other utilities in less than seven years, and where the Union's position is also a reasonable one in comparison to the time that it takes for progression to that maximum in other classifications within the bargaining unit. This issue is discussed further, below.

The remaining issue is the Union's offer to change the number of years for Journeymen/Linemen to achieve the maximum rate from the current 7, to 6 in 1990 and 5 in 1991. The Employer wishes to maintain the present arrangement.

The Employer argues that there is no compelling justification for making the change. It notes, moreover, that its wage offer produces higher rates during the Agreement than does the Union's. It notes also that if one looks at the 5-year rate in 1991, the parties' offers differ by only 2 cents per hour.

The Employer argues that it will be unfair, under the Union's offer, for the employees who are moving to the top of the range to receive both a large adjustment as a consequence of the reduction in number of years to reach the maximum, and a negotiated across-the-board increase. These employees will receive raises which are much larger than anyone else will get.

The Union acknowledges that during the term of the Agreement there is very little difference between the wage rates at 5 years. It acknowledges also that under the Employer's wage offer, the maximum rate at 7 years will be higher than what the Union proposes at Step 6 in 1990 and Step 5 in 1991. The Union states that its goal is to achieve the reduced progression, and it is willing to accept the lower wage rates in order to accomplish that change and do it with little cost to the Employer.

The Union cites the fact that in its external comparables, none of the Agreements have progressions that are above 5 years. This includes the Wisconsin Rapids utility. The number of years to maximum is not shown for the comparables used by the Employer (other than Wisconsin Rapids). The Union notes also that within the existing rate structure in this bargaining unit there is no other classification which has a progression to the maximum which exceeds 5 years.

There are legitimate arguments made by both parties on this issue. The arbitrator is more persuaded by the Union's offer than the Employer's, however, even if it results in some large adjustments for individual employees when the progression is reduced from 7 to 5 years.

While favoring the Union's position on this issue, the arbitrator does not view this issue as being of the same importance as the wage issue or the health insurance issue.

Conclusion

The statute requires that the arbitrator select one final offer or the other in its entirety. Such a decision is always difficult, but it is especially so in a situation in which there is almost as much justification for one offer as for the other.

Having considered the statutory factors, the arbitrator has decided that the Employer's offer should be implemented. He is persuaded that there is not adequate justification for continuing fully-paid health insurance benefits for this bargaining unit where all six City units have employee contributions. This fact, when coupled with the fact that the unit's wage rates will continue to be competitive with the rates paid in the other City units, persuades the arbitrator to support the Employer's final offer despite the absence of a quid pro quo for the change in health insurance arrangements. The arbitrator is also persuaded that greater weight should be given to the internal comparison data in this case than to external data, which also favors the Employer's final offer more than the Union's.

Dated at Madison, Wisconsin, this 26th day of August, 1991.

Edward B. Krinsky
Arbitrator