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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

BEFORE THE ARBITRATOR

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 In the Matter of the Petition of :
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 MILWAUKEE DISTRICT COUNCIL 48, AFSCME, : Case 67
 AFL-CIO and its affiliated LOCAL 742 : No. 44801 INT/ARB-5814
 : Decision No. 26936-A
 To Initiate Arbitration Between :
 Said Petitioner and :
 :
 CITY OF CUDAHY :

Appearances:

Monica M. Murphy, Esq., Podell, Ugent & Cross, S.C., 207 East Michigan Street, Milwaukee, WI 53202, for the Union:

Robert W. Mulcahy, Esq., Michael, Best & Friedrich, 100 East Wisconsin Avenue, Milwaukee, WI 53202-4108, for the City.

ARBITRATION AWARD

Milwaukee District Council 48, AFSCME, AFL-CIO and its affiliated Local 742, hereinafter referred to as the Union, and the City of Cudahy, hereinafter referred to as the City, having between April 26, 1990 and November 15, 1990 met on four occasions in an effort to reach an accord on the terms of a collective bargaining agreement to be applied to full-time and part-time Emergency Service Dispatchers in the employe of the City. The Union, after failing to reach an accord with the City, on November 15, 1990 filed a petition with the Wisconsin Employment Relations Commission, hereinafter referred to as the WERC, requesting the latter agency to initiate arbitration pursuant to Sec. 111.70(4)(cm)7 of the Municipal Employment Relations Act, and following an investigation in the matter by a member of the WERC staff, the parties by July 9, 1991 filed their final offers with the WERC, and on July 17, 1991 the WERC

issued an Order, wherein it determined that the parties were at impasse in their bargaining, and therein the WERC certified that the conditions for the initiation of arbitration had been met, and further therein the WERC ordered that the parties proceed to final and binding arbitration to resolve the impasse existing between them. In that respect the WERC submitted a panel of seven arbitrators from which the parties were to select a single arbitrator. After being advised by the parties that they had selected the undersigned, the WERC, on September 3, 1991, issued an Order appointing the undersigned as the Arbitrator to resolve the impasse between the parties, and to issue a final and binding award by selecting either of the total final offers proffered by them to the WERC during the course of the investigation.

Pursuant to arrangements previously agreed upon, the undersigned conducted hearing in the matter on November 25, 1991 at the City Hall in Cudahy, Wisconsin, during which the parties were afforded the opportunity to present evidence and argument. The hearing was not transcribed. The parties filed briefs on January 15, 1992, and the Arbitrator closed the record as of the latter date.

General Background

This proceeding involves a unique set of circumstances. For the past number of years the City has recognized the Union as the exclusive collective bargaining representative for approximately fifty (50) full-time City employees employed in various departments occupying the following classifications:

Public Works (Hourly)
Mechanic II

Custodial Aide
Custodial-Library

Mechanic I	Engineering Technician (BiWeekly & Monthly)
Mechanic Aide	Engineering Aide (Hourly)
Equipment Operator III	Clerical (BiWeekly & Monthly)
Equipment Operator II	Clerk I-General
Equipment Operator I	Office Clerk
Laborers	Clerk II-General
Maintenance Utility	Office Clerk, Clerk II
Water Utility (Hourly)	Deputy Registrar
Purification Plant Operator	Billing Clerk Water
Relief Purification Plant Operator	Utility, Police Department Clerk, Cost & Records
Utility Serviceman II	Clerk, Relief Clerk
Utility Serviceman I	Data Processing Machine Operator
Janitorial (Hourly)	
Custodial-Municipal	
	Health Department Clerk

For the past number of years the Union and the City have entered into collective bargaining agreements covering the wages, hours and conditions of employment of the employees occupying the above classifications. the last of said agreements was executed by representatives of the parties on February 22, 1989 for a three year period from January 1, 1989 to December 31, 1991. On February 27, 1989 the Union filed a petition with the WERC seeking to include full-time and part-time Emergency Service Dispatchers recently employed in the City's Police Department, to the existing unit of employees covered by the aforementioned collective bargaining agreement, after the City had formally recognized the Union as the bargaining representative for all regular full-time and regular part-time dispatchers, consisting of three full-time and five part-time dispatchers at the time of the hearing herein. On January 5, 1990 the WERC issued an Order Clarifying Bargaining Unit, accreting said dispatchers to the general City bargaining unit represented by the Union.

Other Bargaining Units of City Employees

The police and firefighters employed by the City have separate bargaining units, and are represented by separate labor organizations who have negotiated separate collective bargaining agreements with the City. The Cudahy Technical and Health Service Association represents employees occupying the following classifications, for the purposes of collective bargaining:

Public Health Nurse	Electrical Inspector
Data Processing Analyst	Plumbing & Sanitary Inspector
Engineering Technician II	Part-time
Registered Nurse Part-time	

Said Association and the City are parties to a collective bargaining agreement covering the above employees, in effect from January 1, 1989 through December 31, 1991. Said bargaining unit is hereinafter referred to as the Tech unit.

During the bargaining between the Union herein and the City with respect to the wages, hours and working conditions which would be applicable or non-applicable to full and/or part-time dispatchers, the parties reached accords on the application, or the non-application, or revisions of various provisions existing in the 1989-91 collective bargaining agreement covering employees in the General City unit. On the other hand, during said course of bargaining the parties could not reach an agreement with respect to the application, or non-application, or revisions to, other provisions in said existing agreement as they pertained to the dispatchers, resulting in the impasse leading to the instant proceeding.

As of the date of the hearing herein, the City employed three full-time dispatchers, all scheduled to work at least 2,080 hours

annually. Said full-time dispatchers were hired on 5/1/89, 6/26/89 respectively. Five part-time dispatcher positions are maintained by the City, and the employees occupying said positions are generally scheduled to work 1,664 hours annually. the original five part-time dispatchers commenced employment on 10/2/89, 10/16/89, 11/15/89, 12/4/89 and 12/5/89. As of the date of the instant hearing, the part-time dispatcher who had commenced her employment on 10/2/89 was on a six month leave of absence, and the part-time employe who was hired on 12/4/89 quit her employment on 6/13/91. The City hired two part-time dispatchers on 10/7/91 and 10/21/91, apparently to replace the latter two employees.

The duties performed by the full-time and part-time dispatchers are identical. The wage schedule agreed to by the parties applies the same steps, as well as the same hourly rates set forth in said steps to both the full-time and part-time dispatchers. (See Appendix A).

Stipulations on Matters Agreed Upon

On November 21, 1991 the parties, by their respective counsel, executed a twenty-nine page document reflecting their agreements on various provisions in the 1989-91 agreement covering the General City employees in the bargaining unit represented by the Union, as well as new provisions applicable to the dispatchers. Attached hereto, as Appendices B-1 through B-4, are tabulations identifying the various provisions agreed upon to be included in said 1989-1991 agreement, as being applicable or non-applicable, whole or in part, to full-time and/or part-time dispatchers.

The Provisions in Issue

Certain provisions in the 1989-91 collective bargaining agreement between the Union and the City covering the General City bargaining unit are in issue in this proceeding as they may or may not apply to full and part-time dispatchers and/or to said employees separately. The provisions in issue are set forth as follows, together with the proposals contained in the respective offers of the parties as they relate to the provisions involved:

Existing Agreement

"ARTICLE II-AGREEMENT

3. Duration: This agreement shall remain in full force and effect commencing on the 1st day of January, 1989 and terminating on the 31st day of December, 1991."

Union proposed additional provision:

"In the case of Full-time and Part-time Emergency Service Dispatchers, this agreement shall remain in full force and effect commencing on the date of execution until the 31st day of December, 1991, unless otherwise specifically noted."

City proposed additional provision:

"This contract shall become effective upon date of signing or the date of an arbitration award, whichever is earlier, and shall terminate on December 31, 1991. Status quo until the effective date."

Existing Agreement

"ARTICLE VI-UNION ACTIVITY

3. Negotiating Time: The City will pay negotiating time when conducted during normal working hours at the base salary of the Union member involved. The Union agrees, however, that negotiations will continue to be conducted during non-working hours, when possible.
4. Seniority Lists: Every year the City shall forward to Local No. 742 and post on all bulletin boards a seniority list showing the continuous service of each

employee. This list shall be posted at the end of the closest payroll period to June 15."

Union proposal - both paras. 3 and 4 apply to full-time and part-time dispatchers.

City proposal - Neither of said paras. apply to full-time or part-time dispatchers.

Existing Agreement

"ARTICLE VII-SENIORITY

1. Definition: Seniority means an employee's length of continuous service with employer since his date of hire. The employee's earned seniority shall not be lost because of absence due to illness or authorized leaves of absence.
2. Assignments: Seniority shall be used in determining job assignment (when employee is qualified), vacation assignments and overtime assignments (when employee is qualified). Job assignments as used here shall be interpreted to mean assignments to work within an employee's classification or work at a higher level of classification. When working at a higher level of classification, seniority shall be used (when an employee is qualified) when the work is temporary.

Appointments to a lower classification, to a lateral classification or to a higher classification shall be made through the existing Civil Service procedures, with the following guidelines:

1. Seniority shall be used when an employee is qualified, based upon qualifications which were developed by the Department Head.
2. Such downward, lateral or upward assignments shall be subject to a probationary period of three (3) months. If any probationer shall be found to be incompetent or unsuited for the position by the appointing authority to perform the duties of the position to which she/he has been certified, the appointing authority may separate the probationer prior to the completion of the probationary period and return to the position they last held. Further probationers who find that during the probationary period they dislike the position may voluntarily return to the position they last held.

3. Layoffs and Recall: In the event it becomes necessary to lay off employees for any reason, employees shall be laid off within their classifications in the inverse order of their seniority. Employees shall be recalled from lay off with their classifications according to their seniority. No new employees shall be hired until all employees on layoff status within their classification desiring to return to work have been recalled.
4. Bumping: When an employee is laid off due to the reduction in the work force, he shall be permitted to exercise his seniority rights to replace any employee (bump) with less seniority rights, within the same job classification, or lower job classification, when qualified, as determined by the department head or heads.
5. Layoffs in Supervisory and Managerial Positions:
 - A. Upon a reduction or reassignment of supervisory, managerial or confidential positions, the employee affected, who originally came from the bargaining unit of Local 742, AFSCME, AFL-CIO, may return to a job or job title he/she previously held in the bargaining unit. Such employee would receive his/her seniority as a member of the bargaining unit and shall accumulate seniority for not more than a maximum period of two calendar years starting with the date of the regular appointment outside of the bargaining unit.
 - B. During the two years of accumulated seniority, an employee who took a promotion to a supervisory, managerial or confidential supervisor position may request a voluntary demotion or if the employee's supervisor finds that the individual is unsuited for the position, then he/she may return to the bargaining unit as provided in paragraph "A".
 - C. When a supervisory or managerial employee returns to the bargaining unit, he or she will be required to back-pay all dues from the date he/she left the bargaining unit up to a maximum of two years."

Union Proposal Relating to Art. VII, 1:

"The definition of seniority shall apply to both Full-time and Part-time Emergency Service Dispatchers. Separate seniority lists of Full-time and Part-time Dispatchers shall be maintained. If and when a Part-time Dispatcher becomes employed as a Full-time Dispatcher, that employee

shall be placed on the Full-time Dispatcher seniority list in accordance with the employee's Part-time seniority date, subject to the pro-rating proviso noted in Art. VII, 2, paragraph 2."

City Proposal Relating to Art. VII, 1:

"Full-time and part-time dispatchers are covered by said provision. The Employer shall maintain separate lists for full-time and part-time dispatchers."

Union Proposal Relating to Art. VII, 2, Introductory Paragraph:

The Union would not apply said paragraph to dispatchers. Rather, it proposes for full-time dispatchers, seniority shall be used for shift preference when full-time vacancies occur and for vacation selection among full-time dispatchers. For part-time dispatchers, seniority shall be used for shift preference when part-time vacancies occur and for vacation selection among part-time dispatchers (If vacation benefits are provided for part-time dispatchers under this Agreement.) In addition, vacancies occurring within either of those two dispatcher classifications shall be first filled by employees currently in the affected classification, by seniority."

Union Proposal Relating to Art. VII, 2, Assignments:

"Assignments to a lower classification, to a lateral classification or to a higher classification shall be made through the existing Civil Service procedures, with the following guidelines: (This shall apply to dispatchers, provided that part-time dispatcher's seniority for non-dispatcher positions shall be deemed pro-rated based on hours of work in prior years of services compared with 2080 hours per year)."

Further, the Union would apply the existing subpara. 1 and 2 to both full and part-time dispatchers.

City Proposal Relating to Art. VII, 2:

The City proposes that no provision in Art. VII, 2 apply to either full or part-time dispatchers.

Union Proposal Relating to Art. VII, 3 and 4:

The Union would apply the provisions involved to dispatchers, "except for purposes of their application to dispatchers, no full-time dispatcher will be laid off until all part-time dispatchers have been laid off, and no part-time dispatcher will be recalled until all full-time

dispatchers have been recalled. In addition, "when qualified" as regards a dispatcher position shall mean able to pass the same testing standard as in effect for new hiring of dispatchers."

City Proposal Relating to Art. VII, 3 and 4:

With regard to paras. 3 and 4, the city would cover both full and part-time dispatchers, however, with respect to para. 4, it proposes that the dispatchers are a separate classification and bumping in or out shall only be within their classification.

Union Proposal Relating to Art. VII, 5, A, B and C:

The Union would not apply paras. 5, A, B and C to any of the dispatchers.

City Proposal Relating to Art. VII, 5, A, B and C:

The City would apply said provisions to full and part-time dispatchers.

Existing Agreement

"ARTICLE XII - VACATION

1. Schedule: The vacation plan shall allow employees
 - A. Two (2) weeks vacation after one (1) year of service.
 - B. Three (3) weeks vacation after seven (7) years of service.
 - C. Four (4) weeks after (15) years of service.
 - D. Five weeks after twenty-three (23) years of service.
2. Death: In case of the death of any employee of the City, the unused vacation allowance of such employee shall be paid to the employee's designated beneficiary in the matter provided by Section 109.03(3) Wisconsin Statutes.
3. Seniority: Choice of vacation weeks shall be made on the basis of bargaining unit seniority. However, in the Water Utility the use of seniority shall be limited to selection of employee's first two weeks vacation only."

Union Proposal:

Relating to para. 1: Full-time dispatchers are covered by said provision. Part-time dispatchers shall receive vacations on a pro rata basis, pursuant to the following formula: 2080 hours equal 80 hours of vacation. It is understood that part-time dispatchers shall receive vacation in 1991 based upon the employee's prior year of work.

Relating to para. 2: Full and part-time dispatchers are covered by said provision.

Relating to para. 3: Full-time dispatchers shall have a choice of vacation weeks based on bargaining unit seniority, based on actual date of hire. However, dispatcher selection shall apply to the first two week's choice, with a seniority rotation on remaining time.

City Proposal:

All three paras. of the article would apply to full-time dispatchers only.

Existing Agreement

"ARTICLE XIII - TERMINATION BENEFITS

1. Vacation: Any employee who is laid off, retired, or separated from the service of the City for any reason prior to taking his earned vacation, shall be compensated in cash for the unused accumulated vacation at the time of separation as calculated below:

Each employee shall receive full payment at his base hourly rate, plus longevity on the effective date of his resignation or separation for all vacation accrued for the prior calendar year of service which has not been utilized at the time of separation from employment and for all vacation accrued during the current calendar year of service. to determine benefits accrued during the current year of service, divide each month of continuous service since the employee's anniversary date of hire by twelve (12) months and multiply by the total vacation allotment for the year of service under Article XII, Section 1.

2. Sick Leave: Upon death or retirement of any employee, the unused sick leave of such employee, not to exceed forty (40) days, shall be paid to such person in the manner provided by Section 109.03 (3) Wisconsin Statutes. Such payout shall consist of a lump sum payment at the time of termination, or as an alternative employees shall be at the time of termination, or as an alternative employees shall be eligible to convert unused accumulated sick leave at the rate of 50% of the maximum accumulation of 120 days for an escrow account. The rate of pay used to calculate the escrow account shall be based upon the prevailing rate at the time of retirement. That escrow account shall be utilized to pay for health insurance premiums for employee and/or spouse until the sick leave account is exhausted. The escrow account may be utilized either to pay the employee share of continued coverage pursuant to Article XXII or to pay the full cost of continued coverage if the employee is not eligible for benefits under Article XXII.
3. Termination Benefits: No employee shall continue to accrue sick leave, vacation, holidays, or any other benefits under this Agreement after the effective date of the employee's retirement or resignation which terminates the employee's relationship with the City."

Union Proposal:

All three paragraphs of the article would apply to full and part-time dispatchers.

City Proposal:

Only full-time dispatchers are covered by the article.

Existing Agreement

"ARTICLE XV - HOLIDAYS

3. Saturday or Sunday Holidays: In the event any of the above referred to paid holidays fall on a Saturday or Sunday, employees shall be allowed the following Monday as a off."

Union Proposal:

Dispatchers are not covered by the above provision. The Union would add the following provision to the article:

- "5. Part-time emergency service dispatchers shall receive time and one-half for actual holidays worked effective the date this agreement is signed."

City Proposal:

"Full-time dispatchers must take holidays on the day they fall. Full-time dispatchers may not take off on the following Monday or the previous Friday. Full-time dispatchers have the option to receive pay for all holidays not taken off on the last payroll period in December."

Existing Agreement

"ARTICLE XVI - SICK LEAVE

1. Allowance and Accrual: Any employee contracting or incurring any non-service connected sickness or disability which renders such employees unable to perform the duties of his employment shall receive paid sick leave provided below based upon his base hourly rate. Any employee shall earn one (1) day of sick leave per month. Sick leave days may accumulate to a maximum of one hundred twenty (120) days. Paid sick days shall be deducted from a total sick leave accumulation.
2. Probationary Employees: Eligibility for sick leave shall begin after successful completion of the probationary period of employment with the City, but accumulation shall be retroactive to the date of employment. Probationary employees shall be paid sick pay based upon the rate of pay as of the date of sickness or disability for such days with the maximum reimbursement of one (1) sick day per month, within thirty (30) days following successful completion of the probationary period.
3. Utilization of Sick Leave: Sick leave benefits shall begin on the first day of absence as provided in this article and shall continue until the employee returns to work, has utilized all accumulated sick leave or is eligible for benefits under Article XXXI Section 2. Employees who are sick and unable to report to work shall notify or cause the supervisor in charge to be notified at least fifteen (15) minutes before the start of the regular shift or assignment. Where reasonable, operators employed in the Purification Plant in the Water Utility shall provide notice at least two (2) hours before the start of the regular shift to an employee on duty at the Purification

Plant. Employees will be charged for the actual hours of sick leave utilized. When an employee is absent three (3) days or more on sick leave, he shall produce a doctor's certificate before returning to work stating he is physically fit for duty. It is agreed that all employees will make every effort to avoid any and all abuses of sick leave.

4. Advance Notification: In the event that an employee is aware in advance that sick leave benefits will be needed or due, it shall be the duty of the employee to notify the department head as far in advance as possible in writing of the anticipated time and duration of such sick leave and medical certification that the employee will be unable to perform his/her normal work functions. Employees will be required to begin using sick leave on the date after which their doctor certifies that they are medically unable to perform their duties. An employee on sick leave is expected to notify the department head at the earliest time of the anticipated date on which the employee will be able to resume his/her normal duties.
5. So long as valid DILHR and/or EEOC guidelines require it, the employer shall treat disability due to pregnancy the same as any other sickness, illness or disability.
6. A physician's certificate is required in all cases in which an employee is absent three (3) or more consecutive work days. The Department Head may require a physician to substantiate the illness of an employee at any time if there is documentation of the abuse of sick leave benefits by the employee. The notification shall only remain in effect for six (6) months unless further documentation of sick leave abuses are identified in which case the notice may be reissued."

Union Proposal:

Relating to paras. 1 and 2: Said paras. only apply to full-time dispatchers. However, part-time dispatchers shall earn pro-rated sick leave based on a 2080 hour work year, and sick leave shall be earned from January 1, 1991.

Relating to paras. 3, 4, 5 and 6: Said paras, apply to both full and part-time dispatchers.

City Proposal: The entire article would apply to only full-time dispatchers, and the City would add the following provision:

"Full-time and part-time dispatchers must notify the Police Chief or his designee of any absence at least two (2) hours before the start of the regular shift or assignment."

Existing Agreement

"ARTICLE XVII PERSONAL DAYS

2. Employees Subpoenaed as Witnesses: Employees subpoenaed as a witness shall be granted personal leave, vacation time or leave without pay for the time actually necessary to testify (and not to merely attend the proceedings as an observer). Before taking leave for this purpose, the employee shall be required to check with the court or other authority to insure that his testimony will be needed on that day. A copy of the subpoena must be presented to the Department Head when it is received by the employee. The employee may retain his mileage and witness fees. This provision shall be limited to Milwaukee County.
3. New employees shall receive this benefit after one year of employment."

Union Proposal: The Union would apply said provisions to both full and part-time dispatchers, and would add the following provision to the article:

"When full-time or part-time dispatchers are required to appear in Court either within the City of Cudahy or in another community, involving a matter which is job related during a period in which she is not regularly scheduled to work, she shall be compensated for this overtime work with pay at a rate of time and one-half (1 and 1/2) her regular hourly rate of pay. All witness fees which the employee may receive for attendance at any of these hearings shall be returned to the City."

City Proposal: Paragraphs 2 and 3 cover both full and part-time dispatchers.

Existing Agreement

"ARTICLE XVIII - FUNERAL LEAVE

1. Funeral Leave: Funeral leave for three (3) days shall be granted for a member of the immediate family (spouse, children, mother, father, brother or sister). These days shall not be deducted from sick leave.
 - a. Funeral leave up to two (2) days shall be granted for mother-in-law, father-in-law, brother-in-law, sister-in-law, aunts, uncles, nieces, nephews, grandparent or

grandchild. These days shall be deducted from sick leave.

- b. Up to one (1) day shall be given for an employee selected to be a pall bearer. Employees agree to not solicit this type of position. This day shall be deducted from sick leave.

Union Proposal: Said provisions shall apply only to full-time dispatchers, but the Union proposes to add the following:

- "c. Part-time dispatchers will be granted funeral leave without pay per the provisions of this contract."

City Proposal: The existing provisions shall apply to full-time dispatchers only.

Existing Agreement

"ARTICLE XXI - HEALTH AND DISABILITY INSURANCE

Section 1.

- A. The City shall provide and pay for the full premium for hospital and surgical care insurance, including major medical for City employees and their families. The carrier shall be Wisconsin Physicians Service (WPS) Health Incentive Program (HIP) or such other carrier that provides substantially equal benefits that were in effect on 1-1-88.
- B. The City further agrees that it will pay one hundred percent (100%) of the full single premium of this insurance for part-time custodial employees. The City will make a total contribution of forty dollars (\$40.00) per month toward the family plan premium for part-time custodial employees. The City may change the insurance carrier or self-insure as long as substantially equal benefits are maintained.
- C. Health Maintenance Organization (HMO) Alternative:
 - 1. The City shall make available, as an employee option to the above insurance a program, at least three HMO Plans, Family Health Plan, Samaritan Plan and Wisconsin Health Organization (WHO) Plan, if these plans are available.
 - 2. Enrollment: there will be a thirty (30) day open enrollment each year. All enrollments shall be for a minimum of one (1) year and the educational meetings for the HMO's shall be

conducted for employees on City time and place mutually agreed upon."

Union Proposal:

Section 1, A. The Union would apply this provision to full-time dispatchers only.

Section 1, B. The Union proposes the following new provision:

"Part time dispatchers shall be eligible for the following: The City shall provide a fully paid single plan and pay for a pro-rated family plan bases on hours worked in the previous calendar quarter, based on 520 hours quarterly."

Section 1, C, 1 and 2. The Union proposes that said two provisions cover both full and part-time dispatchers.

City Proposal:

Section 1, A. Full-time dispatchers are covered by said provision. Part-time dispatchers may participate in the City plan at the employee's expense.

Section 1, B. Neither full nor part-time dispatchers are covered by said provision.

Section 1, C, 1 and 2. Only full-time dispatchers are covered by these provisions.

Existing Agreement

"ARTICLE XXII - HOSPITALIZATION AND SURGICAL CARE INSURANCE FOR EARLY RETIREES

Medical and hospital insurance coverage shall be available to all retired full-time employees who have completed fifteen (15) years of service with the City and are at least age 60. This coverage shall be Wisconsin Physician Service (WPS) Care Share Plan or such other carrier that provides substantially equal benefits that were in effect on 1-1-88. The City shall pay 75% of the cost of the basic plan of either single or family plan hospital and surgical insurance or 100% of the WPS Care Share Plan or the HMO plans at the Retiree's option.

The City will continue to pay the amount specified above until the employee is eligible for Medicare or five full years following retirement.

If the retired employee secures employment with another employer and/or is eligible for health insurance coverage while gainfully employed, he shall not be eligible for coverage under the City's group health insurance program. All of the above are subject to the rules and regulations of the insurance company."

Union Proposal: Full and part-time dispatchers are covered by this article.

City Proposal: Only full-time dispatchers are covered by the article.

Existing Agreement

"ARTICLE XXV - PREMIUM RATE

2. Overtime

C. Payment:

All overtime payments shall be made in cash at the end of the pay period in which they are earned, except that the City Hall clericals, Engineering Department, Police Department clericals, Deputy Registrar-Health Department and Cost & Records Clerk shall be given the option to take compensatory time off. Such compensatory time off must be taken at such times as are jointly determined by the employee and their Department Head, subject to the provision of Paragraph D and E herein.

D. Compensatory Time Off:

Those employees, prior to February 19, 1985, who presently have compensatory time off in the bank may retain said bank subject to paragraph E, Fair Labor Standards Act. Those employees in paragraph C, Payment, who earn overtime after February 19, 1985 may apply said overtime to compensatory time off, in accordance with the Fair Labor Standard Act and is subject to paragraph E. below. Nothing in this provision shall subject the City to double liability for both compensatory time and overtime payment.

3. Call-in Pay:

All employees except for part-time personnel, who report for work at a regularly assigned time and who are officially excused and sent home due to lack of work or inclement weather before completing three (3) hours of work, shall be credited with three (3) hours of pay. Employees shall be given an opportunity to make up time to complete a forty (40) hour week at straight time.

4. Emergency Overtime Assignment:

All such employees who report to work for an emergency overtime assignment at the direction of competent authority and who are officially excused before completing two (2) hours of work shall be credited with two (2) hours pay at time and one-half (1 and 1/2) (if Sunday or holidays, double time). Any time worked in excess of two (2) hours shall be compensated at time and one-half (1 and 1/2) (if on Sunday or holidays, double time). "Competent authority" shall be defined as (1) Superintendent of Streets, (2) Assistant Superintendent of Streets, (3) Anyone designated to this authority by the Superintendent of Streets in his absence, (4) Department head of clerical employees (not under the Superintendent of Streets), (5) Water Utility Superintendent or (6) Assistant Water Utility Superintendent.

5. Time Off:

Any use of compensated time off shall be considered time worked for the purpose of determining eligibility for the overtime rate as enumerated in this article.

Overtime accumulated by an employee working in another department other than their own shall be paid and not taken as compensatory time off. (Refer to clericals at City Hall).

Union Proposal: The Union would apply the above provisions in said article to both full and part-time dispatchers.

City Proposal: The City would apply the provisions in 2 C and 3 only to full time dispatchers. With reference to the provision in 2 D, the City proposes the following provision:

"For full-time dispatchers compensatory time off will be granted in lieu of cash payment. Full-time dispatchers may accumulate up to forty (40) hours of compensatory time off. Full-time dispatchers may take no more than (5) working days off based on accumulated compensatory time in any one calendar year. Compensatory time off must be approved by the Police Chief or his designee."

With respect to paragraph 4, the City proposes the following provision:

"Full and part-time dispatchers are covered by the provision. Full-time dispatchers will be paid at time and one-half (1 and 1/2), regardless of the day of the week, for emergency overtime. "Competent authority" for the

dispatchers shall be defined as the Chief of Police, the Confidential Administrative Secretary, or their designee."

The Union with respect to paragraph 4, proposes to conclude the provision by adding the following language:

"(7) the Chief of Police, his Confidential, Administrative Secretary, or their designee."

With respect to the provisions in 5 - the Union would apply same to both full and part-time dispatchers, while the City would exclude the application of said provisions to all dispatchers.

The Task of the Arbitrator

The Arbitrator must determine which of the final offers is more supported by the evidence adduced herein relating to the statutory criteria set forth in Sec. 111.70(4)(cm)7 of the Municipal Employment Relations Act, and therefore to be incorporated in the collective bargaining agreement between the parties.

The Statutory Criteria

Said statutory provision contains the following criteria to be considered by the Arbitrator in an interest arbitration proceeding:

- a. The lawful authority of the municipal employer.
- b. The stipulations of the parties.
- c. The interest and welfare of the public and the financial ability of unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.
- e. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes generally in public employment in the same community and in comparable communities.

- f. Comparison of wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes in the private employment in the same community and in comparable communities.
- g. The average consumer prices for goods and services, commonly known as the cost-of-living.
- h. The overall compensation presently received by the municipal employes, including direct wage compensation, vacation, holidays and excused time, insurance and pension, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment."

The Lawful Authority of the Municipal Employer

No issue has been raised herein with respect to the lawful authority of the City to proceed in this proceeding for the purposes intended by the pertinent statutory provisions, as well as those intended by the parties.

The Stipulations of the Parties

As indicated earlier herein, the parties have entered into certain stipulated provisions pertaining to full-time and part-time dispatchers, which provisions shall be included in the collective bargaining agreement involved.

The Interest and Welfare of the Public and the Financial Ability of the City to Meet the Costs of any Proposed Settlement

Since these criteria require the consideration of the remaining statutory criteria, it will be dealt with subsequently in this award.

The Most Appropriate Comparables

The Union Position

The Union contends that "the most useful and appropriate comparables herein are the internal ones, especially as they may address full-time employees. It points out that very few part-time employees are employed by the City in the organized bargaining units, "so that the usefulness of the internal comparisons for the issues pertaining to only part-time employees is somewhat diminished".

As for the external comparisons the Union agrees with the City, based on the determinations relating to external comparisons in prior arbitration awards involving City employes, wherein the arbitrators therein concluded that the southern Milwaukee County communities of Franklin, Greendale, Greenfield, Hales Corners, Oak Creek, St. Francis, South Milwaukee and West Milwaukee, because of "their roughly similar composition in size and wealth" to the City of Cudahy, were the appropriate external comparables. The Union points out that five of said eight communities have either no part-time dispatchers and/or the dispatchers are not represented for the purposes of collective bargaining. It therefore proposes that the communities of Whitefish Bay and Glendale, in the northern part of Milwaukee County, employ both full-time and part-time dispatchers, and therefore should be added to the most comparable external grouping. The Union also argues that six neighboring school districts should be added to the comparables because they employ part-time custodial and maintenance employees performing tasks similar to tasks performed by some of the full-time employees of the

City, who are included in the General City bargaining unit represented by the Union, and covered by the bargaining agreement, which is involved herein.

The Position of the City

The City proposes the eight southern Milwaukee County communities, as agreed to by the Union, as the most external comparable group, and it opposes the Union's attempt to include any additional communities thereto, as well as the inclusion of any school district, contending that the part-time employees employed by said municipal employers perform duties distinctly different than those duties performed by the dispatchers.

As for internal comparisons, the City points out that its bargaining units consisting of police, supervisory police, and firefighters contain no part-time employees, and that the overall General City unit represented by the Union does not include any part-time employees. It indicates that the collective bargaining unit of Technical and Health Services employees, represented by an employee organization other than the Union herein, provides only some fringe benefits to part-time employees included in that unit, specifically benefits relating to vacations, holiday pay and sick leave, all on a pro rata basis.

Discussion on External Comparables

While the Union has proposed to include the northern Milwaukee County communities of Glendale and Whitefish Bay among the external comparables, on the basis that part-time dispatchers are employed therein, it presented no substantial evidence to persuade the

Arbitrator to include same in the appropriate comparables, especially since the parties have agreed to consider the eight southern Milwaukee County communities as the primary comparable external grouping.

The Arbitrator does not consider any of the neighboring school districts as appropriate external comparables even though they may employ part-time personnel performing custodial and maintenance tasks similar to tasks performed by some full-time employees in the General City unit, since the issues herein involve police department dispatchers. The contractual provisions in issue do not involve any of the other employees in the General City unit, even though the dispatchers have been accreted thereto.

The fact that five of the eight southern Milwaukee County communities do not employ part-time dispatchers, or that the employees employed by two of said municipalities are not represented for purposes of collective bargaining, does not preclude their consideration among the more external comparisons. The fact the City of Franklin and the City of Greenfield do not presently employ part-time dispatchers, is tempered by the fact that their collective bargaining agreements do provide pro rata benefits for part-time employees, although they are not presently employed. The statutory criteria does not limit comparables only to those municipalities whose employees are represented for the purposes of collective bargaining. The Arbitrator considers that the eight southern Milwaukee County municipalities agreed to by the parties are the most appropriate external comparisons.

The Internal Comparables

Background

There are no part-time City employees employed in the separate bargaining units consisting of police, police supervisors and firefighters. The overall General City unit, represented by the Union, prior to the accretion of the full and part-time dispatchers to said unit, did not include any part-time employees. The Tech unit includes two part-time positions, an Engineer II, presently unfilled, and a Plumbing Inspector, who works 1,040 hours annually. The City introduced an exhibit indicating that certain non-represented part-time employees of the City, as of the date of the hearing, occupy the following positions and receive no fringe benefits, unless where otherwise noted:

<u>Position</u>	<u>Number of Employees</u>	<u>Benefits Received</u>
Treasurer's Clerk	1	None
Crossing Guard	8	Annual Clothing Allowance
Police Dept. Clerical	1	None
Police Squad Washer	1	None
Fire Dept. Clerical	1	None

In the same exhibit the City includes the following part-time positions as receiving no fringe benefits:

<u>Position</u>	<u>Number of Occupants</u>	<u>Present Status</u>
Health Dept. Nurse	1	Vacated 9/29/89
Health Dept. Clerical	1	Vacated 5/20/85
Engineering Co-op Students	2	Not employees

Fire Dept. Volunteers	11	Not employees
Custodial	2	Vacated on 4/25/86 & 2/2/90

The Union's Position Generally

The Union argues that part-time employees in the Tech unit receive some of the fringe benefits it seeks for the part-time dispatcher, on a pro rata basis, relating to vacations, holidays and sick leave, despite the fact that they perform their duties on the day shift, and that they do not perform their duties on weekends or holidays. It points out that the same distinctions apply to a majority of the non represented part-time employees. It contends that the internal comparables are less useful than they might ordinarily be in resolving the "language" issues herein, because of the nature of the duties and hours worked by said other part-time employees of the City, and, further, that the three units of uniformed police, police supervisors and firefighters include no part-time personnel.

The Union also contends that "it is almost unfair to even label the part-time dispatchers here as part-time", since they are presently working a forty hour week, and have been doing so for some time, and the "when they are on their regular part-time schedule they work 80% or 1,664 hours annually", and thus, "it is not fair to compare them with employees who are working only 15 to 20 hours per week".

The Union emphasizes that the part-time dispatchers are expected to work any one of the three shifts, on a rotating schedule, and that they routinely work weekends and holidays, performing tasks vital to

the delivery of emergency service to the City.

The Position of the City Generally

The City claims that overall the internal units do not provide benefits for part-time employees. It points out that the police and police supervisory unit agreements do not recognize part-time employees, and that its fire department utilizes volunteers on a part-time basis, and that the latter individuals receive no benefits. It acknowledges that the Tech bargaining unit agreement does provide part-time employees with certain benefits, but not all of those sought by the Union for part-time dispatchers. The City argues that the Union "must prove that part-time dispatchers in some way deserve to receive benefits above and beyond what other part-time employees with the City of Cudahy are receiving".

In its brief the City contends that the Union has the burden of proof regarding the changes sought by it relating to the dispatchers, since the Union's proposals would change the "status quo" established by City Ordinance No. 1445, approved February 21, 1989, wherein various benefits were provided for full-time dispatchers only. The City argues that the Union must convince the Arbitrator that a change in the language in the existing bargaining agreement is needed to remedy a problem, and that the Union has cited no problems with respect to the current provisions.

Discussion

The fact that the uniformed services units employ no part-time employees does not impact on any decision to determine whether part-time dispatchers should receive fringe benefits. The absence of

part-time employees in said units, as well as in the General City unit, does not determine the appropriateness of any fringe benefits for part-time dispatchers. Nor does the fact that individuals not in the employ of the City voluntarily perform services on behalf of the City on a part-time basis, have any impact on the issues herein. There are some part-time positions in the Tech unit which receive some fringe benefits, and there exists some part-time unrepresented employes who receive no benefits, except the School Crossing Guards who enjoy allowances for uniforms.

The basic issue to be determined by the Arbitrator when considering the internal comparables, as well as the external comparables, is whether the duties and responsibilities of such employees, as well as the hours of work performed by them, support the proposals of the offer of either the Union or the City, when compared to the duties and responsibilities and the hours of work performed by full and part-time employees employed by external comparable communities, who perform similar duties, and when compared to employes who perform part-time work for the City of Cudahy, since no other employees of the City perform work comparable to the work performed by the dispatchers.

With regard to the argument of the City relating to the "status quo" established by the Ordinance, which was entitled "An Ordinance Fixing the Salary and Providing Fringe Benefits for the Emergency Service Dispatcher in the City of Cudahy Police Department for 1989", it should be noted that said ordinance became effective April 1, 1989, and it contained provisions relating to wages, salaries, and

fringe benefits, as well as hours, applicable to employees who would occupy said classification. The following tabulation reflects the applicability of its various provisions to full-time and part-time dispatchers:

	<u>Applicable To Full-Time</u>	<u>Applicable To Part-Time</u>
<u>Wages</u> - \$7.00 to \$9.00 per hour depending on experience and qualifications, to be determined by the Chief of Police.	Yes	Yes
<u>Normal Working Schedule</u>	Established in ordinance	At discretion of the Chief
<u>Uniform Allowance</u> - City to supply two uniforms at the discretion of the Chief.	Yes	Yes
<u>Life Insurance</u> - Fully paid by City.	Yes	No
<u>Medical & Hospitalization Insurance</u> - City pays 100% of premium for single and family plans	Yes	No
<u>Dental Insurance</u> - Available, but at no cost to the City.	Yes	No
<u>Disability Insurance</u> - City pays full premium for those who wish to participate.	Yes	No
<u>Wisconsin Retirement Fund</u> - City pays the full contribution.	Yes	Yes
<u>Holidays</u> - Ten full holidays, at normal daily rate.	Yes	No
<u>Sick Leave</u> - With pay.	Yes	No
<u>Vacation</u> - 10 days after 1 year of service, 15 after 9, 20 after 15, and 25 after 22.	Yes	No

<u>Longevity</u> - After 5 years - \$5 per month, 10 years - \$10 per month, 15 years - \$15 per month, 20 years - \$20 per month, and after 25 years - \$25 per month.	Yes	No
<u>Overtime</u> - Pursuant to Fair Labor Standards Act.	Yes	No
<u>Severance Pay</u> - Paid for unused vacation, sick leave and holidays.	Yes	No

Such "status quo" was unilaterally established by the City, and, further, permits the Chief of Police the discretion to determine the starting rate between \$7.00 and \$9.00 per hour, the hours of the part-time dispatchers, as well as the number of uniforms up to two. In addition, such claimed "status quo" was unilaterally established, and thus the ordinance does not provide any substantial basis for rejecting any proposals of the Union.

The parties have reached an accord on the majority of the contractual provisions relating to the wages, hours and working conditions applicable to the full-time dispatchers. The Union established that the full and part-time dispatchers perform identical duties under the same working conditions, and receive the same hourly rate of pay, as reflected in the wage schedule applicable to both. The Union, in part, has predicted its offers relating to the fringe benefits it seeks, on a pro rata basis, for part-time dispatchers, as well as its arguments in support thereof, on what has been agreed to by the parties with respect to the full-time dispatchers. The Arbitrator concludes that the full-time dispatchers in the employ of the City should be included among the internal comparables on the issues applicable to the part-time dispatchers, where the parties

have reached a stipulation on the applicability of the contractual provisions thereon to full-time dispatchers, or where each of their final offers provide for the same fringe benefits to the full-time dispatchers.

The Issues at Impasse

The issues at impasse concern various provisions in the existing agreement between the Union and the City relating to the employees in the General City wide unit, and the applicability of said provisions to the dispatcher positions accreted to said unit since the effective date of that agreement. Said provisions may be generally characterized as relating to (1) "Language" and (2) "Fringe Benefits". The offers of the parties with respect to the various provisions in issue have been set forth previously herein. Their rationale in support of their proposed provisions follow, as does the determinations and conclusions of the Arbitrator with regard thereto.

The "Language Issues

As to the "language" issues, the Union argues that the provisions involved can best be resolved by looking to the internal comparisons, and that the "best place to look for guidance" is the collective bargaining agreement relating to the unit to which the dispatchers have been accreted, and where the Union's proposed provision might differ from the present contractual provision, such difference is attributable to address the "unique situation of the part-time employees", since currently there are no other part-time employees working under said agreement.

The City argues that neither the external nor the internal

comparables support the Union's desire to obtain overall contract language applicable to the part-time dispatchers.

Article II Agreement - 3. Duration

While the Union's proposal with respect to the "duration" proposal differs somewhat from the City's proposed language, the Union, in its brief, set forth that it has no objection to the duration clause proposed by the City. The City has not indicated any objection to the Union's changed position, and therefore the Arbitrator concludes that during the course of this proceeding the parties have agreed to the City's proposed provision.

Article VI Union Activity - 3. Negotiating Time and 4. Seniority Lists

The Union points out that its proposals contain language identical to those in the existing agreement covering the General City bargaining unit, and, further, that the agreements covering the Tech and Firefighter units provide for compensating employees for participating in negotiations conducted during working hours of unit employees on the bargaining teams.

The City contends that it cannot pay dispatchers for negotiating time, since they provide twenty-four hours a day service. It contends that only two of the eight external comparable communities provide negotiating pay to employees, and that the dispatchers, who participate in negotiations during their work hours, are "on call".

The Comparables

As indicated in the provision in the agreement covering General City employees, employees are paid when negotiating during normal

working hours. Said provision also requires "that negotiations will continue to be conducted during non-working hours when possible". The language in the Tech unit (Article III) appears to require the payment to unit employees, if they participate in negotiations during regular working hours, and in that event, said employees are "on call". The police agreements contain no provision relating to negotiation time pay, however, the agreement covering the firefighters provides that firefighters engaged in negotiations are compensated, if they participate when scheduled to work, and in that regard they are "on call".

Of the six external comparable communities, wherein the dispatchers are covered by collective bargaining agreements, three (Franklin, Oak Creek and South Milwaukee) provide payments to dispatchers if they participate in negotiation during their working hours. The bargaining agreements in Greendale, Greenfield and Hales Corners contain no provisions with regard thereto.

Discussion

A majority of the internal comparables, favor the Union's proposal with regard to payment for negotiating time during working hours, if such timing cannot be avoided. The fact that dispatchers are on duty for twenty-four hours is no different than the tours of duty required of firefighters in the employ of the City, who receive pay and are "on call" if negotiations should occur while they are on duty. In addition, it should be noted that among the provisions agreed upon by the parties, Article XXXI relates to work schedules of both full and part-time dispatchers, which provides for the trading

of tours of duty, as well as providing that the City retains the right to change shift times. Under said provision it appear that the City can avoid paying any dispatcher for negotiating time. On the basis of the above discussion the Arbitrator favors the Union's proposal relating to negotiating time pay.

Posting of Seniority

Outside of their references to the external and internal comparables, neither party presented any specific reason for the proposals regard the furnishing and/or posting of a seniority list, or lists, for full and part-time dispatchers. The agreement relating to the General City unit and the Tech unit provide for the posting of seniority lists, while the police, supervisory police and firefighter agreements do not. As to external comparisons, the agreements at both Franklin and Greenfield provide for the posting of dispatcher seniority lists, while the bargaining agreements involving dispatchers in the employe of the four external comparables having such agreements, contain no such provisions.

As indicated, the agreement covering the General City unit provides for the posting of a seniority list. The dispatchers were accreted to said unit. To avoid any possible confusion as to the applicability of the existing posting provision to the dispatchers, the posting of a seniority list, or lists, pertaining to the dispatchers would remedy that confusion. Further the City submitted no persuasive reason for not being willing to post any list or lists pertaining to the seniority of the dispatchers in its employ. On the basis of the above the Arbitrator favors the provision proposed by

the Union.

Article VII Seniority

The parties are not at issue with respect to the definition of the term "seniority". They are at impasse with respect to the application of the principle of seniority, as it would apply to the part-time dispatchers, with respect to vacation selection, overtime assignments, change of classification, layoffs and recall, as well as retention of seniority status upon return to dispatching duties after being laid off from supervisory, managerial or confidential positions.

The External Comparables

During the course of the hearing the City introduced exhibits reflecting seniority provisions in existing agreements covering dispatchers in the employ of the external comparable communities. The provisions, in material part, are set forth as follows:

The Franklin Agreement

"Section 5.07 - Seniority: Seniority is defined as the length of time that an employee has been continuously employed as a full-time employee by the City in a position included in the bargaining unit...Regular part-time employees will accrue in relation to a full-time employee....

Section 5.11: In reducing the work force because of lack of work or other legitimate cause, the last employee hired shall be the first employee laid off and the last employee laid off shall be the first employee recalled, unless it is necessary to disregard seniority to retain a person or persons with skill, training, and experience required to perform the particular job in which he or they are employed and no one with greater seniority has that skill."

The Greendale Agreement

"9.01. a) Seniority for a full-time employee is defined as the period of uninterrupted full-time employment in the Department as a Clerk Dispatcher beginning with the latest date of hire.

b) Seniority for a part-time employee is defined as the period of uninterrupted part-time employment in the Department as a Clerk Dispatcher beginning with the employee's date of hire if the employee has worked six hundred (600) or more hours in the calendar year of hire, or January 1 of the first calendar year thereafter in which the employee works six hundred (600) or more hours, but in no event shall such seniority date be earlier than January 1, 1990. In the event a part-time employee who has seniority becomes a full-time employee with no break in service, the employee's part-time seniority date will become the employee's date of hire for the purpose of determining the employee's full-time seniority.

9.05 a) In the event of a layoff, the part-time Dispatchers shall be laid off first and full-time Dispatchers may be assigned to part-time Dispatcher hours. Thereafter, full-time Dispatchers, beginning with the Dispatcher having the least amount of seniority, shall be laid off or reduced to a part-time Dispatcher."

The Hales Corners Agreement

"Section 4.01: Seniority according to this Agreement shall consist of the accumulated paid service of the Employee with the Village...Regularly scheduled part-time employees who work less than 1,560 hours per calendar year shall accumulate seniority on a pro-rata basis with their classification. Seniority to be based on the most recent date of hire. If a part-time employee accepts a full-time position then he/she has a new seniority date based on the number of hours worked (part-time) divided by 2080 hours. He/she shall be placed on the full-time seniority list.

Section 4.07: Seniority rights shall prevail. In reducing the work force because of lack of work or other legitimate cause, a higher classified employee may bump a lower classified employee if the higher classified employee has greater seniority with the department and is qualified to perform the duties of the lower classified employee."

In Greenfield, where the agreement also covers part-time dispatchers, there is no provision providing seniority rights to said employees. Oak Creek employs no part-time dispatchers, while St. Francis employs only part-timers as dispatchers. West Milwaukee employs both part-timers and full-timers. However, there are no bargaining agreements covering the conditions of employment of said employees in the employ of the latter two municipalities, and no

evidence was adduced to establish that said employees were unilaterally granted any seniority rights. The South Milwaukee agreement permits a part-time dispatcher to "bump out of classification". The bargaining agreements at the three external comparables employing both full and part-time dispatchers contain language providing for separate seniority lists and the establishment of full-time seniority dates upon being transferred to full-time status.

With respect to the internal comparisons, in addition to the agreement covering the employees in the General City unit, the agreement covering the Tech unit covers part-time employees. Therein the term "seniority" is defined in Article V, A. as follows:

"Seniority shall commence upon successful completion of the probationary period and shall be based on the employee's full length of continuous equivalency service since the employee's most recent date of hire."

The provisions in the seniority article proposed by the parties relate to the various applications of the principle of seniority, and therefore the Arbitrator is obliged to consider the language relating to the definition of the term, vacation and overtime assignments, appointments to other classifications, layoffs and recall, bumping, and layoffs of confidential, supervisory and managerial employees who desire to return to their former dispatcher positions.

The Union Position

The Union supports its proposals relating to the seniority article by indicating that all of said proposals contain language presently included in the agreement covering employees in the General City unit, and that where there are proposed differences, such are

attributable to make clear how part-time dispatchers are to be treated in comparison to the treatment afforded full-time dispatchers, since there are no part-time and full-time employees in General City unit (except for the dispatchers) performing the same jobs. In the event of a layoff among dispatchers, the Union proposes that part-time dispatchers be laid off initially in order to safeguard the full-time dispatchers, and further, "to avoid a situation where the City decides to lay off all full-time dispatchers and replace them with part-timers at reduced benefits." The Union provides no rationale in its brief with respect to the seniority provisions existing in other internal units, nor in agreements involving the units in comparable external comparables. The Union provides no arguments with respect to its proposal to eliminate both the full and part-time dispatchers from the application of the provision in Art. VII 5 in the General City agreement relating to former dispatchers who might desire to return to a dispatcher position after being laid off from a confidential, supervisory or managerial position.

The Position of the City

Consistent with its proposal that separate seniority lists should be maintained for full and part-time dispatchers, and by not providing any language relating to the transfer from one list to the other, the City offered no further rationale relating to its offer regarding seniority, except that the Union's proposal on "bumping is confusing". It also supports its offer with regard to the return of confidential, supervisory and managerial individuals to dispatcher

positions by arguing that the existing provision should apply to dispatchers "in order to have appropriate language in order to address the situation should it arise."

Discussion

The provisions in issue in the "seniority" article relate to various applications of the principle of seniority, and therefore the Arbitrator is obliged to make a determination with regard to each of them. Both parties agree that "seniority" applies to both full and part-time dispatchers, and that separate seniority lists should be maintained for each of said classifications.

The part-time dispatchers of the City work 1,664 hours per year as compared to the 2,080 hours worked annually by the full-time dispatchers. To put it in more simple terms, if full and part-time dispatchers were scheduled to work 8 hours per day, the full-time dispatcher would work a five day week, whereas the part-time dispatcher would work a four day week. Their physical conditions of employment are identical. They perform identical duties, and they perform their duties on a three shift basis. It is interesting to note that the agreements in Franklin, Greendale and Hales Corners contain seniority provisions more favorable to part-time dispatchers than the provisions proposed by the Union herein. None of the other part-time employees in the employ of the City perform or have the same responsibilities as the full-time employees.

The Arbitrator sees no valid basis for denying part-time dispatchers from being credited, on a pro rata basis, with the hours worked by them as part-time dispatchers, toward the establishment of

a full-time seniority date should they be transferred to a full-time position, and therefore the Union's proposed "definition" language is favored by the Arbitrator. The Arbitrator reaches the same conclusion in regard to the Union's proposed language relating to "Assignments".

The Union's proposal relating to "Layoff and Recall" protection to full-time dispatchers is, in the opinion of the Arbitrator, consistent with the City's aim to protect the bumping of full-time dispatchers by part-timers, and therefore the Arbitrator also favors the Union's proposed provisions with regard to "Layoffs and Recall" and "Bumping".

The Union did not explain the reason for its departure from the principle expressed in its language in the General City agreement relating to "Layoffs in Supervisory and Managerial Positions". It may be argued that the possibility of the promotion of either a full-time or part-time dispatcher to a supervisory or management position might be remote, since the dispatchers are employed in the City's Police Department, where they are managed and supervised by uniformed personnel, or their agents. The Arbitrator favors the City's proposed provision if in the future, the City might fill such positions from the ranks of the dispatchers, and thereafter return said employee to dispatcher duties. Be that as it may, since the Arbitrator has favored a majority of the Union's proposals relating to the seniority provision, all of the proposals of the Union relating to seniority are deemed favored over that of the proposals of the City.

The "Fringe Benefit" Issues

These issues relate, for the most part, to part-time dispatchers, are the following:

Vacations (Art. XII)	Funeral Leave (Art. XVIII)
Termination Benefits (Art. XIII)	Health Insurance (Art. XXI)
Holidays (Art. XV)	Retire Health Ins. (Art. XXII)
Sick Leave (Art. XVI)	Premium Rate (Art. XXV)
Witness Pay (Art. XVII)	

The Position of the Union

The Union argues that almost all of the provisions in its final offer are taken from its agreement covering the employees in the General City unit, and that, for the most part, its offer proposes the inclusion for same to both full and part-time dispatchers. It sets forth the that its offer contains provisions applicable to part-time dispatchers, which deviate from those in the aforesaid agreement since part-time employees are not presently employed in the General City unit. With respect to the other internal comparables, the Union points out that there are no part-time employees in the uniformed bargaining units, and that the Tech unit includes a few part-time positions, which receive benefits relating to vacations, holidays and sick leave, on a pro rated basis, despite the fact that they work less hours than the part-time dispatchers, that they only work on the first shift, and are not scheduled to work on weekends or holidays. The Union contends that the same distinctions apply to a majority of the non-represented part-time employees in the employ of the City.

The Union directs attention to the fact that the City had presented no proposal with regard to sick leave for part-time dispatchers, which results in a "curiosity as to how illnesses among part-time dispatchers is to be handled".

The Union indicates that Franklin and South Milwaukee provide certain fringe benefits to its part-time dispatchers.

The Union acknowledges that its agreement covering the General City unit contains no provision relating to pay for job related court time. It points out that the occupants of those positions are rarely called to testify in work related cases, whereas the nature of the duties performed by full and part-time dispatchers presents a greater opportunity of being called as a witness, because "they are the ones who usually get the first information as to crimes, accidents or medical emergencies". It notes that the police, supervisory police, and firefighters agreements contain language similar to that contained in the Union's offer.

The Union indicates that it seeks the same amount of days off for funeral leave for part-time dispatchers as that agreed to by the parties for full-time dispatchers, however, that its proposal does not require the City to grant paid funeral leave to part-timers. It characterizes its proposal as "simply being more humane than allowing the City to deny funeral leave to part-timers".

The Union characterizes the work of both the full-time and part-time dispatchers as busy and extremely stressful, and that the part-timers, like the full-timers, are deserving of the benefits relating to vacations, sick leave and compensatory time, as well as emergency

call-in pay and a single plan health insurance fully paid by the City. It claims to have accommodated the City's concern by modifying its proposals to include only a pro rated family insurance plan, as opposed to a fully paid plan, for part-time dispatchers. It argues that its proposals with regard to the "Premium Rate" article facilitates contract administration, and that during the course of the hearing the City "placed a great deal of emphasis on how financially "strapped" it had become, and however, that the City made it clear that it was not making the contention that it could not pay the costs which would be imposed upon it by the proposals of the Union.

The Union contends that the part-time dispatchers should be provided with the same fringe benefits applicable to full-time dispatchers, on a pro rated basis, since the part-timers perform the same duties and work under the same physical conditions, and at the times applicable to the full-time dispatchers, except for the total hours worked annually. It argues that, since the part-timers annually work 80% of the hours worked by full-timers, the former are entitled to same fringe benefits, at least on pro rated basis.

The Union concludes its brief, with respect to the wage increases agreed to by the parties and the impact of the cost of living, as follows:

"First the wages have already been settled and are not a part of the dispute here. Second, the wage increases here are based on step increases. Step increases are designed to regard experience as well as to discourage turnover among employees. They are not simply meant to keep pace with buying power in the economy.

The cost of the Union's proposals are relatively minor compared with the City's overall budget and the figures offered by the City are on the high side. The largest item in the City's costing of the Union proposal is the health insurance for part-timers. The City's costing assumed that all part-timers, who were married, would opt for family coverage. This may not be a fair assumption because even under the Union's proposal such coverage would cost these employees approximately \$100 per month out of their own pockets. These employees may well decide the added cost is not worth it especially if there is other coverage available to their family.

Further, there will be no actual cost to the City for health insurance for part-timers for 1991 even if the Arbitrator chooses the Union's offer because they will not be buying retroactive health insurance and the coverage period will have already lapsed.

Finally, the City's claim of poverty are difficult to accept while putting in a brand new City Hall that costs over 3 million dollars in light of an overall budget of \$10 million dollars. The costs of Union's proposal even if the dollar figures submitted by the City are used amount to less an 3/10ths of 1% of the overall budget".

The Position of the City

The City indicates that under the ordinance the part-time dispatchers did not receive any fringe benefits, and that since they have gained representation rights the City has been more than generous in agreeing to improve their working conditions. It characterizes the attitude of the Union as "not fair and equitable, particularly in an initial contract", in seeking the same benefits for part-time dispatchers, which benefits, the parties have agreed to be applicable to full-time dispatchers. It further indicates that it and the Union have also agreed to grant the part-time dispatchers the following fringe benefits:

Unpaid leave of absence (Art. XIX)	WI Retirement Fund (Art. XXIV)
Duty disability pay (Art. XX)	Uniforms (Art. XXVIII)

Access to dental ins. (Art. XXI)	Military leave of absence (Art. XXXIV)
Access to life ins. (Art. XXIII)	Jury duty pay (Art. XXXV)

It emphasizes that it, unlike other comparable municipalities, pays the same hourly wage rates to both full and part-time dispatchers, and it argues that it should not be required to provide the part-timers with fringe benefits not provided by the external comparables to their part-time dispatchers, especially when the City has agreed to provide both full and part-time dispatchers with a greater wage increase than provided by the external comparables.

The City points out that only fringe benefits granted, by the communities noted, to their part-time dispatchers are as follows:

Vacations (Pro rated) - Franklin, Hales Corners and South Milwaukee

Termination/Retirement Benefits - Franklin and Hales Corners

Holidays (Pro rated) - Franklin Hales Corners, and South Milwaukee (The latter only if employee was scheduled to work)

Sick Leave (Pro rated) - Franklin

Witness Pay - South Milwaukee (Only during working day)

Funeral Leave - Franklin, Hales Corners and South Milwaukee

Health Insurance (Pro rated) - Franklin, Hales Corners and South Milwaukee

Retiree Health Insurance - Hales Corners

Comp. Time - Franklin and Greendale

Call In Pay - South Milwaukee

Thus, the City concludes that since a majority of the external comparables do not grant the fringe benefits to their part-time dispatchers, the Union's offer relating to same is "out of line". It

acknowledges that the part-time dispatchers in the employ of Franklin, Hales Corners and South Milwaukee receive some fringe benefits. The City contends that it would pay more for health insurance premiums than such payments made by said three municipalities, as a result of the benefits provided in the health insurance plan available to its employees.

As for the internal comparables, the City indicates that the police, supervisory police and firefighters units do not include any part-time employees, and that only the Tech agreement provides part-time employees with fringe benefits limited to vacations, holidays (if scheduled to work thereon) and sick leave. The City has also indicated that although its offer does not provide for any pick up of any portion of health insurance premiums for part-time dispatchers, it has offered to provide them "with access to health coverage should a dispatcher choose to enroll at their own expense".

In support of its offer not to provide part-time dispatchers with monetary fringe benefits the City argues that it and the Union have agreed on the wage schedules applicable to the dispatchers for the years 1990 and 1991, which indicates wage increases ranging from 5% to 17%, as well as increases in the various steps from two to five. It points out that the comparable external communities granted an average hourly increase of 4% to its dispatchers in 1990, and that the across the board increases granted to its dispatchers "are right on target".

The City urges the Arbitrator not to ignore the large wage increase provided to its dispatchers, contending that in 1991 they

will receive "a wages only" increase of 13.9%, and "a total package" increase of 15.6%. It further points out that its dispatchers are compensated above and beyond their counterparts, and that four of the external comparables (Greendale, Greenfield, Hales Corners and West Milwaukee) differentiate the wages rates for their full-time and part-time dispatchers. It emphasizes that the wages received by the dispatchers in its employ far exceed the Consumer Price Index, and are thus compensated at a salary increase "above and beyond the rate of inflation".

Discussion Relating to Fringe Benefit Issues

Following the receipt of the initial briefs and a review of the record, which primarily consisted of exhibits, the Arbitrator realized that neither party submitted evidence with regard to the number of full and/or part-time dispatchers, if any, in the employ of the eight communities in the external comparable group, or the number of hours worked annually by the part-time dispatchers in their employ. The Arbitrator concluded that such evidence would be material in determining the impact thereof on whether the full and/or part-time dispatchers in the employ of said eight communities were or were not receiving fringe benefits sought by the Union herein for the City's full and/or part-time dispatchers. Thereupon the Arbitrator, in writing, requested the parties to furnish such evidence. Accompanying the data submitted by the City was a memorandum setting forth various arguments in support of its final offer, wherein it contended, in part, as follows:

"Throughout the Union's testimony, the Union did not present any data with regard to the annual hours

worked by both part-time and full-time dispatchers for the comparables selected by the City of Cudahy, i.e. Franklin, Greendale, Greenfield, Hales Corners, Oak Creek, St. Francis, South Milwaukee and West Milwaukee or for the Union's own comparables. Obviously, the Union did not believe this factor was a relevant comparison and thus did not meet their burden of proof on this issue."

It should be noted that the City urged the Arbitrator to conclude that said eight suburban communities as the more comparable external grouping, and to disregard the northern Milwaukee County communities proposed by the Union, as well as the school districts which the Union desired to include therein. Yet the City, like the Union, during the course of the hearing, failed to produce the same data in support of its proposed comparables. Any waiver of the need to produce any evidence material to the statutory criteria to be considered and accepted by the Arbitrator in an interest arbitration proceeding must be mutual, clear and unequivocal. There was no manifestation of such a waiver in this proceeding. Further, this Arbitrator deems such evidence material in light of the statutory criteria.

The offers of the parties relating to the fringe benefit issues have been set forth previously herein. They reveal some language differences contained in the provisions applicable to the fringe benefits. Such differences are not considered determinative as to which total offer is to be selected by the Arbitrator. It is also to be noted that in their offers the parties have agreed, for the most part, as to the applicability of the fringe benefits provisions to the full-time dispatchers. The primary differences in their offers

concern the applicability of said provisions to the part-time dispatchers.

Facts Pertaining to the External Comparables

Franklin and Greenfield do not employ any part-time dispatchers, however, both of their bargaining agreements indicated that the classification of part-time dispatcher is included in their bargaining units. The Greenfield agreement contains no provisions applying any fringe benefits to part-timers should they be employed. The Franklin agreement contains provisions providing fringe benefits applicable to part-timers, on a pro rata basis, relating to vacations, termination/retirement benefits, holidays, sick leave, funeral leave, health insurance and comp time. Greendale employs six full-time and three part-time dispatchers, with the latter working from 832 to 1,248 hours annually. Its bargaining agreement provides for comp time as the only fringe benefit applicable to said part-timers. Hales Corners employs three full-time and four part-time dispatchers. The latter each work 676 hours annually, and they, pursuant to the bargaining agreement, receive fringe benefits on a pro rata basis, relating to vacation, termination/retirement benefits, holidays, funeral leave, health insurance and retiree health insurance. Oak Creek employs no part-time dispatchers and its bargaining agreement provides no fringe benefits to said classification. St. Francis employs no full-time dispatchers. However, it does employ seven part-time dispatchers, who work from 40 to 1,000 hours annually. No bargaining agreement covers their conditions of employment and they receive no fringe benefits. South

Milwaukee does not employ any full-time dispatchers, but nine part-timers, who work 832 hours annually. Their conditions of employment are covered by a collective bargaining agreement, pursuant to which they receive pro rata fringe benefits relating to vacation, holidays, pay if subpoenaed as a witness, funeral leave, health insurance, as well as call-in pay. West Milwaukee employs four full-time and one part-time dispatcher, with the latter working from 208 to 416 hours annually. There is no collective bargaining agreement at West Allis covering the dispatchers, and the part-timers receive none of the fringe benefits which the Union seeks herein for the City's part-time dispatchers.

There are variables existing among the external communities in the application of fringe benefits to part-time dispatchers, especially with respect to the number of hours worked annually by said classified employees. The percentage of annual hours worked, compared to a full annual work load of 2,080 hours, ranges from 20% to 60%, or an actual average of approximately 40%¹. The City's part-time dispatchers work at least 1,664 hours annually, or 80% of a full-time work load. Another variable results from the fact that in St. Francis and South Milwaukee, only part-time dispatchers are employed. Police Officers in said communities share dispatching duties with part-time dispatchers. Thus the working conditions of said part-time dispatchers are not comparable to any full-time non-uniformed employees performing dispatching duties, as is the case

¹ In calculating said average the Arbitrator utilized the greater number of hours worked annually by part-time dispatchers in St. Francis and South Milwaukee.

herein.

Because of said variables the Arbitrator concludes that no meaningful comparison can be made with respect to the impact of the external comparables on the fringe benefits sought for the part-time dispatchers herein.

The Internal Comparisons

There are presently no part-time employees in the general City unit, with the exception of the part-time dispatchers. The same is true in the units consisting of uniformed personnel. The non-represented employees include three clericals, one squad car washer and eight crossing guards, none of whom receive fringe benefits, except for the uniforms provided to the crossing guards. No evidence was presented with regard to the number of hours worked annually by said part-time employees, and therefore, no meaningful comparison can be made between said part-timers and the part-time dispatchers.

There is presently one part-time employee of the City whose conditions of employment are covered in the Tech unit agreement. That employee occupies the position of the Plumbing and Sanitation Inspector, and he works 1,040 hours, or 50% of a full annual work load. The bargaining agreement provides said employee with vacation, holiday pay (if it falls on a normal work day, as well as sick leave, all on a pro rata basis.

As noted previously herein the City has indicated that it agreed to grant part-time dispatchers some ten fringe benefits. Some of such benefits are required by law, and others result in no direct financial benefit to the employees. Apparently, the City requires

that all its dispatchers wear a uniform, with the cost thereof to be assumed by the City.

The City also emphasizes that it has agreed to provide both full and part-time dispatchers with a greater wage increase than provided by the external comparisons to the dispatchers in their employ. The City produced an exhibit reflecting the minimum and maximum hourly rates generated by the wage schedules applicable to the dispatchers in the employ of the external comparables for 1990 and 1991 (Appendix C). The comparison of the average of such rates with those set forth in the dispatcher wage schedule agreed upon by the Union and the City is reflected as follows:

	<u>1990</u>		<u>1991</u>	
	<u>Minimum</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Maximum</u>
	<u>Full-time Dispatcher</u>			
External Average Rate	\$ 8.61 (a)	\$10.28 (a)	\$ 9.12 (b)	\$10.80 (b)
Cudahy Rate	8.50	10.53	8.50	10.91
	(a) 5 employers		(b) 6 employers	
	<u>Part-time Dispatcher</u>			
External Average Rate	\$ 7.47 (c)	\$ 8.02 (c)	\$ 7.84 (c)	\$ 8.39 (c)
Cudahy Rate	8.50	10.53	8.50	10.91
	(c) 7 employers			

The exhibit from which the above data was developed reflected only the minimum and maximum rates applicable to the external dispatchers, and not the incremental steps, if any, between such rates, and thus the lack thereof has impeded the Arbitrator in determining a more meaningful comparison with the hourly rates

applicable to the dispatchers in the employ of the City. Further, none of the City's dispatchers are presently earning the maximum rate.

As for the internal comparables the agreement covering the firefighters calls for a 4% increase in each of the years 1990 and 1991. The police and supervisory police employees received a 4% increase in 1990. The parties have not reached an accord as yet on the increase to police personnel for 1991. The employees in the general City unit, prior to the accretion of dispatchers to said unit, and in the Tech unit, received across the board increases averaging 3.5% for each of the 1990 and 1991 years. The wage schedules applicable to the employees in said latter two units contain incremental steps designated I, II, III, IV and V. The schedule agreed upon by the parties, relating to the dispatchers, contain incremental steps also so designated. The non-represented employees also received a 3.5% increase for 1990. Their 1991 increase has not yet been established.

The City produced tabulations reflecting the wage progressions applicable to its individual full and part-time dispatchers from their dates of hire in 1989 through December, 1991. The three full-time dispatchers were hired in May and June of 1989. The five part-time dispatchers were hired in the last three months of that year. The following tabulation reflects the wage progression of the initial full and part-time dispatchers employed by the City, as well as the percentage of their wage increases, as set forth by the City:

<u>Full-Time Dispatcher</u>				<u>Part-Time Dispatcher</u>			
<u>Date</u>	<u>Step</u>	<u>Hourly Rate</u>	<u>% Increase</u>	<u>Date</u>	<u>Step</u>	<u>Hourly Rate</u>	<u>% Increase</u>
5/1/89	I	\$ 8.50	-	10/2/89	I	\$ 8.50	-
11/1/89	II	9.00	5.9%	4/1/90	II	9.00	5.9%
5/1/90	II	9.00	-	10/2/90	II	9.00	-
1/1/91	III	10.20	13.3%	1/1/91	II	9.73	8.1%
7/1/91	III	10.30	<u>1.0%</u>	7/1/91	III	10.30	<u>5.9%</u>
		Total	20.2%			Total	19.9%

From the above data the average hourly rates paid to said employees for the year 1990 and to be paid to them for the year 1991, and the percentage of the increases, are as follows:

<u>Year</u>	<u>Average Hourly Rate</u>	<u>% Increase</u>	<u>Year</u>	<u>Average Hourly Rate</u>	<u>% Increase</u>
1989	\$ 8.63	-	1989	\$ 8.50	-
1990	9.00	4.3%	1990	8.85	4.1%
1991	10.25	<u>13.9%</u>	1991	10.02	<u>13.2%</u>
	Total	18.2%		Total	17.3%

The Arbitrator has reviewed the wage schedules set forth in the bargaining agreement of the City covering the employees in the Tech unit for the period from January 1, 1989 through December 31, 1991. Assuming that the steps therein require longevity identical to that in the dispatcher schedule agreed upon herein for the purpose of progressing from the minimum to the maximum hourly rates set forth therein², the Arbitrator deems it informative to compare the progression experience of a full-time employee, as well as that of a

² No evidence was adduced with regard to the time intervals between the various steps in the Tech unit Schedules.

part-time employee, with that of the initial full-time dispatcher and the initial part-time dispatcher hired by the City, and further assuming that said Tech unit employees were hired on the same dates as were the dispatchers, such assumptions lead to the following results:

<u>Full-Time Public Health Nurse</u>				<u>Part-Time Plumbing & San. Inspector</u>			
<u>Date</u>	<u>Step</u>	<u>Hourly Rate</u>	<u>% Increase</u>	<u>Date</u>	<u>Step</u>	<u>Hourly Rate</u>	<u>% Increase</u>
5/1/89	I	\$ 9.54	-	10/2/89	I	\$12.00	-
11/1/89	II	10.44	9.4%	4/1/90	II	13.40	11.7%
5/1/90	II	10.75	3.0%	10/2/90	II	13.53	1.0%
11/1/90	III	11.41	6.1%	1/1/91	II	13.94	3.0%
1/1/91	III	11.75	3.1%	7/1/91	III	14.63	<u>4.9%</u>
7/1/91	III	11.87	<u>1.0%</u>				
		Total	<u>22.6%</u>			Total	20.6%

<u>Year</u>	<u>Average Hourly Rate</u>	<u>% Increase</u>	<u>Year</u>	<u>Average Hourly Rate</u>	<u>% Increase</u>
1989	\$ 9.77	-	1989	\$ 8.50	-
1990	10.76	10.1%	1990	8.85	9.0%
1991	11.81	<u>9.8%</u>	1991	10.02	<u>9.3%</u>
	Total	<u>19.9%</u>		Total	<u>18.3%</u>

The above comparisons indicate that the greater portion of the increases applicable to the dispatchers for the years 1990 and 1991 resulted from progressing from the initial step to the third step of the wage schedule applicable to them because of the additional experience gained by said dispatchers during the 18 months of their employment. The across the board increases to the employees in the

Tech unit totaled 7.0% for the years 1990 and 1991. The above examples seem to indicate that the balance of 12.9% and 11.3% granted to the two Tech positions resulted from their progression in the salary schedule. Of course, should the period of time between the various steps in the wage schedules applicable to the employees in the Tech unit not be identical to the periods between the steps in the schedule applicable to the City's dispatchers, then the assumption by the Arbitrator does not lead to the balances of 12.9% and 11.3% set forth above. Nevertheless the Arbitrator stands behind his conclusions with respect to the City's dispatchers.

In support of its position with respect to denying the fringe benefits sought by the Union for the City's part-time dispatchers, the City points out that the parties have agreed that said employees should receive the same hourly rates, as set forth in the wage schedule approved by the parties for both the full and part-time dispatchers, and in that regard it contends that the increases agreed upon for 1991 "far exceed the Consumer Price Index" over the year 1990. Said index indicates, for Union Wage Earners and Clerical Workers, for the years ending in January 1990 and 1991, that the cost of living increased 5.2% and 5.5% over the previous year twelve month period. A substantial portion of the wage increases received by the dispatchers in 1990, and to be received for the year 1991, resulted from their progression in the wage schedule. The cost of living criteria was never intended to prevent increases granted to employees on the basis of increased skills in the performance of their job duties. If it were otherwise, it could be said that the increases

granted to the remaining City employees, who generally receive progressive increases based on added work experience obtained on the job, "far exceeded the cost of living".

The Costing of the Offers

The Union does not dispute the City's costing figures, which would result from each of the offers, for the year 1991. The parties have agreed upon the schedule reflecting such increases, which will be retroactive to January 1, 1991. The wage costs will increase by \$17,999.30 over the year 1990, or an increase of 13.9%. The City calculates overtime, longevity³, and uniform allowance to increase by \$325.26 over such costs for 1990, or an increase of 8.5%. The costs of Health Insurance premium pick up for its three full-time dispatchers, all of who are covered by the family plan, would increase by \$4,997.90 over 1990, an increase of 3.8%. The premium costs for life and disability insurance, as well as costs for retirement and FICA, would be increased by \$3,991.50, a 14.3% increase. The costs of the City's offer would total \$201,692.03 for the year 1991, as compared to total package costs of \$174,478.21 for the year 1990, an increase of \$27,213.82 or a 15.6% increase.

In costing the Union's offer, the City has included the health insurance premium costs to the City for its share of the premiums to be paid for five of the part-time dispatchers who are married and for the one part-time dispatcher who is single. (Such costs are estimated since there is no evidence adduced as to whether any of the part-time dispatchers have assured the City that they all desire such

³ No dispatcher would qualify for same.

coverage.) If they all desired coverage, said premium costs would total an additional cost of \$21,871.214, thus increasing health insurance costs to \$40,036.72 for the year 1991. Thus the Union's offer, if fully implemented would increase the total package cost to \$223,563.27, or \$49,005.06 over the 1990 total package costs, an increase of 28.1%. The Union acknowledges that the part-time dispatchers cannot obtain health insurance coverage retroactively, and therefore said costs would only be prospective.

It is interesting to note that the cost to the City of their 100% pick up of the family health insurance plan for the three full-time dispatchers, who together annually work a total of 6,240 hours, is at the cost of \$6.055 per full-time employee. The costs of said premiums for the five part-time dispatchers, who annually work 8,320 hours, is calculated at \$4,374 per each part-time dispatcher.

Should the four married part-time dispatchers choose to be covered, and if said employees worked only 1,664 hours annually, they would pay 20% of such premium costs. The costing figures produced by the City indicated that the premium costs for said plan, as of January 1, 1991, amounted to \$513.47 per month, and that said costs were reduced to \$486.85 monthly as of September 1, 1991. Assuming that the same cost still exists, each of said four part-time dispatchers would be paying \$97.37 per month, for the twelve month coverage toward the cost of their health insurance. Thus reducing their take home pay by approximately seventy (\$.70) cents per hour from the wages generated to them by the 1,664 in which they were actively employed.

The Arbitrator is aware of the additional costs to be absorbed by the City should it be required to implement the Union's offer involved herein. The interest and welfare of the public requires a consideration of factors in addition to the costs to the City resulting from the implementation of either offer. The duties performed by the dispatchers constitute an integral part of the Police Department for the good and welfare, as well as the safety, of the inhabitants of the City, and surrounding area. The tasks performed by the part-time dispatchers are identical to those performed by their full-time counterparts. They work the same shifts and under the same conditions of employment. The Union seeks the same fringe benefits for the part-timers which the parties have agreed to grant the full-timers with respect to holidays, comp time and call-in pay since the pay for such benefits are not determined by the number of annual hours worked by the part-time dispatchers, but rather, the hours they work on holidays and in "call-in" hours are identical to those of full-time dispatchers, as are the conditions relating to comp time.

The part-time dispatchers, by receiving the same hourly rate of pay equal to that paid to the full-time dispatchers, as well as receiving the fringe benefits they seek, if granted, are more apt to encourage said employees to continue in their employment, and thus avoid the necessity of the City in assuming additional costs incurred, as well as additional man/woman hours, in training new hires to perform their dispatching duties.

For all the reasons set forth above, the Arbitrator concludes

that the statutory criteria adequately and more reasonably support the Union's offer relating to the fringe benefit issues applicable to both full and part-time dispatchers, and therefore it is favored over the offer of the City.

Conclusion

The Arbitrator has considered the evidence adduced by the parties with respect to the matters in issue herein, the evidence pertaining to the statutory criteria set forth in Sec. 111.70(4)(cm)7 of the Municipal Employment Relations Act, as well as the comprehensive briefs filed in support of the respective positions of the Union and the City on the issues involved. The Arbitrator has previously herein set forth his rationale and conclusions as to whether the Union's or the City's proposals contained in their respective offers should be favored.

Therefore, upon the basis of the above and foregoing, the undersigned issues the following:

AWARD

The entire final offer of the Union is deemed to be more acceptable towards meeting the statutory criteria set forth in Sec. 111.70(4)(cm)7 of the Municipal Employment Relations Act, and therefore the proposals therein shall be incorporated into the existing collective bargaining agreement between the parties, which covers employees occupying the classifications previously set forth herein. Further said agreement shall incorporate the matters and changes agreed upon by the parties during their bargaining, together with the provisions of the agreement which remain unchanged, either

by the Union's final offer, or by mutual agreement during bargaining.

Dated at Madison, Wisconsin this 10th day of February, 1992.

A handwritten signature in cursive script, reading "Morris Slavney", with a horizontal line underneath and a flourish extending to the right.

Morris Slavney
Arbitrator

06/27/91

CITY OF CUDAHY
DISPATCHERS
WAGE SCHEDULE
Retroactive to 1/1/91

Appendix A

		I	II	III	IV	V
Effective	1/1/90	\$8.50	\$ 9.00	N/A	N/A	N/A
Effective	7/1/90	8.50	9.45 (5%)	\$ 9.90	\$ 10.17 (13%)	\$ 10.53 (17%)
Effective	1/1/91	8.50	9.73 (3%)	10.20 (3%)	10.48 (3%)	10.85 (3%)
Effective	7/1/91	8.50	10.02 (1%)	10.30 (1%)	10.58 (1%)	10.96 (1%)

I: Entry level.

II: Six months after start.

III: One year after II (18 months after start date).

IV: One year after III (30 months after start date).

V: One year after IV (42 months after start date).

	<u>Full and Part Time Dispatchers</u>	<u>Full Time Dispatchers Only</u>	<u>Dispatchers Only</u>	<u>Neither Full Nor Part Time Dispatchers</u>
Preamble Provision	X			
Witnesseth Provision	X			
Article I - Recognition (Entire article) and revise first para. to include "regular part-time and full-time dispatchers".	X			
Article II - Agreement, paras. 1 and 2.	X			
Article III - Negotiations (1 para.)	X			
Article IV - Management Rights 5 paras.), Add the following in the last para. - "However, the new floater clerk may not perform any dispatcher duties."	X			
Article V - Fair Share (Entire article)	X			
Article VI - Union Activity Paras. 1 and 2.	X			
Article VIII - Jurisdiction	X			
Article IX - Settlement of Prohibited Practice Problems	X			
Article X - Grievance Procedure (Entire article)	X			
Article XI - Rates of Pay (Append agreed upon wage schedule relating to dispatchers.	X			
Section 2. Movement in Step:				X
Section 3 - Errors	X			

	<u>Full and Part Time Dispatchers</u>	<u>Full Time Dispatchers Only</u>	<u>Part Time Dispatchers Only</u>	<u>Neither Full Nor Part Time Dispatchers</u>
Article XIV - Discipline and Discharge All 3 paras.	x			
Article XV - Holidays (Sections 1 and 2) Section 4		x		x
Article XVII - Personal Days (Section 1)		x		
Article XIX - Leave of Absence (Section 1)	x			
Article XX - Duty Disability Pay (Section 1, 2 & 3)	x			
Article XXI - Health and Disability Insurance Section 2	x			
Sections 3, 4, 5 and 6		x		
Article XXIII - Life Insurance (Entire article) Parties agree that "Part-time dispatchers shall pay their own premiums if they wish to participate."	x			
Article XXIV- Pensions (1 provision)	x			
Article XXV - Premium Rate Section 1 A and B				x

--- Add the following to 2-A. -"Full-time and part-time dispatchers shall receive overtime paid at at time and one-half (1½) times the regular rate for all work over eight (8) hours in a day or forty (40) in a week. Dispatcher overtime cannot be assigned to anyone outside of their classification. The Police Chief or his designee may order the least senior dispatcher to work overtime, if all other dispatchers refuse." X

	<u>Full and Part Time Dispatchers</u>	<u>Full Time Dispatchers Only</u>	<u>Part Time Dispatchers Only</u>	<u>Neither Full Nor Part Time Dispatchers</u>
Article XXV - Premium Rate				
(Section 2 B.)				x
(Section E.)	x			
Article XXVI - Task Rates (Entire article)				x
Article XXVII - Safety (Sections 1 and 2)	x			
(Sections 3 and 4)				x
Article XXVIII - Rain Wear (Add the following provision to present language- "The City shall provide, at City cost, the following uniforms: For full-time emergency service dispatchers: Five long-sleeve shirts, five short sleeve shirts, one sweater and five (total) pants and/or skirt(s). For part-time emergency service dispatchers: Five long-sleeve shirts, five short-sleeve shirts, one sweater and three (total) pants and/or skirt(s). x				
Article XXIX - Tool Allowance (1 paragraph)				x
Article XXX - Longevity (Entire provision)		x		
Article XXXI - Hours of Work (Existing article) Add extensive provisions applicable, where indicated, to full and part time dispatchers				x
Article XXXII - Crew Sizes (Entire provision)				x
Article XXXIII - Solid Waster Collection Program (Entire provision)				x

	<u>Full and Part Time Dispatchers</u>	<u>Full Time Dispatchers Only</u>	<u>Part Time Dispatchers Only</u>	<u>Neither Full Nor Part Time Dispatchers</u>
Article XXXIV - Military Leaves of Absence (Entire article)	x			
Article XXXV - Jury Duty Pay (Both sections applicable to full and part time dispatchers if scheduled to work)	x			
Article XXXVI - No Strike (Entire article)	x			
Article XXXVII - Working Conditions and Work Rules (Introductory para.)	x			
a. Snow Emergency Agreement, and				x
b. Barricade Agreement				x
Article XXXVIII - Amendment To Agreement (Entire Article)	x			
Dispatchers Wage Schedule Retroactive to 1/1/91	x			

DISPATCHER WAGE COMPARISONS

<u>Municipality</u>	<u>Status</u>	<u>1990</u>		<u>1991</u>	
		<u>Min</u>	<u>Max</u>	<u>Min</u>	<u>Max</u>
Franklin	Full-time	\$ 8.61	\$ 9.66	\$ 8.96 (a)	\$ 10.05 (a)
	Part-time	8.61	9.66	8.96 (a)	10.05 (a)
Greendale	Full-time	7.46 (a)	9.75 (a)	7.83	10.23
	Part-time	7.46 (a)	8.04 (a)	7.83	8.44
Greenfield	Full-time	9.98	11.33	10.33 (a)	11.73 (a)
	Part-time	7.72	8.38	7.99 (a)	8.68 (a)
Hales Corners	Full-time	8.34 (a)	9.72 (a)	8.76 (a)	10.20 (a)
	Part-time	7.50 (a)	8.73 (a)	7.88 (a)	9.16 (a)
Oak Creek	Full-time		No Position	9.72 (a)	11.11 (a)
	Part-time		No Position		No Position
St. Francis (b)	Full-time		No Position		No Position
	Part-time	6.46	6.63	6.78	6.96
South Milwaukee	Full-time		No Position		No Position
	Part-time	7.08 (c)	7.25 (c)	7.62 (d)	7.62 (d)
West Milwaukee (b)	Full-time	8.66	10.93	9.09	11.48
	Part-time	7.44	7.44	7.81	7.81

(a) Average yearly rate (b) No bargaining agreement (c) 7/1/89 - 7/1/90 (d) 7/1/90 - 7/1/91

Average	Full-time	8.61	10.28	9.12	10.80
	Part-time	7.47	8.02	7.84	8.39
Cudahy	Full-time and Part-time	8.50	9.77 (a)	8.50	10.91 (a)