

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

BEFORE THE ARBITRATOR

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In the Matter of the Interest Arbitration Between)
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)
 MARATHON COUNTY LIBRARY EMPLOYEES,)
 WISCONSIN COUNCIL 40, AFSCME, AFL-CIO)
)
 and)
)
MARATHON COUNTY (LIBRARY))

WISCONSIN EMPLOYMENT
 RELATIONS COMMISSION
 Case 210
 No. 47706
 INT/ARB-6533
 Decision No. 27714-A
 OPINION AND AWARD

Appearances: For the Union, Phil Salamone, Staff Representative,
Wisconsin Council 40, AFSCME, Schofield.

For the Employer, Attorney Dean R. Dietrich, Wausau.

When the Marathon County Library Employees, Wisconsin Council 40, AFSCME, AFL-CIO (referred to as the Union) and Marathon County (Library) (referred to as the Employer) were unable to reach agreement on an initial collective bargaining agreement, the Union filed a petition on July 1, 1992 requesting the Wisconsin Employment Relations Commission (WERC) to initiate arbitration pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act (MERA). On July 12, 1993, the WERC determined that an impasse existed and that arbitration should be initiated. Following notification by the parties to the WERC that they had selected the undersigned to serve as arbitrator, the WERC appointed her to so serve by Order dated August 9, 1993.

By mutual agreement, a hearing was held on October 29, 1993 in Wausau, Wisconsin. A full opportunity was provided to the parties to present testimony and documentary evidence. The parties submitted post-hearing briefs and reply briefs. The final brief was received by the arbitrator on January 21, 1994.

ISSUES AT IMPASSE

The Union's final offer is annexed to this decision as Annex A. The Employer's final order is annexed to this decision as Annex B. Issues at impasse are:

- Article 5 - Hours of Work
 - A. Normal Hours
 - B. (Lunch) Breaks

- C. Overtime
- D. Shift Differential

Article 8 - Compensation

- A. Wages (Appendix A)
- B. Salary Steps

Article 18 - Insurance

- A. Medical and Hospitalization Benefits
- B. Dental Insurance Benefits
- C. Termination
- D. State Group Life Insurance

Article 22 - Part-Time Employees

STATUTORY FACTORS

The criteria to be utilized by an arbitrator in rendering an award are set forth in Section 111.70(4)(cm)(7) as follows:

- "(7) 'Factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator shall give weight to the following factors:
- a. The lawful authority of the municipal employer.
 - b. Stipulations of the parties.
 - c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
 - d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
 - e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.
 - f. Comparison of the wages, hours and conditions of employment of

the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees in 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 employees, 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 the private employment."

POSITIONS OF THE PARTIES

Comparables

As in many interest arbitration proceedings, the Union and the Employer differ significantly about what constitutes appropriate comparables. The Union looks to both represented and unrepresented groups of Marathon County employees to support its wage and fringe benefit final offers. It also argues that the unrepresented employees of the Wisconsin Valley Library Service (WVLS) also constitute an appropriate internal comparable due to the close historical, geographical, and personnel policy ties between the Marathon County Public Library (MCPL) and WVLS (including employees working side by side in the same location and a common director for many years - although not at the present time). For external comparables, the Union looks to the public libraries of Oshkosh, Eau Claire (L.E. Phillips), Brown County and Portage County. These comparables were chosen by the Union based upon circulation, population served, geographical proximity, and unionized status.

In contrast, the Employer emphasizes that there are no appropriate internal comparables for this bargaining unit since the MCPL is a separate legal entity and, therefore, a separate employer from Marathon County. County employees are also

dissimilar to MCPL employees, in the Employer's view, due to the library's unique mission, work hours, part-time status of many library employees, etc. It looks instead to external comparables, particularly the five other libraries served by WVLS (in addition to MCPL), as sharing a common labor market and job duties. The Employer's comparables are also close-by. For secondary external comparables which provide additional data (although not reflecting local economic conditions), the Employer has selected Chippewa Falls Public Library, Eau Claire (L.E. Phillips Library), LaCrosse Public Library, and the Superior Public Library. (Eau Claire and Portage County are the only external comparables listed by both parties.) The Employer rejects Brown County and Oshkosh as too dissimilar; it also rejects WVLS as not comparable due to its state funding and its recent statewide, compensation comparisons.

The Union rejects the libraries which constitute the Wisconsin Valley Library Service (except for Portage County which is unionized) because it believes that they are smaller and too distant; it expresses surprise that the Employer does not consider WVLS itself as a comparable (as the Union does). In addition, the Union addresses an apparent inconsistency. The Union contends that it has properly excluded non-unionized external comparables based upon Wisconsin arbitral precedents while at the same time it has properly included non-unionized internal comparables (including MCPL professional and administrative employees and non-unionized employees at WVLS) because this is an initial contract and the historical development of wages and other terms and conditions of employment must be seen in the context of the prior status of this unit's employees.

The Union

A. Wages for 1992 and 1993

To support its wage increase of 33 cents per hour for each year for each bargaining unit member except for the Library Assistant II position (where the difference between the two offers is approximately 10 cents per hour for each year) (plus 1% effective July 1, 1993), the Union emphasizes that this is a first collective bargaining agreement and its final wage offer is designed to provide a "catch up," particularly for the lower paid job classifications, after years of unilateral Employer decisions on wages, fringe benefits, etc. It notes that, despite the Union's final wage offer, Pages will remain as the lowest paid employees of Marathon County and that the wages for employees performing custodial/maintenance work, even taking into account the 50 cents per hour special premium pay for custodians performing special duties will only match the wages of those performing these job duties for the County. Overall, the Union concludes that its wage proposal is justified because it provides an equitable adjustment needed by unit non-professionals who have lagged behind other comparable WVLS employees and MCPL professionals and administrators.

Turning to external comparables, the Union notes the difficulties involved in making external wage comparisons because of different job titles and duties. It concludes, however, that a comparison between its 1993 final offer relating to wages at

the minimum and maximum and those of the appropriate comparables clearly favor the selection of the Union's wage position.

The Union rejects the Employer's emphasis on total package costing and cost of living data because it believes they distort the Union's justifiable need for wage and fringe benefit "catch up" in this first contract, particularly for the significant number of bargaining unit members whose wages are at or near the poverty level.

Finally, anticipating an Employer inability to pay argument, the Union points to the projected decrease in the 1994 County tax rate resulting in part from increased state funding, the lack of evidence concerning current County property values, and the major new MCPL building project.

B. Pro-Rated Fringe Benefits

According to the Union, of the 53 members of this bargaining unit, 14 work part-time less than 50% and 13 work part-time at 50%. Accordingly, benefits for part-time unit employees are key issues for the Union, particularly when the Employer's proposals on these issues is considered in conjunction with the Employer's proposal on the work week giving to the Employer the unilateral right to reduce an employee's work week. Moreover, the Union points to internal and some external comparables as solid support for the Union's equitable proposals in these areas. The Union notes that most unionized and non-unionized County employees and all WVLS employees qualify for pro-rated benefits, without meeting any required minimum threshold of work hours.

C. Work Hours

There is one important difference between the parties' proposals in this area, although there is agreement on a number of other aspects. The difference centers upon what happens if the Employer plans to "substantially reduce" an employee's number of hours and the employee does not agree to the Employer's plan. Under the Union's final offer, an employee will have some type of job security based on seniority and lay-off type "bumping" rights as a "safety net." Otherwise, the Union contends that its proposal acknowledges this Employer's need for discretion and flexibility in setting employees' work hours due to the special operational necessities in operating library facilities. It believes that both internal and external comparables provide for less Employer discretion and for greater employee rights in this area and thus support its final offer.

D. Additional Issues

The Union identifies the remaining unresolved issues as minor or non-issues. Under the latter category the Union places its omission of contract language relating to pro-rating of pension plan contributions and an employee's right to participate (by means of an employee contribution) in the Employer's State group life insurance plan. As to the pension plan pro-rating, the Union contends that the Employer automatically pro-

rates since the required WRS contribution is based upon a percentage of an employee's wages (for all employees working a minimum of 600 hours). As to participation in the Employer's State group life insurance plan, the Union notes that the Employer is required to make its existing plan open to all employee groups. Thus, Union omission of contractual language in its final offer relating to these two issues is not relevant since participation is already assured.

As to the Employer's proposal to use compensatory time as an alternative to overtime, at its discretion, while the Union proposes overtime payments only, the Union notes that this is a very minor or academic issue since no unit employee worked overtime in recent years.

Finally, while both parties' offers provide for a 20 cents per hour shift differential, that differential is effective for hours after 10 P.M. under the Employer's offer and after 9 P.M. under the Union's offer. In response to the Employer's claim that the Union's shift differential proposal may contain an illegal provision because part of the payment would not be included for overtime calculations, the Union points to the Savings Clause already agreed to by the parties to take care of any such problem. It further notes that the Employer has been remiss in raising this point as a surprise tactic during the arbitration proceeding rather than challenging it during negotiations in a more appropriate fashion.

For all the above reasons, the Union believes its final offer is more reasonable and should be selected.

The Employer

A. Wages for 1992 and 1993

The Employer argues that its percentage wage increases are to be preferred over the Union's wage proposals which primarily center around a uniform hourly wage increase for all employees (but for Library Assistant II) and thus "plays favorites" without justification.

It points to its primary and secondary comparables to support the reasonableness of its wage offer, while it argues that Union's wage offer is "clearly excessive" since it is in excess of 9% for 1992 and in excess of 7% in 1993. Total compensation computations of the parties' final offers by the Employer further support the Employer's conclusion that the Union's final offer package is "clearly excessive."

B. Pro-Rata Fringe Benefits

On this issue, the Employer points to its primary and secondary comparables to support the reasonableness of its offer which continues to provide pro-rata health insurance benefits for regular part-time employees who work 20 or more hours per week

(except for Pages and Branch Assistants) and which now includes a provision for a pro-rata contribution toward single coverage for Pages and Branch Assistants, if they are scheduled to work 20 hours or more per week. The Employer emphatically rejects the Union's more generous pro-rata health insurance provision covering all Pages and Branch Assistants because of their very limited part-time hours and the burden such an extension of coverage places on the Employer by expanding potential coverage to a large portion of the bargaining unit. According to the Employer's calculations, even if only one-half of those eligible under the Union's offer choose the health insurance benefit, the cost will be an additional \$20,000. This additional cost comes just at a time when the Employer is faced with large library budget cuts resulting in a negative impact on library service levels as well as the ability of the Library to meet its statutory obligations.

As for the Union's proposal to extend dental insurance to all bargaining unit members, including part-time Pages and Branch Assistants, the Employer underscores again the limited part-time nature of the Page and Branch Assistants positions and the Union's lack of comparability data for its proposal in both the private or public sectors.

Finally, as to State group life insurance, the Employer argues that this type of benefit should be incorporated into the parties' contract. The Union's final offer is flawed because it is silent about this benefit (although the Employer does not dispute the Union's rationale that since the Employer already offers this coverage to its other employees, it must offer participation to members of this bargaining unit).

For these reasons, the Employer concludes that its health and dental insurance eligibility and state group life insurance final offers are more reasonable and fiscally responsible than those of the Union.

C. Work Hours

As the Employer notes, flexible scheduling of library work hours, particularly in the branch libraries, is critical to the MCPL's operation and mission. The Employer's offer contains a requirement that the division head consult with an employee prior to any change in the employee's monthly work schedule. This portion of the Employer's offer codifies current library policy and has worked well historically for both parties. Thus, the Employer strongly objects to the Union's proposal which it concludes requires employee consent for "significant changes" in the employee's monthly schedule. It believes that the Union's offer will make needed staffing decisions very difficult to implement in a timely and efficient fashion and seriously limit the Employer's ability to accommodate changes in staffing patterns, patron needs, and emergencies. Library budget cuts in 1993 underscore these management arguments against the Union's offer in this area. The Employer believes it is unreasonable for the Union to rely on Hours of Work language in other County contracts because such language does not address at all the legitimate need in running a public library operation with multiple branch libraries. It also contends that the phrases in the Union's proposal, "significantly changes" and "substantially reduce," are troublesome because they are indefinite and will no doubt

generate a number of time-consuming grievances.

D. Additional Issues

The Employer raises objections to several additional issues covered by the Union's final offer. One concerns the Union's elimination of the Employer's current choice of providing compensatory time in lieu of overtime pay. The Employer believes that this option is particularly important at MCPL where there is a need to complete special tasks using extra work hours while at the same time there are stringent budget constraints. The option of compensatory time provides the needed flexibility for the library without a budget impact, two critical considerations for the Employer.

The Employer emphasizes the escalating adverse budgetary impact if the Union's final offer were to be chosen. Options faced by the Employer include reducing branch hours, reducing headquarter operations, and cutting nonpersonnel items. These options must be considered within the context of a statutory requirement that MCPL operate a minimum of fifty hours per week or else face the potential loss of various funding sources. The adverse financial impact of funding the Union's final offer is further affected by recent legislation limiting the County's tax levy ability without a special referendum. Thus, fiscal constraints must be given high priority in this proceeding. In response to Union arguments, the Employer clarifies that capital construction funds available for the library building project are not available for employee wages, but only for the new building. It also clarifies that the 1994 County tax levy is approximately \$20 million (in contrast to the \$84 million budget figure used by the Union).

As a separate argument under the arbitration statute, the Employer points to CPI data to argue that the Employer's generous final offer itself exceeds the CPI while the Union's final offer is excessive when compared with CPI data. The Employer further notes that: 1) there have been no significant employee turnover problems in this unit; 2) there have been significant recent wage adjustments to several unit classifications, particularly Branch Assistants; and 3) the Union is incorrect in requiring some quid pro quo for the Employer's increase in health insurance deductible since those changes occurred prior to unionization of this unit in late 1991.

For all the above reasons, particularly the adverse public impact of the costs of implementing the Union's wage and fringe benefit offers and the inflexibility of the Union's proposal when the Employer needs to make "significant" changes in an employee's monthly work schedule, the Employer believes that its final offer should be selected.

DISCUSSION

This is a complex arbitration case due to the numerous issues in dispute for the parties' initial contract. Before addressing the various substantive issues contained in the parties' final offers, particularly the three general issues identified by both parties as

important (1992 and 1993 salaries, Article 18 (Insurance) benefits for part-time employees, and Article 5 (Hours of Work)), the arbitrator is required to address two important, interrelated questions.

First, the Employer contends that MCPL is a separate public employer distinct from Marathon County. If this is so, the Employer believes that Marathon County cannot constitute the key "internal" comparable in this proceeding, particularly in the important area of fringe benefits, as the Union argues. To support its position on this threshold issue, the Employer cites Section 43.58(1) and (4) of the Wisconsin Statutes. It also submits that the WERC's December 26, 1991 Certification of the Union as the winner in a WERC administered representation election for this unit supports its position on this point.

In the undersigned's view, the WERC's 1991 Certification document does not support the Employer's contention that MCPL is a separate public employer in this arbitration proceeding legally distinct from Marathon County for purposes of Section 111.70 of MERA. Specifically, she notes that the WERC Certification refers to the representation election voters as "eligible employees of Marathon County." That document also lists the Employer in the document's caption as "MARATHON COUNTY (LIBRARY)." The arbitrator is familiar with the WERC's format for listing employer names in captions in its documents, particularly in impasse arbitration cases. For example, in two recent cases, she has been designated as impasse arbitrator for the "CITY OF MILWAUKEE (FIRE DEPARTMENT)" and "BUFFALO COUNTY (SHERIFF'S DEPARTMENT)." She does not interpret these WERC employer designations in case captions as supporting the Employer's argument that the Employer in this proceeding is MCPL and not Marathon County. She further notes that among the July 12, 1993 Findings of Facts in this very proceeding, the WERC states that "Marathon County (Library), hereinafter referred to as the County, is a municipal employer, maintaining its offices at 500 Forest Street, Wausau, Wisconsin." She believes this is further evidence that to date the WERC does not consider MCPL to be an employer distinct from Marathon County. If these WERC Orders are in error, the MCPL and/or the County should seek clarification by the WERC, the state agency which has primary responsibility and expertise in interpreting and implementing Section 111.70 of MERA. Thus, the undersigned will proceed to analyze the record in this case based upon the assumption that Marathon County is the relevant and referred to public employer.¹

¹It appears relevant to note that Marathon and Portage Counties jointly operate the Central Wisconsin Airport by means of a jointly created Joint Airport Committee. For purposes of negotiating a collective bargaining agreement with Teamsters Local 662, covering a unit of regular full-time maintenance and custodial employees of the Central Wisconsin Airport, however, the employer is identified in the agreement as Marathon County. The contract contains transfer rights into the Airport bargaining unit from another Marathon County department with existing vacation, sick leave and similar balances, it is signed by the Marathon County Clerk, and in other ways indicates it is a Marathon County bargaining unit.

Second, there is the separate but interrelated dispute between the parties as to the appropriate comparables for this bargaining unit for their initial contract. The parties strenuously disagree on this issue. This is no surprise since the selection of comparables often determines which party's final offer is selected. (While the parties indicate that the undersigned's comparability determinations will also have a direct impact upon future negotiations between the parties, she restricts her analysis to the parties' present situation as described in the record and encourages the parties to reach a future consensus, if at all possible, on the threshold issue of appropriate comparables.)

For wages, the appropriate pool of primary comparables is quite limited, in the arbitrator's judgment. This unit of nonprofessionals and paraprofessional library employees has not yet entered into its first contract. The labor market for unit job vacancies is local and not state-wide. Very few Marathon County nonprofessional and paraprofessional positions appear to have similar or comparable job duties and not all of such County employees may be in bargaining units. The Employer's primary comparables cover substantially smaller public library units, typically without a central location and branches. Both parties' "external" or "secondary" comparables are also not very useful because they draw from different geographical labor markets, include nonunionized employees (comparables submitted by the Employer) or are significantly different in size and organization. The sole comparable included by both parties are Eau Claire and Portage County and even those libraries have many characteristics which are different from MCPL.

The Undersigned believes that the most relevant comparables presented in this proceeding are members of the WVLS staff with corresponding paraprofessional and nonprofessional job responsibilities. Although these employees are not represented for purposes of collective bargaining and WVLS differs from MCPL in size and library mission, WVLS staff do work side by side with members of this bargaining unit. Moreover, there has been a close historical personnel policy interrelationship between the two entities. The WVLS 1993 Personnel Policy and Employee Handbook continues to include the following language:

By action of the Wisconsin Valley Library Service Board of Trustees, the following policies, salary schedules, position classifications, etc., herein printed, follow, insofar as it is reasonable to do so, those of the Marathon County Public Library and the County of Marathon.²

She also selects Eau Claire and Portage County as secondary comparables, although she finds it difficult to evaluate data from these comparables in any meaningful way in the absence of job descriptions, total compensation data, etc.

²The WVLS Personnel Policy and Employee Handbook also contains a Transfer of Benefits provision for persons transferring from MCPL to WVLS similar to the provision in Marathon County's Airport unit agreement mentioned in the prior footnote.

For fringe benefits, however, the key comparable in the undersigned's judgment is Marathon County, particularly its bargaining units of nonprofessional and/or paraprofessional employees, because employees in this bargaining unit have been typically treated historically in the same manner as other Marathon County employees for many fringe benefits such as leaves, insurance plans, etc.

A. Wages

The parties have significant differences not only as to their final offer 1992 and 1993 wage rates, they also differ in their approaches to wage increases. The Employer relies on percentage increases while the Union proposes increases primarily based upon a uniform cents per hour increase (with a lesser sum for Library Assistant IIs). The Union's approach thus results in different percentage increases for different job titles. Although uniform across-the-board percentage wage increases have been common in public sector negotiations and arbitration, there have been exceptions, particularly for low-paid job classifications when a percentage increase has been deemed insufficient. The Union justifies its departure from the uniform percentage pattern because it believes there is a need for "catch up" and equity for most members of this unit of nonprofessionals and paraprofessionals.

Based upon wage comparisons for 1992 and 1993 with corresponding WVLS job titles, the arbitrator believes that the Union's wage offer is more in line with the corresponding wages paid in 1992 and 1993 by WVLS, her primary comparable in this proceeding, than is the Employer's wage offer. (Union Revised Exhibit #40 listing WVLS 1991-93 wages is attached as Annex C.) Data from the two selected secondary comparables do not change this conclusion.

Although the arbitrator acknowledges that cost of living data support the Employer's wage offer, she believes this criteria is entitled to less weight than comparability in this arbitration for an initial agreement. She thus concludes that if wages were the sole issue in this impasse dispute, the statutory criteria, primarily comparability, favor the Union's final wage offer.

B. Pro-Rata Fringe Benefits

Health (and dental) insurance benefits for part-time employees is a very controversial issue generally. In this proceeding, there are multiple issues involving benefits for part-time employees, particularly those employed for less than 20 hours per week. The Union points to other County employees who are entitled to receive pro-rata health and dental insurance benefits regardless of the number of their part-time hours (there are at least 60 County part-time employees outside of this bargaining unit). The Employer notes the unique character of this bargaining unit with a significant percentage of part-time employees regularly working less than 20 hours per week (particularly Pages and Branch Assistants). In its view, its offer covering health and dental insurance reasonably extends an existing County practice and benefit to this newly formed

bargaining unit with many restricted part-time employees.

While this issue presents more complexities than the wage issue, the arbitrator believes that here too the Union's offer is preferable to the Employer's offer. There are a number of indications, primarily the lack of turnover, that these part-time jobs are no longer considered to be temporary positions by those employed in such jobs. These employees, therefore, have some equitable claim to the same treatment as other County part-time employees. Moreover, the pro-rating of the Employer's contribution combined with high health deductibles which must be paid by participants will serve as disincentives for a high rate of participation, resulting in usage by only those for whom health and/or dental insurance is a high priority and within economic reach. (It should also be noted that the Union's dental insurance offer has only a minimal economic impact for the Employer, even assuming broad participation.) Finally, as for State group life insurance, the Employer is correct in stating that expressly stated benefits are to be preferred. However, there will be no adverse effect on unit employees due to the Union's silence on this benefit. The Union has stated, without dispute, that the Employer is required to offer this benefit to members of this bargaining unit on the same terms as it is offered to other groups of its employees.

The undersigned concludes that internal comparability with other County part-time employees together with built-in constraints disfavoring participation by many part-time unit employees favors the Union's offer.

C. Work Hours

The dispute over Employer flexibility, particularly when a bargaining member does not voluntarily agree to a substantial reduction in work hours, is a third sensitive issue for both parties. The Employer's need for flexibility to operate its branch public library system while meeting budgetary and statutory constraints, is entitled to significant weight. An employee's right to some measure (albeit limit) of job security is also a valid consideration particularly when work hours are being "substantially reduced." The Union's proposal contained in its final offer requires agreement between employee and supervisor when there are "significant changes" in monthly schedules. The negotiated layoff/bumping procedure is to be implemented when an employee does not voluntarily agree to a "substantial" reduction in the employee's monthly work schedule. As the Employer points out, the Union's proposal raises a number of questions as to its intended meaning and coverage. Not only are the phrases "significant changes" and "substantially reduce" troublesome, but the issue of changes which might result in increased hours is not addressed at all by the Union. Due to the troublesome drafting of the Union's proposal, if this were the sole issue in dispute, the Employer's offer would be selected by the arbitrator. She believes, however, that the Union's objective to provide more senior employees with some greater measure of job security through some form of "partial layoff" contractual procedures is an issue that is appearing more frequently in negotiations. If this were the sole issue in dispute, the arbitrator favors the Employer's language primarily due to the difficulties inherent in the Union's proposed language.

D. Additional Issues

As the parties' lengthy final offers indicate, there are a number of other differences which are minor and should not be determinative in this final offer whole package proceeding, according to the parties. These additional issues include: whether relief breaks may be allowed between 5 and 9 P.M.; whether the Employer may use compensatory option for overtime; whether the calculation of overtime rate should include the shift differential; whether the 20 cents per hour shift differential should be paid starting at 9 P.M. or 10 P.M.; whether Article 18 should expressly require that, if the Employer changes insurance carriers or self funds its insurance program, benefits at least equal to current benefits must be maintained; and whether custodians should receive an additional 50 cents per hour if regularly required to perform tasks other than normal cleaning and housekeeping.

The arbitrator agrees with the parties that systematic analysis of these issues will not affect the outcome of this proceeding. Moreover, the record is not sufficiently complete for her to consider them in depth.

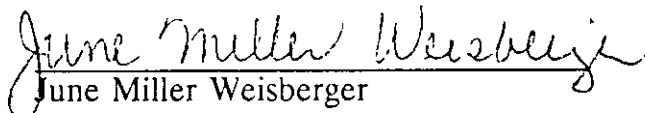
Final Offer Whole Package

As the above discussion indicates, the undersigned has concluded that the Union's final offers on wages and pro-rata benefits for part-time employees are to be preferred while the Employer's Hours of Work language is preferable. While the latter issue relating to Hours of Work is an important issue, the arbitrator believes that the wage and pro-rated benefits for part-time employees are issues which should be given more weight. Since she is required to select one party's whole package, she selects the Union's whole package. (She hopes that the parties will use 1994 bargaining as an opportunity to work out mutually satisfactory solutions to some of the problems identified during this arbitration proceeding.)

AWARD

Based upon the record submitted in this proceeding including exhibits and briefs, the statutory factors set forth in Section 111.70(4)(cm)7 of MERA, and for the reasons discussed above, the arbitrator selects the final offer of the Union and directs that it be incorporated without modification together with all stipulations of the parties as the parties' initial collective bargaining agreement.

Madison, Wisconsin
March 7, 1994


June Miller Weisberger
Arbitrator

JUN 21 1993

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

FINAL OFFER OF MARATHON COUNTY LIBRARY WORKERS, AFSCME,
COUNCIL 40, AFL-CIO TO MARATHON COUNTY LIBRARY BOARD

Article 18

Medical and Hospitalization Insurance

The employer agrees to pay One hundred percent (100%) of the cost of the medical and hospital program. Probationary employees must indicate whether or not they desire to be covered by the plan within the first thirty (30) days of employment with coverage to be effective upon the first of the month following the sixty-first (61st) day of employment. No employee may make any claim against the employer for additional compensation in lieu of or in addition to the County's contribution because the employee does not qualify for the family plan. The employer may change insurance carriers and/or self-fund its insurance program so long as benefits equal to those currently in effect are maintained.

Managed Care-The employer shall continue to implement a managed care program with a \$500 penalty for failing to follow procedures for precertifying medical treatments.

If any changes in benefits are proposed by the third party administrator or carrier of the plan, these proposed changes shall be presented to the Union and shall not be implemented during the term of this Agreement unless agreed upon by the Union and the employer. Any changes in minimum coverage mandated by the State or Federal Law shall be implemented by the employer as soon as possible. However neither party waives its right to bargain the impact of such changes. Confidentiality of patient information will be maintained to the extent that it is presently protected under the present program.

Effective 1/1/93 Board shall modify the health benefit plan to provide payment not to exceed \$100 per individual and \$200 per family for physicians fees related to annual physical exams for covered members.

Dental Insurance Benefits

The employer agrees to pay fifty percent (50%) of the cost of the dental insurance program. Probationary employees must indicate whether or not they desire to be covered by the plan within the first thirty (30) days of employment, with coverage to be effective upon the first month of the month following the sixty first (61st) day of employment. No employee shall make any claim against the employer for additional compensation in lieu of or in addition to the

Annex "A"

employer's contribution because the employee does not qualify for the family plan. The employer may change insurance carriers and/or self fund its insurance program so long as benefits equal to those currently in effect are maintained. Upon receipt of any rate increase or decrease, the employer shall provide the Secretary of the Union with a copy of such notice within then (10) days.

Employees will be offered the Blue Cross/Blue Shield Dentacare Program or the alternative Blue Cross/Blue Shield Dental Plan. However, the employer's contribution towards the dental insurance plan shall be limited to fifty percent (50%) of the premium rate for the program.

Termination: Employer participation in the cost of any such group medical and hospitalization insurance program or dental insurance program shall terminate upon the occurrence of either of the following.

1. An employee terminates his/her employment, or has his/her employment terminated for any reason.
2. As mentioned elsewhere in this Agreement.

If two employees are in a dependency status as to each other, only one of the employees may carry the family coverage.

Employees who are on a non-pay status, i.e., (a) during layoff; (b) leaves of absence; or receiving Worker's Compensation after the expiration of Sick Leave and Vacation credits, shall be required to pay the full cost of the medical program at a date determined by the employer. Determination of the employee obligation in such circumstances shall be made by the employer.

Article 22

Part-time Employees-Effective 1/1/93 or as soon as reasonably possible afterward.

Definition-Part-time employees are defined as employees who are regularly scheduled to a less than 40 hours per week between Labor and Memorial Days and less than 37.5 hours per week during the summer.

Pro-ration-Part-time employees shall receive the following pro-rated fringe benefits on the basis of their regularly scheduled hours per year: sick leave, holidays, health and dental insurance, funeral leave, seniority, longevity, jury duty, personal days and vacation. Part-time employees will be required to make a pro-rated contribution to the health insurance programs if they opt for coverage.

Holidays-Consistent with current practices, employees shall receive a full holiday on December 24.

Hours of Work

Article 5

✓ A. Normal Hours: The normal hours of work for employees covered by this Agreement shall fall between the hours of 7:00 a.m. and 9:00 p.m. each day of the work week. The Division Head shall initially determine the monthly work schedule for each employee, however significant changes in monthly schedules (especially those which result in reductions in hours) shall be mutually agreed upon between the individual employee and supervision. In the event that the employer seeks to substantially reduce the hours of an employee against his/her will, the Layoff/bumping procedure outlined in Article 6 shall be incorporated.

Consistent with current practices, from Memorial Day to Labor Day the regular work day shall consist of 7.5 hours which will be compensated as if it were 8 hours.

B. Breaks: The schedule of unpaid lunch breaks shall be determined by the Division Head after consultation with the employee and shall be based on the needs of the Library. Employees working four (4) or more hours shall be allowed a fifteen (15) minute paid relief period for each four (4) hours worked.

C. Overtime: Employees working in excess of forty (40) hours in a work week shall be compensated at a rate of one and one half times the rate for all hours worked in excess of the 40 hour work week.

D. Shift Differential: Employees working between 9:00 PM and 6 AM shall receive twenty cents (\$.20) per hour in addition to their regular hourly rate for hours worked. Shift differential shall not be included in calculating the overtime rate.

E. Call In: Maintenance and Custodial employees who are called in to report to work outside their regular work hours shall receive a minimum of two (2) hours pay.

Wages-

Effective 1/1/92-Incorporate the following wage schedule.

<u>Position</u>	<u>Start</u>	<u>6 Mos.</u>	<u>18 Mos.</u>	<u>30 Mos</u>
Page/Processing		---4.80---		
Branch Custodial	5.31	5.92	6.22	6.52
Office Aide	6.11	6.82	7.17	7.52
Clerical Asst. I Branch Library Assts.	6.72	7.50	7.89	8.28
Custodial Worker	6.88	7.68	8.08	8.48
Library Clerical Technician	7.05	7.87	8.28	8.69
Library Asst. I	7.58	8.46	8.91	9.35
Bookmobile Op. I	7.77	8.68	9.13	9.59
Admin. Spec.	8.98	10.04	10.57	11.10
Bookmobile Op. II	9.20	10.29	10.83	11.37
Lib. Asst. II	9.65	10.83	11.42	12.01

Note - Custodians regularly required to perform tasks other than normal cleaning and housekeeping shall be compensated at a rate of 50 cents per hour above the scheduled wage rate for the position. Such duties shall include repairing air conditioning, furnace, furniture or plumbing as well as various building repairs such as painting.

Effective 1/1/93-Revise to the following wage schedule.

<u>Position</u>	<u>Start</u>	<u>6 Mos.</u>	<u>18 Mos.</u>	<u>30 Mos</u>
Page/Processing		---5.28---		
Branch Custodial	5.81	6.44	6.75	7.06
Office Aide	6.63	7.36	7.73	8.09
Clerical Asst. I Branch Library Assts.	7.26	8.06	8.47	8.87
Custodial Worker	7.43	8.25	8.66	9.07
Library Clerical Technician	7.60	8.45	8.87	9.29
Library Asst. I	8.15	9.05	9.52	9.97
Bookmobile Op. I	8.34	9.28	9.74	10.22
Admin. Spec.	9.58	10.68	11.22	11.77
Bookmobile Op. II	9.82	10.94	11.49	12.05
Lib. Asst. II	10.03	11.25	11.85	12.46

Note: Custodians regularly required to perform tasks other than normal cleaning and housekeeping shall be compensated at a rate of 50 cents per hour above the scheduled wage rate for the position. Such duties shall include repairing air conditioning, furnace, furniture or plumbing as well as various building repairs such as painting.

Effective 7/1/93- Revise the above schedule to provide for one percent (1%) across the board.

Plus all other tentatively agreed to items.

Article 5 - Hours of Work

- A. Normal Hours: The normal hours of work for employees covered by this Agreement shall fall between the hours of 7:00 a.m. and 9:00 p.m. each day of the week. The Division Head shall determine the monthly work schedule for each employee. Any changes from the monthly work schedule shall be made by the Division Head after consultation with the employee.

From Memorial Day to Labor Day, full-time employees shall be assigned a normal work week of thirty-seven and one-half (37 ½) hours. Part time employees normally scheduled for more than twenty hours shall receive a prorated reduction in regular work hours.

- B. Lunch breaks shall be determined by the Division Head after consultation with the employee and shall be based on the needs of the Library. Employee working four (4) or more hours shall be allowed a fifteen (15) minute relief period for each four (4) hours worked however relief periods will not be allowed for time worked between 5:00 p.m. and 9:00 p.m.
- C. Overtime: Employees working in excess of forty (40) hours in a work week shall receive pay or compensatory time off according to Library policy, at the time and one-half rate for hours worked in excess of forty (40) hours.
- D. Shift Differential: Employees working between 10:00 p.m. and 6:00 a.m. shall receive twenty cents (20¢) per hour in addition to the regular hourly rate for hours worked.
- E. Call-In: Maintenance and custodian employees who are called to report to work outside regular work hours for the employee shall receive a minimum of two (2) hours pay.

Final Offer of Marathon County Library
for a 1992-93 Labor Agreement

Annex "B"

Article 8 - Compensation

- B. Salary Steps: Employees shall be hired at Step A of the pay level for the classification as set forth in Appendix A. Upon satisfactory completion of the six (6) months probationary period, an employee shall advance to Step B. After a total of eighteen (18) months, an employee shall advance to Step C and after a total of thirty (30) months, shall advance to Step D (maximum). Step increases shall be effective on the first day of the pay period during which the employee qualified for the change.

Step A shall represent 80 percent of the Step D (maximum) rate; Step B shall represent 90 percent of the Step D (maximum) rate; Step C shall represent 95 percent of the Step D (maximum) rate.

Article 18 - Insurance

- A. Medical and Hospitalization Benefits: The Library agrees to pay one hundred percent (100%) of the cost of the medical and hospitalization program for regular full-time employees who are provided the health insurance benefit. Regular part-time employees who work 20 or more hours per week in all classifications except Page and Branch Assistant shall be eligible for health benefits with the County paying the cost on a pro rata basis based on regularly scheduled hours per week. Part-time employees in the classification of Page and Branch Assistant who are regularly scheduled to work twenty (20) or more hours per week shall receive a prorata contribution toward single coverage. Pages and Branch Assistants may obtain family coverage by providing evidence of insurability and contributing the additional cost.

The deductibles in the health benefit plan are two hundred dollars (\$200) per individual and six hundred dollars (\$600) per family annually. Effective January 1, 1993, or date of the interest arbitration award the health benefit will be enhanced to provide coverage for physician's fees associated with an annual (routine) physical exam not to exceed one hundred dollars (\$100) per person and two hundred dollars (\$200) per family annually.

The health benefit plan includes a managed care component which requires precertification of hospitalization, inpatient or outpatient surgeries, pregnancies, hospice and home health care. A five hundred dollar (\$500) penalty will be assessed for family to follow procedures for precertifying medical treatments.

Probationary employees must indicate whether or not they desire to be covered by the medical and hospitalization insurance program within the first thirty (30) days of employment, with coverage to be effective upon the first of month following the sixty-first (61st) day of employment.

No employee shall make any claim against the Library for additional compensation in lieu of or in addition to the Library's contribution because the employee does not qualify for the family plan.

The Library may change insurance carriers and/or third parties administrators for a self-funded insurance program.

- B. Dental Insurance Benefits: Dental insurance benefits shall be provided to employees in regular full-time and regular part-time positions in all classifications except Page and Branch Assistant. The Library agrees to pay Fifty Percent (50%) of the cost of the dental insurance program.

Employees will be offered the Blue Cross/Blue Shield Dentacare program or the alternative Blue Cross/Blue Shield Dental Plan. However, the Library's contribution towards dental insurance shall be limited to Fifty Percent (50%) of the premium rate for the Blue Cross/Blue Shield Dentacare Program. Employees selecting coverage other than the Dentacare Program shall be required to pay all costs in excess of the Fifty Percent (50%) contribution figure for the Dentacare Plan.

Probationary employees must indicate whether or not they desire to be covered by the dental insurance program within the first thirty (30) days of employment, with coverage to be effective upon the first of the month following the sixty-first (61st) day of employment. No employee shall make any claim against the Library for additional compensation in lieu of or in addition to the Library's contribution because the employee does not qualify for the family plan. The Library may change insurance carriers and/or self-fund its insurance program.

- C. Termination: Library participation in the cost of any such group, medical and hospitalization insurance program or dental insurance program shall terminate when an employee terminates his/her regular employment, or has his/her employment terminated for any reason.

If two employees are in a dependency status as to each other, only one of the employees may carry the family coverage.

Employees who are in non-pay status, i.e., (a) during layoff; (b) on leave of absence; or (c) receiving Worker's Compensation after expiration of sick leave and vacation credits, shall be required to pay the full cost of the medical program at a date determined by the County Finance Department. Determination of the specific employee obligation shall be made by the County Finance Department.

- D. State Group Life Insurance: The Library agrees to offer the Group Life Insurance for Employees of Wisconsin Municipalities. Participating employees will pay the full employee premium and the Library shall pay the required contribution for participation in the program.

Article 22 - Part-Time Employees

Regular part-time employees who are regularly scheduled to work 20 hours or more per week shall receive the following prorated fringe benefits on the basis of their regularly scheduled hours per week:

- Vacation
- Sick Leave
- Holidays
- Funeral Leave
- Personal Days
- Life Insurance
- Retirement

Appendix A

Salary schedules adjusted to effectuate the following general increases:

3% ATB - January 1, 1992

2% ATB - July 1, 1992

3% ATB - January 1, 1993

1% ATB - July 1, 1993

5/6/93

Appendix A - Effective January 1, 1992

<u>Level</u>	<u>Classification</u>	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>
11	Library Assistant II	9.346	10.514	11.098	11.682
10	Bookmobile Operator II	8.654	9.736	10.277	10.818
9	Administrative Specialist	8.441	9.496	10.023	10.551
8	Bookmobile Operator I Bookmobile Operator/Library Asst.	7.250	8.157	8.610	9.063
7	Library Assistant I	7.065	7.948	8.389	8.831
6	Library Clerical Technician	6.551	7.370	7.780	8.189
5	Custodial Worker	6.384	7.182	7.581	7.980
4	Clerical Assistant I Branch Library Assistant	6.227	7.006	7.395	7.784
3	Office Aide	5.630	6.334	6.686	7.038
2	Custodian Aide	4.845	5.450	5.753	6.056
1	Page	---	---	---	4.378

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Appendix A - Effective July 1, 1992

<u>Level</u>	<u>Classification</u>	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>
11	Library Assistant II	9.533	10.724	11.320	11.916
10	Bookmobile Operator II	8.827	9.931	10.482	11.034
9	Administrative Specialist	8.610	9.686	10.224	10.762
8	Bookmobile Operator I Bookmobile Operator/Library Asst.	7.395	8.320	8.782	9.244
7	Library Assistant I	7.206	8.107	8.558	9.008
6	Library Clerical Technician	6.682	7.518	7.935	8.353
5	Custodial Worker	6.512	7.326	7.733	8.140
4	Clerical Assistant I Branch Library Assistant	6.352	7.146	7.543	7.940
3	Office Aide	5.743	6.461	6.820	7.179
2	Custodian Aide	4.942	5.559	5.868	6.177
1	Page	---	---	---	4.466

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Appendix A - Effective January 1, 1993

<u>Level</u>	<u>Classification</u>	<u>Step A</u>	<u>Step B</u>	<u>Step C</u>	<u>Step D</u>
11	Library Assistant II	9.818	11.046	11.659	12.273
10	Bookmobile Operator II	9.092	10.229	10.797	11.365
9	Administrative Specialist	8.868	9.977	10.531	11.085
8	Bookmobile Operator I Bookmobile Operator/Library Asst.	7.617	8.569	9.045	9.521
7	Library Assistant I	7.422	8.350	8.814	9.278
6	Library Clerical Technician	6.883	7.744	8.174	8.604
5	Custodial Worker	6.707	7.546	7.965	8.384
4	Clerical Assistant I Branch Library Assistant	6.542	7.360	7.769	8.178
3	Office Aide	5.915	6.655	7.024	7.394
2	Custodian Aide	5.090	5.726	6.044	6.362
1	Page	---	---	---	4.600

5/6/93

Appendix A - Effective July 1, 1993

Level	Classification	Step A	Step B	Step C	Step D
11	Library Assistant II	9.917	11.156	11.776	12.396
10	Bookmobile Operator II	9.183	10.331	10.905	11.479
9	Administrative Specialist	8.957	10.076	10.636	11.196
8	Bookmobile Operator I Bookmobile Operator/Library Asst.	7.693	8.654	9.135	9.616
7	Library Assistant I	7.497	8.434	8.902	9.371
6	Library Clerical Technician	6.952	7.821	8.256	8.690
5	Custodial Worker	6.774	7.621	8.045	8.468
4	Clerical Assistant I Branch Library Assistant	6.608	7.434	7.847	8.260
3	Office Aide	5.974	6.721	7.095	7.468
2	Custodian Aide	5.141	5.783	6.105	6.426
1	Page	---	---	---	4.646

Union E+ .40

1991-93 HOURLY WAGE RATES FOR WISCONSIN VALLEY LIBRARY
SERVICE STAFF EMPLOYED AT MARATHON COUNTY LIBRARY

<u>POSITION</u>	<u>1991</u>		<u>1992</u>		<u>1993</u>	
	<u>MIN</u>	<u>MAX</u>	<u>MIN</u>	<u>MAX</u>	<u>MIN</u>	<u>MAX</u>
CLERICAL ASST I	6.04	7.55	7.35	8.93	7.35	8.93
CLERICAL ASST II	6.86	8.57	8.20	10.00	8.20	10.00
LIBRARY ASST I	6.86	8.57	8.20	10.00	8.20	10.00
LIBRARY ASST II	8.62	10.78	10.05	12.31	10.05	12.31
LIBRARY ASST III	9.07	11.34	10.53	12.91	10.53	12.91
AUDIO VIS. TECH.	7.79	9.73	9.18	11.22	9.18	11.22
LIBRARIAN II	10.30	12.88	11.82	14.53	11.82	14.53
LIBRARIAN III	12.04	15.05	13.64	16.80	13.64	16.80
BUSINESS ADMIN.	10.58	13.22	12.11	14.88	12.11	14.88
DIRECTOR	16.43	20.54	18.25	22.56	18.25	22.56

SOURCE: WISCONSIN VALLEY LIBRARY SERVICE PERSONNEL HANDBOOKS
1991-1993

Annex "C"