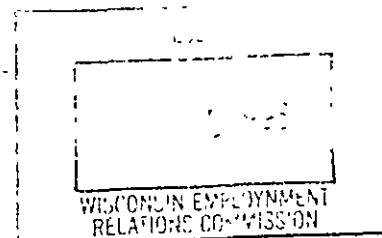


STATE OF WISCONSIN  
BEFORE THE ARBITRATOR



----- :  
In the Matter of the Petition of :  
INTERNATIONAL BROTHERHOOD OF :  
ELECTRICAL WORKERS, LOCAL 953 :  
To Initiate Arbitration Between : Case 8  
Said Petitioner and : No. 53906 INT/ARB-7938  
CITY OF ARCADIA ELECTRICAL UTILITY : Decision No. 28776-A  
----- :

Appearances:

International Brotherhood of Electrical Workers, Local 953,  
by Previant, Goldberg, Uelman, et al., by Marianne  
Goldstein Robbins, Esq.

City of Arcadia Electrical Utility by Kostner, Koslo &  
Brovold, by Bruce J. Kostner, Esq.

**ARBITRATION AWARD**

International Brotherhood of Electrical Workers, Local 953 (Union), is the collective bargaining representative for all operating, maintenance and construction employees of the City of Arcadia Electric Utility (City) (excluding the Utility Supervisor and clerical employees of the Utility). The parties January 1, 1995 through December 31, 1997 collective bargaining agreement provides that the contract will be automatically reopened solely for the purpose of establishing the employees' wage schedule effective on each January 1, 1996 and January 1, 1997. The parties have been unable to agree to a wage schedule for 1996. The Wisconsin Employment Relations Commission (Commission) caused a member of its staff to investigate the matter. The

investigator determined that an impasse existed. The undersigned was selected by the parties, and was appointed to act as the arbitrator by the Commission on July 10, 1996. After due notice to the public, the matter came on for hearing at the Arcadia Municipal Building on October 10, 1996.

Both parties presented evidence on the hearing record. The record was closed at the conclusion of the October 10 hearing. The parties agreed to state their positions in a single brief. Those briefs were received by the undersigned by October 29, 1996.

#### ISSUE

The City offered 40¢ an hour and the Union offered 60¢ an hour for calendar year 1996. There are four members in the bargaining unit. The contract provides that the employees will work 40 hours a week. The contract also provides for time and one-half for overtime and additional compensation for "emergency work" and "standby duty." Neither party presented costing data for either offer. If we assume that the only difference in the cost of the two offers is 20¢ an hour for four employees, each of whom works 2080 hours a year, the Union's offer would cost \$1,664 more than the City's offer in 1996.

#### THE UNION'S POSITION

The first portion of the Union's brief responded to the City of Arcadia's aborted argument that the parties' labor agreement precludes arbitrating this dispute under sec. 111.70(4)(cm), Wis.

Stats. Since the City withdrew that position, the Union's argument that the matter is arbitrable, has not been reviewed herein.

The Union reviewed the criteria set out in the statute and concluded that, "[n]otwithstanding the multiple factors designated by §111.70 for consideration in the selection of the final offer, only a few are relevant here." It said that neither party had presented evidence relative to the "greatest weight factor," and there is no evidence of any law or directive limiting either expenditures the City may make or revenues that it may receive under the statute. The Union said that the parties had not presented evidence of local conditions in order to permit a "greater weight factor" analysis. It said that both parties had focused on the traditional factors, more particularly the comparison of wages, hours and conditions of employment of the municipal employees involved in this proceeding with the wages and benefits received by other employees performing similar services. It said that the "overall compensation" factor and comparisons to "other employees generally in public employment in the same and in comparable communities, should also be considered."

The Union said that it would address only those factors for which evidence was presented. It cited prior decisions by Arbitrators Petrie and Vernon to support the argument that the wages and benefits of Arcadia Electric Municipal Utility should

be compared to the wages and benefits that are paid to the electric utility employees in other municipalities.

EXTERNAL COMPARABLES - The Union noted that in their discussion about appropriate comparables, both parties had mentioned Black River Falls, Richland Center and New Richmond. "The Union's discussion will focus on these comparables because they are common to both parties." The Union said that it had also presented evidence relative to organized municipal utilities that service populations from 1,076 to 11,982 people. These utilities' number of employees range from 3 to 35. It said that more than half of its comparables are located in the western half of Wisconsin, however, it included utilities of relatively similar size from non-metropolitan areas throughout the state. It noted the City's objection that the City of Arcadia is smaller than most Union comparables, but, it argued that the Arcadia Utility supplies more electrical power to its customers than do utilities in municipalities that are larger than Arcadia. "Thus it sells approximately 58 million kilowatt hours while Black River Falls with a large population provides about 52 million kilowatt hours per year."

The Union said that the City had proposed two sets of comparables. The first, it said, are small geographically proximate cities which do not have utilities of similar size. "Only Black River Falls has a municipal utility providing between 40 and 66 thousand in mWh. The vast majority of the remaining communities have no electric utility and no comparable

classifications of lineman or operator." It noted that three municipalities do have a lineman classification, but, "none are listed as municipal utilities of comparable size (40-66 thousand mWh sales)." It argued that it is likely that the lineman classification in those communities cover different job responsibilities. It said that the City's second set of comparables, like the Union's, are from throughout the state. This list includes utilities that are both larger and smaller than Arcadia.

The Union said that all of the Union's proposed comparables are "represented by labor unions, while the City has not presented any evidence concerning whether its comparables are represented." It cited a previous arbitration decision to support its argument that arbitrators recognize union representation as a factor in selecting comparables. "The Union's comparables, and more particularly those comparables common to the Union and City should be ... for comparison purposes."

COMPARABILITY - The Union said that a comparison of the wages and benefits received by Arcadia employees with those received by similar employees in comparable communities supports its offer. The Union's 60¢ an hour offer is equal to a 3.28% wage increase, compared to the City's offer of 40¢ an hour for a 2.19% increase. It said that the City's offer is "lower than the wage or fringe increase provided to every other comparable community. Except where other monetary increases have been

provided, every comparable community has received at least a 3% increase." The Union cited increases of 4.3% in Spooner, and a split increase that provided a 5.3% lift in Richland Center as examples of a number of communities that granted higher increases to utility employees. "The Union's offer of 3.28% is in the range of comparable communities, and toward the lower 3% end of the range."

The Union said that Arcadia's ranking among the common comparables would fall from first to third under the City's offer. Arcadia's 1995 wage rate is \$18.30 an hour compared to \$18.23 in New Richmond, \$18.17 in Black River Falls and \$17.09 in Richland Center. At \$18.70 under the City's offer, it would fall behind New Richmond's \$18.78 and Black River Falls' \$18.72 during 1996. "Under the Union's offer, Arcadia will fall below Kiel, with which it was tied, but remain above New Richmond and Richland Center."

The Union argued that fringe benefits in Black River Falls, New Richmond and Richland Center are superior to the benefits provided to Arcadia's employees. It said that Arcadia's \$351 monthly contribution for family health insurance is far less expensive than elsewhere. It said Arcadia provides less sick days, less sick leave accumulation and less paid holidays than those comparables provide their employees. It said Richland Center's longevity pay provides an additional \$575 to employees with ten years seniority. The Union said the other employers contribute 11.9% of employee wages to the Wisconsin Retirement

Fund compared to the 10% contribution by Arcadia. It said that these additional benefits are equivalent to up to 50¢ an hour or more in wages. "It does not appear that there are any additional significant benefits which Arcadia employees enjoy to a greater extent than other employees."

The Union said that the City of Arcadia competes with other utilities for competent linemen. It said that in 1996, Northern States Power paid journeyman lineman \$23.54, Trempealeau Electric Cooperative paid \$21.13 and Dairyland Power paid \$20.50 an hour. It argued that the City's offer "of only 2.19% is in conflict with "two of the relevant statutory standards for comparison." Those are comparisons with other municipal electric utility employees performing similar services and a comparison of the overall compensation including wages and fringe benefits received by Arcadia's utility employees and the wage and benefit packages received by other municipal employees.

The Union disputed the City's contention that the City had provided its other employees 40¢ per hour across the board wage increases in 1996. It pointed to evidence, presented by the City, that showed wage increases ranging between zero for the Mayor and the Street Superintendent to 96¢ an hour for the Water/Sewer Superintendent and the Electrical Superintendent. It argued that the evidence demonstrates that there was no pattern of internal wage increases in 1996, and "the Union's proposed increase of 3.28% is no more than average in comparison to other City employees." It said that the City's offer to this unit is

less than it awarded to any other employees except those who did not receive any wage increase. The Union said that the 96¢ an hour increase the Electric Superintendent received was equal to 4.5%. It cited a prior arbitration decision which found "that internal comparison to supervisors of bargaining unit employees is appropriate."

The Union said that the 1996 Arcadia Electric Utility budget documents, introduced by the City, are not relevant. It argued that this data does not establish either State imposed levy/expenditure limits or local economic conditions. It said that the budget data shows that "the City of Arcadia's overall resources increased from January 31, 1996 to August 31, 1996 ... The City may claim that less of the resources are termed 'available.' However, it is the City which determines whether to transfer funds into the restricted account to pay bonds and similar fixed expenses or to retain them as 'available'."

#### ARCADIA ELECTRIC'S POSITION

In addition to the statutory factors relied upon by the Union, the Utility said that factors relating to the "interests and welfare of the public and financial ability of the unit of government to meet the costs of the proposed settlement," and comparisons of wages and benefits paid to these employees and other employees in both the public and private sectors in the same and in comparable communities are relevant factors in this proceeding. The City said that the parties' disagreement about



the size of the wage increase to be granted to Arcadia's lineman involves two issues. "The first, and the heart of this case, is the determination of what are 'comparables' to the City of Arcadia Electric Utility." It said that the secondary issue is the City's "policy decisions regarding wage increases for all of its municipal employees."

COMPARABILITY - The City said that previous arbitration decisions have established that municipalities can be deemed comparable where they have substantially equal population, geographic proximity, mean incomes, municipal budgets, similar numbers of departmental personnel and similar wages and benefits. The City noted that the Union has suggested that Trempealeau Electric Cooperative (TEC), Dairyland Power Cooperative (DPC) and Northern States Power (NSP) are comparable to Arcadia Electric. It said that the comparable pool should consist of municipalities who meet the standards outlined above, and it should not include private sector employers. The City said that TEC, DPC and NSP "provide far more electrical power than Arcadia Electric Utility and have much higher revenues." It reviewed evidence that: TEC serves all of Trempealeau County and parts of three other counties; DPC serves parts of four different states and NSP serves Northern Wisconsin and Minnesota. It also cited data that Arcadia Electric sells less than half as much electricity than TEC and only a fraction as much as NSP. It said that there is no evidence that any of these companies compete with Arcadia for linemen or have ever hired a lineman away from Arcadia.

The City said that the Cities of Whitehall (1,542), Cuba City (2,034), Lodi (2,397), Fennimore (2,448) and Black River Falls (3,490), should be found comparable to Arcadia, with a population of 2,166, in this proceeding. "Furthermore Whitehall is 15 miles from Arcadia, and Black River Falls, while substantially larger than Arcadia, is geographically close. The average wage for electric lineman in these municipalities is \$15.41 per hour."

The City reviewed the list of 13 utilities located in municipalities with populations from 1,076 to 11,982, that the Union offered as comparables. It said that "the only cities which are similar in size and remotely in the same geographic area as Arcadia are Bangor, Black River Falls and Westby." It said that Kiel, Shawano, Kaukauna and Jefferson are all in the Eastern part of the state, hundreds of miles from Arcadia. "New Richmond, Rice Lake, Spooner and Medford are all, at a minimum, two-three hours drive from Arcadia." The City said that while most of the foregoing municipalities are much larger than Arcadia, the average salary for electric lineman in those municipalities is \$17.09 an hour compared to the City's \$18.70 offer.

"The best actual comparables in the Union's group are Bangor, Westby and Black River Falls." It said that Spooner has a nearly identical population, but is geographically distant. It said Kiel is a possible comparable, however, it presents problems. It "is located in a highly competitive geographically

distant area in Eastern Wisconsin, in the heart of Wisconsin's industrial corridor." It argued that Kiel must compete with three larger privately owned public utilities for linemen, "which inflates wages." The City said that while it does not believe that Kiel is an appropriate comparable, however, "even with the inclusion of Kiel ... the Utility's proposed wage increase is fair and reasonable." It proposed Whitehall, Cuba City, Lodi, Fennimore, Black River Falls, Bangor, Westby, Spooner and Kiel as comparables.

WAGE COMPARISON - The City reviewed wages paid to linemen in Arcadia, Bangor, Whitehall, Westby, Cuba City, Lodi, Fennimore, Spooner, Kiel and Black River Falls in 1996. The data reflected a range of wages from \$12.35 an hour in Fennimore to \$19.03 an hour in Kiel, with the average being \$16.08 an hour. The City said that "[r]anking the Utility's offer of \$18.70 per hour against the comparables, irrespective of geographic location" shows that utility wages in Arcadia would rank three out of ten under the City's offer. Only "Black River Falls, which is 1.6 times larger than Arcadia and Kiel, which is located on the opposite side of the state in Wisconsin's industrial corridor and competes with three larger power companies for employees" would pay higher wages than Arcadia. The City said that its offer is \$2.62 an hour or \$5,450 a year more than the average comparable wage.

"The better comparison is between municipalities of similar size and close proximity, since those municipalities best

represent the general economy and wages of the municipalities surrounding Arcadia." That comparison showed: Black River Falls at \$18.72, Arcadia at \$18.70, Westby at \$16.45, Whitehall at \$16.27 and Bangor at \$15.20. It emphasized that the City of Arcadia's offer is only 2¢ an hour or \$50 a year lower than the larger City of Black River Falls, and \$2.25 an hour or \$4,680 higher than Whitehall. Whitehall is 15 miles from Arcadia, and it is the closest municipality to Arcadia.

The City said that evidence of wages paid by the City of Arcadia demonstrates that "linemen wages are substantially higher than those of other municipal employees with somewhat similar jobs." It reviewed other job classifications which receive between \$10.97 and \$16.89 an hour. "The linemen make more than any other municipal employee who has no supervisory duties."

The City cited the factor which requires arbitrators to consider the employees' overall compensation "including insurance, pension, vacation days and other benefits." It said that, though the City did not present total package data for its proposed comparables, the Union had submitted contracts for its proposed comparables. It reviewed data from the Bangor, Black River Falls, Kiel, Spooner and Westby labor agreements. After comparing contract provisions relating to funeral leave, health insurance, life insurance, lunch breaks, overtime pay, holiday pay, vacation time contributions to retirement accounts and clothing allowances, the City concluded that "Arcadia Electric

Utility's benefits compare very favorably with the five comparables for which we have contracts."

The City anticipated that the Union would argue that both the internal and external comparables granted greater percentage wage increases than the Utility has offered its linemen. "The City will not dispute that this is true. The Utility will dispute, however, the relevance of that facet to this particular situation." It said that the City had granted pay increases in accord with a "plan to attempt to even out some of the salary disparities between municipal employees." It said that the average increase was 45¢ an hour. It said that jobs that compare to that of a lineman such as wastewater operator and street crew received 40¢ and 30¢ an hour respectively. "The City's offer to the lineman is a reasonable \$.40 per hour." The City said that the water operator who now earns \$10.74 an hour will earn almost \$8.00 an hour less than linemen if the Utility's offer is selected. The wastewater operator will earn almost \$6.00 less than a lineman. The City argued that it is attempting to even out some of this disparity. "For this reason, the raises fluctuate depending on the position."

The City said that if it continues to grant equal percentage wage increases "the wage gap will only continue to increase." It argued that by granting wages in set dollar amounts, "the City can better control its budget and more fairly allocate wages." "The City should have the right to determine what it will pay all of its employees without having to always first consider one

specific group over another." It argued that if a group of employees is being underpaid, the City should be able to grant that group a higher wage increase without being forced to grant the same increase to another group of employees that it believes is already receiving a fair wage. It said that same argument should apply to external comparisons. "From the data collected, it is clear that the hourly wage offered the lineman is one of the highest of all the comparables, even after taking into consideration the comparables raises." The City concluded that its offer for a 40¢ raise to \$18.70 an hour is reasonable and should be adopted.

#### DISCUSSION

This dispute only involves a wage reopener for 1996. Deciding which offer is most reasonable is complicated by the fact that when the parties agreed upon the terms of their 1995-97 labor agreement, they did not establish any objective standards for establishing either 1996 or 1997 wage levels. There is no evidence that the parties have ever agreed upon what other municipal electric utilities are comparable and no cost of living data is included in the record. Both parties have argued that their offers are supported by the statutory standards for comparisons of comparable employees in comparable communities. However, neither party has presented evidence to support the conclusion that their proposed comparables meet the standards that arbitrators traditionally evaluate in order to establish a relevant pool of external comparables.

The Union presented data for 13 represented municipal utilities. The City presented data for 11 utilities with between 40,000 and 66,000 megawatt hours of sales annually. Some of the utilities on both parties' lists are located throughout the entire State of Wisconsin. There is evidence that Arcadia Electric Utility generated 774,000 kilowatt hours of electricity and Black River Falls generated almost 3.5 million kilowatt hours during the period covered by a 1994 Municipal Electric Utility of Wisconsin survey. There is no evidence that any of the other 23 utilities referenced by either party generates any of its own electricity. There is no direct evidence that the municipal utilities referred to by the parties exist by virtue of Chapter 198, Wis. Stats. The undersigned has taken arbitral notice of Chapters 196 through 198, Wis. Stats., and concluded that the relevant provisions in those chapters define and relate to all of the municipal electric utilities for which evidence has been introduced herein.

In addition to the limitations in the evidence about the comparability of the municipal utilities discussed above, the undersigned has been required to reach out to draw conclusions about the similarity of the various employee units for which wage and benefit data has been presented. There is no evidence in the record that linemen in Arcadia or in most "comparables," hold a certification by the State of Wisconsin. A random sampling of contract provisions relating to linemen training follows:

Arcadia - The Utility states that it will  
assume full responsibility for training

employees in the bargaining unit under the guidance of qualified personnel (including the Utility Supervisor) in the work in which they are assigned. Each employee assumes full responsibility for learning and knowing the material presented in training sessions.

. . .

An Apprentice Review Committee shall be established to review apprentice progress. This committee shall, whenever necessary, review the progress of all apprentices. Said committee shall consist of one person appointed by the Utility Commission and one Journeyman Lineman appointed by the Union. The purpose of this committee is to insure that the apprentice is receiving and understanding both their formal training in school and their training on the job.

Bangor - The Utility states that it will assume full responsibility for training employees in the bargaining unit under the guidance of qualified personnel in the work in which they are assigned. Each employee assumes full responsibility for learning and knowing the material presented in training sessions and further agrees to maintain a level of professional competence and physical and mental fitness to perform the work assigned.

. . .

The Utility shall reimburse indentured apprentices and journeymen linemen for all lost time at straight time rates and expenses incurred while attending schools and other instructional sessions or seminars which are job-related and which have been pre-approved by the Utility. Such compensation shall not exceed eight (8) hours per day.

. . .

A prerequisite to employment and continued employment shall be a driver's license issued by the State of Wisconsin, which allows the employee to operate a commercial vehicle. The minimal license needed to comply with this prerequisite is a



commercial driver's license, commonly referred to as a "CDL."

Kiel - All apprenticeships are subject to the applicable provisions of this Agreement and shall further be subject to Chapter 106 of the Wisconsin Statutes, 1981-1982, and the provision of the Wisconsin Administrative Code IND, Chapter 85. The Employer shall pay the cost of required books and fees associated with apprentice training programs.

Richland Center - The Public Utility Commission reserves the decision as to when an apprentice for lineman or on-the-job trainee shall qualify and be paid the lineman's rate, provided, however, that the normal apprenticeship programs established by mutual agreement shall otherwise be followed.

The foregoing review of evidence in the record demonstrates why it is difficult for the undersigned to feel confident about establishing a definitive group of municipal utilities for comparison purposes. In spite of the shortcomings in the record, it is necessary to make comparisons for the purpose of resolving the present controversy, and for the additional purpose of suggesting that if the parties find that the comparables adopted herein are lacking, they should either agree upon a more suitable group of comparables or develop a more complete record in order to permit the arbitrator to make a more enlightened selection during future proceedings.

In spite of the City's perception that Black River Falls is too large, that utility appears to meet all of the criteria to be most comparable to Arcadia. Based upon available data, numbers of electric employees, numbers of electric meters, volumes of

electricity purchased, as well as proximity in Western Wisconsin, Bloomer, New Richmond, Richland Center, Medford and Westby also appear to be reasonably comparable to Arcadia. Comparative data for these "comparables" will be considered in the wage analysis below.

WAGE COMPARISON - Based upon available data in the record, linemen in Arcadia and "comparable districts" have received the wages outlined in Table I.

TABLE I

	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
Bloomer	\$11.49	N/A	N/A	N/A
Westby		\$16.45	\$16.45	N/A
Richland Center	\$16.33	\$17.09	\$17.88	N/A
Black River Falls	\$17.64	\$18.17	\$18.72	N/A
New Richmond	\$17.70	\$18.23	\$18.78	\$19.34
Medford		\$19.67	\$20.25	N/A
Arcadia	\$18.00	\$18.30		
Board			\$18.70	
Union			\$18.90	

The foregoing data does not reflect total linemen compensation. Both Bloomer and Richland Center have additional longevity compensation. New Richmond pays its lead lineman an additional 50¢ an hour. The reported wage levels are for journeyman linemen except for Bloomer, where the only reported wages were \$11.49 for lineworker and meter mechanic. Medford's 1995 wage period ran from 11/1/94 through 10/30/95 and its 1996 wage period commenced on 11/1/95. Linemen in the various municipalities work varying lengths of time to reach the reported journeyman plateau. The amounts of seniority required to reach the maximum wage appear to

vary from approximately 4 years in most instances, to 6 years in Black River Falls and 6½ years in Arcadia.

The undersigned recognizes that the data outlined above is not completely satisfactory. It is sufficiently accurate however to demonstrate that increases received by linemen in Arcadia, whose \$18 hourly wage in 1994 was apparently second only to Medford, are not keeping up with the increases linemen have received in Richland Center, Black River Falls and New Richmond. The 4% increase in retirement benefits received by Westby's lineman is equivalent to approximately 66¢ an hour. The forgoing conclusion has not been disputed. The Utility conceded that pay raises granted by "various comparables" were of percentages greater than the City of Arcadia had offered its linemen.

The City argued that it had granted wage increases "pursuant to a plan to attempt to even out some of the salary disparities between municipal employees." The problem with that argument is that it does not address the real issue between Utility and the bargaining unit. The question is, what constitutes a reasonable wage increase for Arcadia's electric linemen? The City appears to have based its offer primarily upon data contained in 1995 and 1996 wage and salary surveys from twenty other municipalities, only 4 of which have linemen on the payroll. Of those 4 municipalities, only Black River Falls has an electric utility that is comparable to Arcadia Electric. It appears that the only utility industry data that the City considered was a 1994 salary survey. Evidence supports the conclusion that the City of

Arcadia based its wage offer in this proceeding primarily upon what it perceived as the need to bring electric utility linemen's wages more in line with "other non-supervisory employees." It mentioned the water operator and wastewater operator as examples of employees who earned substantially less than the Utility's electric linemen. The City's sensitivity for perceived fairness is well taken. That concern, however, would not be a justification for the Utility's refusal to bargain with the linemen in good faith. While there is no evidence that the Utility did not bargain in good faith, there is no evidence that the City ever considered the size of wage increases that lineworkers received in comparable communities.

Evidence of the size of wage increases granted to linemen by Trempealeau Electric Cooperative, 66¢ in 1995 and 72¢ in 1996, is relevant to show the size of wage increases that comparable employees in the same community have received in the private sector.

It has not been easy to arrive at a decision in this case. Arcadia Electric's linemen are highly compensated compared to the City of Arcadia's other non-supervisory employees. The \$832 annual wage increase that the City has offered these linemen, appears to be reasonable in the context of the City wanting to narrow the existing wage gap between its various employee groups.

While these linemen are employees of the City of Arcadia, they are in fact employed by the City's Utility Commission. Their wages and fringe benefits derive from the sale of electric

service, not from general tax revenues. Arcadia Electric's electric rates are reasonably low. The City's wage offer to its electric utility employees, measured in terms of percentage increase, is well below the increases that it granted other municipal employees in 1996. Though consumer price data is not in evidence, the undersigned doubts that the City's 2.19% offer is equal to, the current level of inflation. Most comparable municipal electric utilities have granted both larger monetary and percentage wage increases to their linemen in both 1995 and 1996. For the foregoing reasons, the offer of the Union appears to be the more reasonable. It shall be incorporated into the parties' 1996 contract.

Dated at Madison this 14th day of November, 1996.

  
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John C. Oestreicher, Arbitrator