

Interest Arbitration

of

VILAS COUNTY

and

ARBITRATION AWARD

**VILAS COUNTY HIGHWAY EMPLOYEES
LOCAL 474, AFSCME, AFL-CIO**

re

WERC Case 57, No. 55407, INT/ARB 8206

Decision No. 29315-A

Introduction

During the life of the Agreement ending December 31, 1998 between the Vilas County Highway Employees Union, Local 474, AFSCME, AFL-CIO, hereinafter called the Union, and Vilas County, hereinafter called the County or the Employer, previously non-represented Forestry employees were accreted into the Highway Employees bargaining unit. Unable to reach an accord on collective bargaining terms for these employees, the Union petitioned the WERC for arbitration on September 10, 1997. WERC staff member Marshall L. Gratz found that the parties were at impasse and received final offers by February 17, 1998. By order dated February 23, 1998, the WERC issued an order for arbitration and furnished the parties with a panel of seven names from which the County and the Union selected the undersigned arbitrator. The WERC thereupon issued an order dated April 1, 1998 appointing him arbitrator.

The arbitration hearing was held on July 16, 1998 in Eagle River Wisconsin. Appearing for the County was Andrew T. Phillips, Attorney of Prentice & Phillips; appearing for the Union was David Campshure, Staff Representative, Wisconsin Council

40, AFSCME Post-hearing briefs were mailed on September 11, 1998 and rebuttal briefs were mailed on October 26, 1998.

At the arbitration hearing the parties were able to resolve two of the three items on which they had been at impasse and, with the concurrence of the arbitrator, agreed to the following amended final offer.

Vilas County and the Vilas County Forestry Employees, Local 474, have agreed to include the Union's final offer proposal No. 1 regarding workday-workweek and the Union's final offer No. 2 regarding overtimepay, which shall be paid out as compensatory time off, as tentative agreements between the parties. The only remaining issue for arbitration is the parties respective wage proposals.

COUNTY

Amend Appendix "A" to include:

	<u>Classification</u>	<u>Rate of Pay</u>	
		1/1/97	1/1/98
VII.	Forestry Department Snowmobile Coordinator/Recreation Technician Forestry Technician	\$11.10	\$11.10

UNION

Amend Appendix "A" to include:

Add the classification of Snowmobile Coordinator/Recreation Technician and Forestry Technician under Class IV of the existing wage schedule, wages to be implemented as follows:

\$11.11 per hour	effective	January 1, 1997
\$11.97 per hour	effective	July 1, 1997
\$12.83 per hour	effective	January 1, 1998
\$13.70 per hour	effective	July 1, 1998

RELEVANT STATUTORY FACTORS

This dispute involves the proper placement on an existing wage schedule for two positions occupied by two employees. Both parties recognize that neither factor 7

(greatest weight) or factor 7g (greater weight) are relevant in this dispute. Likewise, factors a,b c and i are not relevant

Although the parties discuss changes in wages relative to changes in the cost of living, factor g, practically all of the evidence in support of their relative positions involves comparisons covered by factors d,e, f and j.

DISCUSSION

Essentially this dispute involves the slotting of accreted employees into a position on the wage schedule that is fair relative to the position of other employees in the bargaining unit in which they have been placed and fair relative to the wages paid to employees doing the same work in comparable public and private jurisdictions.

In two previous arbitrations cited by both parties, arbitrators have chosen the contiguous counties of Forest, Oneida, Iron and Price as the proper external comparables and have gone beyond these boundaries only when insufficient data are available from these four counties (See awards by Arbitrators Michelstetter and Johnson Int/Arbs 6670 and 7796). This arbitrator agrees with the conclusions regarding external comparables expressed by the arbitrators who have issued awards in Vilas County disputes and will rely on the four contiguous counties without supplementation unless the data from those counties are insufficient to reach a conclusion.

The following table shows the wage rates for comparable jobs cited by both parties. Forest County does not have comparable Forestry jobs and therefore is excluded from the County and Union analyses and from this table.

EXTERNAL COMPARABLES COMPARISON

<u>County</u>	<u>Position</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>
Iron	Forestry Technician*	\$15.19	\$15.65	\$16.20
Oneida	Forestry Worker	10.98	11.28	11.68

Price** Forester II	12.57	12.96	13.34
Forestry Technician	12.20	12.58	12.96
Average Using Price Forester II			\$13.74
Average Using Price Forest Tech			\$13.61
Median Using Price Forester II			\$13.34
Median Using Price Forest Tech			\$12.96
County Final Offer		\$11.10	\$11.10
Union Final Offer	(1/1/97) - \$11.11	(1/1/98) - \$12.83	
	(7/1/97) - \$11.97	(7/1/98) - \$13.70	

* In its comparisons, the Union used the Cruiser II classification with a 1998 rate of \$16.76. The County argues in its brief that the proper comparison is with the Forest Technician classification. The arbitrator accepts the County argument and therefore uses the Forest Technician classification as the proper comparable in this dispute. More detailed information might support a different conclusion. However, lacking further information, the comparison chosen above seems to be the preferable one.

** The job summaries of the Grade 2, 5 and 7 forestry positions in Employer Exhibit 66 suggest that the proper comparable may be the Grade 7 position paying \$12.96 in 1998. However, the job listings by pay grade in the same exhibit, headed Appendix A, Price County Highway Department & Forestry Department Wage Schedule, does not show a position in Grade 7. Furthermore, the footnote to the schedule states "Employees in Forestry Department shall be paid at the Grade 7 rate for the first six months of their one year probationary period." This supports the use of the Forester II position as the proper comparable.

The County final offer is \$2.64 less than the \$ 13.74 average of the comparables using the Price County Forester II and \$2.51 less than the average using the Price County Forest Technician classification. The Union final offer is \$.04 less than the \$13.74 average using the Forester II classification and \$.09 more using the Technician classification. Comparing the offers to the medians, one finds that the Company final offer is \$2.24 less than the median using the Forester II classification and \$1.86 less using the Technician classification. The Union final offer is \$.36 more than the median using the Forester II classification and \$.74 more using the Technician classification. Regardless of the comparison, that is comparisons with the averages as well as comparisons with the medians, the Union final offer is more in line with the external

comparables than is the County final offer. So far as external comparisons are concerned, the Union offer is preferable under statutory criterion d.

The arbitrator turns next to internal comparables. In this dispute, involving the slotting into a wage structure of jobs that are dissimilar, the arbitrator would normally turn to some sort of job evaluation which compared jobs on the basis of skills, knowledge, and other factors to determine the relative worth of one job versus another. Absent these data, the arbitrator reviewed the data furnished him and found as a substitute for a job evaluation approach, the comparative worth assigned to the forestry positions relative to highway positions by the two comparable counties for which data were supplied.

1998 COMPARISON OF HIGHWAY AND FORESTRY
POSITIONS IN THE TWO COMPARABLE COUNTIES

<u>County</u>	<u>Job Title -Highway</u>	<u>Highway Pay</u>	<u>Job Title - Forestry</u>	<u>Forestry Pay</u>
Iron	Patrolmen	\$15.62	Forester I	\$16.20
	Equipment Operator	15.72		
Price	Loader Operator	\$13.74	Forestry II	\$13.34
	Chip Spreader Operator	13.34		

The salary of the Iron County forester is greater than the salary paid to patrolmen or equipment operators. The salary of the Grade 5 Price County forester is the same as the Grade 5 Chip Spreader Operator and less than the salary of the Grade 4 Loader Operator. Grade 4 on the Price County schedule includes nine operator classifications and the patrolmen classification. Grade 5 on the schedule includes five operator classifications and the Night Men Shop, Auxiliary Crew and Wayside Maintenance classifications. It appears that the forestry salaries in both Price and Iron Counties are the same or better than the salaries paid by those counties to the operator and patrolmen classifications.

No comparison can be made for Forest County because that county does not have forestry positions. Nor can this arbitrator make one for Oneida County because the forester position in Oneida County is in the Courthouse Unit and no information about Oneida County highway department employees was presented to the arbitrator. The Oneida County Forestry Worker is slotted in Grade 7 on a schedule running up to twelve grades. As such it is about in the middle of the salary structure. Other positions in Grade 7 include Deputy County Clerk, Deputy Clerk Court, Secretary III, and Social Service Aide.

Under the County final offer, the forestry positions accreted to the unit will be slotted in Grade VII, a new level lower than any currently in existence (except for the probationary rate). Under the Union final offer, the forestry positions will be placed in Grade IV, the grade which includes six operator classifications, a mechanics helper, a partsman, a screedman and a patrolman classification. So far as following the pattern found in the comparable counties, the Vilas County forestry classifications should be placed in Grade IV as the Union proposes rather than in Grade VII as the County proposes.

The arbitrator turns next to the other arguments put forth by the County in order to determine whether they have sufficient weight under the statute to overrule the conclusion based on the external comparisons and the internal comparisons derived from the comparison of the relative salaries of highway and forestry positions in comparable counties.

The County argues that the Union final offer represents a 30.85% wage increase and that the forestry employees of Vilas County "are not so deprived as to justify a 30.85% increase." (Cnty. Brf. p.16). Essentially the County is arguing that the increase is just too big. However, there are two sides to that argument. The large increase can also be cited in support of the claim that forestry employees have been substantially

underpaid in the past relative to other employees in the highway unit with similar skills, and to forestry employees in comparable counties.

The arbitrator agrees that an increase of slightly more than 30% is not warranted by such factors as increases in the cost of living or the size of the general increases granted to other public sector employees of the County or the comparable counties. However, this dispute is not about a general wage increase to be justified by reference to the cost of living or the general increases gained by comparable workers, it is about slotting into an existing unit two positions covering two newly accreted employees. Therefore, the changes in cost of living and annual increases given to various Vilas County bargaining units are not important criteria in this dispute.

The County argues that the high wages paid in Iron County are the result of a grievance arbitration decision regarding the calculation of cost of living increases. The County contends that Iron County wages skew the average of the comparables and that the arbitrator should rely on the "median" rather than the "average." However, if Iron County is one of the historically included comparable counties, the fact that its wages are high is not a reason for devising a system to minimize the effect of Iron County wages. Both the high wages of Iron County and the low wages of some other comparable must be taken into account. Even so, the arbitrator took note of that argument and calculated both the median and average wage paid by the comparables. As shown above in the External Comparables Comparison table, the Union final offer is closer to both the median and the average than the County final offer. Therefore, this argument does not provide grounds for the selection of the County offer.

The County also cites the overall compensation increase of the accreted employees. In addition to the 30.85% increase in wages, coverage under the highway department collective bargaining agreement entitles the forestry employees to other benefits under the agreement including "compensatory time-off, overtime pay, set hours of work, the ability to post into Highway Department positions, grievance arbitration and

the opportunity to collectively bargain their wages, hours and conditions of employment.” (Cnty.Brff.p 17). The County claims that the large raise on top of these valuable benefits represents a windfall not supported by the comparables.

Factor h of the statutory criteria requires the arbitrator to take into account the overall compensation of the forestry employees. He finds that the extension of benefits to these employees arising from their accretion to the Highway unit, only gives them benefits already enjoyed by other employees in that bargaining unit. If, as unrepresented employees, they did not have some of these benefits, it is possible, as the Union suggests in its rebuttal brief (p.12) that they had other benefits. In any event no evidence was introduced on this point. The fact that bringing forestry employees in line with others in the highway unit resulted in increases in benefits as well as wages does not weaken the case for the Union final offer.

The County argues also that the July 1990 and November 1993 hire dates of the two forestry employees accreted to the unit show no recent turnover and support the claim that there is no need for catch-up. In this instance, it appears to the arbitrator that the employees chose to be represented rather than to look for employment elsewhere. When non-represented employees choose representation, it frequently is cited as a failure of the employer to maintain wages, hours and conditions of employment with which the employees were satisfied. Again, this arbitrator wishes to note that the County citations (Fleischli, Petrie and Vernon, pp. 17-19 of Cnty. Brf.) apply to contract negotiations by existing units and have much less if any relevance to the accretion of two employees to an existing larger unit.

The County argues further that arbitrators do not and should not upset long standing internal relations among bargaining units. This arbitrator agrees with that position. However, as stated previously, the wage and benefit increase granted to accreted employees to bring them up to the level of the employees in the unit to which they have been added is a very different matter. This dispute is not one involving internal

relationships among Vilas County bargaining units and the citations on that question are not relevant.

The comparison of private and public sector wages for a particular occupation such as a forester is a difficult one. The County states that its final offer wage rates are in line with wage rates in the private sector (Cnty. Brf. p.25). It supports this claim with 1997 State of Wisconsin data for the North Central and Northwest Service Delivery areas containing the four comparable counties. These service areas also include 10 other counties and reflect conditions in many counties which are outside the area found comparable by the parties, previous arbitrators and this arbitrator. Also the number of private sector employees covered by these survey is quite small and the private sector jobs may not be comparable with the accreted forestry positions. Since this arbitrator has excluded Union data on counties other than the four contiguous counties, he gives little weight to the 14 county data showing that the County final offer exceeds the wages paid in the private sector.

Likewise, this arbitrator is even more skeptical of the evidence in support of the Union claim that private sector data support the Union's final offer. The private sector data relied on by the Union are annual wages in State of Wisconsin County Workforce Profiles for 1995 for the four comparable counties and two others which the Union included in its list of comparables. If one excludes from the table on page 24 of the Union brief the information about the two counties which are not contiguous to Vilas County, Vilas County ranks second in annual wages of employees in both the government industry category and the agriculture, forestry and fishing category. Just what that means so far as the comparison with the private sector is concerned is not clear to this arbitrator. The Union goes on to maintain that its Exhibit 26 shows that "the Union proposal clearly places the Forestry employees in a position closer to that of their counterparts in the private sector." (Un. Brf. p.25). However, Exhibit 26 compares the final offers with the public sector forestry positions in the six counties it considers

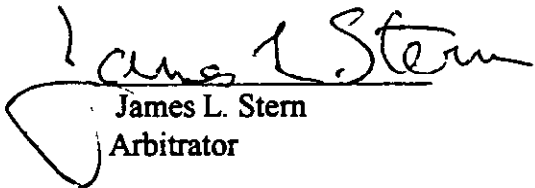
comparable, not with private sector wages in Vilas County or the counties it considers comparable. Therefore, it is not relevant to the question of how the final offers look compared to private sector wages for the same work.

The arbitrator concludes after a review of the exhibits and briefs of the County and the Union that, based on the statutory criteria regarding internal and external comparisons, the Union offer is preferable in this dispute involving the proper slotting of two accreted employees into an existing bargaining unit. Under the Union offer, the forestry employees will be placed in a labor grade that gives them the same relative position on the wage schedule as forestry employees of comparable jurisdictions. Also, they will receive a wage closer to the average and median wages of comparable forestry employees than they would receive under the County's final offer.

AWARD

After full consideration of the exhibits, briefs and rebuttals of the County and the Union, the arbitrator finds the final offer of the Union to be preferable under the statutory criteria and hereby selects the final offer of the Union and orders that it and the tentative agreements be implemented forthwith.

11/12/98
November 12, 1998


James L. Stern
Arbitrator