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STATE OF WISCONSIN  
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

\* \* \* \* \*

\* In the Matter of the Petition of \*

\* INTERNATIONAL ASSOCIATION OF \*

\* FIREFIGHTERS, LOCAL 311 \*

\* for Final and Binding Arbitration \*

\* Involving Firefighting Personnel \*

\* in the Employ of \*

\* CITY OF MADISON \*

\* \* \* \* \*

Case CX  
No. 32509 MIA-814  
Decision No. 21345-A

I. APPEARANCES

On Behalf of the Association: John A. Matthews  
Nicholas A. Linden  
Harold Lehtinen  
Joseph Conway, President, Local 311

On Behalf of the City: Timothy C. Jeffery, Director of Labor  
Relations

II. BACKGROUND

On November 28, 1983, the Association filed a petition with the Wisconsin Employment Relations Commission requesting that the Commission initiate final and binding arbitration pursuant to Section 111.77(3) of the Municipal Employment Relations Act, with regard to an impasse existing between the parties with respect to wages, hours, and conditions of employment of firefighting personnel for the years 1984 and 1985. An investigation was conducted on December 12 and December 22, 1983, and January 26, 1984, by Herman Torosian, Chairman, Wisconsin Employment Relations Commission. He advised the Commission on January 27, 1984, that the parties were at an impasse on the existing issues as outlined in the final offers. On January 31, 1984, the Commission ordered the parties to select an arbitrator. The undersigned was selected from a list of arbitrators provided by the Commission. On February 13, 1984, the Commission issued its order appointing the undersigned as Arbitrator.

The hearing was scheduled and held in the matter on June 1, 1984. The proceedings were transcribed. The parties reserved the right to file post-hearing briefs and post-hearing reply briefs. The post-hearing briefs were received July 10, 1984, and the exchange of the reply briefs was completed August 9, 1984. On August 14 and August 24, 1984, the Arbitrator received further correspondence from the City and the Union respectively concerning information contained in the reply briefs.

Based a review of the evidence, the arguments, and the criteria set forth in the relevant statute, the Arbitrator renders the following award.

III. FINAL OFFERS AND ISSUES

Both final offers contain proposals regarding wages and health insurance. The City's offer contains an additional proposal concerning apparatus pay which is not essentially in dispute.

The City proposes to increase all wage rates by (1%) effective December 18, 1983, and by an additional (4%) effective December 16, 1984. On the issue of wages, the Association proposes to increase wage rates 2.5% effective December 18, 1983, and an additional 3% effective July 15, 1984. They propose a wage reopener for wages for the period commencing December 16, 1984.

With respect to health insurance, the City's offer is quoted below:

"HEALTH INSURANCE:

- "A. For the calendar year 1984, the City will contribute not more than \$60.59 toward the monthly premium for Compcare, GHC, DeanCare and Jackson Health single coverage.
- "B. For the calendar year 1984, the City will contribute not more than \$164.80 toward the monthly premium for Compcare, GHC, DeanCare and Jackson Health family coverage.
- "C. For the calendar year 1984, the City will contribute not more than \$164.80 per month toward family coverage and not more than \$60.59 per month toward single coverage of the Blue Cross-Blue Shield Standard or High Option plan. The High Level plan shall provide health insurance coverage as set forth in the document entitled 'City of Madison Health Maintenance Program Benefits.' It is the intent of this provision to continue those benefits which had uniformly and routinely been previously provided.
- "D. For calendar year 1985 the City agrees to contribute toward the monthly premium for family coverage or toward the monthly premium for single coverage a dollar amount equal to the appropriate premium rates of the lowest bidder among the health care providers specified in this Article.
- "E. The City shall continue health insurance premium contribution during periods of disability leave of absence without pay, not to exceed six (6) months. Void if the employee retires during such period."

With respect to health insurance, the Union's offer is quoted below:

"ARTICLE XXI: HEALTH INSURANCE

- "A. The City will contribute the full cost of the single or family health insurance plan, with such selection being at the option of the employee. However, in no such case shall the City contribute more than the premium of the second lowest health insurance carrier or HMO, available to members of this collective bargaining unit.
- "B. The City will continue to offer the Blue Cross-Blue Shield Standard or High Level Plan. The High Level Plan shall provide health insurance as set forth in the document entitled "City of Madison Health Maintenance Program Benefits." It is the intent of this provision to continue those benefits which had uniformly and routinely been previously provided. However, the City's contribution toward said insurance shall be in accordance with the criteria set forth in 'A' above."

The final offer of the City is attached as Appendix A and the final offer of the Association is attached as Appendix B.

#### IV. ARGUMENTS OF THE PARTIES

The following represents only a summary of the extensively developed and documented arguments made by both parties in their briefs and reply briefs.

##### A. The Association

###### 1. Salary

The Union relies on three of the statutory criteria in support of their final offer, to wit: (1) comparison of the wages of the employees involved in the arbitration proceeding with the wages of other employees performing similar services in public employment (fire department) in comparable communities (simply referred to most often as external comparability.); (2) the average consumer prices for goods and services, commonly known as the cost of living; and (3) the interest and welfare of the public and the financial ability of the unit of government to meet these costs. The Union believes that these three factors, especially the first factor, should be given more weight than other factors set forth in Wisconsin Statute 111.77(6).

In support of their offer on salary, the Association first argues that the Union's final offer compares more favorably to settlements in comparable communities among employees performing similar services than does the City's final offer. They believe they have selected an appropriate comparable group which includes the same communities used in the parties 1976 arbitration with the addition of Waukesha and Janesville. The communities included in the 1976 arbitration were West Allis, Wauwatosa, Kenosha, Racine, Green Bay, and Milwaukee. While advancing argument about the similarity of these employers and the City of Madison, they aver that Madison firefighters actually provide more services and have greater productivity and training than employees in these other cities. They present detailed argument on this point.

The Union next offers a comparison of the annualized (average of split increase) increases received under each of the final offers by a firefighter at the top step with those received by firefighters in comparable communities. It is noted there is no data presented on Waukesha or Racine, as those contracts were not settled at the time of the hearing.

They assert that the average 1984 dollar increase over 1983, in the eight comparable communities was \$35.04 biweekly. Under the City offer, the biweekly increase would be \$8.78, whereas the Union offer would provide an increase of \$33.39 biweekly; that is, slightly less than average. They suggest the Union offer, based on this single criterion, is clearly more reasonable than the City offer. In terms of the 1984 percent increase over 1983, the average of the eight communities is 3.78%. Under the City offer, the biweekly increase would be 1%, whereas the Union offer would provide an increase of 3.8%, (i.e. virtually the same as the average of the comparables). In terms of rank, they contend, based on their analysis, that Madison firefighters have dropped in rank, among the comparables, from sixth place in 1976 to seventh place in 1983. They note, however, that Madison ranked fifth in 1977, 1978, and 1979. They contend the Madison firefighter should at least maintain the same ranking as she/he enjoyed in 1983, i.e. seventh out of nine, and ideally, she/he should be restored to his/her former ranking of fifth or sixth, among the six comparables.

The Union also believes it is significant that the negative difference between Madison and the average rate has increased since 1976. In 1976 Madison was \$15.92 less than average (on a biweekly basis), whereas in 1983, Madison was \$48.65 less than average. Under the City offer, Madison would be \$74.91 less than average in 1984, whereas the Union offer would put Madison \$50.30 less than average in that year. Simply stated, the Union offer maintains

basically the same relative position in 1984 as that which existed in 1983; whereas the City offer would cause the Madison firefighters to fall farther behind. They suggest this is confirmed when one looks at the "+/- criterion" in terms of the dollar and percent increase from 1983 to 1984. The City offer is \$26.26 biweekly or 1.65% less than average. The Union offer, on the other hand, is only \$1.65 biweekly less and just .02% more than average. They also express this difference in ratio form. In 1976, Madison's ratio was .97 (97% of average). In 1977, it rose to .99 (99% of average), then fell in 1978 to .97 (97% of average). It remained there until 1982, when it fell again to .95. Under the City offer, it would fall to .92 (92% of average). The Union offer, on the other hand, would maintain the ratio at .95 (95% of average). Even if the Employers' final offers in Waukesha and Racine are accepted, the average biweekly increase would be \$36.64 or 3.96%. Even the Union's increase of \$33.39 or 3.8% is below this. This is contrasted with the \$8.78 biweekly increase or 1% under the City offer.

The Union next supports their position by arguing that the Union's final offer begins the process of restoring Madison firefighter's former standing in the group of comparable communities whereas the City's final offer further deteriorates their relative position. The purpose of the split increase, which results in a wage rate adjustment of 5.575% with a cost of 3.8% is to "catch-up" or "regain lost ground," relative to this group of comparables, and at the same time, to keep the cost down. Based on year end rates, the Union offer would improve the Madison/Average ratio, i.e. .95 to .96 (96% of average). Expressed in dollars on a year end rate basis, Madison's biweekly wage rate for the top firefighter under the Union offer would be \$35.99 behind the average assuming the employers won in Waukesha and Racine and \$39.04 behind if the unions won there. Under the Employer offer, the wage rate would be behind \$76.18 if the employers won in the unsettled cities and \$79.23 behind if the unions won.

The Union is also troubled by the duration of the City offer, which is two years compared to the Unions reopener for 1985. They note no evidence was offered by the City to justify the 4% increase for 1985 in terms of other firefighter settlements or cost of living. The City's proposal for 1985 may well result in further deterioration vis-à-vis the comparables and the cost of living. They note further with citations that arbitrators have been extremely reluctant to award prospective multi-year offers not supported by comparables.

The Union also offers argument on the cost of living. They contend the Union's final offer compares more favorable to changes in the cost of living, both in an absolute sense and relative to employees in comparable communities performing similar services, than does the City's final offer. They "designed" their split increase on an annualized basis to mirror the percent increase in the cost of living from December 1982 to December 1983. In their opinion, the City's final offer of a 1% increase for 1984, when compared to changes in the cost of living using this same methodology that produces a 3.8% increase, obviously falls far short of the mark. They also present a historical comparison of the increases in the cost of living with wage increases in the external comparables.

#### B. Health Insurance

The Union contends their final offer attempts to maintain the status quo with respect to health insurance whereas the City's final offer attempts to let the City out of a contract but-out, which was made at the City's request last year. In this connection, they contend their offer is more reasonable because the Union's demand in the area of health insurance, if the Arbitrator finds on behalf of the Union, would result in the continuance of the voluntarily agreed-upon benefit in the Parties' preceding

contract. On the other hand, the Employer itself proposed said contract provision in negotiations over the terms and conditions of the preceding contract, as a buy-out of the extremely popular and extensive WPS Health Maintenance Program. The City, under said proposal (the contract buy-out) for the 1983 Collective Bargaining Agreement, moved from paying 90% of the health insurance premium of the exclusive carrier WPS, to paying 100% of the premium to the two lowest bidders; provided the Union would switch from WPS-HMP to various health maintenance organizations.

Next, the Union argues that their final offer compares more favorably to settlements in comparable communities among employees performing similar services than does the City's final offer. In 1981, the average health insurance premium paid by the employer on behalf of the employee in the eight comparables used by the Union, was \$126.77 per month. The City of Madison paid \$105.97, or 83.6% of average. In 1982, the eight comparable employers averaged contributions of \$153.56 per month. Madison paid \$149.99, or 97.7% of average. The figures for 1983 were \$177.89, \$148.50 and 83.5% respectively. Under either Party's final offer, the City of Madison will continue to contribute far less than average and ironically less comparatively than they did in any of the above-referenced years. If the Union's final offer is selected, the City would contribute \$164.80 per month, or a maximum of \$171.60 per month for those employees selecting a plan other than Blue Cross/Blue Shield's Compcare. This compares with an average of \$218.98 paid by the employer in the comparables cities of Waukesha, West Allis, Wauwatosa, Janesville, Kenosha, Racine, Green Bay and Milwaukee. The City's final offer in the instant case is \$164.80 (75.3% of average), while the Union's final offer is a maximum of \$171.60 (78.45% of average).

#### C. General

The Unions's first general argument relates to overall compensation. They contend the Union's final offer compares more favorably on the basis of overall compensation in relation to settlements in comparable communities among employees performing similar services than does the City's final offer. They present a comparative analysis of increases in wages, longevity payments, health insurance premiums and dental insurance premiums. They suggest these comparisons, for a variety of reasons, underestimate the adverse impact of the City's offer. It is noted this analysis utilizes annualized rates and assumes for longevity purposes, that a firefighter has 15 years seniority. The average dollar increase (1984 over 1983) in total compensation in the comparables according to their figures was \$134.41 per month, or 5.91%. They submit that under the City's offer the increase would be \$37.06 per month, or 1.67% and under the Union's offer \$101.89, or 4.58%. They submit a similar analysis for other positions.

In terms of total compensation, they note the City maintained that the longevity provisions attainable by firefighters more than balanced the low basic wage rate. They present exhibits which they believe to show this not to be true any longer, especially under the City's offer. In 1981, a firefighter with 20 years experience, when longevity, family health insurance premiums and dental premiums were considered, earned +58.33 more than the average in 1981, +38.34 more in 1982 and +26.91 more in 1983. Under the Union offer the positive differential would slip to +9.66 and under the Employer offer would slip to a negative figure of -56.21. This is also true for a lieutenant with the highest possible longevity payment. A -0.47 negative differential in 1983 (down from +53.73 in 1981 and +31.15 in 1982) slips to -9.89 under the Union offer and -82.00 per month under the Employer offer. They present similar data for a firefighter with 15 years seniority.

The Union also anticipates an argument from the City that the "lift" rate be given major emphasis rather than the "annualized" data. The Union maintains that even a comparison of the "lift"

rate in Local 311's offer to the "annualized" comparison data supports the Union's offer. In this respect they submit that the Union's final offer begins the process of restoring Madison firefighter's former standing in the group of comparable communities whereas the City's final offer further deteriorates their relative position. They calculate the "lift" or year end rate by multiplying 5.5% by the 1983 wage rate and multiplying this product by the appropriate longevity rate and then add the health insurance premium amount to the 5.5% wage rate increase and longevity adjustment to obtain the overall compensation "lift" rate. The overall compensation "lift" rates are monthly rates of \$2,360.33 for firefighters with 15 years experience, \$2,400.49 for firefighters with 20 years, and \$2,623.37 for lieutenants with maximum longevity. Based on this, they compare the offers at three benchmarks. They offer the following:

(Firefighter with 15 Years Experience)

	<u>Dollar Increase</u>	<u>Percent Increase</u>
City	\$37.06	1.67%
Local 311	\$137.22	6.17%
Comparable Average	\$130.41	5.91%

(Firefighter with Maximum Longevity)

City	\$39.07	1.67%
Local 311	\$139.	6.16%
Comparable Average	\$130.41	5.89%

(Lieutenant with Maximum Longevity)

City	\$39.07	1.58%
Local 311	\$150.92	6.10%
Comparable Average	\$138.34	5.69%

They submit, based on these tables, that Local 311's proposal is significantly closer to the average overall compensation adjustment. Likewise, the "lift" rate in Local 311's proposal does not result in a dollar differential inconsistent with prior standing held by this unit. The dollar differential for the three analysis benchmarks are +\$9.79, +\$45.66, and +29.38, respectively. Moreover, they contend Madison firefighters have had more positive dollar differentials in the past vis-à-vis the comparable average.

The Union also anticipates arguments by the City concerning the value of the educational incentive payments. They believe this argument to be inaccurate and inappropriate. As a basis for this argument, they note the City does not argue its case in terms of comparable base wage adjustments (percent increases or dollar increases), total package comparisons (be they measured by the comparable increases or compared to the CPI) or having a more difficult financial situation than comparable municipalities. In fact, they suggest, the data reveal that Madison is in a far better financial situation than comparable communities). Instead they see the City arguing that because of the longevity and educational incentive provisions, one should disregard the settlement pattern for firefighters in comparable communities (even though they have less responsibilities), cost of living increases, and the increase in the employee's productivity.

In terms of inaccuracies, the Union points out that the Employer's Exhibit 39, which purports to show the cost of the educational incentive program, indicates that certain employees are

receiving 27% and 23% educational incentive pay, while the maximum payment according to the program is 22%. Thus, they also question the accuracy of other exhibits based or generated from the Employer's Exhibit 39.

On a basis for their contention that the inclusion of educational incentive pay for wage comparisons is inappropriate, they question the accuracy of the City's total package costing calculations. However, even assuming it is correct, they believe it supports their offer. They note the City's wage and fringe benefit increase is 2.00% above the 1983 wage and benefit level while the Union's is 4.57%.

The Union then objects to the appropriateness of Employer exhibits showing salaries in the comparables including longevity and educational incentive and a comparison on an hourly basis to private sector manufacturing employees. The basis for this objection is founded in the testimony of former Mayor Festge, who testified that educational incentive pay was not meant to be included in comparing the wages of Madison firefighters to the wages of firefighters in other municipalities. To include educational incentive payments in any salary comparison thus goes against the intent of the program. They also question the seemingly contradictory nature of the City's inclusion of educational incentive as a fringe benefit in Exhibit 31; whereas they used it in other places as part of a wage comparison. They also distinguish Arbitrator Zeidler's 1976 award in terms of educational incentive as they suggest he was without the benefit of Festge's testimony.

The Union also contends that the City has the financial ability to meet the cost of the Union's final offer. They question a number of City exhibits and contend the City has in the past underestimated a number of important financial factors such as shared revenues, tax levy and fund balance. The Union also cites a number of arbitration awards concerning employer financial difficulties. They read these awards as holding that in such situations, comparative wage rates should be given greater weight.

The Union also believes their final offer is more reasonable when factors such as "productivity" and "pacesetting" are considered. They base their productivity arguments in part on the testimony of Assistant Chief Wilcox who testified that there have been major increases in duties, as well as new responsibilities for Madison firefighters since 1976. Among these were "arson investigation," "public information or fire safety," "fire inspection," "emergency medical services," "scuba lake rescue," "minimum standards (for firefighters)" for which each firefighter must pass annually as well as yearly written examinations. With respect to pacesetting, the Union suggests that in the past the City normally settles with the firefighters first and other units follow. However, in 1984, the City was unable to reach agreement with the pacesetter, Local 311. Now the City expects the firefighters to follow the pattern. This would be, in their opinion, equivalent to "the tail wagging the dog." They alert the Arbitrator that the City may also urge the relevance of Exhibits 14 and 15 which are current and historical settlement data for the other City bargaining units. Local 311 finds this information to be unpersuasive. They opine that it ignores the fact that the firefighters have been the "lighthouse" unit for the City of Madison and that these units are not appropriate comparisons to Local 311. Unless these other units experience similar increases in duties, productivity, bargaining issues, and responsibilities, then identical wage increases are not justified. For instance, Local 60 (AFSCME) has also always voluntarily accepted an adjustment equal to that of firefighters. This year it may well have proceeded to impasse, were it not for its concerns about layoff. Given the concerns about job security, Local 60 was willing to trade for a smaller wage adjustment and retain the bumping provisions. Other extenuating circumstances (again in

benefits by MPPOA, job security for Local 60, reclassification of public health nurses for UP) make these secondary comparisons even less relevant than ordinary.

Last, somewhat in the same vein as their "pacesetting" argument, they assert the Arbitrator should not be dissuaded from finding for the Union by virtue of the fact that other City of Madison bargaining units settled for less. In this regard they rely heavily on International Brotherhood of Electricians, Local 494, v. City of Milwaukee (Zel Rice, Decision 17143-A). They note Arbitrator Rice was "satisfied that the pattern agreement" was the best that the comparatively weak Brotherhood of Electricians could obtain, and therefore ruled against them. To have held otherwise would have been granting more to the Brotherhood of Electricians via arbitration than they could have gained through free collective bargaining. Their history clearly showed that they had accepted what the unions with "political and economic strength" had negotiated; those unions who, "have demonstrated that they are ready and willing to engage in strikes in order to obtain what they believe to be adequate wages, hours and conditions of employment for the employees they represent." Their argument implies the opposite should be true in this case. Since they have, based on their political and economic positions, been leaders, they should not be bound by others with less strength.

#### B. The City

The City, as background to their arguments, notes that the 1984 total cost difference between the offers of the two Parties is \$262,594. An analysis of the 1985 total cost difference between the offers of the parties cannot be calculated since the Union has proposed a wage reopener for 1985. The City contends their final offer for the year 1984 constitutes a total wage and benefit increase of 3.4% over 1983 base wages; for the year 1985, the City's final offer constitutes a total wage and benefit increase of 7.8% over 1984 base wages.

The City first argues that the City wage offer is most reasonable because it would maintain the City's historical pattern of internal bargaining unit uniformity. The City has 12 bargaining units representing 1,691 employees. The City puts forth evidence dating back to at least 1972, that the City and its bargaining units have maintained internal bargaining unit uniformity with regard to annual wage increases. The City's offer for 1984 and 1985 is consistent with the wage increases negotiated with nine other City unions for the same years. The historical reliance on internally patterned bargaining, suggests the City, has resulted in a high degree of labor peace. Since 1971, arbitration has been relied on only once between the instant Parties and two other times with other units. In this connection the City argues that the the labor peace that has been maintained over the years is testimony to the value of maintaining internal bargaining unit uniformity regarding annual wage increases.

It is significant, in the City's opinion, to note that on the three previous occasions for which a City union sought to break the City's historical wage pattern, the arbitrator awarded in favor of the City. Twice the Policemen's Association sought a greater wage and fringe benefit increase than the pattern and were rejected based on the strength of the pattern. A similar result occurred in 1976 with the Firefighters.

The City argues too that the reasonableness of the City's offer versus that of the Union's offer is further buttressed by the fact that the City, in addition to its wage offer, has also agreed to grant the Union an additional holiday for 1984 (the day after Thanksgiving). The City had not granted an increase in the number of holidays since 1973 in spite of repeated demands by the Union. Based on testimony, the City asserts that other City unions would



not have accepted the 1%-4% salary proposal for 1984 and 1985, respectively, had the City not been willing to grant the day after Thanksgiving as an additional holiday. Thus, it is clear to the City that a major key to reaching two year agreements with other unions was the granting of an additional holiday which had been sought by these unions over a period of many years. Further in this view, they contend the firefighters have taken a most unreasonable position because not only is the Union seeking a greater wage increase and a greater Employer health insurance contribution than all other City employees, it has also accepted the additional holiday which to other unions was a major inducement in accepting the same terms as set forth in the City's final offer.

The second major argument presented by the City against the Union offer is to point out it breaks the historical pay relationship between a firefighter and a police officer. Exhibits presented by the City show that since at least 1970, the annual base wage for a City police officer has been greater than the annual base wage for a City firefighter. Adoption of the Union offer would upset the normal pay relationship between a police officer and a firefighter and also contradict the experience noted in other comparable cities. Among the nine largest cities in Wisconsin, four maintain parity while the other five pay police officers more than firefighters. In fact, where police officers are paid more than firefighters, the difference in pay is substantially more than exists between a police officer and firefighter in Madison. In their opinion, the Union offers no evidence to justify a departure from the City and from the state-wide practice whereby police officers are paid the same as or more than firefighters. In this respect they again make reference to Arbitrator Zeidler's 1976 award involving the firefighters and the City.

With respect to the payment of health insurance premiums, the City argues their offer is most reasonable. The City offers six health insurance plans to its employees. The City has offered to contribute for 1984, \$60.59 per month toward a single coverage and \$164.80 per month toward family coverage, up 11% over the 1983 rate of contribution. This is the same contribution the City has agreed to make on behalf of all City employees. Dating back to at least 1970, the City has contributed the same amount toward health insurance premiums for all City employees and therefore the City's final offer is consistent with that historical policy. They note too that the police were unsuccessful in the 1978 arbitration in arguing that they should receive a greater insurance contribution than other employees. In their opinion, a greater health insurance contribution for the Union versus all other City employees is particularly "outrageous" when one considers that currently cash benefits for a firefighter are greater than for all other City employees.

The City also argues that based on total compensation, their offer is most reasonable. It is their belief that the total wage and benefit package for firefighters compares very favorably with the wage and benefit package offered in comparable cities. For instance, among comparable cities, Madison offers the shortest work week and in 1983, its hourly rate ranked third. As per the City's final offer, the City continues to rank third in 1984 among those cities that have settled. The Union's final offer, on the other hand, would lift Madison from third to second ranking by the end of 1984 and in fact would have Madison pay a greater hourly rate than the city of Milwaukee. The City also offers an educational incentive pay plan and a longevity pay plan far superior to that found in comparable cities. The combined annual cost of both of these pay plans in 1983 was \$1.2 million. They offer an exhibit which shows the combined effect of base wage, longevity pay and educational incentive pay. In 1983, the City offered its firefighters a combined wage which after five years of service exceeded that paid in all other comparable cities except Racine and West Allis and after twenty years, the City paid its firefighters a combined wage

which exceeded that paid in all other cities shown. They present another exhibit which they believe shows that the favorable effect of longevity and educational incentive pay will continue to keep Madison substantially ahead of other comparable cities in terms of combined salary in 1984.

The City also reacts specifically to the allegations made by the Union that the Arbitrator can not and should not give consideration to the costs and benefits of the educational incentive pay program in rendering his decision. The Union's attempt in 1976 to bar consideration of educational incentive pay based on a letter from former Mayor Festge was flatly rejected by Arbitrator Zeidler in 1976. Furthermore, Wisconsin Statute, Section 111.77(6)(f) clearly requires the arbitrator to consider "overall compensation" and certainly educational incentive pay falls within the scope of the term overall compensation.

There are other benefits which show that Madison firefighters fare substantially better than their counterparts in comparable communities. The amount of sick leave which a Madison firefighter can convert to a cash payment upon retirement far exceeds that available in comparable communities. The annual conversion of excess unused sick leave is provided in only one other comparable city and the 1983 value of such a benefit to the Union is an additional average cash payment of \$547 per employee in the bargaining unit. That represents an additional 2.4% over the 1983 annual salary for a Madison firefighter.

The City argues too that the firefighters' offer is less reasonable because it exceeds the settlements in comparable cities. Of the five cities which have settled for 1984, the firefighters' maximum base wage rate increased from 1983 to 1984 as follows: Green Bay, 5.2%; Janesville, 3.2%; Kenosha, 2.0%; Milwaukee, 3.2%; and West Allis, 3.5%. This represents an average increase of 3.42%. The Union seeks in arbitration to increase the maximum base wage rate for a firefighter from 1983 to 1984 by 5.6%. Such an increase not only exceeds the average increase granted in the comparable cities by 2.18%, it also exceeds the base wage increase granted to firefighters in each of the comparable cities.

The City next argues that their offer is more reasonable when compared to the wage increases occurring in the Madison area. The presence of the state capital in the City of Madison has historically meant that the City is greatly influenced by the settlements negotiated with various state bargaining unions. For 1984-1985, the state negotiated contracts with six bargaining units representing some 26,980 employees which provided for a first year wage freeze and a 3.84% wage increase in the second year. Moreover, the evidence shows that Madison firefighters have fared quite well when compared with a variety of Wisconsin industries and with manufacturing employees in Madison. From 1979 to 1983 the average hourly earnings in 35 Wisconsin industries increased 35.3% while during the same period the hourly earnings for a Madison firefighter increased by 49.3%. A comparison of the Madison firefighter to employees in Madison manufacturing shows the average hourly earnings of a firefighter to have increased 21.5% more than the hourly earnings for an employee in manufacturing over the period 1979 to 1983. While the Union would be enjoying a 1% increase in 1984 and a 4% increase in 1985, many employees in the Madison area private sector would have accepted wage freezes and pay cuts. From May 1983 to May 1984, south central Wisconsin union painters agreed on a contract that froze their salaries and benefits for one year. In May of 1984, the painters agreed to another one year contract which provided for a 1% increase. In June, 1983, members of the Bricklayers union Local 13 of Madison agreed to a one year freeze on wages and benefits. In July 1983, south central Wisconsin union plumbers accepted a contract providing for a 15% cut in wages and benefits. In September 1983, employees of Kohl's Food Stores throughout Wisconsin accepted a 29% cut in wages.

With respect to the cost of living, they note that the Union has also enjoyed wage increases greater than the rise in the consumer price indices. The data shows that from 1979 to 1983 to National CPI for all urban consumers increased by 32% while at the same time base wage rates for union members increased by 41.1%. If one assumes that the CPI for 1984 will increase by 3.5-4.0%, the wage rates for union members under the terms of the City's offer will still have kept ahead of the rest in the CPI over the past five years.

Last, the City argues that their final offer is most reasonable when considered in light of the City's financial difficulties. They believe they have clearly demonstrated a dwindling availability of resources for the financing of City services. State shared revenues for 1984 are estimated to be down \$1.4 million for 1983 and preliminary estimates from the state indicate that 1985 state shared revenues will be from \$1.5 to \$2.5 million less than in 1984. Federal revenue sharing for 1984 is down \$250,000 from 1983 and is expected to decline even further in 1985. Interest income estimated for 1984 is down \$2.8 million from the 1981 level. It is also very disconcerting, in the City's opinion, to note that the fund balance, which is maintained as a reserve contingency account to finance unanticipated expenditures, is down to \$1,637,000 or a mere 2.0% of the operating budget. City Comptroller Paul Reilly testified that a fund balance of at least 5% of budget is generally recommended and that Moody's Investment Services had expressed concern about the severe reduction on the City's fund balance. They believe the financial situation facing Madison taxpayers for 1985 continues to be bleak. In the City's opinion, there is no reasonable justification for the additional strain that the Union's final offer would place on the City, its taxpayers and the quality and level of City services.

### C. Rebuttal Arguments

#### 1. Union

The Union notes that one of the City's primary arguments is that the "historical pattern of internal bargaining" should outweigh relative ability to pay, cost of living, external comparability, and the increased workload for Madison firefighters; considerations set forth within the 111.77(6) criteria. The Union contends that when measuring the City's case on internal comparability, the City's wage offer is not the more reasonable. They believe a number of considerations weaken the City's internal comparison argument. Basically they believe that because of an increased work load, a wage increase greater than those of other Employer units is justified. This was recognized by Arbitrator Fogelberg in City of Appleton (Case No. 3251 MIA-822). The increased work load also is evidenced by the fact that the number of firefighters actually in the employ of the City is 19 less than authorized (including 3 on leave of absence).

They also assert that a greater increase than that received by the internal units is justified because recent case law indicates that external comparability has assumed greater importance. They cite Arbitrator Yaffe in City of Oshkosh (Decision No. 20955-AP and also cite Winnebago County, Decision No. 19378-A, Gundermann; City of Wauwatosa, Decision No. 19760-A, Petrie; Wrightstown Schools, Decision No. 20009-A, Briggs; Madison VTAE, Decision No. 21178-A, Grenig.

They also argue that the police settlement should be distinguished because they received other quid pro quo for their acceptance of the City's wage offer which were not offered to the firefighters. They contend, according to the City's own testimony, the police unit received an increase in unused sick leave (150 to 163 days) and payment of health insurance for retirees commencing at age 50. The City asserted that these benefit improvements were

insignificant. However, the Union avers case law reveals the contrary; payment of health insurance premiums for retirees has been an item of crucial importance for police unions since the adoption of 111.77. Not only has this issue been litigated in arbitration cases, but the precedent has also been uniformly consistent - the attempt to gain this benefit or improve on the existing provision have been consistently denied. Thus, it is an extremely significant reason for MPPOA to accept less of a wage increase as the quid pro quo. The evidence also illustrates that MPPOA achieved an increase in night shift differential pay in their 1984 bargain. Further, in this same respect they contend that the settlement involving public health nurses (United Professionals for Quality Health Care) also goes beyond the alleged "pattern" for other City employees. Certain public health nurses will be reclassified as of February 28, 1986, and the reclassification will result in an additional 8% increase. Other nurses may also be reclassified at a later date if certain preconditions are met. Moreover, even though the City danced around the issue as to the Madison Metro drivers being City employees, the fact remains that they received a wage increase up to 51%, including longevity, over a three year period (38.3% average), the last of which was to an hourly rate of \$9.88 per hour. The latter became effective July 1, 1983, in the middle of the most recent Local 311 contract.

With respect to the relationship between firefighter and police wages, they assert the Union's final offer is more reasonable and should be selected even though it breaks the relationship between firefighter and police wages. They state that the City's arguments with respect to internal comparability and the wage differential between police and firefighters is a "cover-up" for the fact that the City of Madison settled low on wages with its police officers (in exchange for improvements for health insurance benefits for retirees and an increase in night differential) and then attempted to push that wage offer off on the Madison firefighters. They presented a statistical analysis of the historical wage differentials between Madison police and Madison firefighters compared to policemen and firefighters in the comparable cities. It shows that the dollar increase in 1984 over 1983 for firefighters on the average is \$829 per year and \$867 per year for police; that is 3.55% and 3.67% respectively. In 1983, the Madison police were \$733 per year less than average. The 1984 police settlement puts police officers \$2,154 less than average. The police received in 1984, \$229 per year, or 1% more in salary; that is, \$638 per year, or 2.67%, less than the average increase of \$867 per year or 3.67%. The City's 1% offer to the firefighters has virtually the same effect. In 1984, the annual salary will plummet to \$2,013 less than average. In terms of an increase, the City's offer is \$601 less than the \$829 average, or 2.55% less than the 3.55% average. Moreover, the Madison-to-Average ratio has police falling from .97 in 1983 to .91 in 1984. Similarly, the City's offer of 1% has the firefighters falling from .98 to .92. They suggest it was the City who broke from the practice of settling with the firefighters first and using that settlement as the benchmark for the rest of the City bargaining units. Had the City continued their practice of settling with Local 311 first, there would not be a resulting wage differential between police and firefighters. Moreover, that settlement would more closely reflect the external comparables as does the Union's offer.

With respect to health insurance, the Union argues that the City's offer should not be adopted because it alters the quid pro quo given the Union when they agreed to give up WPS Health Maintenance Program, i.e. the choice of the two lowest programs. In a similar situation, Arbitrator Krinsky in Area Vocational, Technical and Adult Education/District No. 4 (Madison Area Technical College), rejected a proposal of the Union.

Further, in the context of the health insurance issue, they emphasize the differences between the firefighters and other City units. They believe there is no reasonable basis for the

proposition that the settlement of the City with its other bargaining units reverse the trend that Local 311 is the pacesetter. The record is replete with evidence that Local 311 is the most effective of all unions with which the employer must deal. In their view, there are differences between bargaining units and each is entitled to do its own bargaining "without being stopped dead in its tracks when the Employer reaches an agreement with another unit," especially if the other unit is a weaker one or traditionally a "follower." If uniformity is the test, then the Employer would obviously follow a strategy of concentrating its efforts on settling with the weakest union of the lot. For a similar situation where the weaker of two units was relied on by the Employer for internal support, they direct attention to Arbitrator Rice's decision in City of Milwaukee v. International Brotherhood of Electricians, Local 494, Decision 17143-A.

They also rebut the City's argument that the total wage and benefit package, under the Employer's final offer, for firefighters compares favorably with the wage and benefit package offered in comparable cities. They reiterate that the Union's proposal for a \$33.39 biweekly increase is slightly below the average range of \$36.64-\$39.95 (excluding the recent award of 5% in Appleton Firefighters). The City of Madison offers \$8.78 biweekly. Similarly, the Union's 3.8% proposed increase is slightly below the average range of 3.96%-4.25% (again excluding the 5% award in Appleton). Additionally, they contend the Union's final offer will maintain the firefighter's relative position with their counterparts in the comparable cities, while the Employer's final offer will further erode said relative position from 96% of average to 92% of average. Madison firefighters ranked fifth among their comparables in 1977, 78 and 79, falling to seventh in 1983. The Union's final offer would put the Madison firefighter .02% above average, while the City's offer would further erode the Madison firefighter to 1.65% less than average.

With respect to educational incentive and the City's total compensation argument, they again direct attention to what they believe to be errors in the Employer's costing. The City characterized the Union's offer to represent a 7.8% increase and its own offer to have a value of a 3.4% increase. According to the Union, this is incorrect. The appropriate base number for measuring the overall increases should be \$10,210,398, for figure at the bottom of the column representing TOTAL. As a result, appropriate overall compensation increases are 2.00% for the City offer and 4.57% for the Union offer. In this respect, they cite Arbitrator Stern's decision in City of Janesville, Decision No. 15113-A. Thus, based on a comparison of the corrected amount to the overall compensation increases in comparable municipalities, the Union believes the position is most supportable. This is true whether annualized or "lift" rates are used. They submit detailed support for this assertion.

The Union next attacks the comparisons made by the City to private sector employers. It is Local 311's position that these comparisons are irrelevant, invalid, unreliable as well as inconsistent with other data submitted by the City. They believe this data is overbroad and note that case law indicates that neutrals are reluctant to utilize statewide comparisons even when individuals are engaged in the same occupation, to say nothing of differing job classifications. They also detail what they see as inconsistencies in the City's data on increases received by the firefighters in the past.

They also stress that the City has not established that it has financial difficulties. They submit that the City of Madison indeed has the capacity to meet the Union's final offer, should the Arbitrator find for the Firefighters. Madison's percentage increase in full property valuation from 1976 through 1982 increased 76.9%; more than any of the comparables. Yet, its levy rate is even below the average. Among the comparables, Madison's

property evaluation is four times that of any of the other comparables, except Green Bay. It is more than twice that of Green Bay. Madison has high per capita income, continuing increases in and high property valuation, and low unemployment when compared to the comparable cities. Moreover, they point out that various other units in public employment in and around Madison have settled for higher increases than even the Union offer. For instance, they note Madison School District Administrators, 5.1% wage increase; Madison School District Teachers (MTI), 5.5% wage increase; Madison Area Technical College, 5.5% wage increase; Sun Prairie Teachers, 7.5% wage and benefit increase.

## 2. The City

The City first emphasizes that simply looking at biweekly, monthly or annual base wage comparisons fails to consider pay received for hours worked. A better, more realistic comparison of compensation received can be made by examining the wages paid per hour worked. A Madison firefighter works only 48 hours per week, 7.1% less than the 55.1 hour average. Moreover, the 48-hour work week is unique to Madison. In terms of the 1983 hourly wage rate, Madison firefighters are paid \$0.94 or 11.4% above the average hourly wage rate and they rank third among the comparables. They show that under the City's final offer, a Madison firefighter would continue to receive an hourly wage rate greater than the average among comparables and the 1983 ranking, among comparables which have settled for 1984, would be maintained.

The City also explains the discrepancy in their educational incentive data and the Union's challenge to their costing. In developing the financial data regarding educational incentive, the City relied upon a payroll computer printout dated October 19, 1983 which incorporated the 5% supplemental pay for paramedics into educational incentive pay rather than showing such supplemental pay separately or as part of base wages. Thus, the 11%, 14%, 17%, 20%, 21%, 23% and 27% figures shown on City Exhibit No. 39 each include the 5% paramedic pay. When these figures are corrected by subtracting the 5% paramedic pay, an accurate representation of the compensation costs associated with educational incentive pay can be seen. Thus, a comparison of the original amount of compensation attributable to educational incentive pay was incorrectly inflated by \$99,599 due to paramedic supplemental pay. However, while it is correct to remove said pay from the educational incentive figure, this \$99,599 must necessarily be added to the amount shown on City Exhibits Nos. 5 and 6 for annual base wages. City Exhibit Nos. 5 and 6 were revised to show the correct cost associated with educational incentive pay, the proper placement of the \$99,599 paramedic pay under annual base wages and the use of payroll records which coincide with the point in time used by the Union, i.e., 12/18/83. They note that in spite of the revisions made, the Parties differ by only \$3,072 in their calculation of the difference in wages between the Parties' final offers, i.e., \$199,557 versus \$195,855. They offer an explanation for this small difference.

With respect to former Mayor Festge's testimony, they contend the Union's allegations concerning educational incentive were raised in 1976 and rejected by Arbitrator Zeidler. Furthermore, in the 1978 interest arbitration proceedings involving the Madison Professional Police Officers Association, Arbitrator Kerkman accepted educational incentive pay as proper for inclusion into wage comparisons. In this context, they emphasize total compensation must be considered, not just wages.

The City next questions the Union's use of annualized wage increases in their comparisons along with some of their methodology. For instance, the City suggests that upon closer scrutiny of the Union's data, one finds that the Union is really comparing its "annualized" salary offer with the actual base wage

rate in certain other comparable cities. One example given relates to the 1983 salary rates shown for West Allis and Kenosha. They are annualized rates but the 1984 salary rates shown are base wage rates. Thus, the Union has artificially inflated the percent increases shown by comparing the annualized wage with base wage from one year to the next. Further, they question the Union's selection of comparable cities.

The City also emphasizes the impact of the lift in the Union offer. In the City's opinion, the fallacy in the Union's emphasis on annualized versus base wage increase becomes apparent if one were to design a final offer that provided for no increase until the last pay period of the year at which time base wage rates were to be increased by 20%. The Union would argue that the Arbitrator should judge its final offer versus that of the City on its annualized salary rate which in this case would be only a fraction of a percentage higher than the old salary rate. Yet no one could ignore the impact of the 20% lift in base wage rates when comparing the Union's final offer with the increases granted in comparable cities and with the increase in the CPI.

The City also notes the Union criticizes the City's final offer of 1% base wage increase for 1984 as falling short of the 3.8% increase in the CPI from December, 1982 to December, 1983. Yet the Union attempts to justify its offer by reference to its annualized increase of 3.8%. The City believes the base wage rate, not annualized figures, are appropriate for comparison to the CPI. They submit the Union's final offer of a 5.6% increase in basic wage is substantially above the 3.8% increase in the CPI and wholly without justification.

With respect to the "status quo" on health insurance, the City states that the status quo is dictated not by what occurred in 1983, but in the preceding 13 years. Moreover, the Union's allegation that it merely seeks to preserve the status quo is further contradicted by the language it has proposed for Article XXI, HEALTH INSURANCE. Rather than specifying the dollar amount to be contributed by the City as has been the practice in the past, the Union seeks to eliminate any reference to a specific dollar contribution. This attempt represents a dramatic departure from the status quo. In addition, they are of the opinion that the Union's allegation that there was "sacrifice in benefit level" when employees switched from WPS-HMP to the HMO's is without merit. A careful examination of Union Exhibit 16 will show that with regard to at least 16 services, the HMO's offer better coverage than WPS-HMP.

The City also responds to the Union contention that their duties have increased. In support of its case, the Union offered Exhibit No. 76 allegedly reflecting productivity increases in areas of rescue and fire suppression. Close examination of Exhibit 76 suggests a contrary point of view. They present an exhibit which shows that for 1981, 1982, and 1983 hours per person for suppression are on the decline.

The City draws attention to the fact that the Union has ignored entirely the significance of the fact that the City's final offer includes apparatus pay of \$.10 per hour for firefighters who drive an engine, aerial or rescue squad. This represents, on the average, an additional \$124 per year increased earnings in 1984 for firefighters, i.e., a .54% increase over the firefighter's 1983 wage rate. The Union has also chosen to ignore the fact that the City has agreed to provide an additional holiday in 1984, i.e., the day after Thanksgiving, at a cost to the City of \$37,692. In addition they note the Union also has chosen to ignore the significance of the City's offer of a 4% wage increase for 1985. Based on current economic projections, a 4% wage increase for 1985 may very well exceed the anticipated rise in the consumer price index. It is also significant to note that the City's final offer constitutes an average annual base wage increase of 2.52%. In



connection, they believe, because inflation is much lower, the Union's citations of cases giving less weight to multiple year proposals is misplaced.

The Union also suggests they need not follow the pattern because they are the strongest union. The City challenges this. They suggest this contention is not supported by the evidence submitted. While acknowledging that the Union has generally been the first to settle, the City does not believe that the first union to settle is by that fact alone the most powerful. By another measurement of strength, i.e., size, the Union is not as large as the City's largest union AFSCME Local 60 and in the eyes of most people, a police union would be considered equal in political and economic strength when compared to a fire union. And, in the opinion of the City, expression of a willingness to consider a strike, if not for the availability of arbitration, cannot be translated into a measure of strength. The City believes too that Arbitrator Rice's award, when read in context, actually supports the Employer's offer. Further, the Union's allegations that AFSCME Local 60 was willing to trade for a smaller wage adjustment and retain their bumping provisions is completely unfounded. Absolutely no evidence was introduced at the hearing to support such an allegation. The Union's references to extenuating circumstances for MPPOA and public health nurses are equally unfounded and without supporting evidence. In fact, the testimony of Mr. Duchack that other unions accepted the wage pattern due to the granting of an additional holiday stands uncontroverted.

With respect to other public sector increases, they direct attention to the fact that Arbitrator F. Zeidler selected the final offer of the Employer in Decision No. 32554 July 30, 1984, Dane County Joint Council of Union, AFSCME Local 60 v. Dane County. Madison is located within the County of Dane and the union is the largest county union representing some 750 employees. The award, which was for a term of one year, provides for a 1% wage increase for the calendar year 1984.

The City, with some detail, also rebuts the Union's allegation that the amounts shown in City Exhibit No. 59 are not accurate and do not agree with the City's financial statements. The amounts are not "at odds with the Annual Financial Reports" and are definitely not "significantly understated" as alleged by the Union. It is apparent to the City from the comments made on page 34 of the Union's brief that the Union does not understand the significance of budgeted to actual data. The Union's comments that, "As a result, not only have the budget realizations been considerably better than anticipated, but the revenues have also actually exceeded expenditures in five years of the last eight (UX-96). This has allowed the City to increase its cash reserve in these years." This statement reflects ignorance of the City's budgetary process. It is the City's practice to apply any cash reserves in excess of needs to the subsequent year's budget. This is the only way in which the City can budget expenditures in excess of expected revenues. Utilizing the data in Union Exhibit No. 96, one sees that the negative results from years 1982 and 1983 more than offset all of the gains from 1977 through 1981. The fact of the matter is that the City's relative cash reserves at the end of 1983 were at their lowest point in recent years.

## V. DISCUSSION AND FINDINGS

### A. Preliminary Issues

There are two preliminary issues which must be resolved before moving forward with more detailed analysis of the offers. The Parties are in disagreement over the cities which should be used as external comparables and are in disagreement over the costing of the final offers. These issues will be resolved first.



## 1. External Comparables

The Union proposes to use as comparables a group comprised of the cities used in the 1976 arbitration plus Waukesha and Janesville. The Employer also utilizes Waukesha and Janesville but they also utilize Eau Claire and Appleton, which were not part of the 1976 arbitration. The City uses all the 1976 cities with the exception of Wauwatosa. Thus, the Parties are in agreement on all the cities to be used as comparables except Eau Claire, Appleton, and Wauwatosa.

It is the finding of the Arbitrator that Wauwatosa but not Eau Claire and Appleton should be included in the comparable group along with Janesville, Waukesha, Milwaukee, Green Bay, Racine, Kenosha, and West Allis. This corresponds to the comparable group proposed by the Union. The Arbitrator believes that Wauwatosa should be included because it was included in the 1976 arbitration and there is insufficient reason put forth in the record not to include it.

Similarly, the Arbitrator finds no compelling reason to include Eau Claire and Appleton. First, there is a sufficient group for comparison purposes found in the 1976 group plus Janesville and Waukesha, which both Parties agree are comparable. Second, arbitrators should be reluctant to expand on a traditional comparable group unless necessary because to do so would only encourage the Parties to "shop" for comparables most fitting to their purposes. On the other hand, if arbitrators endorse the use of traditional comparables, more effective bargaining may occur because both parties will go to the bargaining table with the same measuring stick of reasonableness based on external comparables. Third, at the time of the hearing, there was no settlement for 1984 in Eau Claire and Appleton, therefore their usefulness is limited.

## 2. Costing

There are quite divergent and varying claims by both Parties as to the economic value of their proposals. For instance, the City, on page 1 of their brief, says that their 1984 proposal results in a total wage and benefit increase of 3.4% over 1983 and their 1985 proposal results in a total wage and benefit increase of 7.8% over 1984. The Union challenges this on page 2 of their rebuttal brief misinterpreting the City's remarks to mean the Union's 1984 proposal was worth 7.8%. They suggest the increases are 2.00% and 4.57% for 1984 for the City and Union respectively. However, the Union earlier in their rebuttal brief submits that based on tables I, II, and III of their principal brief that "the overall compensation" is 4.52%-4.58% under the Union offer and 1.58%-1.67% under the Employer offer. This is based on the comparison of the overall compensation of a firefighter and lieutenant with 20 years of experience.

The waters are muddied even further because the City, in their rebuttal brief, offers a "corrected" costing exhibit. This was done partly in response to the Union's questioning of the City's educational incentive data. The City states in their rebuttal brief that their educational pay figures inadvertently included a 5% supplemental pay increase for paramedics, thus, the City's payout for educational incentive was inflated by \$99,599. Thus, while they take the \$99,599 out of the educational incentive category, they add it back into the base wages.

In any event, the Arbitrator finds the general methodology of the Employer most appropriate; that is to list the City's cost for the various wage and benefit categories in 1983, totalling their cost and projecting the cost based on the final offers for 1984 and then calculating the difference and determining the percentage increase by dividing the 1983 total. This methodology was endorsed by Arbitrator Zeidler in the 1976 arbitration. The problem, however, with the Employer's costing, is that their calculation of the percentage increase is simply incorrect. Whether one utilizes the

corrected figures or the original figures in Employer Exhibits 5, 6, and 7, the percentage increases are virtually the same. For instance, the total 1983 cost to the City for wages and benefits according to Exhibit 5, was \$10,210,398 (the figure the Union contends is correct in their reply brief). The City projects their cost in 1984 under their offer would be \$10,414,504 or a difference of \$204,106. This represents a 1.999% (2.0% rounded) increase over the 1983 cost. This is the correct estimate not the 3.4% stated in their brief and in Exhibit 6. The cost of the Union's 1984 package is costed at \$10,677,098 or an increase of \$466,700 which is 4.5%. With respect to the value of the Employer's 1985 offer, the correct 1984 base is \$10,414,505 which would increase to a total of \$10,880,131 for wages and benefits in 1985 under the Employer offer. This is a difference of \$465,627 or a 4.4% increase, not the 7.8% claimed by the Employer. Accordingly, the costing is summarized below:

	<u>Wages Only</u>		<u>Total Package</u>	
	<u>1984</u>	<u>1985</u>	<u>1984</u>	<u>1985</u>
Employer	1%	4%	2.0%	4.47%
Union	2.5% (12/18/83) 3.0% (7/15/84)	Reopener	4.57%	Reopener
	-----			
	3.8% Annualized			
	5.575% Lift on the year end rate			

#### B. Wages

The most striking thing about this case is that the Employer's offer on wages and insurance is consistent with the agreements reached with the vast majority of the other internal bargaining units including the police. City Exhibit No. 11 lists the City of Madison bargaining units and the number of employees in each one as follows:

#### CITY OF MADISON EMPLOYEE BARGAINING UNITS - 1984

<u>Bargaining Unit</u>	<u>Number of Fulltime Equivalent Employees</u>
AFSCME Local 60 General/Clerical Unit	542
AFSCME Local 60 Professional Social Workers Unit	22
AFSCME Local 60 Professional Librarians Unit	19
AFSCME Local 60 Non-Professional Library Unit	53
Madison Professional Police Officers Association	271
I.A.F.F. Local 311	253
L.I.U.N.A. Local 236	215
United Professionals for Quality Health Care	15
Association of Madison Police Supervisors	27
Association of Madison Fire Supervisors	10
Teamsters Local 695 - Mass Transit Unit	255
Teamsters Local 695 - Elderly/Handicapped Unit	9
TOTAL NUMBER OF F.T.E. EMPLOYEES REPRESENTED	----- 1691

City Exhibit 12 indicates that 1% and 4% wage increases were agreed to by eight of the above units. Exhibit 13 indicates that Teamsters Local 695 - Mass Transit Unit have a labor agreement for the period of July 15, 1983 through July 14, 1986. The exhibit also indicates that the Mass Transit Unit settled for zero percent in 1983 with a reopener for wages in 1984 and 1985. Thus, these exhibits mean that the only unsettled units at the time of this arbitration are the Non-Professional Library Unit (AFSCME Local 60), Teamsters Local 695 - Elderly/Handicapped Unit, and the Firefighters. These exhibits also indicate that nine of twelve bargaining units in the City of Madison settled for wages for the same or less than the City's offer to the firefighters. In terms of insurance, the City's offer is also consistent with the settlement with the other units.

The Arbitrator believes the fact that the City's offer is consistent with its wage and insurance settlement with 9 of 12 other bargaining units representing 1376 or 81% of its employees is quite significant. It is significant for a variety of reasons.

First, it is significant because generally arbitrators, where a pattern exists among internal bargaining units, often give controlling weight to such settlements. This approach is based on a concern for equitable treatment of employees, the negative effect on morale that divergent settlements would have, and the bargaining instability that would result in the face of such a pattern when an arbitrator would award something to one unit that others were unable to secure voluntarily.

Arbitrators have also put special emphasis on the historical relationship--where a consistent one has been established--between increases in base wage rates for firefighters and those for police.

This approach is not unknown to the Parties. In the 1976 arbitration between the Parties, Arbitrator Zeidler stated that the relationship between police and firefighters as an internal comparable was especially significant. In fact, it was a "key" or crucial issue in that award. It was stated:

"The key question, then, is should the historic patterns of internal relationships on base wages shown by the city to exist between the Fire Fighters and the police officers, and in the basic pattern of settlements between the various organized employees be broken? The arbitrator is of the opinion that the public interest would be best served by maintaining the historic relationships on wage settlements inside the city employment. The Fire Fighters are at near parity with police officers which this arbitrator considers a most important factor in establishing equitable wage relationships.

"It is difficult to compare employees in the Fire Service with any other type of employees public or private except other employees in public safety. The hours of the two main categories of public employees in public safety, namely police officers and Fire Fighters are disparate, their shifts are disparate, and much of their work is disparate except for the element of hazard. Nevertheless it has been an historical pattern for local governments to attempt to compensate them at nearly the same levels. Since other measures of comparison of work are absent, this must serve as the best practical standard which has yet emerged. Since the city's offer maintains the historical relationships and also maintains a relationship close to what other city employees received, the weight of the argument lies within the city in its offer."

Also Arbitrator Johnson in 1974, in a case involving the City and the police, expressed a concern about the instability resulting from breaking an internal pattern. He stated:

"With respect to (h) I am troubled by the prospects of what the demands of other organized units of city employees would be now and in the future. There would be proposals for equal treatment for the current year or better treatment next year in order to catch up. Although the city has not made any argument with reference to its ability to pay for such an increase as contemplated by the Association's proposal, I fear that there would be a spiraling of the city's employee compensation costs."

Such an approach was expressed again in the context of an analysis of the final offers on health insurance by Arbitrator Kerkman in 1978. Again, this case also involved the police and the City. He stated:

"The Employer also cites Arbitrator Stern in Oshkosh Professional Policemen's Association, in which Arbitrator Stern held:

'The Arbitrator believes that the city offer is preferable to the Association offer for the following reasons. Where an employer has persuaded the other groups of employees with which it bargains to adopt a uniform contribution toward health insurance, a final remaining group should not be able to use the power of the arbitrator to achieve a result in bargaining that differs from that achieved by other groups unless there is good reason for such difference.'

"From the foregoing then, based on prior arbitration decisions as cited, as well as arbitral opinion generally, the undersigned concludes that the most appropriate comparison for hospital insurance contribution purposes is the method of contribution used for other employees of the same employer."

Elsewhere, it has also been held that internal settlements deserve special weight. Arbitrator Rauch stated:

"The city's proposal to retain the wage-rate relationship which has existed for many years between the employees represented by the Fire Fighters union and those represented by the Policemen's Association is, under the circumstances here involved, reasonable. In the opinion of this arbitrator, the collective bargaining process between the city of Kenosha and the bargaining agencies which represent various segments of its employees, and that process applied in other cities, must ultimately establish what constitutes an equitable relationship between the various functionaries of city government. This arbitrator recognizes that the agreements of other labor organizations with the city do not and should not govern the hopes of the Policemen's Association. However, he believes that, in performing his function in cases like this, he--as bargaining agencies, generally--must be concerned that equitable relationships are maintained between all of the employees and an employer.

"The results of the collective bargaining process with three other bargaining agencies suggest that those agencies not only acknowledged that the amount of the funds for increased wages and benefits in 1974 were limited (as here contended by the city), but also agreed with the police that the available funds should be divided as equally as possible in line with the relationship which then existed between the various classifications of city employees. Decision No. 12500-A, MIA-91, p.8.

and Arbitrator Fleischli stated:

"The Association is correct in its claim that comparisons

between law enforcement employees are generally more persuasive than comparisons to other employees. However, in this case a particularly difficult issue is presented because of the fact that all County bargaining units that have settled to date have agreed to accept a wage freeze for 1983. Added to this consideration is the fact that the Association's proposal would result in a situation where the majority of the members of the bargaining unit would be earning a higher salary than all other comparable groups, including Milwaukee police officers, in a year when all other County employees have been asked to and have agreed to accept a wage freeze." Decision No. 20562-A, MIA-756, p. 20.

The general significance of the internal pattern as a measure of reasonableness is underlined in this case by a long history of internal pattern bargaining. With respect to the history of patterned settlements, all City unions have received the same increase or substantially the same increase as far back as 1975. In 1972 and 1973, all City bargaining units received the same increase and in 1974, the police and Local 311 received 1% less than the other two organized units. With respect to the historical relationship between fire and police, their wage settlements have been identical between 1972 and 1983.

In the Arbitrator's opinion, the pattern of settlements set for 1984-85, viewed in the context of (1) the long history of voluntary settlements fitting to an internal bargaining unit pattern; (2) general arbitral thought on internal settlements; (3) arbitral thought expressed within the City before on the importance of the pattern; and (4) Arbitrator Zeidler's special emphasis on the relationship between police and firefighters is so significant, that it can be said to have established a prima facie case in favor of the Employer's offer, which is consistent with the internal pattern. Thus, the burden has shifted to the Union. This is not to suggest that the existence of an internal pattern standing alone establishes a prima facie case for the Employer. The pattern in this case deserves such significant weight because of a combination of all the unique factors enumerated above. Accordingly, the proper focus of this case, in view of the pattern, is to query as to whether the Union has justified why they should receive a greater wage increase in 1984 than all other employees, especially police and why they should have the opportunity to negotiate again in 1985 as opposed to a 4% increase. Thus, the critical question is has the Union justified they deserve or need more of an increase than other employees and does their proposal reasonably address that need.

While the internal pattern is important, it is not per se, controlling. Simply put, the internal pattern is not a "sacred cow." It seems the City would have the Arbitrator blindly adopt the pattern. However, in spite of the importance of a pattern, each unit is deserving of consideration based on the individual facts and circumstances of their case. Arbitrators have in many instances found that an internal pattern must give way to the merits of an individual unit's situation. Arbitrators have either justified breaking an internal pattern or alluded to situations in which they would break the pattern. Arbitrator Stern, quoted by Arbitrator Kerkman, stated that the pattern would prevail unless there was "a good reason" for such a difference. Arbitrator Kerkman, supra, while endorsing internal comparisons and endorsing Arbitrator Stern's dictum, went on to say:

"As stated above, the undersigned is of the opinion that comparisons with other employees of the Employer should control in the matters of fringe benefits, unless it is shown that the employees are entitled to a wage increase by reason of a disadvantageous position when compared to other police officers in comparable communities. Since this record establishes, to the satisfaction of the undersigned, that no wage disadvantage is involved herein, it

follows that the final offer of the Employer, with respect to health insurance is preferred. If the Association had proposed a lower wage increase which would have offset the cost of the added health insurance contribution, their case would have been more persuasive.

Thus, Arbitrator Kerkman was suggesting that one reason to break the pattern is if there, relative to external employers, is a significant wage disadvantage. This Arbitrator would add that where there is a disadvantage relative to external comparables and there is evidence that there is a pervasive internal pattern of acceptance of a substandard wage increase, another important consideration involved would be whether the instant unit is disadvantaged to any greater degree than the other units which settled within that substandard pattern.

The Arbitrator will therefore proceed by analyzing and considering the Union's arguments as to why the internal pattern should not prevail and why their proposal is more reasonable.

#### External Comparables

(Wage Increases, Wage Levels, and Total Compensation)

The main thrust of the Union's case relates to comparisons to external employers. Generally they argue that their offer results in wage increases consistent with those in the external comparables and results in wage levels which preserve their position in the comparables. They contend that their offer is especially most reasonable when it is considered that the Employer's offer yields an increase less than that received in the external comparables and results in erosion in their relative position.

The Arbitrator has reviewed the Union's evidence and accepts that compared to the settlements in the external comparables, the Union's offer is most consistent and that acceptance of the City's offer would result in erosion of their wage levels.

The following depicts a comparison of the increases in the comparable group and those which would occur under each offer on a biweekly basis:

Table I

Actual Increases\* 1983 to 1984

	<u>1983</u>	<u>1984</u>	<u>\$ Increase</u>	<u>% Increase</u>
Comparable Average	\$927.11	\$962.15*	\$35.04	3.78%
Madison	\$878.46			
City		\$887.24	\$8.78	1.00%
Union		\$911.85*	\$33.39	3.80%

\*Annualized

The erosion resulting from the Employer's offer and the fact that the Union's proposal, which included a lift to preserve their position, is illustrated in the following table at the top fire-fighter benchmark:

TABLE II

Historical Wage Levels for Top Firefighter

	1980	1981	1982	1983*	1984**
Comparable Average	\$692.07	\$771.87	\$868.17	\$927.11	\$963.14
Madison City	\$647.67	\$747.78	\$820.84	\$878.46	\$887.24
Union					\$927.43
\$ Difference City	-17.40	-24.09	-47.33	-48.65	-75.90
Union					-35.71
Ratio City	.97	.97	.95	.95	.92
Union					.96

\* 1980-1983 data from Union Exhibit 67

\*\* 1984 data uses ending rate from Union Exhibit 67C and used only data for those cities settled

This data on external wage increases and external wage levels does weigh in favor of the Union. Significant erosion of a bargaining unit's position relative to the external comparables as the result of adherence to an internal pattern is a strong argument against application of the pattern.

However, the Employer argues that the wage rates must be viewed as part of a total compensation package which compares favorably with the external comparables. The Association argues just the opposite. They argue that the Union's offer compares most favorably on the basis of overall compensation.

These divergent claims on total compensation are a function of the Parties' disagreement whether educational incentive payments should be used in comparisons. The Union's argument, in this respect, rests on the testimony of former Mayor Festge. They also suggest that Arbitrator Zeidler's decision in 1976 to include educational incentive payments in comparisons to external comparables is not controlling because he did not have the benefit of Festge's testimony.

With respect to the question of the inclusion of educational incentives in comparisons, it should be first stated that Arbitrator Zeidler did consider testimony by Festge in 1976 which was substantially similar to his testimony in the instant case. In the award, Arbitrator Zeidler quoted a letter from Festge which is quite similar to Union Exhibit 103 in this case. Arbitrator Zeidler stated:

"However, the arbitrator for the record must assert that education incentive can not be barred from future consideration even though there is a Union contention that there was a City agreement not to reckon this in future negotiations. Unless a written evidence of contract is in existence, it would seem that past councils can not bind future city councils in wage negotiations."

This Arbitrator agrees that Festge's testimony can not bar consideration of educational incentive payments. Moreover, he

agrees that educational incentive payments must be considered as part of the total compensation package for comparison purposes. To disregard such a significant portion of compensation would be wholly contrary to the statutory criteria.

Returning to the question of whether total compensation comparisons favor the Union's position or the City's position, the Arbitrator concludes, based on an analysis of the available total compensation data, including longevity, health insurance, dental insurance, and educational incentive payments, that the City's offer results in a total compensation package which exceeds the comparable average.

When the data is analyzed for a firefighter with 15 years of experience in Madison versus the comparables, it is concluded that his total compensation exceeds that of the average comparable by approximately \$128 per month, or 5.4% under the Employer offer and under the Union offer, would exceed the comparable total compensation average by approximately \$200 per month or 8.4%. This conclusion was based on an analysis which basically added in educational incentive payments into the Union's total compensation data. The Arbitrator took the Union's total compensation figures for a top firefighter with 15 years service from Union Exhibit 77 and added in an appropriate educational incentive payment. According to Employer Exhibit 37, the cities of Milwaukee, Janesville, Waukesha, and West Allis have no educational incentive program. Green Bay has a tuition reimbursement program with no wage incentive bonus. Only Kenosha and Racine have an educational incentive program. The exhibit also indicates that an employee with an associate degree receives \$420 a year bonus in Kenosha. In Racine, an associate degree qualifies an employee for an 8% bonus above their base salary. The Employer, in their exhibits, used for the purposes of comparison a 12% incentive bonus because the average employee, according to their data, has 85 credits or an associate degree, thus qualifying them for a 12% bonus. The Employer noted too that 80.6% of all firefighters receive at least a 9.0% payment (45 points) and that 56.9% of the employees receive at least 12% of their base wages in incentive payments. Moreover, the strict average of incentive payments on a unit wide basis was 10.9%. In view of the foregoing, the Arbitrator recalculated data in Union Exhibit 77 to include educational incentive payments in Kenosha, Racine, and Madison. A flat dollar figure of \$420 a year pro rated on a monthly basis was used in Kenosha, a figure equivalent to 8% times monthly rate for Racine was used, and a 12% figure was used for Madison. It is noted that no data was provided by the Union for wage rates in Racine in 1984. Table III shows the result of these calculations.

Table III

Historical Comparison of Total Compensation

	<u>1981</u>	<u>1982</u>	<u>1983*</u>	<u>1984*</u>
Average**	\$1861	\$2105	\$2252	\$2362
Madison	\$2065	\$2301	\$2451	
City				\$2490 (+128)
Union				\$2562 (+200)

\* Assuming the Union wins in Waukesha

\*\* Not including Madison



A closer review of Table III shows that when the average educational incentive payment is included along with longevity, health insurance, and dental insurance, a 15 year firefighter in Madison has always received a substantially greater total compensation package than the average and would continue to do so in 1984. Racine is potentially the only city which would exceed it in 1984 depending on the outcome of the arbitration case in that city. In fact Racine is the only city ever to offer a greater total compensation package than Madison. Moreover, it is noted that while the positive total compensation differential was lessened under the Employer's offer, it still exceeds the average by a quite healthy and substantial margin. While base wages are low in Madison, relative to the external comparables, and while they would erode even further, Madison firefighters enjoy the educational incentive program and a relatively healthy longevity program. This more than makes up for the difference in their low wages. For instance, the longevity payment for a 15-year firefighter under the Employer's offer would be \$173.01 and \$177.83 per month under the Union offer. The second highest longevity payment in the comparables was \$114.72 per month for 1984 in the city of Janesville and the next highest is only \$30 per month in Waukesha and West Allis. The average longevity payment is \$34.53 per month. The educational pay of 12% results in a \$230 per month payment under the Employer's offer and a \$273 per month payment under the Union offer. Even in taking the more conservative 10.9% unit wide average for educational incentives, it is seen that the educational incentive payment is quite healthy and contributes to the Madison firefighters still being in a leadership position on a total compensation basis. On the other hand, it should be recognized that the educational incentive bonus isn't earned without a great deal of commitment in terms of time and energy on the employee's part. Nor should it be ignored that the Employer benefits from having better educated employees on its staff.

The Union's strongest argument in its attempt to justify wage increases is the external wage comparisons, but as can be seen from the above analysis, the wage rate erosion which occurs under the Employer's offer is tempered or offset significantly by a total compensation package which still exceeds the comparable average and exceeds all the individual cities but perhaps Racine. While wage rates under the Employer offer for a firefighter would fall to 92% of the average or 8% less, that same firefighter with 85 points under the educational incentive program, on the average would earn approximately 12% more in educational incentive and 9% more in longevity. Very few of the comparable employees have an educational incentive program and only Janesville has a longevity program or package which even approaches Madison's. As mentioned before, the Madison firefighter with 15 years of experience and the average number of educational credits will still be in a leadership position in terms of total compensation.

The Arbitrator also believes it to be appropriate to consider that other internal bargaining units have in most probability suffered the same kind of erosion that the firefighters will experience under the Employer's offer. For instance, there is data in the record which shows the police also suffered an identical erosion falling from .97% of the average of 1983 to .91% of the average. Based on the Union's calculation, under the Employer's offer the firefighter would fall from .98% of the average to .92% of the average. It is clear that the City has asked all of its employees, including the police--on which Arbitrator Zeidler placed special emphasis--to make a sacrifice based on external comparables.

#### Greater Quid Pro Quo For Other Internal Units

The Union also argues that the internal pattern should not prevail because the other units received other quid pro quos which

they have not been offered, which justify their receiving a greater wage settlement. In this respect, it could be argued that no real pattern exists or expressed in another way, the firefighters are being asked to sacrifice more because the other unions got more than the Employer is offering here.

The Union points to the increase in the accumulation of unused sick leave from 150 days to 163 days and the payment of health insurance for police retirees beginning at age 50 to age 55. They emphasize the latter was an important quid pro quo. They also point to the retention of bumping rights for AFSCME Local 60 and a reclassification for public health nurses in the United Professional Local.

With respect to the United Professional reclassification, it is noted that the reclassification only relates to a fraction of a relatively small bargaining unit and moreover, it doesn't take effect until February, 1986, after the expiration of the Employer's wage proposal. This seems to diminish the argument that there is a substantial difference in the United Professional settlement. In respect to the Local 60 settlement, they did not gain any bumping rights, they only retained the status quo; thus, they didn't gain any additional job security provisions. The only thing they gained was an extra paid holiday which has also been granted to other units and the firefighters.

With respect to the sick leave accumulation for police, it is viewed as rather insignificant. More troublesome is the agreement with the police to pay the cost of health insurance until age 55 for an employee who retires at age 50. This, as the Union points out, is an unusual and uncommon benefit. However, its value as a quid pro quo is diminished for several reasons. While it is a significant benefit for the Union, it also produces an opportunity for significant cost savings for the Employer. The City, by granting this incentive to retire at age 50, is able to replace that employee at a much lower wage rate or even perhaps eliminate the position by attrition. They can replace the retiring employee with a new employee at a lower rate. For instance, the maximum health insurance contribution would be \$164.80 per month, but under the 1984 wage schedule, the retiring employee, if at the maximum, would be earning \$925.59 on a biweekly basis to be replaced by an employee beginning at step one with a biweekly rate of \$775.39 or \$150 biweekly or approximately \$300 per month. This does not include reductions in longevity payments or educational incentive payments which apply to police as well.

Thus, the value of this benefit for police as a quid pro quo is not as great as argued by the Union. Moreover, it must be compared to the Employer's proposal on apparatus pay. This generates \$124 per year per affected employee. However, even considering the diminished value of the police health insurance benefit and the apparatus pay, it must be concluded that the Police did leave the table to some degree with a better package than the City has offered the Firefighters.

#### Increased Duties and Responsibilities

The Union presented evidence that firefighters have had increased responsibilities and duties. Assistant Chief Wilcox, called to testify adversely, admitted the average firefighter is doing more now than he did ten years ago. These duties related to emergency medical services, apprenticeship training, enhancement of arson investigation, public information on fire safety, fire inspections, minimum performance standards, and lake rescue.

It would difficult to say that the Madison firefighters do not do more than their counterparts in other cities. In fact it is clear that they are one of the best fire departments in the entire country. However, while they do more for their money, and while

those duties have increased in the past years, it cannot be ignored that they work fewer hours for their biweekly pay checks than employees in comparable employment. Employer exhibits show that firefighters in all but Milwaukee and West Allis (there is no data available for Racine) work 56 hours per week, while those in Milwaukee and West Allis work 52.3 hours per week compared to the 48 hours per week the firefighters in Madison work. While the Arbitrator does not believe that the Employer's hourly wage rate analysis should be relied upon in the analysis of the wage rate issue, the number of hours in the basic work week can not be ignored. When the number of hours of work is considered it tends to offset any justification for breaking the pattern on increased duties.

### The City's Financial Difficulties

The Association also questions the accuracy of data put forth by the City to substantiate their financial difficulties. They also cite cases where arbitrators have found comparative wage rates to be worthy of greater weight than an employer's argument concerning the financial difficulty of meeting a union offer. They also argue that the Employer has the financial ability to meet the Union offer.

While the Arbitrator has no quarrel with the decisions cited by the Union, they seem to be distinguished at least on the basis that they apparently did not involve consideration of a widespread historically based internal pattern. They are also distinguished in respect that an arbitrator (Arbitrator Zeidler) has previously put special emphasis on the historical relationship between the police as an internal unit and the firemen. Further, it is noted that in a strict sense, the City isn't arguing an inability to pay. They are arguing that they are having financial difficulties which would make meeting the Union's offer difficult. They are not saying it is impossible to meet the Union's offer but are saying instead that it would be a "strain" or an additional burden on the taxpayers.

The competing arguments in this respect are difficult to deal with. However, one thing above all the financial analysis which stands clear is that the City's concerns over financial difficulties were subject to the rigors of negotiations at the bargaining table with nine other bargaining units. Eight of these units were persuaded in the course of collective bargaining that the Employer's financial difficulties were valid enough to justify, at least in part, acceptance of the 1% and 4% package offered by the Employer. This collective acknowledgement on the part of other unions is strongly indicative of a legitimate concern for the City's financial situation and the public welfare.

### Health Insurance

The Union argues that their offer maintains the status quo, while on the other hand, the City's offer lets the City out of "buyout" commitment that they made in the last round of negotiations. Under the contract previous to 1983, the City was obligated to provide 90% of the premium for health insurance under the WPS Health Maintenance Program. In negotiations for the 1983 agreement, the Employer agreed to pay, as expressed as a dollar amount, an amount which was then equivalent to the "full cost" of the two lowest carriers. The Union points out this limited the choice a family had concerning where they would receive their health care because virtually all physicians participated in the WPS plan.

The Employer's offer for 1984 expressed as a dollar amount the contribution the City will make for four different plans plus the same amount toward Blue Cross/Blue Shield and in 1985, they offer to pay a dollar amount equivalent to the lowest carrier to the same

health care providers. Thus, previously an employee could select two plans without cost to themselves, now under the Employer's offer, the employee can only select one plan without cost. In the Union's opinion, the difference in paying only the lowest cost instead of the two lowest costs reneges on a previous quid pro quo. However, the Employer points out that the Union proposal is not status quo in the sense that it would require the Employer to pay the "full cost" of health insurance as opposed to specifying a dollar amount. In their opinion, if the Union prevailed it would mean that the Parties would no longer by virtue of the terms of the agreement be required to negotiate over the dollar amount to be contributed by the City toward health insurance. They believe the Union's final offer would be self-operative and would require from year to year that the City automatically contribute an amount equal to the premium of the second lowest health insurance carrier.

After reviewing the arguments on health insurance, the Arbitrator concludes that regardless of whose offer on health insurance is preferred, it will not be determinative of the case as a whole. The wage issue deserves much more weight than the health insurance issue. This is because when the smoke is cleared the differences in the offers on health insurance are diminutive compared to the differences in wages. The essential difference is that under the Employer's offer, the employee would lose the opportunity to choose a health care plan at a rate equivalent to the second lowest bidder. In 1983, this difference was \$3.79 per month for single coverage and \$2.26 per month for family coverage. In view of this relatively minor difference, the preferred offer on wages will carry with it the health insurance issue.

#### Cost of Living

The Union is correct in its assessment that their offer on wages is more consistent in 1984 with the COLA data and the COLA factor. The cost of the Union's package is 4.9% in 1984 and the Employer's is 2.0%. The appropriate CPI index rose from approximately 3.8% from December 1982 to December 1983. Therefore, the Employer's offer is short of the COLA increase by 1.8% while the Union's offer only exceeds it by .77%. This operates in favor of the Union's position.

#### Pacesetting/Lockstep Bargaining

The Union argues that the internal pattern should not apply because they have traditionally been a "lighthouse" unit and that other bargaining units have been followers. This equates to the "tail wagging the dog." In view of their strength measured in a variety of terms, they believe that the internal comparisons with weaker unions are invalid. Again they cite Arbitrator Rice's decision in International Brotherhood of Electrical Workers Local 494 versus the City of Milwaukee, Decision 17143-A. They also argue that the City's attempt to force a pattern on them "negates agreements made in the free collective bargaining process."

In principle the Union's arguments are valid. However, they are not entirely applicable to the instant case. This, in view of the widespread settlements, is not a case of the "tail wagging the dog." If there were only one or two settlements with small and less powerful units, such would be the case. However, nine of twelve units covering the vast majority of employees have settled. Moreover, AFSCME Local 60 and the Police Union--on which Arbitrator Zeidler placed special emphasis in terms of comparison--are not exactly weaklings in terms of strength. The Arbitrator is appreciative of the feeling expressed by the Union that the pattern limits free collective bargaining and that the Employer is locked into its offer forcing it down their throats. However, to a certain extent, this is due to the nature of collective bargaining in which the parties on both sides of the table use patterns of

various sorts to measure the reasonableness of their offers. There is nothing per se wrong to sticking to the pattern one feels most indicative of the reasonableness of their offer. The Union's problem isn't so much with pattern bargaining based on internal comparables but with who sets the pattern. In the past they have often settled first setting the pattern but only after seeking assurances that the City would not settle for more with other unions. The Union is certainly entitled to be given consideration based on the individual facts and circumstances of their case and where those circumstances vary greatly, the pattern must give way. However, for reasons set forth herein, the distinctions between the Union and other units is minimal.

#### Considerations of the Union's Arguments as a Whole

When the Union's arguments are considered as a whole and weighed against the arguments of the City, the Arbitrator cannot conclude that they have justified their case for breaking the internal pattern.

The Union established that their offer is most consistent with annual increases received in the comparables, and that their offer was most consistent with wage levels in the comparables. They also established that acceptance of the Employer's offer for 1984 would result in erosion of their relative external wage position. This definitely weighs in favor of the Association offer.

While in 1984, the external pattern based on wage increases and wage levels favors the Association, the Employer's offer results in a total compensation package including educational incentive and longevity payments that still exceeds the external comparables with the exception of one. It exceeds them by a not so insignificant margin. Thus, based on the total compensation factor, the Employer's offer is not unreasonable. As stated previously, this tends to mitigate against the main justification put forth by the Union to break the internal pattern. They also suggest that they have a greater need for wage increases greater than that in the external comparables because they have greater duties and greater productivity. However, this is offset by the fact that they work fewer number of hours than those firefighters in the comparable cities.

The idea that the internal pattern should be broken because of erosion in the external comparables is also tempered by the fact that other units have been asked and have accepted a substandard wage increase for 1984. Thus, to a reasonably comparable degree, they have suffered sacrifice as well. There are differences between the firefighters and other units in terms of duties, productivity, and negotiated quid pro quos especially for police. The fact the police did receive health insurance between age 50 and 55 does weigh in favor of the Union. However, the differences are not great enough to justify breaking the pattern. There is no reason to believe that the firefighters are being asked to sacrifice to any material degree any more than anyone else. Sacrifice in such situations should be borne as equally as possible. Thus, it is more difficult to justify an award for the Union when their circumstances are not substantially different from other units, especially the police, which as a comparison, deserves special emphasis according to previous dicta. Moreover, this is not a case of foisting a pattern of settlements by a weak union on a strong union.

The Union's offer is most consistent with the COLA criteria. This, however, does not carry as much weight as the internal wage comparisons.

The Employer's offer for 1985 is somewhat speculative. The Union argues in this case that this justifies breaking the pattern because further erosion could occur in 1985. The Employer argues,

on the other hand, that it is not likely that a 4% increase will be inconsistent with the external pattern. While the relative position of the Parties to the 1985 settlements is open to speculation, and while other arbitrators including this one has gone on record as being reluctant to accept two year settlements when there are no or few external comparisons available in the second year, this case is unique in that there is a comprehensive historically based internal pattern. The most important consideration accordingly, is that even at worst, if the 4% results in further erosion for the firefighters relative to the external comparables, it is likely that some of the same kind of erosion will be suffered by other units in 1985. For example, the erosion in 1984 between police and fire was proportionately almost identical. Thus, if there is erosion in 1985 for firefighters, it is likely to be proportionate to that experienced by police and other units and therefore equally shared.

Again, this returns the Arbitrator to a fundamental issue in this case, i.e. are the firefighters being asked to sacrifice more than the police or the other units? The answer, for reasons expressed above, on balance, is no. There is no question that acceptance of the Employer's offer especially for 1984 will be a hardship for firefighters and it is difficult to ignore that they will suffer wage rate erosion compared to other firefighters. However, it is no less of a hardship for most of the City's other employees. While the Union questions the financial woes of the City, it is clear that there was a collective wisdom expressed by nine other units including the police that the City's financial situation was bad enough to warrant, to a certain degree, some restraint in terms of wage increases and bad enough to justify acceptance of the Employer's wage offer. Adding this to the fact the Union still will enjoy a total compensation package which exceeds the external comparables, the Arbitrator holds for the Employer.

#### Summary

Acceptance of the Employer's offer will result in erosion in basic wage rates and will result in a basic wage increase less than that enjoyed by other firefighters. However, this does not deserve as much weight as a combination of two other considerations. First, the firefighters total compensation package still exceeds the comparable average of most cities, and second, there is no evidence to conclude that the firefighters will sacrifice more relative to external comparables than anyone else. Thus, the internal equity consideration weighs heavily in favor of the Employer.

#### VI. AWARD

The 1984-85 Collective Bargaining Agreement between the City of Madison and the International Association of Firefighters, Local 311 shall include the final offer of the City of Madison and the stipulations of agreement as submitted to the Wisconsin Employment Relations Commission.

Dated this 8<sup>th</sup> day of November, 1984, at Eau Claire, Wisconsin.

  
\_\_\_\_\_  
Gil Vernon, Mediator/Arbitrator

APPENDIX A

12/29/83 JAN 9 1984

CITY OF MADISON  
FINAL OFFER

WISCONSIN JOURNAL

1. WAGES: Increase all wage rates shown in Appendix D by 1% effective December 18, 1983 and by an additional 4% effective December 16, 1984.
2. HEALTH INSURANCE: Amend Article XXI to read as follows:
  - A. For the calendar year 1984, the City will contribute not more than \$60.59 toward the monthly premium for Compcare, GHC, DeanCare and Jackson Health single coverage.
  - B. For the calendar year 1984, the City will contribute not more than \$164.80 toward the monthly premium for Compcare, GHC, DeanCare and Jackson Health family coverage.
  - C. For the calendar year 1984, the City will contribute not more than \$164.80 per month toward family coverage and not more than \$60.59 per month toward single coverage of the Blue Cross-Blue Shield Standard or High Option plan. The High Level plan shall provide health insurance coverage as set forth in the document entitled "City of Madison Health Maintenance Program Benefits". It is the intent of this provision to continue those benefits which had uniformly and routinely been previously provided.
  - D. For calendar year 1985 the City agrees to contribute toward the monthly premium for family coverage or toward the monthly premium for single coverage a dollar amount equal to the appropriate premium rates of the lowest bidder among the health care providers specified in this Article.
  - E. The City shall continue health insurance premium contribution during periods of disability leave of absence without pay, not to exceed six (6) months. Void if the employee retires during such period.
3. APPARATUS PAY: Amend Article XI Pay Policy by adding the following provision:
  - K. Firefighters who are designated by the Employer for a full shift to drive an engine, aerial or the rescue squad shall be compensated at the rate of ten cents (10¢) per hour for each hour so assigned.
4. All tentative agreements as per attached list.



FIRE FIGHTERS LOCAL 311  
International Association of Fire Fighters  
821 Williamson Street  
Madison, Wisconsin 53703  
(608) 257-2030

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"B"

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

APPENDIX B

December 28, 1983  
FINAL OFFER

In addition to the continuance of the terms and conditions of all other provisions of the Labor Agreement between the City of Madison and FireFighters Local 311, which had as its duration December 19, 1982 to December 17, 1983, the following revisions and additions constitute the Final Offer of Local 311. All economic provisions shall commence December 18, 1983.

#### ARTICLE XI: PAY POLICY

##### A. Salary Schedule

Positions in the bargaining unit represented by Local 311 shall be compensated in accordance with the salary schedules, classifications and salary ranges designated in Appendix D.

Said wages as they appear in the 1982-1983 Labor Agreement (Addendum D) shall be increased by two and one-half percent (2.5%) effective December 18, 1983. Thereafter, the wages as adjusted effective December 18, 1983 shall be increased by an additional three percent (3%) effective July 15, 1984.

Wages for the period commencing December 16, 1984 shall be re-opened for negotiation, on or about October 15, 1984, with final offer resolution available to the parties in accordance with Wis. Stat. 111.77.

#### ARTICLE XXI: HEALTH INSURANCE

- A. ~~The City will contribute \$148.50 (currently the full cost) toward the monthly premium for GHO family coverage.~~
- B. ~~The City will contribute \$57.56 (currently the full cost) toward the monthly premium for GHO single coverage.~~
- C. ~~The City will contribute \$146.24 (currently the full cost) toward the monthly premium for Comp Care family coverage.~~
- D. ~~The City will contribute \$53.77 (currently the full cost) toward the monthly premium for Comp Care single coverage.~~
- E. ~~The City will contribute not more than \$148.50 per month toward family coverage and not more than \$57.56 per month toward single coverage of the Blue Cross Blue Shield Standard or High Level Plan. The High Level Plan shall provide health insurance coverage as set forth in the document entitled "City of Madison Health Maintenance Program Benefits". It is the intent of this provision~~



~~to continue those benefits which had uniformly and routinely been previously provided.~~

~~F. The City shall continue health insurance premium contribution during periods of disability leave of absence without pay, not to exceed six (6) months, -- Void if the employee retires during such period.~~

A. The City will contribute the full cost of the single or family health insurance plan, with such selection being at the option of the employee. However, in no case shall the City contribute more than the premium of the second lowest health insurance carrier or HMO, available to members of this collective bargaining unit.

B. The City will continue to offer the Blue Cross-Blue Shield Standard or High Level Plan. The High Level Plan shall provide health insurance as set forth in the document entitled "City of Madison Health Maintenance Program Benefits". It is the intent of this provision to continue those benefits which had uniformly and routinely been previously provided. However, the City's contribution toward said insurance shall be in accordance with the criteria set forth in "A" above.

#### TENTATIVE AGREEMENTS

It is further agreed that the 1983-1985 Agreement will include all tentative agreements reached between the parties.