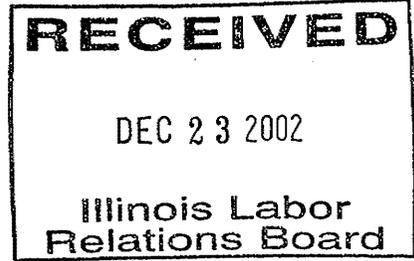


ILRB
#251



IN THE MATTER OF INTEREST ARBITRATION)
BETWEEN:)
)
THE CITY OF KEWANEE)
ILLINOIS (EMPLOYER))
)
and)
)
INTERNATIONAL ASSOCIATION OF)
FIREFIGHTERS, LOCAL 513 (UNION))
)
_____)

Marvin Hill, Jr.
Arbitrator

S-MA-02-138 (2002)
Interest Arbitration

Appearances

For the Union: J. Dale Berry, Esq., Cornfield and Feldman, 25 East Washington Street, Suite 1400, Chicago, IL 60602, (312) 236-7800.

For the City: Karl R. Ottosen, Ottosen, Trevarthen, Britz, Kelly & Cooper, Ltd., 300 South Country Farm Road, Third Floor, Wheaton, Illinois, 60187.

I. BACKGROUND, FACTS, AND STATEMENT OF JURISDICTION

The parties to this proceeding are the International Association of Fire Fighters (IAFF), Local 513 ("Union"), and the City of Kewanee, Illinois ("City").

In accordance with the parties' stipulation of July 17, 2002, the undersigned Arbitrator was appointed to hear and determine this dispute (Jt. Ex. 3). That stipulation listed four (4) issues for review and ruling by the Arbitrator for a successor labor agreement to the 1999-2002 contract:

1. **General Wage Increase**
2. **Equity Salary Adjustment**
3. **Holiday Pay**
4. **Hours of Work**

(Jt. Ex. 3 at 2).

A. Pre-Trial Conference

A pre-trial conference was held in Kewanee, Illinois, at City Hall, on July 17, 2002. At that conference the parties, represented by counsel, met both separately and jointly with the Arbitrator in an attempt to mediate the continuing deadlock. While the undersigned Arbitrator's mediation efforts resulted in a tentative accord, the parties agreed to move the matter to hearing on August 14, 2002, after the accord was informally rejected by the Mayor and the City Council. At the direction of the Arbitrator, the parties exchanged their final offers on August 7, 2002.

The Union's last final offer was entered into the record as Joint Exhibit 2B. The City's last final offer was entered into the record as Joint Exhibit 2A. As a result of additional requests by both parties for extensions of time to file briefs, the parties set the final deadline for submission of briefs at November 1, 2002. The Employer's brief was submitted on December 6, 2002. Briefs were exchanged through the offices of the Arbitrator on December 14, 2002. The record was closed on that date.

B. Comparables

The parties are not in agreement as to all the comparables which make up the external benchmark comparables.

The City has proposed the following five (5) communities as comprising its comparables: (1) Pontiac, (2) Rock Falls, (3) Monmouth, (4) Streator, and (5) Canton.

The Union's list of comparables consists of the following ten (10) communities: (1) Canton, (2) Dixon, (3) Lincoln, (4) Monmouth, (5) Pontiac, (6) Rochelle, (7) Sterling, and (8) Sycamore (*Brief for the Union* at 3).

For reasons outlined in this award (*infra* at 11-14), the Union's comparables are adopted.

C. Statutory Authority

This dispute only involves economic issues. As the parties know, the Act restricts the Arbitrator's discretion in resolving economic issues to the adoption of the final offer of one of the parties. 5 ILCS 315/14. Section 14(g) of the Illinois Public Labor Relations Act (the "Act") reads:

As to each economic issue, the arbitrator panel shall adopt the last offer of settlement which, in the opinion of the arbitrator panel, more nearly complies with the applicable factors

prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

5 ILCS 315/14.

In ruling on this dispute, the Arbitrator is guided by criteria established by Section 14(h) of the Act. The eight factors specified by the Act for arbitrator guidance are as follows:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (A) In public employment in comparable communities.
 - (B) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the costs of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

Section 14(h) requires only that the Arbitrator apply the above factors "as applicable." Accordingly, a listing of the eight (8) separate factors does not necessarily mean that all eight factors

are relevant or controlling. While the statutory factors must be considered and applied within the context of the parties' existing collective bargaining relationship, depending on the issue, certain factors are undoubtedly more important than others. The Act's general charge to an arbitrator is that Section 14 impasse procedures should "afford an alternate, expeditious, equitable and effective procedure for the resolution of labor disputes" involving employees performing essential services such as fire fighting. Enumeration of the eighth factor, "other factors," in Section 14(h) reinforces the discretion of an arbitrator to bring to bear his experience and equitable factors in resolving the disputed issue.

III. POSITION OF THE FIREFIGHTERS

The Union's position, as outlined in its lengthy post-hearing brief, is summarized as follows:

A. Comparable Communities

The Union proposes ten (10) downstate municipalities located within a radius of 100 miles of Kewanee. The methodology employed by the Union is to survey the municipalities within this geographic area which possessed populations within a +/- 50% range of Kewanee's population of 12,944. It then analyzed these communities based upon 12 demographic and financial criteria: population, number of fire department employees, total city employees, total revenue, total EAV, property tax revenues, revenue per capita, revenue per fire department employee, firefighters per thousand population, ration of ending fund balance to expenditures, debt per capita, and income tax revenues. The values for any communities that fell within a range of +/- 25% of Kewanee's values were considered a "match." All the "matches" were tallied and communities with five or more matches were included in the comparable group.

In the Union's view, its methodology is coherent, consistent, and transparent, producing a representative sample of downstate communities of a comparable size and financial resources to those of Kewanee (*Brief for the Union* at 6-7).

Besides some unexplained basis for the City wanting to exclude some of the Union's comparables, the Union asserts that the City's proposed sample of five (5) comparable communities is too small. A large sample, says the Union, is more reliable than a small sample (*Brief* at 9, citing *City of Batavia & IFOP No. 224*). The Union's Exhibit shows that there is a much larger potential sample of reasonably comparable communities which fall within the general geographic area from which the City has drawn its small sample of five.

Further, the Union points out that when its method (i.e., the so-called "+/- the percentage deviation from Kewanee's values") is applied to the demographic and financial comparables identified in Union Exhibit 1 (population, number of fire department employees, total city employees and firefighters per thousand population), it is evident that the Union's proposed comparable

municipalities share many demographic and financial factors in common with the undisputed communities (*Brief* at 12).

B. Substantive Economic Issues

1. General Wage Increase

Pointing out that the Union's general wage offer is to increase all steps of the Salary Schedule by 3% effective 5/1/02, 3% effective 5/1/03, and 3% effective 5/1/04, and that the City's final offer as to this item exceeds the Union's final offer by 1.0%, the Union accordingly declares that it accepts the City's final offer as to general wage increases (*Brief* at 20)(the problem with this methodology or bargaining strategy of "cherry picking" items will be noted in this opinion, *infra* at 11).

2. Equity Adjustment

The Union's final offer is that an equity adjustment of 1.0% be applied on May 1st in each of the three years of the parties' collective bargaining agreement. The amount of the equity adjustment would be applied so that the net effect would exclude any rollup of the general wage increase amount applied, as described in Exhibit 3 attached to the Union's final offer (*Brief* at 20-21).

The Union submits that all of the applicable Section 14(h) criteria, with the exception of 14(h)(5), cost of living, support the Union's proposed equity adjustment increase. To this end, the Union contends that the criteria of 14(h)(3) through (8) inclusive are applicable to resolve this issue (*Brief* at 21).

One significant factor, in the Union's view, is that during the pendency of these proceedings the City initiated and the Union acquiesced to significant increases in the deductibles and co-pays changed to employees under the plan. In aggregate, these changes are substantial and could add up to \$1,500 per year in increased out-of-pocket expenses for employees in need of health care (*Brief* at 25-26).

Another internal factor urged as significant is a comparison between police and fire units in Kewanee. Citing the data contained in Union Exhibit 16, the Union asserts that a study of salaries paid to police and fire units over a 30-year career demonstrated the overall reasonableness of the Union's final offer. The Union points out that the average salary paid to patrolmen in \$34,843, as compared to \$32,138 for firefighters, a difference of \$2,705, or 8.4% (*Brief* at 26). To allow for the fact that the firefighters' salary schedule will be increased by 4.0% (if the Arbitrator adopts the City's proposal) while the patrolmen's salary schedule will be the same in 2002, this average differential will be reduced to 4.8%. In the Union's view, application of an equity adjustment would thus reduce

the disparity to 3.8% in 2002. Also, notes the Union, the recent settlement in Canton was achieved only because the City had agreed to an increased commitment to reduce the disparity between firefighters and police officers above the 10-year steps of the longevity schedule (*Brief* at 27).

The Union maintains that when the number of calls are considered, the Kewanee firefighters (with calls at 1,472) are the highest among the five (5) cities proposed by the City as comparables (*Brief* at 28).

Also significant in the Union's view is this: the general wage increase proposed by the City works out to an average of 3.33% per year. If this amount is all that is awarded, Kewanee firefighters will actually lose more ground to firefighters employed in comparable communities. Although the Union conceded that general wage increase settlements beyond 2002 for many of the comparables are not available, of those where data exists, the Union points out the following settlements as relevant to this proceeding: Rock Falls at 3.84% (2002) and 3.5% (2003), for an average of 3.67%; Pontiac at 3.5% each of the three years; Canton at 3.0% (2002), 3.5% (2003), and 3.5% (2004), for a 3.3% average that matches the City's proposal (Canton will also receive equity increases in their longevity steps, ranging from \$400 to \$1,200 over three years, that add more than 3.0% to the cost of the settlement)(*Brief* at 29).

3. Holiday Pay

The Union proposes that the existing holiday benefit be improved to provide that each employee receive holiday pay in the amount of 12 hours of pay for each of the 13 recognized holidays, or \$1,764 for 2002 (as contracted with the City's position to increase the holiday "bonus" from the existing benefit of \$145 to \$200 for each holiday that is worked, an average benefit of \$867 per employee). The total cost of the Union's proposal is \$34,927.58 while the cost of the Administration's offer is \$19,322 (*Brief* at 30-31). Considering that the average value of 1.0% over the three-year term is \$6,366, the additional cost of this benefit is, in round numbers, 3.0% (*Brief* at 31).

In support of its holiday-pay proposal, the Union submits that external comparables strongly support its final offer. Specifically, the Kewanee firefighters rank last with an average compensation of \$628. The average for the group is \$1,860, making Kewanee firefighters almost \$1,000 below the average. The Union's proposal would bring Kewanee firefighters within \$100 of the average.

Additionally, the Union submits that application of the statutory criteria supports a bump in holiday pay (*Brief* at 31-33). Specifically, the Union notes that overall compensation data supports its position, as well as changes in circumstances during the pendency of the arbitration. The Union also points to internal comparisons between police and fire as supporting its position. Specifically, police receive pay for 12 recognized holidays at the rate of 10 hours of pay for each holiday, a value of \$1,829. In addition, police officers who work a holiday receive premium pay of 8 hours of pay. They also work an average of six holidays, producing an additional \$732 of compensation. For

firefighters, the existing benefit, using an average of 4 days, produces a deficiency of \$1,933. If the City's proposal is adopted, the differential between police and firefighter's holiday benefits will exceed 5% (*Brief* at 33). In the Union's view, the City has provided no justification for continuing the extent of the disparity between police officers and firefighters (*Brief* at 33).

4. Hours of Work – Kelly Days

The Union proposes to modify the work schedule effective May 1, 2003, so that each employee assigned to a 24/48 schedule will receive every 60th shift off as a Kelly Day. According to the Union, this schedule shows an actual dollar cost of \$421 for implementing the Kelly Days to the second contract year beginning May 1, 2003, and a \$433.00 cost for 2004 (based on an average overtime rate of 72 hours per employee per year). The difference in hourly rate represents a 1.67% increase.

In the Union's view the City's cost analysis exaggerates the costs significantly by failing to note that (1) the proposal takes effect in the *second year* of the contract, not the first, and (2) failing to acknowledge the proposal has a quid pro quo of deducting a personal day and calculates the cost based on a 48-hour reduction (*Brief* at 35). The Union also notes the Administration's cost figures assumes that time off without loss of pay is an expenditure (which is not true unless the Employer is required to replace the employee who is scheduled off duty).

Citing *external* criteria, the Union points out that out of 10 comparable communities, 7 have substantially lower work weeks. Indeed, all 7 have average work weeks of 53 hours or less. Only Canton, Dixon and Monmouth continue to work an average 56 hour work week. This circumstance depresses the hourly rate paid to Kewanee firefighters (*Brief* at 36-37).

Citing *internal* data, the Union submits firefighters work 56 hour weeks based on a 24/48 shift schedule. Other city employees, including police officers, work 40 hour weeks on eight-hour shifts. The Union maintains that while this consideration is important, more emphasis must be placed on external data (i.e., comparisons with firefighters externally)(*Brief* at 38). This disparity, says the Union, increases the value of other hourly-rated benefits such as holiday pay, vacation pay, and sick-leave benefits.

IV. POSITION OF THE ADMINISTRATION

A. Comparable Communities

Management acknowledged that the parties agree that five (5) communities are proper comparable bench-marks: (1) Canton, (2) Monmouth, (3) Pontiac, (4) Rock Falls, and (5) Streator, Illinois. As noted, the Union proposes five (5) additional communities: (1) Dixon, (2) Lincoln, (3)

Rochelle, (4) Sterling and (5) Sycamore, Illinois. The Employer rejects the Union's ten-city comparability grouping.

Management points out that the agreed-upon comparables averages for the following categories are:

Equalized Assessed Valuation	\$70,684,574;
Department Budget	\$934,340;
Number of Sworn Personnel	13.2;
Total Calls	906.4;
Median Household Income	\$34,111;
Per Capita Income	\$16,573.60;
Unemployment Rate	4.04%;
Median Housing Value	61,400.

The Union's approach to determining comparable communities does not consider EAV, department budget, household income, per capita income, unemployment rate or housing value. Moreover, to include Rochelle, Sycamore, and Dixon, the Union stretched its "matches" to less than 50% of the 12 categories. It is respectfully submitted that a better approach is to limit the comparable communities to those which match at least 50% of the 12 criteria set forth in Union Exhibit 1. This eliminates Pontiac from both parties and adds Lincoln and Sterling to the Employer's list. Although Exhibit A contains charts of the Union's proposed comparables, the Employer's position and argument below will be based upon a revised list of Canton, Lincoln, Monmouth, Rock Falls, Sterling, and Streator.

Management further submits that compared to any of the proposed comparables, Kewanee's median household income, family income, per capita income, and median housing value are all significantly lower. The bottom line is that the cost of living in Kewanee is below that of the proposed comparable communities. To further support this issue the Arbitrator is urged to compare the salary schedules of two school districts within the City of Kewanee to that of the firefighters. (City Ex. Tab. 2, last two pages). A beginning firefighter with no certifications makes more than a third year teacher with a B.S. degree and more than a starting teacher with a master's degree in the Wethersfield School District. A firefighter with one year's experience is paid \$31,333.12 compared to Kewanee Community Unit School District No. 229's teachers who must have eight years' experience and a BS degree or be in the MA + 30 lane with two years' experience to make a similar salary. Clearly, the firefighters' compensation is on the high end of the community scale (*Brief for the Employer* at 2-3).

For the above reasons the Employer asserts the City's comparables should be adopted.

B. Substantive Economic Issues

Issues #1 & #2: Wages and Equity Adjustment

Management asserts that the Union has attempted to split wages into two distinct issues phrased as "general wage increase" and "equity adjustment." According to the Administration, these claimed issues are only one. Similar to the Union, management offers no arbitral authority for asserting that wages and equity adjustment is one impasse item.

The Employer proposes wage increases of 4.0% in FY 02/03, 3.0% in FY 04/04, and 3.0% in FY 04/05, commencing each May 1st during the years 2002-2004.

In management's view, the Employer's proposed pay raise for 2002-03 causes the City's total compensation package to be above the average and median of the other six communities' compensation packages in almost every year of service for both firefighters and captains. This does not take into consideration the additional pay received for the numerous ranks of the Department (*Brief for the Employer at 4*).

Addressing the Union's argument that the City's Police officers receive \$2,705 more per year than the firefighters, management points out that working conditions in the two units are dissimilar. Moreover, the Police Department has traditionally been paid according to a higher salary schedule than the Fire Department.

The Administration further notes that the Police Department responds to over 26,000 calls per year (over 1,450 per officer) while the fire unit responds to under 1,500 calls per year (less than 85 calls per member). Police base salaries range from \$30,267 to \$34,910 compared to firefighters' base wages of \$24,868 to \$34,711. Thus, notes management, while the starting pay is lower, most of the difference is made up after two years. Further, the Police Department members work at least 260 days per year compared to an average of 121.67 for the firefighters. While the on-duty hours of firefighters is greater than police officers, the two jobs are difficult to equate.

Thus, it is submitted that the Union's wage proposal for an equity adjustment in all three years is not appropriate. The Arbitrator should accordingly award the City's wage proposal based upon the total compensation package comparison.

3. Holiday Pay

The remaining two issues are so-called "break-through" items, in the City's view.

Management submits the Union seeks the equivalent of a 5.3% increase in pay for holidays even though there is a long-standing collectively-bargained practice in place. The practice is for base pay to include holiday pay in order for it to be pensionable salary under the Illinois Pension Code. In addition to the compensation included in all members' base pay, employees who work on a holiday receive additional pay. The current holiday pay is \$145.00 and each member works an

average of 4.333 of the 13 holidays receiving an average of \$628.00 annually. The City proposes a 38% increase in holiday pay, (\$200/\$145), for an average of \$867.00.

A \$239.00 increase in compensation for each member equates to a .7% wage increase. The Union's proposal equates to an average of \$1,028 compensation increase for a total first year cost of \$18,504. Each one percent increase in wages equals \$6,230. Therefore, the Union's holiday pay proposal if granted will equal an additional 2.97% wage increase for the bargaining unit. The Union offers nothing in return for this break-through item.

The Administration further asserts that the Union seeks 156 hours holiday pay, or \$1,436.76 to \$1,996.80 for firefighters, and up to \$2,098.20 for captains. The percentage increases in holiday pay for these are 229%, 318% for firefighters and up to 334% for captains. The only justification for this item given by the Union is that other City employees get more holiday pay. However, a review of the other City Union contracts shows that the units have bargained for different benefits. The holidays, vacation leave and other benefits are not consistent throughout the City's unionized work force. The Union's assumption that the AFSCME employees work six holidays is incorrect, in management's opinion. The Administration argues it is a rarity for the AFSCME employees to work on a holiday and incorrect to assert the AFSCME unit receives greater holiday pay than the firefighters. The Employer submits they do not (*Brief for the Employer* at 6).

As presented in the hearing, the City's manufacturing and industrial property base has diminished sharply in recent years. While one-time grants have provided for public facility improvements, they do not fund ongoing operations. The most expensive employee benefit is health insurance. Five years ago, the City's partially self-insured plan had a \$750,000 cash reserve with stop loss protection at \$35,000. Today, the fund is in a deficit and the stop loss has been increased to \$70,000 to keep the premium cost down. Management notes that these points are not made as an "inability to pay" position. Instead, they are mentioned to demonstrate the fact that the Union's request for a huge increase in holiday pay, along with significant salary increases, is out of line with the City's economic climate.

4. Kelly Days

The Union seeks every 60th shift off as a Kelly Day and offers giving up one of three personal days as a *quid pro quo* for the Kelly Day demand

The Administration offers no change in the current collective bargaining agreement regarding Kelly Days.

Management argues the Union presents no other argument to support the need for more time off. Each shift off equates to a .82% reduction in work hours. The Union did not present any evidence of an increased call volume or of other factors generally offered to demonstrate employees need more days off.

In summary, the Administration submits the parties have a long history of negotiating contracts. None have provided for work-reduction days. At less than 1,500 calls per year, each station averages about two calls per 24- hour shift. It is difficult to imagine any convincing argument to justify the request "work reduction" days. The Union is in no position to demonstrate such a need nor has it presented any evidence in support of additional time off. Further, the proffered quid pro quo of one day for two is inadequate consideration for a major change which the Union has never been able to achieve on its own at the bargaining table. When combined with the proposed wage increase and proposed dramatic increase in holiday pay, the proposal to reduce the number of work shifts by two is excessive and must be denied.

V. DISCUSSION

A. PRELIMINARY MATTERS

a. Should Wages and Equity Adjustment be Considered as One Impasse Item?

Management has advanced a valid argument that the Union's two impasse items, wages and equity adjustment, actually comprise just one item, that of "wages." I have no problem considering wages and equity adjustment as two separate items, provided that both sides agree to treat them as two impasse items, which is not the situation in this case. *There may be special circumstances for treating wages and equity adjustment as two issues, but they are absent in Kewanee.* Also, I find no compelling arbitral authority offered by the Union for treating wages and equity adjustments as two separate items. Both items (wages and equity adjustment) involve an across-the-board application for each of the three years, although the Union's application of the equity adjustment, applied each May 1st in succeeding years, will not apply to the rollup wage increase. I hold for management on its position that wages and equity adjustment should be treated as one impasse item.

b. The Union's Attempt to "Cherry-pick" Economic Issues

When management's offer on an impasse item is greater than the union's (not at all uncommon in interest proceedings), I find problems with the Union's strategy of "cherry-picking" economic items by declaring that issue "accepted" then moving on to the rest of the package. Important in the resolution of interest disputes is the total package of the parties and more important *what it will cost.* Items add up to a bottom-line number that has *internal* and *external* relevance. Permitting the Union's arbitration strategy would completely abrogate the intent of the statute mandating final offer arbitration on economic items and good-faith bargaining. Both parties place packages before the arbitrator knowing that the end result will, with exceptions, be reasonable and within specific economic parameters. Every economic item awarded affects every other economic

item and the ultimate bottom-line package and the Union knows this. To permit the strategy offered by the Union will not serve the parties' best interests in the long run.¹

c. Selecting Comparables

Outside of five communities (Canton, Monmouth, Pontiac, Rock Falls, and Streator), the parties sharply disagree as to what comparables compose an appropriate bench-mark comparability group.

Arbitrator Edwin Benn, in *Village of Algonquin & Metropolitan Alliance of Police*, S-MA-95-85 (1996), had this to say regarding the problem of selecting comparables for external analysis:

One of the most difficult tasks facing an interest arbitrator in Illinois is to select "comparable communities" as required by the Section 14(b)(4)(A) of the IPLRA. Aside from using the phrase "comparable communities," the statute gives absolutely no guidance on how to select those "comparable communities."

In *Village of Libertyville and FOP*, S-MA-93-148 (1995), I suggested an analysis on how to select comparable communities. I stated (*Id.* at 3-4)[footnotes omitted]:

Section 14(h)(4) of the IPERLA identifies examination of comparable communities as a factor for selecting the appropriate offer. The selection of comparables for examination is a most difficult task in large part because the IPLRA offers no guidance as to what [the] legislature intended when in Section 14(h)(4)(a) it directed interest arbitrators to examine 'comparable communities.'

Because comparability plays such a major role in these cases, rational approaches must be taken. In *Naperville, supra* at 20, I suggested a method for making an analysis:

The task then is to formulate an analysis for making the comparisons. The Act gives no guidance, so therefore a "rational" method must be chosen.

¹ Support for this conclusion can be found by reference to the experience of major-league baseball where final-offer arbitration is the agreed-upon method for settling player salary disputes. There have been instances where the parties' final salary offers have "crossed" (i.e., the player makes an offer to play baseball for *less* than the owner is offering to pay the player). When this happens arbitrators correctly return the matter to the parties for new offers. To do otherwise, they reason, would completely disregard the effect and intent of final-offer arbitration.

The parties have agreed that the part of the relevant universe of comparables must include Skokie, Schaumburg, Evanston and Arlington Heights. I am therefore bound by that agreement— indeed, the Act requires that I abide by “stipulations of the parties.” See §14(h)(2). The fact that the parties have agreed upon those municipalities as being comparable to Naperville allows for a conclusion that they intended that any other municipality which sufficiently falls within the range established by the set of agreed-upon comparables requires a finding that such a municipality is also comparable to the agreed-upon set of municipalities.

The analysis shall therefore take the following steps:

First, agreed upon comparable communities shall be identified . . . [T]hose agreed upon communities shall form a range of agreed upon comparables for various factors to be used for comparison purposes to determine whether the municipalities upon which the parties could not agree are also comparable.

Second, the appropriate factors for making the comparisons shall be identified. If the parties disagree on certain factors, a determination will be made as to whether those factors are appropriate measuring tools for comparison purposes.

Third, the municipalities shall be ranked within the appropriate factors (through tables and charts).

Fifth, comparisons will be made for the contested communities to determine how they compare with the range of agreed upon comparables within the appropriate factors.

It is important to stress that this process of selection of comparables is not a mechanical one. This process is only a method for organizing the data and arguments offered by the parties in order to be able to rationally make certain judgments. This process is not one of merely counting factors or rigidly applying cutoffs. This process places great emphasis on the agreements based upon these agreements—a process that appears consistent with the mandate of Section 14(h)(2) of the IPLRA that I consider the “stipulations of the parties.” *Id.* at 3-4 (emphasis mine).

A number of arbitrators have recognized that the most significant factor in awarding wage offers is a need to "catch up," and, at least, maintain a rough average among external comparables. In *Elgin and Local 439, IAFF*, S-MA-97-33 (Fleischli, 1997), arbitrator George Fleischli found that external comparables were most significant in the case of fire fighters. In his words:

While it is not possible to draw comparisons to the salaries paid and increases granted to other City employees and rely on those comparisons to produce reasonable and competitive salary ranges in the short run, an employer cannot allow its police and firefighter salaries to fall behind those paid by comparable communities. Even if it does not produce significant turnover or recruiting problems, it will have an adverse impact on morale and performance of these vital functions.

Id. at 38. Noting that none of this is “an exact science,” this same reasoning applies in this case. See, *Algonquin*, S-MA-95-81 (Benn), at 8 n. 14 (“But, this is not an exact science.”).

While not dispositive of the issues in this case, I find that the Union makes the better case in proposing ten (10) comparables as external bench-marks. With some exceptions, I find the Union’s exhibit represents a logical, valid, comprehensible sample of communities of comparable size and financial resources relative to the City’s listing of just five (5) comparables. I especially agree with the Union’s conclusion that “the City’s methodology for developing its proposed listing of five [5] comparables is undecipherable.” (*Brief for the Union* at 7). Clearly, the exhibit is insufficient to support a decision adopting the City’s proposed comparables.

Particularly troublesome is the City’s comparables consists of just five (5) communities, a small sample by any standard. Arbitrator Herbert Berman recognized the problems with using a small sample in *City of Batavia & IFOP No. 224*, S-MA-95-15 (1996), where he observed:

Assuming that all other factors are equal, a large sample is more reliable than a small sample. A restricted sample is unreliable in that it may capture only the mathematical extremes. **On the other hand extremes at both ends of the range will tend to balance out if the sample is large enough.**

In that same case Arbitrator Berman had this to say regarding the *process* of selecting comparables:

Interest arbitration is an adversary process tied to the evidence and arguments presented by each party from a partisan perspective. For this reason, I do not expect to meet disciplined, rigorous mathematical standards. An interest arbitrator is not a research scientist dedicated to drawing conclusions from data impartially gathered from a disinterested and scientifically valid perspective.

In summary, I find the Union’s comparables share many demographic and financial factors in common with the communities the parties do not dispute are comparable communities. Further, I find it especially relevant that other arbitrators have approved the Kewanee firefighters’ comparables involving another community, Rock Falls, Illinois. See, *Village of Rock Falls and IAFF Local 3291*, S-MA-94-163 (1995)(noting that Kewanee was comparable to Rock Falls, as well as nine (9) communities the Union proposes as comparable in this proceeding)(see, *Brief for the*

Union at 10). At minimum, there is authority from at least one interest arbitrator that the Union's package has validity as a bench-mark grouping.

For the above reasons the Union's ten-city comparability group is selected.

B. ANALYSIS OF PARTIES' POSITIONS

1 & 2. WAGES /EQUITY ADJUSTMENT

Applying the statutory criteria, I award the Union's wage and equity adjustment final offer (considered as one impasse item). This allocation will result in a salary schedule of 4.0%, effective 5/1/02, 4.0% in 5/1/01, and 4.0% in 5/1/04. The amount of the equity adjustment would be applied so that the net effect would exclude any rollup of the general wage increase amount applied, as described in Exhibit 3 attached to the Union's final offer (Jt. Ex. 2B). For the reasons noted, I find the Union's wage/equity adjustment offer more in line with internal and external criteria than the City's offer of 4.0%, 3.0%, and 3.0% for the relevant three-year contract duration.

a. External Analysis

The significance of external analysis in resolving an interest dispute cannot be overstated. Arbitrator Harvey Nathan, in *Village of Rock Falls & IAFF Local 3291* (1995), observed that external data may be the most important criterion in assessing the reasonableness of final offers:

It has been suggested that external comparability is the most significant of the factors to be considered by the arbitration panel. The appropriateness of one offer over another is often not apparent without some measurement of the marketplace. The addition or deletion of many terms and or practices, or the precise increase in remuneration, can often be best determined by analyzing the collective wisdom of a variety of other employees and unions in reaching their agreement. **Every case has its known facts but the determination of the appropriate result can be better gauged by the struggles of those with similar characteristics and circumstances** (*Id.* at 20-21, footnotes omitted; emphasis mine).

Interestingly, Arbitrator Nathan went on to discuss criteria arbitrators consider in determining the appropriate comparables:

Generally speaking, population of the community, size of the bargaining unit, geographic proximity and similarity of revenue and its sources are the features most often accepted in composing a comparability group. Some arbitrators emphasize geography because the marketplace concept is essential to comparability. (*Id.* at 21, footnote omitted).

While recognizing that comparisons are sometimes fraught with problems, and that one should not use comparisons as the single determinant in a dispute, Arbitrator Carlton Snow nevertheless noted the value of relevant comparisons in *City of Harve v. International Association of Firefighters, Local 601*, 76 LA (BNA) 789 (1979), when he stated:

Comparisons with both other employees and other cities provide a dominant method for resolving wage disputes throughout the nation. As one writer observed, "the most powerful influence linking together separate wage bargains into an interdependent system is the force of equitable comparison." As Velben stated, "The aim of the individual is to obtain parity with those with whom he is accustomed to class himself." **Arbitrators have long used comparisons as a way of giving wage determinations some sense of rationality. Comparisons can provide a precision and objectivity that highlight the reasonableness or lack of it in a party's wage proposal.** *Id.* at 791 (citations omitted; emphasis mine).

Applying the external criterion I hold for the Union's position on Wages/Equity Adjustment.

Two exhibits particularly supportive of the Union's position are Union Ex. #3 (2001 annual starting salaries) & Union Ex. #4 (fire base salaries plus longevity). The exhibits illustrate that as to maximum base salary, Kewanee firefighters rank 7th out of 11, and almost 5% below the average of \$32,965 (see, Union Ex. 2). Examining salaries based on longevity pay over a career, Kewanee firefighters fall to either last or second to last in every single category (Starting Salary, rank 9/11; 5 years, 10/11; 10 years, 10/11; 15 years, 11/11; 20 years, 10/11; 25 years, 10/11; 25 years, 10/11; 30 years, 10/11)(see, Union Ex. 4). On total career earnings, Kewanee is likewise situated (only Monmouth is lower)(see, Union Ex. 7).

Also significant is an examination of overall compensation. Union Exhibits 14 (cash payments received for actual hours at work) and Union Exhibit 15 (taking into account the value of health insurance payments) demonstrate that the Union's offer is fully supported by external data. Specifically, based on overall compensation, Kewanee is ranked last of the Union's ten comparables. When hours are taken into account (Union Ex. 14) Kewanee firefighters are almost 17 percent below the average. While the value of insurance benefits elevates Kewanee to 9th out of 11, they are still significantly below the average.

Finally, the Union's wage/equity adjustment proposal is supported by recent settlements, albeit the early returns are incomplete (see, *Brief for the Union* at 29, discussing settlements in Rock Falls (3.84%, '02 & 3.5%, '03), Pontiac (3.5% for 3 years), and Canton (3.0%, 3.5%, and 3.5%, with equity increases in longevity steps).

b. Kewanee Firefighters and Internal Analysis

The trees of Wisconsin have been felled to make paper to write on the issue of fire vs. police parity in interest arbitration. Both police and fire units advance parity arguments in interest cases

whenever it benefits their cause, and this is expected. See, Marvin Hill and Emily Delacenserie, *Interest Criteria in Fact-Finding and Arbitration: Evidentiary and Substantive Considerations*, 74 *Marquette Law Review* 399, 421-422 (Spring/Summer, 1991)(dealing with the question whether arbitrators have any special responsibility to maintain relationships between groups within a bargaining unit). And so it is in this case.

Management contends that the units should not be compared, that working conditions, hours and jobs are sufficiently different in police and fire units so as to make comparisons suspect. Further, management submits that while starting pay is different, most of the difference is made up after two years. Also, the police unit works at least 260 days per year compared to an average of 121.67 for firefighters (*Brief for the Employer* at 4).

Union Ex. 16 presents a comparison of salaries paid to firefighters and police officers over a 30-year period. The average salary paid to patrolmen is \$34,843, as compared to \$32,138 for firefighters, a differential of \$2,705 or 8.4% (*Brief for the Union* at 26; Union Ex. 16).

One can readily understand the firefighters' desire to reduce the disparity between the police and fire units. Moreover, over a period of time it becomes more difficult for city administrators to justify an increase in the disparity. Again, the police-fire history at this city is not dispositive of the wages item, but the evidence record at Kewanee supports granting the Union's wage/equity adjustment proposal over that of the Administration's wage increase. While the Union has fallen short of establishing that there was ever parity between police and firefighters at Kewanee, or that over the years the parties have maintained a constant relationship in salaries, the Union's parity-type argument has face validity and is entitled to consideration. Succinctly, the balance is tipped in the Union's favor.

3. HOLIDAY PAY

The current holiday pay benefit is \$145 with each member working an average of 4.3 of the 13 designated holidays. The Union's proposal equates to an average of \$1,026 compensation increase for a total first year cost of \$18,504, with each 1.0% increase in wages equating to \$6,230. The total cost of the Union's proposal is calculated at \$34,928 (*Brief for the Union* at 31). The City proposes a 38% increase in holiday pay (\$200/\$145) for an average of \$867.00 (*Brief for the Employer* at 5). The Union submits that the difference between the City and Union's position is \$19,322, or 3.0% for the three-year contract term.

While not asserting an inability to pay argument, management points out that the Union's request for a huge increase in holiday pay, along with significant salary increases, is out of line with the City's economic climate (*Brief for the Employer* at 6). Management's point is indeed valid. The evidence record indicates that the City's manufacturing and industrial base has diminished in recent years resulting in diminishing fund balances (Er. Ex. 8).

More important in the resolution of this case is this: At the end of the first pre-trial conference the parties, with assistance of the Arbitrator, reached an accord on holiday pay (and every other item in the package). That accord encompassed the Employer's holiday pay issue rather than the Union's final offer. Even aside from any mediation results, the Employer advances the better argument, especially when the total package is considered. Granting the Union's holiday pay proposal will elevate the total package to 5.0% per year for three years. Management's proposal, while not completely eliminating the disparity between police and fire units, is reasonable.

For the above reasons the Employer's position is awarded.

4. HOURS OF WORK/KELLY DAYS

The Union proposes to modify the work schedule, effective May 1, 2003, so that every employee assigned to a 24/48-hour schedule will receive every 60th shift off as a Kelly Day (*Brief for the Union* at 33). Starting in year two of the parties' collective bargaining agreement, firefighters will receive an average of two (2) Kelly Days per employee (*Id.* at 34). The language to effect this change is set forth in Exhibit 5 attached to Exhibit 2B. The City has rejected any change in the firefighters' hours of work provision (*Brief for the Employer* at 5-6).

Under this specific evidence record, where the parties at one time reached an accord (not a so-called "tentative agreement," at that term is traditionally used in labor relations, but an "accord") on all items at issue, management indicated acceptance, at least in principle, of a Kelly Day provision, especially in this case where the Union has offered a *quid pro quo* of deducting a personal day, which calculates the cost based on a 48-hour reduction (see, *Brief for the Union* at 35). It simply adds nothing to the analysis, again given this evidence record, to conclude that hours of work is a "break through item." The Union's proposal is simply a proposal for a "floating day off." Days off are nothing new under the parties' collective bargaining agreement.

I also find compelling the Union's argument that the Kelly Day provision, as proposed here, does not necessarily translate into an increased expenditure *unless the Administration is required to replace an employee who is scheduled off duty*. There is no such obligation in the Union's proposal, and it is on this basis, along with the accord that was reached, that I make this award.

Also supporting the Union's proposal is reference to *external* criteria. The evidence record indicates that of the 10 comparable communities, 7 have lower work weeks (with all seven having average work weeks of 53 hours or less). I also find that *internal* criteria supports the Union's arguments on hours of work. As pointed out by the Union, firefighters work 56 hours of work based on a 24/48 shift schedule. Other City employees, including police officers, work 40 hours based on eight hour shifts. The disparity in work hours creates a large disparity in the hourly rates paid to firefighters as compared to other City employees (see, *Brief for the Union* at 38). Clearly, the Union advances the better case on Hours of Work.

I also find relevant the Union's acceptance of increases in deductibles and co-pays during the pendency of this matter, resulting in an overall decrease in the value of the total package.

VI. SUMMARY OF AWARD

For the reasons stated above, the following is awarded:

1 & 2. WAGES/ EQUITY ADJUSTMENT

The Union's wage/equity adjustment final offer (considered as one impasse item) is awarded. This allocation will result in a salary schedule of 4.0%, effective 5/1/02, 4.0% in 5/1/01, and 4.0% in 5/1/04. The amount of the equity adjustment is applied so that the net effect excludes any rollup of the general wage increase amount applied, as described in Exhibit 3 attached to the Union's final offer (Jt. Ex. 2B).

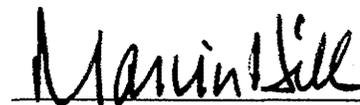
3. HOLIDAY PAY

Employer's final offer.

4. HOURS OF WORK

Union's final offer. Effective May 1, 2003, every employee assigned to a 24/48 schedule will receive every 60th shift off as a Kelly Day. The language to effect this change is set forth in Exhibit 5 attached to Exhibit 2B.

Dated this 19th day of December, 2002,
DeKalb, Illinois.



Marvin Hill, Jr.
Arbitrator