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PUBLIC EMPLOYMENT RELATIONS BOARD**

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**Lisa Salkovitz Kohn,  
Impartial Arbitrator**

PUBLIC EMPLOYMENT  
RELATIONS BOARD

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**In the Matter of the Impasse Arbitration** )  
) )  
**between** )  
) )  
**CHEROKEE COUNTY,** )  
**Employer,** )  
**and** )  
) )  
**CHEROKEE COUNTY SECONDARY ROADS** )  
**EMPLOYEES, INTERNATIONAL UNION OF** )  
**OPERATING ENGINEERS, LOCAL 234,** )  
**Union.** )

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**Hearing Held: May 28, 2013**

**Award Issued: June 27, 2013**

**For the County: Douglas Phillips,  
Klass Law Firm, LLP**

**For the Union: MacDonald Smith,  
Smith & McElwain Law Office**

**Impasse Arbitrator's Award**

## **I. INTRODUCTION**

This is an impasse arbitration held pursuant to Section 20.22 of the Iowa Public Employment Relations Act. The parties are Cherokee County and the International Union of Operating Engineers Local 234, representing Cherokee County Secondary Roads Employees. The parties have reached tentative agreement on a number of matters, including the one-year duration of the new contract, but bargained to impasse on the issue of wages, the only issue presented in this arbitration. They exchanged final offers dated May 13, 2013.

At the hearing, held at the Cherokee County Courthouse in Cherokee, Iowa, on May 28, 2013, the parties were given the opportunity to present such evidence and argument on the impasse issue as they desired. The advocates made oral closing arguments in lieu of submitting written post-hearing briefs. The hearing was transcribed electronically by the arbitrator. At the hearing, the advocates for the parties orally represented that they had entered into an independent impasse agreement waiving the statutory deadlines for the commencement of the hearing and for the issuance of the arbitrator's award, and that they had agreed to request that the arbitrator issue an award within thirty days of the close of the hearing. This agreement was subsequently confirmed in emails from Mr. Phillips and Mr. Smith dated May 29, 2013, copies of which will be included by the arbitrator in the official record.

In reaching this award, the arbitrator has considered all facts, evidence and

arguments submitted, even if not specifically referenced here, and has applied the criteria set forth in Chapter 20 of the Iowa Code, in selecting the most reasonable of the parties' final offers on each impasse item. As provided in Section 20.22 (7) of the Iowa Code, the arbitrator has considered, "in addition to any other relevant factors," the following factors:

- a. Past collective bargaining contracts between the parties including the bargaining that led the up to such contracts.
- b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
- c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on normal standard of services.
- d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

## **II. FACTUAL BACKGROUND**

Cherokee County is located in northwestern Iowa, and has a population of 12,094. The Union represents a bargaining unit of 23 secondary roads employees: 2 employees in the General Labor classification, 18 in the Operator classification, 1 in the Sign Foreman classification, and 2 in the Mechanic classification. The classifications of Tech 1, Tech 2, Tech 3 and Assistant to Engineer are in the bargaining unit, but there are no employees in those classifications.

## **III. THE IMPASSE ITEM – WAGES – FINAL OFFERS**

The Union 's final offer on wages is a \$1.00 per hour wage increase for all employees. The County's final offer is a \$0.40 per hour wage increase.

#### **IV. THE COMPARABLE COMMUNITIES**

Section 20.22 (7) of the Public Employment Relations Act directs that impasse arbitrators compare “the wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved” in determining which of the parties’ final offers are the most reasonable. Of all the statutory factors listed, these comparisons, whether external or internal, are often the most significant consideration in making that determination with respect to economic issues.

The parties have not agreed on a single group of communities to use for comparison. The Union has proposed a comparison group based on geographic proximity, namely seventeen counties in northwest Iowa, excluding O’Brien and Buena Vista Counties, whose roads employees are not represented by a union. The resulting group of fifteen counties it has divided into two subgroups - the counties that abut Cherokee County (Clay, Ida, Plymouth, Sac, Sioux, and Woodbury), and the additional adjacent counties of Calhoun, Emmet, Lyon, Monona, Palo Alto, and Pocahontas. The Union notes that while the counties of Osceola and Dickinson are also in this region, they should be excluded because Osceola is significantly smaller than Cherokee, Dickinson is substantially larger, and the total property valuation of both counties is substantially enhanced by their location in the Great Lakes region of the state.<sup>1</sup> The Union also eliminated Calhoun County from its final calculations, because its \$1.23 increase was a

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<sup>1</sup>On the other hand, the Union has included Woodbury County, with a population of 102,323 that equals over 68% of the entire combined population of the other comparable counties proposed by the Union.

*quid pro quo* for its employees' acceptance of an obligation to contribute to the cost of their insurance.

In presenting comparative information concerning the wages of employees performing similar work in these counties, the Union acknowledges the variation in job classifications in the different counties. Because most of the employees in this bargaining unit are operators, the Union has chosen to compare only the highest equipment operator rate in the comparable counties, and have compared the average increases in those counties. Because the Union has offered no compelling reason to split its modified geographic grouping into two separate comparison groups, and because the sizes of the counties in the "abutting" group vary so widely, we list the two groups together:<sup>2</sup>

<b>County</b>	<b>Wage Rate 7/12-6/13</b>	<b>Wage Increase</b>	<b>% Increase</b>
Clay	\$ 19.92	\$ 0.50	
Ida	18.38	0.37	
Plymouth	20.49	0.51	
Sac	18.94	0.47	
Sioux	20.18	0.40	
Woodbury	20.52	0.41	
Emmet	19.28	0.39	
Lyon	20.19	0.50	
Monona	17.35	0.68	
Palo Alto	18.06	0.36	
Pocahontas	17.92	0.30	
<b>AVERAGE</b>	<b>\$ 19.20</b>	<b>\$ 0.44</b>	<b>2.29 %</b>
<b>Cherokee</b>	<b>\$ 19.61</b>	<b>Union: \$ 1.00</b>	<b>5.10 %</b>
		<b>County: \$ 0.40</b>	<b>2.04 %</b>

This comparison results in several observations: First, the Cherokee wage rate for

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<sup>2</sup>This chart reflects the arbitration award for Emmet County that was issued after the hearing in this case. *International Union of Operating Engineers, Local 234 and Emmet County, Secondary Roads Department*, 13 ARB 1140.pdf (Obermeyer, June 17, 2013), available at [www.iowaperb.iowa.gov](http://www.iowaperb.iowa.gov).

operators is already higher than the average of the comparison group proposed by the Union. Second, while the County's final offer is somewhat less than the average increase in the comparison group, both absolutely (\$0.40 from the County versus the \$0.44 average) and as a percentage of the Operator rate (2.04% from the County versus the 2.29% average), the Union's final offer is significantly higher (\$1.00 from the Union versus the \$ 0.44 average; 5.10% from the Union versus the 2.29% average).

The County has proposed a group of counties located throughout the state whose population ranges from 10,241 to 14,675, of which Cherokee population of 12,094 is roughly equal to the mean:

COUNTY	POPULATION	COUNTY	POPULATION
Sac	10,241	Grundy	12,320
Winnebago	10,600	Chickasaw	12,412
Montgomery	10,640	Shelby	12,489
Hancock	11,287	Appanoose	12,844
Louisa	11,369	Wright	13,229
Lyon	11,670	Allamakee	14,675
Union	12,093	Cass	13,817
<b>Cherokee</b>	<b>12,094</b>	Average*	<b>12,120</b>

The County has not focused on a single wage rate for comparison, as the Union did but instead has listed all the latest wage rates in each county, without identifying the classifications to which the listed rates correspond. This makes effective use of this comparison group very difficult. However, it is clear from a general review of the data provided that the range of wage rates for current Cherokee County employees, from

\$19.37 for General Labor to \$20.14 for Mechanic, is not grossly dissimilar to the ranges in the other counties in the County's comparison group.

As we shall see in the discussion that follows, it is unnecessary to select between the parties' respective proposals on comparison groups, because internal comparisons have been more significant to the parties themselves in debating the reasonableness of their respective final offers. Accordingly, all of the foregoing comparative data has been taken into account by the arbitrator in resolving this impasse.

## **V. DISCUSSION**

The Union's primary rationale for its final offer of a \$1.00 increase to the base rate is that the secondary roads employees are entitled to a "catch-up" increase this year to match the increases received during the prior contract term (7/1/10-6/30/13) by non-organized hourly and (salaried) management County employees, and to compensate for the relative cost of their insurance compared to what employees in other counties pay.

Over the prior contract term, the rate for Operators increased by \$1.17. During the same period, the increases for employees in the only other organized group, in the Sheriff's Department, were \$ 0.98 for Jailers and Dispatchers and \$1.31 for Deputies.<sup>3</sup> On the other hand, non-organized hourly employees with a three-year wage history with the County (other than those who went from part-time to full-time or from hourly to salaried status) received an average increase of \$1.91, while management employees with a three-year

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<sup>3</sup>At the time of the hearing, Sheriff's Department employees were also at impasse in their negotiations with the County, with the hearing for that unit scheduled for June 10, 2013. If a decision has been issued it was not on the website of Iowa PERB, [www.iowaperb.iowa.gov](http://www.iowaperb.iowa.gov), as of noon Central time on June 27, 2013.

wage history (other than those who went from part-time to full-time or from hourly to salaried status) received an average increase of \$1.66 during the same period. The entire non-organized group received an average increase of \$1.76, the Union calculates, noting that all County employees pay the same rates for insurance. The Union has also provided data showing the increases granted to the County's elected officials. The Union concludes that its final offer of a \$1.00 increase is justified because its external comparisons warrant an increase of between \$0.40 and \$0.43, and the catch-up with wage increases granted to the non-organized hourly and management employees justifies an increase of between \$0.57 and \$0.60. The Union also contends that higher insurance costs for County employees as compared to employees in the comparable counties means that a \$1.00 is more comparable than the wage rate comparisons alone would suggest.

The County objects that the Union's higher offer is not reasonable, because the notion of the need for a catch-up to nonunion employees and elected officials is flawed. Elected officials are paid based on a recommendation from the County Compensation Board which is required by statute to consider specified criteria, so it is difficult to compare wages and wage increases of public works employees with those paid to statutory officials. Similarly, the maximum compensation for deputy management positions is regulated by statute. Otherwise, the County argues that a mere numeric comparison of increases fails to support the need for a "catch-up" in the absence of information about the reasons for the increases and the possibility of changed job duties or assignments. The County also contends that while employees' share of the premium for health insurance increased in the 2010-2013 contract, it paid for the employees' consent to that increase during that contract, by paying increases of 2.5%, 3%, and 3.25%, for a total of 8.75%, and the Union's

proposed \$1.00 increase would effectively result in the County losing the balance agreed to in those negotiations. According to the County, under the Union offer, it would be paying a second time for the employees' concession at that time without gaining anything more from the employees.

Having considered all of the arguments and evidence presented, whether or not recounted herein, the undersigned finds that the County's final offer of a \$ 0.40 increase to the base wage rate is the most reasonable. As the discussion in Section IV of this award demonstrates, the comparison of wage rates among any of the external comparison groups proposed does not support an increase of \$1.00 as offered by the Union. Indeed, the Union has emphasized internal comparisons to justify the differential by which its \$1.00 offer exceeds the average increase of roughly \$ 0.44 among its comparable counties. However, the Union's methodology is flawed. Because they are regulated by statute, compensation decisions for elected officials are largely irrelevant, particularly in the absence of evidence of such abuses as corruption, overreaching, or financial irresponsibility by the decision-makers. In attempting to compare compensation of the nonorganized hourly and nonelected management workforce to the contractual wage rates of represented employees, the Union offers no evidence to show the basis for wage increases in the non-represented setting. The Union has made no attempt to eliminate job changes or even transfers (other than the part-time to full-time and hourly to salaried status changes) as a basis for any of the increases to non-represented employees.

Finally, the Union has failed to justify its proposed increase as a counterbalance to the relative contributions for health insurance by County employees as opposed to employees in the comparison group. The County "bought" the Union's agreement to

increased employee premium contributions with the parties' wage agreement in the past contract. The Union has failed to show that conditions have changed so as to warrant the County's additional payment for that past concession. In sum, the Union has failed to justify a "catch-up" either to other County employees or to the public works employees in any of the comparison groups proposed.

In contrast, the County's proposed increase of \$0.40 is close to the average increase among the Union's comparables, and does not appear to alter significantly the standing of the County's public works employees in comparison to the compensation of public works employees in the other counties named as comparable. For all of the reasons given herein, the County's final offer on wages is the most reasonable.

**AWARD**

For the reasons stated above, the arbitrator finds that the County's final offer on wages is the most reasonable.

Respectfully submitted,



Lisa Salkovitz Kohn

June 27, 2013

CERTIFICATE OF SERVICE

I certify that on the 27th day of June, 2013, I served the foregoing Arbitration Award upon each of the parties to this matter by sending a copy to them by Priority Mail First Class Mail at their respective addresses as shown below, and sent it by email to the email addresses listed:

Douglas Phillips  
Klass Law Firm, LLP  
4280 Sergeant Road #290  
Sioux City, IA 51106  
phillips@klasslaw.com

MacDonald Smith  
Attorney at Law  
Smith & McElwain  
505 Fifth Street, Suite 530  
P.O. Box 1194  
Sioux City, IA 51102  
smitmcel@aol.com

I further certify that on the 27th day of June, 2013, I submitted this Award for filing by mailing it to the Iowa Public Employment Relations Board, 510 East 12<sup>th</sup> Street, Suite 1B, Des Moines, IA 50319, and by email to susan.bolte@iowa.gov.



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Lisa Salkovitz Kohn, Impasse Arbitrator