IN THE MATTER OF THE INTEREST ARBITRATION BETWEEN	**INTEREST ARBITRATION OPINION AND AWARD**
CITY OF BELLEVUE, WASHINGTON	**PERC NO. 14037-I-98-309**
and	
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS UNION, LOCAL NO. 1604	**Date: September 17, 1999**

OPINION AND AWARD OF THE INTEREST ARBITRATOR

Interest Arbitrator
Michel H. Beck

Appearances
City of Bellevue, Washington:
Lawrence B. Hannah
Siona D. Windsor
International association of Firefighters Union, Local No. 1604
James H. Webster

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OPINION OF THE INTEREST ARBITRATOR

PROCEDURAL MATTERS

The Arbitrator, Michael H. Beck, was selected by the parties to conduct an interest arbitration pursuant to RCW 41.56.450. The parties waived their right to appoint panel members, and, thus, the matter was submitted to the undersigned as the sole arbitrator.

A hearing in this matter was held at Bellevue, Washington on March 1 and 2, 1999. The Employer, City of Bellevue, Washington, was represented by Lawrence B. Hannah of the law firm of Perkins Coie, LLP and Siona D. Windsor, Assistant City Attorney. The Union, International Association of Firefighters Union, Local No. 1604 was represented by James H. Webster of the law firm of Webster Mrak & Blumberg.

At the hearing the testimony of witnesses was taken under oath and the parties presented substantial documentary evidence. A reporter was present at the hearing and a transcript of the proceedings was made available to the Arbitrator for his use in reaching a determination in this case.

The parties agreed upon the submission of simultaneous posthearing briefs which were timely filed and received by the Arbitrator on May 28, 1999. At the hearing the parties agreed to waive the statutory requirement that the Arbitrator issue his decision within 30 days following the conclusion of the hearing.

ISSUES IN DISPUTE

Four issues were litigated at the hearing and submitted to the Arbitrator for determination. These four issues are:

1. Wages
2. Longevity Pay
3. Vacation Accrual
4. Length of Workweek

BACKGROUND

The Bellevue Fire Department serves approximately 128,000 people as its response area includes, in addition to the City of Bellevue, seven additional areas outside the City on a contract basis. The Union represents approximately 160 employees in four separate pay classifications. Additionally, premium pay is provided for those employees who perform the duty of firefighter/paramedic.

The Bellevue Fire Department (the Department) operates out of nine fire stations staffing various engine and aid units, an aerial ladder truck, and medic unit. The Department has earned a Class II Insurance Service Rating, the highest attained by any fire department in the State of Washington and one which was obtained only by Seattle, Tacoma and Spokane in addition to Bellevue. The Department has received from the Commission on Fire Accreditation International an accredited status based on a comprehensive review of over 200 performance standards. Such accreditation has only been received by seven other departments internationally. The assessed value of the property protected by the Bellevue Fire Department is second only to that of Seattle in the State of Washington. In summary, it is fair to conclude that the Department is a thoroughly professional organization.

STATUTORY FRAMEWORK

Chapter 41.56 RCW provides for collective bargaining between various public employers and certain employees employed by those public employers. Chapter 41.56 RCW, beginning with RCW 41.56.430, provides a separate set of requirements in connection with the collective bargaining process between certain public employers employing uniformed personnel and the uniformed personnel. Neither party disputes that the provisions of Chapter 41.56 RCW apply to the instant interest dispute.

RCW 41.56.430 provides as follows:

> **RCW 41.56.430 Uniformed personnel—Legislative declaration.** The intent and purpose of *this 1973 amendatory act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state

> of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes. [Revisor's note omitted.]

RCW 41.56.440 Uniformed personnel—Negotiations—Declaration of an impasse—Appointment of mediator, provides that if the parties are unable to reach agreement after negotiations for a specified period of time, either party may declare an impasse and submit the dispute to the Public Employment Relations Commission (PERC) for mediation. The mediator is authorized to take such steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement.

RCW 41.56.450 Uniformed personnel—Interest arbitration panel—Powers and duties—Hearings—Findings and determination, provides that if agreement has not been reached following a reasonable period of negotiations and mediation, and the Executive Director of PERC, upon recommendation of the assigned mediator, finds that the parties remain at impasse, then an interest arbitration panel shall be created to resolve the dispute. This statute further provides that the issues for determination by the Arbitration Panel shall be limited to those issues certified by the Executive Director.

RCW 41.56.465 provides in relevant part as follows:

> (1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:
>
> (a) The constitutional and statutory authority of the employer;
>
> (b) Stipulations of the parties'
>
> (c)
>
> * * *
>
> (ii) For . . . [firefighters], comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of

> employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;
>
> (d) The average consumer prices for goods and services, commonly known as the cost of living;
>
> (e) Changes in any of the circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and
>
> (f) Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. . . .
>
> * * *

COMPARABLES

The factor listed as Subsection (c)(ii) of RCW 41.56.465 (1) has traditionally been a significant factor relied upon by interest arbitrators in making determinations of appropriate wage rates, as well as other conditions of employment. This factor is commonly referred to as the "comparables."

The Employer has selected six fire departments as comparable to Bellevue, namely Central Pierce; Snohomish #1-11, referred to by the Union as Snohomish # 1 (Alderwood); Kent; Spokane Valley, referred to by the Union as Spokane FD #1; King #10, referred to by the Union as King # 10 (Issaquah); and Federal Way, referred to by the Union as King # 39 (Federal Way). These six fire departments were selected by taking the population served by the City's fire department and going up 30% and down 30%, resulting in the six fire departments with the population range of 100,000 to 140,000.

In support of its position, the City contends that the method it used to select comparables is a "pure statutory approach." (Employer brief, pg. 29.) In this regard, the

Employer takes the position that the phrase "similar size" appearing in RCW 41.56.465(1)(c)(ii) refers to population, and that the six comparables chosen by the Employer have an average population of 116,666 which is just less than 10% of Bellevue's population. Furthermore, the Employer takes the position that six is an adequate number of comparable employers, and thus all are within the State of Washington as required by the statute. (RCW 41.56.465(1)(c)(ii).)

The Union has selected eleven comparable fire departments which it refers to as the "agreed comparators."[1] The agreed comparators, according to the Union, are Tacoma, Redmond, Snohomish #1 (Alderwood), Kirkland, Kent, Pierce #2 (Lakewood), King #39 (Federal Way), Everett, King #10 (Issaquah), King # 4 (Shoreline), and Renton.

The Union relies on recent and past bargaining history in support of its position that the 11 comparables it seeks to have the Arbitrator adopt were, in fact, agreed to by the Employer. The Employer, admits that it did agree to use the 11 comparables as a basis for negotiating a new agreement, and in fact continued to rely on those comparables during mediation. However, the Employer points out that it never stipulated to their use in interest arbitration.

After carefully reviewing the record, I find that the 11 comparables contended for by the Union are the appropriate comparables to be used in this case. A review of the parties' collective bargaining history will be helpful to an understanding of my decision on this matter.

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[1] The Employer has used the term comparables and the Union has used the term comparators to refer to the individual fire departments each has selected. I have determined to use the term comparables throughout in order to avoid confusion with the term agreed comparators.

The record indicates that the parties' bargaining history dates back at least to the 1970's. During the nine year period between 1980 and 1988 the parties executed four separate collective bargaining agreements, three of which were concluded as a result of interest arbitration. Arbitrator John J. Champagne arbitrated the 1980-81 agreement, while Arbitrator Howard S. Block arbitrated the 1982-83 agreement. The 1984-86 agreement was concluded without interest arbitration, but the 1987-88 agreement resulted from the interest arbitration conducted by Arbitrator Janet L. Gaunt.

Each of the three arbitrators noted that the question of appropriate comparables was heavily litigated in the proceedings before them. Furthermore, each of the three arbitrators noted the inherent ambiguity in the statute making it difficult for an arbitrator to reach a determination on the most appropriate set of comparables. In this regard, Arbitrator Champagne simply did not select a list of comparables, noting that in making a determination on each of the issues before him, he would make "suitable adjustments for varying degrees of comparability or lack of comparability. . . ." (Employer Exhibit No. 9, pg. 5.)

In noting the difficulty in selecting comparables, Arbitrator Block pointed out:

> The range of alternatives available [under the statutory criteria] for comparison is nowhere more apparent than in the record of this proceeding. The City and the Union have both offered plausible contentions for sharply conflicting interpretations of the statutory criteria. (Union Exhibit No. 9, pg. 4.)

Arbitrator Block determined that the Puget Sound area was an integrated economic area with a common labor market and therefore determined that cities in the Puget Sound area offered, "the most persuasive basis for comparison." (Union Exhibit

No. 9, pg.8.) He also found that his determination in this regard was fully sanctioned by the "such other factors" language in Subsection (f) of the statute. At the time of the Block Award, the statutory criteria were set forth at RCW 41.56.460, and Subsection (c) of that statue referred only to "like employers." A city and fire district were not considered like employers. Thus, no fire districts were included in the list of comparables selected by Arbitrator Block. He selected eight comparables which he described as "Puget Sound cities (excluding Seattle) with fire departments serving 25,000 or more population." (Exhibit A, pg. 54.) At that time, according to Arbitrator Block, the Bellevue Fire Department served 95,000 people, including contract areas. The eight cities he selected were Auburn, Bremerton, Edmonds, Everett, Kent, Kirkland, Renton and Tacoma.

As discussed above the parties concluded a collective bargaining agreement for the years 1984-1986 without going to interest arbitration. The record does not indicate what, if any, comparables were used by the parties in negotiating this agreement. However, the parties were unable to conclude a successor agreement without going to interest arbitration. The 1987-88 agreement was concluded by interest arbitration before Arbitrator Gaunt. That interest arbitration required seven days of hearing, involved 15 certified issues, and Arbitrator Gaunt issued a 126 page Opinion and Award.

With respect the question of comparable employers, Arbitrator Gaunt began her discussion by noting the appropriateness of giving deference to the comparables selected by Arbitrator Block in the prior interest arbitration award. In this regard, she stated:

> The record certainly indicates that the parties could benefit from some degree of consistency and predictability in their bargaining relationship. (Union Exhibit No. 10, pg. 11.)

Arbitrator Gaunt recognized that she faced a different statutory framework than did Arbitrator Block as at the time of her Award the relevant statute had been changed to require consideration of public fire departments. Additionally, the new statute, with respect to firefighters, required the comparable employers to be within the State of Washington, rather than on the west coast as had the prior statute, if an adequate number of employer comparables existed within the State of Washington.

The Employer, following the same process it has in the matter before me, determined to look at public fire departments which had a population of 30% more than Bellevue and 30% less than Bellevue. This yielded only three public fire departments in the State of Washington. Thus, the Employer concluded that an adequate number of comparable employers did not exist within the State of Washington and applied its plus and minus 30% criteria to the west coast states of Oregon, California and Alaska. This yielded no Alaska departments and two Oregon departments. With respect to California, 48 fire departments were within the plus or minus 30% range. In order to reduce this number to a manageable size, the Employer took the five departments closest in size to Bellevue, thereby arriving at 10 comparable employers, three from Washington, two from Oregon and five from California.

Arbitrator Gaunt rejected this approach by the Employer, stating that in her view the phrase "similar size" in the statute could "appropriately be interpreted to include a range of public fire departments within one-half to two times the size of the department to which comparisons are being drawn." (Pg. 15, case citations omitted.) In this regard, Arbitrator Gaunt pointed to the fact that when one looked at the range in terms of ratio rather than percentages, a department 50% of the size of Bellevue is similar to one which

is two times the size of Bellevue. Using this range, Arbitrator Gaunt found 11 comparable public fire departments, all but two of which were in the three county (King, Pierce and Snohomish) Puget Sound labor market. In selecting these 11 fire departments as the appropriate comparables, Arbitrator Gaunt indicated her agreement with Arbitrator Block regarding the appropriateness of selecting as comparables public fire departments located within the same local labor market as the employer involved. She did, however, caution against using local labor market employers to the exclusion of considering "similar size" pursuant to Subsection (c).

Arbitrator Gaunt's list of 11 comparables contained six fire districts and five cities. Four of the five cities were also selected by Arbitrator Block and as to the fifth city, Redmond, which had not been selected by Arbitrator Block, Arbitrator Gaunt notes that at the time of the Block Opinion and Award, the Redmond firefighters did not have a collective bargaining agreement.

During the negotiations for the two collective bargaining agreements which followed the Gaunt Award, namely the 1989-91 agreement and the 1992-94 agreement, the parties were able to agree on a set of comparables in conducting those negotiations. The specific comparables agreed to are not contained in the record, but it appears from the testimony of Union negotiator Mark Moulton that the comparables agreed to during those two negotiations were either the same as those referred to by the Union as the "agreed comparators," or perhaps contained one or two differences.

During the negotiations for the 1995-97 agreement, the parties in Appendix D set forth a list of comparable employers to be used in calculating what the parties referred to as a "market adjustment." Pursuant to Appendix D, the parties agreed to an increase in

hourly compensation over the course of the agreement equal to, "103% of the average increase in hourly compensation experienced by the eleven Puget Sound firefighter bargaining units from 1994 to 1997." These 11 "bargaining units" are the same as the 11 comparables which the Union refers to as the "agreed comparators."

These agreed comparators are the same comparables selected by Arbitrator Gaunt except that the two non-Puget Sound comparables on her list were eliminated by the parties in Appendix D, namely Spokane #1 (Spokane Valley) and Clark # 5, and two Puget Sound fire departments were substituted, namely Renton and King # 10 (Issaquah).

At the beginning of negotiations for the 1998-2000 Agreement, which is the subject of this interest arbitration, the parties executed a document entitled, "Collaborative Bargaining Guidelines by and Between City of Bellevue and IAFF Local # 1604 Re: 1997 Labor Negotiations." The document signed on September 10, 1997 states that the purpose of the guidelines "is to establish a procedural framework for arriving at a new collective bargaining agreement." Paragraph 8 provided that:

> The parties will exchange their respective lists of comparison fire departments they are proposing to use to justify their proposals no later than the 2nd meeting, which is scheduled for October 15. (Union Exhibit No. 15.)

On October 15, 1997 the Employer presented the Union with a document entitled, "City Proposals to Address Open Issues" which at Paragraph 8 stated:

> To promote continued stability in the identification of comparable fire departments the following list remains a reasonable option." (Union Exhibit No. 16.)

Immediately thereafter, the City listed the 11 comparables which had been listed in Appendix D of the 1995-97 agreement. The Union agreed with the Employer on the

appropriateness of these 11 comparables and as indicated above has since referred to these comparables as the "agreed comparators."

All during negotiations and through several mediation sessions held by a PERC mediator in the spring and summer of 1998, both parties relied exclusively on the 11 "agreed comparators." In this regard, Cabot Dow, the Employer's chief spokesperson in the bargaining negotiations testified that during the mediation process the parties exchanged extensive amounts of information using the 11 agreed comparator jurisdictions and that this information was made available to the mediator. The mediation efforts did not succeed, and by letter dated July 23, 1998 PERC Executive Director Marvin Schurke certified 17 issues for interest arbitration. In the last line of his letter, Mr. Schurke stated that the services of a PERC mediator would be available until a neutral chairman was appointed.

By letter dated July 7, 1998 Union Counsel James Webster wrote to Employer Assistant City Attorney Siona Windsor noting that the parties were moving towards interest arbitration and asked that the City provide certain information in order to allow the Union to prepare for interest arbitration. Included in that request was a request for information, including documents and exhibits, upon which the City either relies on to support its proposals or to oppose the Union proposals which the City intends to present in interest arbitration. On September 21, 1998 Mr. Dow provided the Union's lead negotiator, Russell Caney, with a substantial amount of documentary information in response to the Union's information request. That information included information based on the 11 comparables which the parties had been using all during negotiations. I

was retained as the neutral interest arbitrator on October 8, 1998 and the hearing was set for March 1—5, 1999.

By letter dated January 14, 1999 the Employer wrote to the Union stating that it had determined to use six fire departments as comparable employers at the interest arbitration based on a range of plus or minus 30% of Bellevue's population. The six fire departments listed were the same six fire departments which the Employer seeks to have the Arbitrator select as the appropriate comparables. The following day the Union acknowledged receipt of the Employer comparables and informed the Employer that it would be relying on the same 11 comparables which had been used during negotiations and mediation.

As I understand the Employer's position it is that the interest arbitrator is required, pursuant to RCW 41.56.465(1)(c)(ii) to consider as comparable jurisdictions only those public fire departments which can be said to be of similar size to that of the Employer. In this regard, the Union points out that its set of six comparables clearly meets the statutory criteria, but the Union's just as clearly does not because its comparables not only vary widely in population size from 55,920 in Renton to 205,000 in Tacoma, but also because the Union has not selected its comparables consecutively, instead skipping over public fire departments whose population is closer to that of Bellevue's in order to select only comparables in the Puget Sound labor market. Additionally, the Employer points out that the "other factors" criteria set forth in RCW 41.56.465(1)(f) limits consideration by the Arbitrator to factors other than those separately set forth in the statute which includes comparable jurisdictions.

I find nothing in RCW 41.56.465 to preclude consideration of two of the statutory guidelines together if an arbitrator believes that to do so will enhance his or her ability to reach a decision in accord with the legislative purpose of the interest arbitration provisions. I note that both Arbitrators Block and Gaunt, in their interest arbitration decisions, recognized the importance of comparisons among local area labor market jurisdictions. In fact, both arbitrators quoted UCLA Professor Irving Bernstein regarding the importance of local labor market comparisons in connection with wage determinations. In this regard, Professor Bernstein pointed out that local area labor market comparisons allow employees to determine the adequacy of the income they receive and that they will feel no discrimination if they determine that their income is abreast of other employees in the same industry, locality and neighborhood. Thus, such comparisons will assist an interest arbitrator in making determinations which will in the words of RCW 41.56.430 "promote . . . dedicated and uninterrupted public service" by unformed personnel.

The choice left to an interest arbitrator in a situation where local labor market considerations are of significance is to either establish two separate lists of comparables, one pursuant to subsection (1)(c) and the other pursuant to subsection (1)(f) of RCW 41.56.465 and then somehow try to weight the results of the comparisons made pursuant to those lists, or to combine in one list the guidelines suggested by each of those two subsections of RCW.41.56.465. It must be remembered that the standards or guidelines set forth in RCW 41.56.465 have been placed there to aid the arbitration panel in reaching a decision which is to be in accord with the legislative purpose set forth in RCW 41.56.430. Therefore, if an interest arbitration panel believes it helpful in reaching a

decision to consider two statutory standards or guidelines together, there is simply nothing in the relevant statutes to prevent the panel from doing so. In my experience this is the course generally followed by interest arbitrators with respect to comparables.

The question that must be addressed now is, whether even though I have found that RCW 41.56.465 does not preclude taking into account other factors in establishing comparable employers, should the Union's proposed list of "agreed comparators" be selected as the appropriate comparables. The Employer contends that it never agreed to use the "agreed comparators" for purposes of interest arbitration. The Employer points to RCW 41.46.465(b) which lists the stipulations of the parties as one of the standards or guidelines to aid the arbitration panel in reaching a decision. The Employer contends it never stipulated to the use of the agreed comparators for purposes of interest arbitration.

As I understand the Union's position, it does not contend that the Employer specifically stipulated to the use of the agreed comparators for interest arbitration. However, the Union points out that the parties did stipulate to the use of the agreed comparators for purposes of justifying their proposals during negotiations for a new collective bargaining agreement and continued to do so through mediation and for several months after the undersigned was selected to be the Interest Arbitrator. Furthermore, the Union points out that the Employer in proposing and then agreeing to the use of the agreed comparators during negotiations did not limit the agreement so as to exclude use of the agreed comparators for interest arbitration, and therefore the Union contends the agreement of the parties to use the agreed comparators continues through the entire collective bargaining process, including interest arbitration.

As the Union points out, in City of Bellevue, Decision 3085-A (PECB, 1989); 1989 WL 592696, PERC sustained on appeal the Examiner's decision that the City of Bellevue had committed an unfair labor practice when it refused the Union's request to identify the fire departments the City intended to use as comparables in interest arbitration. In its appeal, the City asserted that the interest arbitration proceeding was not a part of the collective bargaining process and therefore PERC had no jurisdiction over the matter. In affirming the Examiner's decision, the Commission (at pg. 2) states:

> . . . We view the interest arbitration process as concurrent with, or even a continuation of, the collective bargaining process created within the same chapter of the Revised Code of Washington. The duty to bargain in good faith does not end at the point where contract issues are certified for interest arbitration, nor does it end while interest arbitration proceedings are taking place. Rather, it continues at all times during the interest arbitration process. Although interest arbitration is triggered by the Executive Director's certification under RCW 41.56.450 that an impasse exists, that impasse can be broken at any time. In fact, it is in the public interest that such an impasse be broken, and that the parties proceed, if possible, to a negotiated resolution of their dispute.

The Supreme Court of Washington in City of Bellevue v. International Association of Firefighters, Local 1604, 119 Wn. 2d 373 (1992) affirmed the ruling of PERC stating:

> We find the Legislature did not intend PERC's explicit statutory directive "to prevent any unfair labor practice and to issue appropriate remedial order" to be affected or impaired by the statutory interest arbitration procedures . . .

With respect to statutory interest arbitration, the Court stated:

> . . . [T]he Legislature did not intend statutory interest arbitration to displace the negotiating process; it intended it to be used to promote uninterrupted and dedicated service by

> uniformed personnel and to avoid strikes. RCW 41.56.430. Thus, it is more appropriate to view interest arbitration not as a substitute for collective bargaining, but as an instrument of the collective bargaining process that displaces certain economic tactics. (Pg. 382.)

Based on the parties bargaining history and the interest arbitration statutory framework, I have determined to select the "agreed comparators" as the appropriate comparables in this case. They are: Everett; Kent; King # 4 (Shoreline); King # 39 (Federal Way); King # 10 (Issaquah); Kirkland; Pierce # 2 (Lakewood); Redmond; Renton; Snohomish # 1 (Alderwood); and Tacoma.

BASIS FOR COMPARISON

Both parties have provided evidence regarding hourly compensation in Bellevue versus the comparable employers each party selected using the same general formula as that set forth in Appendix D of their 1995-97 agreement with certain exceptions. The parties are in agreement that "total compensation (monthly)" includes base salary, longevity, educational incentive pay, mutual employee benefit trust/deferred compensation (MEBT/D.Comp), and holiday pay. Furthermore the parties are in agreement that "net hours per month" is computed by subtracting from annual work hours, vacation hours accrued and holiday hours received and then dividing by 12. Total compensation on a monthly basis is then divided by net hours worked per month in order to compute "hourly compensation."

In Appendix D of the 1995-97 agreement, the parties used a firefighter in his or her 11th year as a basis for computing hourly compensation because that was the average length of continuous service by bargaining unit members as of January 1, 1995. The

average length of service of bargaining unit firefighters as of January 1, 1998 was 12.43 years and as a result the Union, in its computations presented at the hearing, used a firefighter in his or her 13th year of service. In addition to presenting hourly compensation comparisons for year 13 firefighters, the Union also presented such comparisons for one, six, sixteen, twenty-one and twenty-six year firefighters.

The Employer suggests one major variance from the compensation system used in Appendix D of the 1995-97 agreement. In this regard, the Employer updated the bargaining unit classifications as of February 23, 1999 and found that out of 163 bargaining unit members on that date, 87 of them or 53.4% of the bargaining unit members held a position higher in pay than basic firefighter. Of the 87, 32 held the rank of Lieutenant or Captain, while 55 received additional pay for serving as Firefighter/Engineer or Firefighter/Paramedic. Thus, the Employer contends that the bargaining unit should not be seen as a unit of firefighters, but as a unit of employees the Employer refers to as "firefighter-plus." Based on the foregoing, the Employer contends that the Arbitrator should employ in making the comparisons "center-of-gravity demographics" with respect to the five core positions in the bargaining unit, namely Captain, Lieutenant, Firefighter/Engineer, Firefighter/Paramedic and Firefighter.

However, arbitrators traditionally have used the basic firefighter as the core rate for purposes of compensation comparisons. Furthermore, I note that for the last three contracts the parties themselves have set the rate for Firefighter/Paramedic, Firefighter/Engineer (Firefighter/Driver) and Lieutenant based upon an additional premium over that paid Firefighters, and set the Captain's rate based upon an additional

premium over that paid the Lieutenant. Therefore, I shall make comparisons based on the basic firefighter.

Since the parties both during negotiations for the 1995-97 agreement and the current agreement used hourly compensation as described in Appendix D of that agreement, I shall also use the same formula in making comparisons between the appropriate comparables. I will treat each of the four issues separately as they were separately certified for arbitration, however, I will consider each of the four issues together in making my final determination, since, as both parties recognize, the four issues are interconnected as each affects the overall hourly compensation paid to bargaining unit members.

WAGES

The Union proposes the following increase in base wages:

1. Effective January 1, 1998: 100% of the increase in the Seattle CPI-W from July 1996 to July 1997.

2. Effective January 1, 1999: 100% of the increase in the Seattle CPI-W from July 1997 to July 1998.

3. Effective January 1, 2000: 100% of the increase in the Seattle CPI-W from July 1998 to July 1999.

As I understand the Employer's wage proposal for 1998, it would provide a cost of living general wage increase based on the same CPI-W computation except that it would only provide 80% of that increase. Therefore, instead of the 3.7% increase resulting from the Union's proposal, the Employer proposes a 3% increase for 1998, with

that increase to be effective September 30, 1998 as this date is one year after the prior general wage increase was granted under the 1995-97 contract. While the Union refers to a wage increase based on the Seattle CPI-W from July 1996 to July 1997 and the Employer apparently agrees this is the appropriate basis, I note that the CPI-W for Seattle does not contain a reading for either July 1996 or July 1997. Apparently the parties are referring to the first half of 1996 as compared to the first half of 1997, which percentage increase is listed in the CPI-W for Seattle as 3.7%.

With respect to 1999, the Employer proposes that effective January 1, 1999 the general wage increase should be an amount equal to 80% of the percentage increase in the Seattle CPI-W for the period from August 1997 to August 1998. The Seattle CPI-W contains no figure for August 1997, although it does contain a figure for August 1998. Both parties are in agreement that if the Arbitrator were to base an increase effective January 1, 1999 based on 100% of the Seattle CPI-W figures they believe appropriate, that increase would be 2.5%. Eighty percent of 2.5% would be 2%, which is the increase the Employer proposes for 1999. I note that the increase in the Seattle CPI-W between the first half of 1997 and the first half of 1998 is 2.5%.

The Employer proposes effective January 1, 2000 a general wage increase by an amount equal to 80% of the percentage increase in the Seattle CPI-W for the period from August 1998 to August 1999. The most recent update of the Seattle CPI-W is dated September 16, 1999. Again no figure is listed for Seattle for July of 1999, just as none was listed for July of 1998, 1997, and 1996. The increase between August 1998 and August 1999 for the Seattle CPI-W was 3.1%. However, the increase in the Seattle

CPI-W between the first half of 1998 and the first half of 1999 was 3%. In view of the fact that the evidence indicates that the parties have based their 1998 and 1999 increase proposals on the difference between the first half figures for 1996 and 1997, and 1997 and 1998 respectively, I have determined to use the increase in the Seattle CPI-W from the first half of 1998 to the first half of 1999. Thus, the Union's proposal of 100% of the CPI-W amounts to 3%, and 80% of 3% amounts to 2.4%.

General wage increases in Bellevue have traditionally been made based on base pay. At the close of the 1995-97 agreement, a firefighter in his or her 13th year of employment (the average firefighter) earned base pay of $4,145 per month at Bellevue. However, as of January 1, 1998 the average base pay of the 11 comparables for a 13th year firefighter was $4,323.55. Thus, the 13th year base pay average for the 11 comparators during 1998 was 4.3% higher than the base pay received by a year 13 firefighter in Bellevue in 1997. These facts support the Union's request for an increase equal to a 100% increase in the Seattle CPI-W which came to 3.7%. Such an increase would provide a year 13 firefighter in Bellevue with a base wage of $4,298 rounded to the nearest dollar, which is the practice in Bellevue. This figure is $25.55 per month less than the average firefighter in the 11 comparables at 13 years. Thus, granting the Union's proposal still leaves the Bellevue firefighter approximately 6/10 of 1% (.006%) behind the average of the comparables for a year 13 firefighter.

I have also reviewed the three contracts reached by the parties since the 1987-88 agreement which resulted from the Gaunt Award and I note that none of the general wage increases were based on 80% of the Seattle CPI-W. I have prepared a chart showing how the Seattle CPI-W has been employed by the parties since 1989.

CHART NO. 1

Basis for General Wage Increase

1989-97

YEAR	
1989*	
1990	Effective 1/1/90: 1% plus 90% of Seattle CPI-W**
1991	Effective 1/1/91: 1% plus 90% of Seattle CPI-W**
1992*	
1993	Effective 1/1/93: 1% plus 90% of Seattle CPI-W**
1994	Effective 1/1/94: 100% of Seattle CPI-W**
1995*	
1996	Effective 1/1/96: 100% of Seattle CPI-W**
1997	Effective 1/1/97: 90% of Seattle CPI-W, 1% effective July 1, 1997, and a market adjustment effective 9/30/95, amounting to 0.5%**

* The extent to which the general wage increase in these years was based on the CPI is not clear from the record.

** Maximum and minimum limitations set forth for those years are not shown as neither party proposed such limitations for the general wage increases for the 1998—2000 Agreement.

Finally, it is true as the Employer points out that there has been some recent criticism that the CPI has overstated the actual rate of price inflation. (See the Interim Report to the Senate Finance Committee from the Advisory Commission to Study the Consumer Price Index, dated September 15, 1995, submitted by the Employer as Attachment W to Employer Exhibit No. 7). However that report indicates that a final

report is to be published with specific recommendations for procedures to improve and/or complement the CPI. The record does not indicate whether such a final report has issued or to what extent, if any, the Bureau of Labor Statistics, which continues to publish the CPI, has adopted any recommendations of the Advisory Commission.

With respect to the effective date of the 1998 general wage increase, the Union contends that the effective date should be January 1, 1998 while the Employer contends that the effective date should be September 30, 1998. In support of its position the Employer points out that bargaining unit employees under the 1995-97 agreement actually received two increases in the second half of 1997, namely 1% effective July 1, 1997 and 0.5% market adjustment effective September 30, 1997. Thus, in the Employer's view it would be appropriate to wait at least one year before providing bargaining unit employees with another raise.

I find myself in agreement with the Union that it would be appropriate to implement the general wage increase at the beginning of the new agreement. In this regard, I note that in the nine years since the Gaunt Award, namely 1989 through 1997, the general wage increase was effective as of January 1. Furthermore, additional raises were granted effective September 1, 1992 and September 1, 1995 yet the general wage increases in 1993 and 1996 were effective January 1 of those years. Based on the foregoing, I have determined that the effective date of the wage increase in 1998 should be January 1, 1998.

LONGEVITY

The Union proposes the adoption of a longevity schedule of 1%, 2%, 3%, 4%, and 5% payable at five, ten, fifteen, twenty, and twenty-five years of completed service respectively. As I understand the Union's proposal these percentages would be calculated on the base wage of the bargaining unit member receiving the longevity pay. The Union's proposal, if granted, would eliminate Appendix B, Longevity. The Employer opposes the implementation of a longevity schedule and also seeks to eliminate Appendix B, Longevity.

The history of the Appendix B, Longevity provision is fully described in my Opinion and Award in the Longevity Pay Grievance dated April 12, 1999, and involving the parties here. (Union Exhibit No. 35.) In that case, I held that the Employer violated the 1995-97 agreement by refusing to provide LEOFF I employees with 17 or more years of service with longevity pay as described in Appendix B. I also found that my Award affected only about 17 bargaining unit employees over a seven-year period between 1992 and 1998.

The Union in support of its position points to the fact that as of January 1, 1998, nine of the 11 comparables had a longevity schedule and effective January 1, 1999 that figure moved to 10 as Kirkland added a longevity schedule effective January 1, 1999. The Employer opposes the Union's request for a longevity pay schedule, pointing out that it provides a broadly based educational incentive pay program with approximately 70% of the bargaining unit members receiving educational incentive pay as of July 1, 1997. The Employer also points out that the Union's request for a longevity pay schedule was rejected by all three of the prior interest arbitrators.

I have determined to grant the Union's longevity proposal for the reasons set forth below.

As the Union points out, at the time of the Gaunt Award, only eight of the 11 comparables relied on by Arbitrator Gaunt had longevity pay schedules and only one had both a longevity pay schedule and an educational incentive program. However, presently 10 of the 11 "agreed comparators" have a longevity schedule and three now have both a longevity pay schedule and an educational incentive program. I also note that the Union's proposal before me is one half of that presented to Arbitrator Gaunt, which was two, four, six, eight and ten percent at five, ten, fifteen, twenty and twenty-five years respectively.

Implementation of the Union's proposed longevity pay schedule would still leave Bellevue significantly behind the average longevity pay schedule of the comparables. In this regard, I note that Union Exhibit No. 30, page 1, "Comparison of Longevity" shows that the comparable average is significantly higher than Bellevue assuming both the implementation of the Union's proposed longevity pay schedule as well as implementation of the Union's 3.7% proposed general wage increase. This exhibit shows that the average comparable varies from 18% higher than Bellevue for employees who have completed 10 years to 32% higher for employees who have completed 20 years.

Union Exhibit No. 30 actually contains 1999 figures for two comparables, namely Kirkland and King # 4 (Shoreline). I have recalculated the comparable average for employees who have completed ten years and for employees who have completed 20 years, using zero for Kirkland, as Kirkland did not have any longevity payment schedule

during 1998, and substituting the 1998 figures for King # 4 (Shoreline).[2] When the comparable average is recalculated using 1998 figures, it is still 8.7% above Bellevue for employees who completed ten years and 22.4% above Bellevue for employees who have completed twenty years.

Finally, I note that the calculations agreed upon by the parties in Appendix D regarding the elements of total compensation, include both longevity and educational incentive pay. Therefore educational incentive pay will be taken into account in making overall comparisons between Bellevue and the applicable comparables.

VACATION ACCRUAL

The Union proposes substantial increases in vacation accrual for bargaining unit members except for those with one through four years of service. Below in Chart No. 2 I have set forth the changes proposed by the Union with respect to both full-time employees working 24-hour shifts and those working eight hour days. In producing Chart No. 2, I have used the Union's years of service categories which differ slightly from those in Article 17, "Vacation Leave."

[2] A review of Union Exhibit No. 29 shows that the longevity pay in Shoreline for an employee who had completed ten years was $149.35 rather than $170.68 figure shown on Union Exhibit No. 30, page 1. Furthermore, for employees who had completed 20 years at Shoreline in 1998, the longevity payment was $320.03 rather than the $341.36 figure shown on Union Exhibit No. 30.

CHART NO. 2

Vacation Leave – Article 17

YEARS OF CONTINUOUS SERVICE	VACATION SHIFTS		HOURS PER CALENDAR MONTH OF SERVICE	
	Presently	Union Proposal	Presently	Union Proposal
1 – 4	6	5	12	10
5 – 9	7	8	14	16
10 – 14	8	10	16	20
15 – 19	9	11	18	22
20 – 24	10	12	20	24
25 and above	10	12.5	20	25
	8 – HOUR DAYS		HOURS PER MONTH	
	Presently	Union Proposal	Presently	Union Proposal
1 – 4	15	12	10	8
5 – 9	18	21	12	14
10 – 14	21	27	14	18
15 – 19	24	30	16	20
20 – 24	27	33	18	22
25 and above	27	34.5	18	23

I have determined to discuss this issue in terms of the 24-hour shift employee for two reasons: first, the issue of vacation accrual was discussed during the hearing in terms of the 24-hour shift employee and the relevant exhibits relate to the 24-hour shift employee; secondly, as I understand the Union's proposal, it is proposing changes for the eight hour employee commensurate with those it is proposing for the 24 hour shift employee.

The Employer opposes any change in vacation accrual pointing out that the Union's proposed increases run from 14.3% for employees with five through nine years of service, to 25% for employees with either 10 through 14 years of service or 25 years and beyond of service. The Union relies on a comparison between Bellevue and the comparables in support of its position. Thus, the Union points out that with the exception of employees with one through four years of service, Bellevue is considerably behind the comparables, running from 10% behind the average of the comparables for employees with five through nine years of service to as much as 24% behind with respect to the average of the comparables for employees with more than 25 years of service. (Union Exhibit No. 31.)

It is appropriate, as the Employer points out, to consider the number of holiday hours employees receive in connection with a consideration of vacation hours accrued. Holiday hours in Bellevue are 120, while the average of the comparators is only 106. Thus, Bellevue awards holiday hours that are 13.2% greater than that awarded by the average of the comparables. Additionally, the longevity schedule I have awarded bargaining unit employees rewards to a greater extent the more senior employees as does the Union's vacation accrual proposal. However, some additional increase in vacation accrual is appropriate in view of the disparity between the comparables and Bellevue.

I have determined to grant the Union's proposal with respect to employees with one through four years of service but not with respect to employees with five through nine years of service. With respect to the next three service categories, I have determined to grant one half of the Union's proposed increase. Finally, I have determined not to provide any additional increase in vacation accrual for employees at the service level of

25 years and beyond. In this regard, I note that of the 11 comparables only four provided increases in vacation accrual for employees at the 25 years and beyond service level, namely, Pierce No. 2 (Lakewood), King No. 4 (Shoreline), Renton and Tacoma.

Immediately below in Chart 3, I have set forth the total of holiday and vacation hours which will be received by Bellevue firefighters (24-hour shift) pursuant to my Award compared to the average of the comparables for 1998.

CHART NO. 3

Vacation Hours Awarded Vs. Comparables average 1998

YEARS OF CONTINUOUS SERVICE	BELLEVUE Vac. Hours	Hol. Hours	Total	COMPARABLES Vac. Hours	Hol. Hours	Total	TOTAL Bellevue v. Comps
1 – 4	120	120	= 240	124	106	= 230	+4.4%
5 – 9	168	120	= 288	185	106	= 291	+1.0%
10 – 14	216	120	= 336	236*	106	= 342	+1.8%
15 – 20	240	120	= 360	262	106	= 368	+2.2%
More than 20	264	120	= 384	285	106	= 391	+1.8%

* Union Exhibit No. 29 shows 231 vacation hours for the year 11 average of the comparables and 236 vacation hours for the year 13 average. I have used year 13 since it represents the continuous service of the average bargaining unit member at Bellevue.

WORKWEEK

The Union proposes that effective January 1, 1999 the average workweek be reduced to 47.95 hours from the present figure of 49.10 hour per week. This would be accomplished by providing bargaining unit members with 2.5 additional off days (Kelly

days) annually. Presently 24-hour shift employees receive 15 Kelly days annually. Thus, the Union proposal would raise that amount to 17.5 Kelly days annually.

The Union relies on the comparables in support of its position, pointing out that the average workweek of the comparables in 1998 was 47.80 hours, leaving Bellevue at 49.10 hours, 2.73% above the average of the comparables. Furthermore the Union points out, that even if the Union proposal is accepted, Bellevue will remain slightly above the average of the comparables since it will be at 47.95 hours. (Union Exhibit No. 32.)

The Employer opposes any change in the workweek, pointing out that there have been three significant workweek reductions since 1994. In 1994, the last year of the 1992-94 agreement, the weekly hours of work were reduced from 50.48 to 50.02 and was accomplished by increasing the number of Kelly days from 12 to 13. For 1996, the hours of work were reduced from 50.02 to 49.56 by adding an additional Kelly day, providing employees with 14 Kelly days. For 1997, the hours of work were reduced from 49.56 to the current 49.10 by adding an additional Kelly day so that employees had 15 Kelly days. Thus, in the three year period between January 1, 1994 and January 1, 1997 hours were reduced 2.73%. The Union's proposal seeks a reduction in the workweek of 2.34%. Thus, if the Union's proposal were granted, the reduction in hours over the four year period January 1, 1994 through January 1, 1998 would amount to a reduction of 5.01%.

It would not be appropriate to reduce the workweek hours any further during the 1998-2000 Agreement in view of the substantial reduction in work hours over the prior two collective bargaining agreements. In this regard, I note the parties acknowledgement in their 1995-97 agreement that "improvements in hourly compensation occur both when additional compensation is received and when fewer hours are worked." (Employer

Exhibit No.1, Appendix A.) As described below, I have awarded substantial increases in other components of hourly compensation.

HOURLY COMPENSATION

As discussed previously in this Opinion, in the Section entitled "Basis For Comparison," it is appropriate to use the Appendix D calculation of "Hourly Compensation," substituting a top step firefighter with 13 years experience for a top step firefighter with 11 years experience. Union Exhibit No. 29 at page 4 sets forth the calculation showing that the hourly compensation for a year 13 employee in Bellevue at the end of 1997 amounted to $24.19. In the same exhibit at page 3, the Union sets forth the computation for hourly compensation in Bellevue based on its proposal for 1998, indicating an hourly compensation of $26.85 which would be an 11% increase over the hourly compensation at the end of 1997. The hourly compensation for the year 13 employee based on those proposals of the Union which I have granted comes to $25.82 which is 6.7% above the hourly compensation at the end of 1997.

Immediately below I have set forth the calculations resulting in the $25.82 hourly compensation figure. In doing so I have used the Union's figures on the third page of Union Exhibit No. 29, "Union's Proposed 1998 Bellevue," except in those areas where I have not granted the Union's proposal. With respect to Appendix D, "Total Compensation (monthly)," I have granted the Union's base pay and longevity pay proposals and therefore there is no need to alter the Union's figures which are set forth below:

Base Pay	$4,298.00
Longevity Pay	$ 85.96
Educational Incentive Pay	$ 107.45
MEBT/D. Comp.	$ 297.85
Holiday Pay	$ 0.00
Total Compensation	$4,789.26

With respect to Appendix D, "Net Hours per Month," the Union's figures have to be altered to reflect the fact that I did not grant either its workweek proposal or its full vacation accrual proposal. Thus, the workweek remains at 49.10 hours. The vacation hours will have to be altered since I only granted an increase in vacation accrual sufficient to allow for one additional 24-hour work shift at 13 years instead of the two proposed by the Union. Thus, the total vacation hours will be revised from 192 to 216 and the holiday hours remain at 120.

When the 49.10 hour workweek is multiplied by 52.18 and the vacation hours and holiday hours are subtracted, the net hours per year figure is 2226.04. When this figure is divided by 12 the resulting net hours per month is 185.50. In order to calculate the hourly compensation, the total compensation of $4,789.26 must be divided by the net hours per month of 185.50, leaving an hourly compensation figure of $25.82. When the hourly compensation figure of $25.82 is compared to the compensation received by the 13 year firefighter at the end of 1997 of $24.19, the increase measures 6.7%. As the Employer points out, 6.7% is a significant increase, particularly in a relatively low inflation environment. However, as the Union points out, the average of the comparables for 1998 of $25.99 is 7.4% above the $24.19 in hourly compensation received by the 13-

year firefighter in Bellevue in 1997. Thus, my Award brings the firefighters to an hourly compensation figure just slightly below that of the average of the comparables. At $25.99, the hourly compensation of the comparable average is less than 1% above that of Bellevue, with the actual percentage being 0.0066%. Although the hourly compensation resulting from my Award leaves Bellevue slightly behind the comparable average, it does place Bellevue in the top half of the comparables, namely 6th out of the 12 comparables including Bellevue.

AWARD OF THE INTEREST ARBITRATOR

It is the Award of your Interest Arbitrator that:

I. With respect to base wages:

A. Effective January 1, 1998 the base wage shall be increased by 100% of the increase in the Seattle CPI-W from the first half of 1996 to the first half of 1997 which equals 3.7%.

B. Effective January 1, 1999 the base wage will be increased by 100% of the increase in the Seattle CPI-W from the first half of 1997 to the first half of 1998 which equals 2.5%.

C. Effective January 1, 2000 the base wage shall be increased by 100% of the increase in the Seattle CPI-W from the first half of 1998 to the first half of 1999 which equals 3%.

II. With respect to longevity pay: Effective January 1, 1998 the Union's proposed longevity schedule shall be adopted and Appendix B, Longevity eliminated.

III. With respect to vacation accrual:

A. Article 17, Section 1, Vacation Leave shall be amended as follows:

Years of Continuous Service	Vacation Shifts	Hours per Calendar Month of Service
1 through 4	5	10
5 through 9	No change	No Change
10 through 14	9	18
15 through 20	10	20
More than 20	11	22

B. Article 17, Section 2, Vacation Leave shall be amended as follows:

Years of Continuous Service	8-Hour Days	Hours Per Month
1 through 4	12	8
5 through 9	No Change	No Change
10 through 14	24	16
15 through 20	27	18
More than 20	30	20

IV. With respect to workweek: The Union's proposal is rejected and the Employer's proposal of no reduction in the workweek is granted.

Dated: September 17, 1999

Seattle, Washington

Michael H. Beck, Interest Arbitrator