BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

INLAND BOATMEN'S UNION OF THE PACIFIC

and

STATE OF WASHINGTON (DEPARTMENT OF TRANSPORTATION, FERRIES DIVISION)

FMCS Case No. 181003-00075
PERC Case No. 130804-I-18

Appearances:

Elizabeth Brown and Jon Jaquish, Assistant Attorney Generals, appeared on behalf of the State and its subdivisions.

Robert Lavitt and Carson Phillips-Spotts, Schwerin, Campbell, Barnard, Iglitzin & Lavitt, LLP, Attorneys at Law, appeared on behalf of the Union.

INTEREST ARBITRATION AWARD

Inland Boatmen's Union of the Pacific (herein "Union") and State of Washington (herein "State"), Department of Transportation (herein as necessary "WSDOT"), Department of Ferries (herein as necessary "WSF") jointly selected the undersigned from a panel of arbitrators from a list provided by the Federal Mediation and Conciliation Service to serve as the impartial arbitrator to hear and decide the interest arbitration dispute with respect to the parties' July 1, 2019 to June 30, 2021 collective bargaining agreement pursuant primarily to RCW 47.64.300, *et seq.* The impasse and issues in dispute were certified by Washington Public Employment Relations Commission on August 9, 2018. The certification was amended August 16, 2018. The undersigned held a hearing in Seattle, Washington, on August 20, 21, 22, 23, 24. The parties made oral argument at the close of hearing. The record was closed as of August 24, 2018.

ISSUES

The following is a summary of the issues in dispute. The parties' final offers as amended as of the close of the record constitute the final statement of the issues. They are incorporated herein by reference as if fully set out.

1. RULE 17 – Classification and Rates of Pay

   a. General pay increase, Sections 17.01 and 17.02
      1. FY 2020, effective July 1, 2019
         Union: 4% + 2.1% (in lieu of Beck award)
         WSF: 2%

2. FY 2021 effective July 1, 2020
   Union: 4% and 2.1% (in lieu of Beck award)
   WSF: 2%

b. Sec. 17.01, currently requires that Deck Department and Terminal Department employees who have worked less than 5,200 straight-time hours and Information Department employees who have worked less than 4,160 straight-time hours be paid at entry level rates and that the Union proposes to reduce this to 2080 hours for all employees with a related similar adjustment for on-call employees. WSF proposes to keep the current provisions.

c. The Union proposes to increase the Shore Gang rate of pay by $1.60 in each contract year by $1.60 per hour. WSF opposes the additional rate.

d. Section 17.04 -power tool task rate. This requires that employees who use certain listed power tools be paid an additional $1.00 per hour for each straight time hour and $2.00 an hour for each overtime hour they use any of the specific tools listed in the provision. This provision primarily, if not solely, applies to Shore Gang personnel. The Union proposes to change the list to reflect the tools that are now used in lieu of some of the listed tools and to increase the rate to $3.00/$6.00 per hour. WSF proposes to add a sentence which states that Section 17.04 no longer applies to Shore Gang employees except when they are performing a watch as OS or AB.

e. The Union proposes that AB reliefs be paid at the AB Bos'n. rate whether they work in that position or not. WSF opposes that change.

2. RULE 23 – HOLIDAYS Currently, the agreement recognizes 12 holidays for which the State pays 8 hours at straight time for employees who do not work on the holiday. Employees who are scheduled to work receive straight time for all hours worked, plus one hour pay for each hour of the calendar holiday worked. Under Section 23.03 employees called back to work on the holiday who were not scheduled to work receive double time for the time worked on the holiday in addition to the holiday pay. The Union proposes to rewrite this language. It proposes to increase holiday pay to 10 hours per holiday. It proposes that employees who work on a holiday will receive two hours pay for each hour worked on the holiday, plus one hour pay for every hour less than 10 they worked up to 3 hours. Employees who are called back to work on a holiday would receive 3 hours pay for every hour worked plus one hours pay for every hour less than 10 they work up to 3 hours pay.

   WSF propose to keep the current provision.

3. APPENDIX A – RULE 3 – SHORE GANG PERSONNEL

a. The Employer proposes to incorporate a new Section 3.01 incorporating the hours of deck personnel into this rule.

b. WSF proposes to restrict Shore Gang call-in pay and revise call-in procedures

c. WSF proposes to change the procedure for how an absent watchperson is replaced.

The Union opposes changes to this rule.

4. APPENDIX A – RULE 4 – DECK DEPARTMENT PERSONNEL

a. Section 4.02 currently requires that all work performed by employees at the Eagle Harbor facility or other shipyards shall be paid at Shore Gang rates. This provision primarily applies to OS and AB employees who are working on a ship docked at Eagle Harbor or other shipyards. WSF proposes to add a sentence to this provision that limits this requirement only to the Shore Gang. The Union proposes to keep the current provision.

5. APPENDIX B – RULE 3 TERMMINAL VACATIONS

a. The Union propose to change the way terminal employees' vacation pay is calculated by adding new sections Sec. 3.08, 3.09 and 3.10. WSF opposes this.

BACKGROUND

Washington State Ferries operates the largest ferry system in the United States and the second largest in the world. It operates vehicle carrying ferries throughout Puget Sound. The operations are divided among the Terminal Department, vessel operations (Deck Department), and Eagle Harbor maintenance facility. It employs about 1800 employees of which the Union represents about 950.

The employees of WSF are represented by 16 unions in 14 collective bargaining units. Other than the Union's bargaining unit they are as follows:

Unit	Union
Terminal Supervisors and administrators	Ferry Agents, Supervisors, and Project Administrators Assoc.
Janitors	Service Employees International
Licensed marine engineers	Marine Engineers' Beneficial Ass'n.

Oilers	Marine Engineers' Beneficial Ass'n.
Port Engineers	Marine Engineers' Beneficial Ass'n.
Masters	International Organization of Masters, Mates and Pilots
Mates	International Organization of Masters, Mates and Pilots
Watch Center supervisors	International Organization of Masters, Mates and Pilots
Office employees	Office & Professional Employees International Union
Eagle River metal trades	Metal Trades Council
Eagle River carpenters	Council of Carpenters

The Union represents rank and file employees in the Deck Department (vessel operations), terminal operations, information agents, and Eagle Harbor non-trades maintenance employees.

The Deck Department has employees in the classifications of Ordinary Seaman (herein "OS"), Able Bodied Seaman (herein "AB"), Relief employees (OS and AB), and On-Call employees.

The Terminal Department has employees in the classifications of Ticket Takers, Ticket Seller, Terminal Watch Attendants, and On-Call terminal employees. There are about 347 employees represented by the Union in the Terminal Department.

The Eagle Harbor facility performs vessel maintenance and some repairs. Major repairs are done at private ship yards. The Union's Eagle Harbor employees are in the Shore Gang. The Shore Gang consists of employees primarily in the AB classification who do maintenance work and, also, are Watchpersons who guard the facility in the off hours. There are 17 employees in the Shore Gang, approximately 4 of whom are Watchpersons.

The Union also represents office employees in the classifications of Information Agent and Web Information Agent. There are only a few employees in this group.

There are about 221 Ordinary Seamen who perform the basic work of operating the vessel. There are about 276 Able Bodied Seamen. They are more experienced sailors who have advanced qualifications. The AB Boson is the person generally assigned to coordinate deck functions with the vessel's bridge officers. Relief employees are usually experienced employees in the classification of OS or AB who fill in for absent or vacationing employees. There are about 46 relief employees in the Deck Department. On-call employees are usually entry level employees who also fill in for absent or vacationing employees. There are about 30 to 40 on-call employees, but the number declines in the winter because there are fewer people to fill in for.

WSF and the Union have been party to successive collective bargaining agreements since 1951 when the State took over the ferry system.

DISCSUSSION

It is the responsibility of the arbitrator to determine the extent to which the parties' prior collective bargaining agreement should be changed in response to the parties' offers with respect to the issues certified by PERC that remain in dispute. In this regard the arbitrator may adopt the offer of one party or the other or modify the proposals to arrive at the just result.

The arbitrator is to make these judgments based upon the standards specified in the applicable Statute, RCW 47.64.320. That statute states:

> (1) The mediator, arbitrator, or arbitration panel may consider only matters that are subject to bargaining under this chapter, except that health care benefits are not subject to interest arbitration.
>
> (2) The decision of an arbitrator or arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefit provisions of an arbitrated collective bargaining agreement, is not binding on the state, the department of transportation, or the ferry employee organization.
>
> (3) In making its determination, the arbitrator or arbitration panel shall be mindful of the legislative purpose under RCW 47.64.005 and 47.64.006 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:
>
> (a) The financial ability of the department to pay for the compensation and fringe benefit provisions of a collective bargaining agreement;
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> (b) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;
>
> (c) The constitutional and statutory authority of the employer;
>
> (d) Stipulations of the parties;

(e) The results of the salary survey as required in RCW 47.64.150(8);

(f) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

(g) Changes in any of the foregoing circumstances during the pendency of the proceedings;

(h) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature;

(i) The ability of the state to retain ferry employees;

(j) The overall compensation presently received by the ferry employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received; and

(k) Other factors that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

(4) This section applies to any matter before the respective mediator, arbitrator, or arbitration panel.

RCW 47.64.005 Declaration of Policy Cited above states:

> The state of Washington, as a public policy, declares that sound labor relations are essential to the development of a ferry and bridge system which will best serve the interests of the people of the state.

RCW 47.64.006 Public Policy cited above states:

> The legislature declares that it is the public policy of the state of Washington to: (1) Provide continuous operation of the Washington state ferry system at reasonable cost to users; (2) efficiently provide levels of ferry service consistent with trends and forecasts of ferry usage; (3) promote harmonious and cooperative relationships between the ferry system and its employees by permitting ferry employees to organize and bargain collectively; (4) protect the citizens of this state by assuring

effective and orderly operation of the ferry system in providing for their health, safety, and welfare; (5) prohibit and prevent all strikes or work stoppages by ferry employees; (6) protect the rights of ferry employees with respect to employee organizations; and (7) promote just and fair compensation, benefits, and working conditions for ferry system employees as compared with public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia in directly comparable but not necessarily identical positions.

1. Rule 17 – Classifications and Rates of Pay

A. General Wage Adjustment

i. Beck Award Non-implementation

The parties submitted the dispute over their July 1, 2009 to June 30, 2011 agreement to interest arbitration before Arbitrator Michael Beck. The arbitration statute at that time required that he select the final offer of one party or the other without modification on each impasse item. His determination of the wage dispute is the relevant part of that award. He decided that each agreement year's wage adjustment was a separate impasse item. WSF proposed that the first year' wage adjustment be an increase of 1.6% and the second 1.7%. The Union proposed that the first year's wage adjustment be an increase 4.2% and the second 4.2%. Arbitrator Beck determined that the Union's offer was most appropriate in each year based upon the economic data and adopted the Union's position for both years. The award was issued September 20, 2008.

The award was never implemented. The Lehman Brothers brokerage bankruptcy occurred September 29, 2008. It sent the national economy into a tailspin which resulted in the Great Recession. The State responded to its reduced revenues by finding the award "not financially feasible." The resulting recovery was slow. The State's revenues remained depressed. The successive agreements were arbitrated but which awards were found to be "financially not feasible" or not funded by the legislature. Employees received no wage increases and, at one point a wage reduction.

The parties arbitrated the 2011-3 agreement before Arbitrator Sylvia Skrateck. The Union proposed no wage increase "during these difficult times." It did seek to dove-tail unit employees into the state salary schedule. That would have resulted in automatic wage increases for most employees in future years. Arbitrator Skrateck did not adopt that proposal but did add a provision which remains in Rule 17, Section 17.01 memorializing that the Beck award was not funded by the State. The award was issued in September 2010.

However, the financial climate of the State continued to deteriorate. The Governor sought wage reductions of 3% from all State employee unions. Maritime employees were vilified in a television expose called *Waste on the Water* which denigrated overtime and travel pay. Unit employees were required to surrender parts of those benefits in addition to the 3% reduction. They also were not allowed to take furloughs in lieu of pay as general employees were allowed to do. Pay rates were "snapped back" at the end of the resulting agreement.

Arbitrator Skrateck arbitrated the 2013-15 agreement. In this award, she granted the Union's proposal to dove-tail unit employees into the state employees' salary structure. The State found that all of the interest arbitration awards rendered for that biennium were not financially feasible. The parties subsequently agreed upon an agreement including 2.5% increases in each year and adjusting entry level rates. It also included a MOU to discuss a salary schedule.

Arbitrator Howell Lankford arbitrated the parties 2015-17 agreement. His award was found financially feasible and was adopted. The Union sought 4.0% increases in each year while WSF proposed 3.0% for the first year (which was an increase proposed for all state employees) and 0% in the second year. The MOU negotiations failed to reach agreement. That issue was also presented to Arbitrator Lankford. After an exhaustive examination of the subject, he concluded that the adoption of a salary schedule for this unit would not likely to be financially feasible for the State. Arbitrator Lankford noted that the Union's proposed wage increase reflected the fact that the Beck award was never implemented. Arbitrator Lanford rejected this approach for two reasons. First, the arbitrator was required to select the offer of one party or the other without modification. He concluded that this did not mean that Arbitrator Beck believed that the Union's proposal for 4.1% annual increases was appropriate. It just meant it was the closest of the two offers to being appropriate. The second was that it was based upon comparisons showing that unit employees were generally 4% behind their comparators. Arbitrator Lankford concluded that wage survey results that were before him showed that this unit was relatively close to its comparators as of January 1, 2014, but that it would fall "substantially behind" its comparators' as of July 1, 2015, in that the comparators will go into the biennium in that dispute with substantial increases. Thus, this unit would be behind them. He awarded 2.5% for each year, backloading the State's first year offer to save costs. He also adjusted starting rates which he concluded were lagging.

The parties reached agreement for the 2017-18 biennium. That settlement is discussed more below.

The better focus in dealing with the Beck award after the passing years is to focus on the effect the rejection of the award has on the relative position of unit employees to their comparators. Regional Director Hart testified[1] that the other maritime unions did not receive any catch-up settlements for having had their 2009-10 awards found "not financially feasible," but he did note that some of them did get "large wage adjustments."

At the time Arbitrator Beck made his award it was reasonable. However, the reason for the State's rejection of the award was that 9 days after it was rendered the Lehman Brothers failure occurred and the nation was quickly thrown into a deep financial crisis and recession. There is no dispute that this was an unforeseen

[1] References to the hearing transcript are marked "tr." See, tr. p. 102.

circumstance and that the State's reaction was based upon a legitimate financial crisis. The right to reject is not disputed. Factor 3(g) recognizes the truth recognized in collective bargaining that changes of circumstances may require changes in parties' positions and both parties acknowledge that this was severe.

The effect of the Great Recession was wide-spread. The State's approach to the Great Recession was to inflict financial misery on all of its employees. In this regard, the financial expectations of employees in this unit were dashed with the failure to implement the award. However, the fact is that the State did treat all its employees in essentially a similar way. Factor 3(g) applies now because all its employees had to deal with its financial woes over the painfully slow economic recovery.

However, the Great Recession did not stop there. It also affected the comparators and the public. The available evidence in the survey demonstrates that this unit has been struggling to remain competitive. The relative position has fluctuated since Arbitrator Beck's award, becoming comparable at one point, but then falling behind.

Therefore, the better view of what has transpired is to address as best as possible the effect the major sacrifice unit employees made with their fellow employees has had is to carefully consider the relative positions of wage rates in this unit versus their comparators under factor 3(e) and 3(f). For this reason, the Union's request for annual 2.1% increases related to recouping some of what they would have received under the Beck award is not justified. Instead, it is appropriate to place heavy emphasis in determining the effect the period of wage stagnation has had in comparison with the comparators. For this reason, a separate general wage increase identified as relating to the Beck award is denied. Also, the sentence inserted by Arbitrator Skrateck is ordered stricken. Further adjustments on this basis should be made on the basis of comparability.

ii. General Wage Increase

Factor (3)(i) deals with the ability of the WSF to retain employees. That factor includes examining the rate of turnover and changes in the rate of turnover. It also implicitly includes the ability to hire replacements The parties agreed that turnover has not been significant in any classification except on-call employees.[2]

Factor (3)(e) requires the arbitrator to consider the Marine Employees Compensation Survey (herein "survey"). It is important to note that the compensation other than the wage rate appears to be similar across the surveyed employers except for Deck positions. The benefit level among the comparators is over 30% higher for Deck positions.

The current survey has a significant problem in that it is voluntary. There are variations in which employers respond and don't respond over the years. There are also employers who respond who do not have employees in positions which are comparable to those in this unit. There are no useful comparisons for the Shore Gang Worker and

[2] That is discussed below with respect to the beginning rate topic.

Information Agent positions. The relief positions have wage rates higher than the comparators, but the relief positions here have to be addressed separately because they do not have travel time pay while comparators do.

The following are the useful comparisons:

	Av. Sal Rg Min	Ave. Sal Max	Av (actual) base
AB Boson	$33.14	$36.86	$31.03
WSF AB Bos's	$30.16	$30.19	$30.19
% difference	-9.80%	-22.10%	-2.80%
AB	$30.66	$34.46	$30.97
WFS AB	$28.67	$28.67	$28.67
%difference	-7.00%	-20.20%	-8.00%
OS	$24.57	$26.91	$27.21
WFS OS	$21.05	$24.77	$23.88
% Difference	-16.70%	-8.60%	-14.00%
Ticket Seller	$21.09	$30.05	$24.36
WSF	$23.29	$27.36	$27.36
%difference	9.40%	-9.80%	11.00%
Ticket Taker	$26.99	$34.12	$27.54
WSF Ticket taker	$20.86	$24.53	$24.53
% Difference	-29.40%	-39.10%	-12.30%

A primary factor in assessing the effect of the bargaining history from the Beck award forward is comparing the wage rates in existence at the time of the Beck award and those of comparators to the same comparison for the end of the current agreement. The evidence of the prior comparison is in the Beck award. However, it is not very helpful. It used an unweighted average among of all the base rates of all the classifications compared to the average among the base rates of all similar positions of the available comparators. That showed unit positions here were 4% behind the comparators. It is not possible to replicate that calculation with the current survey in a precise way. He averaged over all of the 8 unit classifications for base pay.[3] However, the best available similar method for this survey is to average the above four classifications as to average (actual) base in this survey. It shows that unit employees are now 4.9% behind.

The survey itself concludes that vessel/terminal unlicensed positions lag the market by 8.2% for actual base salary. The change is partly attributed to market pay

[3] Beck award, p. 7

changes and fluctuations in participants.[4] It indicates that shipyard trades lag the market by 26.3% for actual base salary. However, for that group, the shift is attributed to a shift in actual participants. In any event, that classification does not directly apply to the Shore Gang. The survey includes classifications represented by the Eagle Harbor trade council but excludes Shore Gang positions. It includes Shore Gang positions in the vessel/terminal unlicensed positions.

Another approach is to look at the comparison of individual positions even though there is no historical data. Starting with the ticket seller, the survey is best viewed as showing that ticket sellers are well paid.

The useful comparison figures of individual employee positions suggest that employees in this bargaining unit may lag their counterparts by more than the 8.2% when weighted by the distribution of positions in the bargaining unit. The survey shows that the ticket taker position is significantly behind. About 350 employees, the majority of terminal employees, are in the ticket taker classification. There is some evidence that this is partially ameliorated by having employees regularly split their shifts between ticket taker and ticket seller positions. The deck positions, AB and OS classifications are markedly behind their comparators.

Turning now, to the other factors affecting an appropriate general wage increase. Changes in the cost of living are a factor commonly used in setting wage adjustments in collective bargaining and is a factor that the State (including but not limited to WSF) has used. The Bureau of Labor Statistics, June 2018, report shows that in the Seattle area the CPI-U has risen 3.3% year over year. Gasoline price increases significantly affected the index. Without that factor the index rose 2.9%. The rise of 2.9% is over a broad range of consumer prices. An adjustment based upon this statistic is a heavy factor in setting a general wage adjustment for the year commencing July 1, 2019. General wage increases do not always match the rate of inflation.

General wage adjustments granted by salary survey comparators are appropriately considered under factor 3(f). The survey was effective January 1, 2018. It showed no increase data for the years in dispute. It showed that Whatcom County granted its employees a 2% increase effective January 1, 2019 and BC Ferries granted a 1.75% increase effective April 1, 2018. The State granted state employees a 2% wage increase on July 1, 2017 and July 1, 2018, with a 2% increase January 1, 2018.[5] The parties' 2017-19 agreement had a 5% wage increase for the term of the agreement, 4% July 1, 2017, and 1% July 1, 2017. It also had adjustments for the AB classification of 8.6% increase in the first year and 4% the second year.[6]

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[4] DOT Chief of Staff Kosa's testimony at pp. 302-306 indicates that the providers who answered the survey are mostly substantially smaller operators. Smaller operators would be expected to pay less. This tends to substantiate the disparity.

[5] Budget Assistant Hansen. tr. pp. 578-9.

[6] Union Regional Director Hart, tr. pp. 39-41; WSF Director Faust tr. pp. 414-5

For each year effective July 1, 2019 and July 1, 2020, WSF and the mates' agreed to 3.0% increases. The same was true for the masters' agreement. The parties are arbitrating the engineers' contract. The terminal supervisors' union has reached agreement with WSF, but the terms were not available at our hearing. The history of past bargaining demonstrates that during times of financial difficulty for the State, it sought to deal with general wage adjustment issues for WSF employees in the same way it did with general state employees. Internal comparability as to wage adjustments is a factor traditionally considered in collective bargaining. Therefore, these increases are properly considered under factor 3(b), (f) and (k).

Both parties have previously bargained and expressed concern at hearing about factors affecting compression of wage rates among classifications, including, but not limited to, creating inversions among higher-rated classifications being paid less than lower-rated classifications, creating disincentives for employees to seek additional training for higher positions.

Accordingly, I conclude that factors (3)(a), (c) and (i) support an appropriate general wage adjustment is 3.0% July 1, 2019, 3% July 1, 2020, and 2% January 1, 2021. The 3% increases are appropriate adjustments to deal with the change in the cost of living, external comparability and internal comparability in the light of the history of the parties. The 3% increases do not cause issues with respect to compression. The additional 2% increase is appropriate for the last six months of the biennium to address the effects of past wage stagnation as compared to other comparable employees surveyed. This will cause a compression issue, but its positioning at the end of the agreement allows all parties affected an appropriate opportunity to adjust. The use of the 2% is consistent with the State's approach to adjusting its general employees who were also subject to the same wage stagnation situation. It is heavily supported by external.

B. SECTIONS 17.01 AND 17.02 SHORE GANG TARGETED INCREASE

The Union proposed to increase the Shore Gang wage rate by $1.60 effective July 1 of each year. Union Regional Director Hart testified that Shore Gang jobs are largely reserved for AB's with a few who are OS's. The job requires a higher level of skill than an AB position.[7] Before the targeted AB increases, the Shore Gang wage rate was $1.92 per hour higher than the AB wage rate. At the end of the expiring agreement they will have a difference of $.81 per hour. The parties mutually expressed various concerns about wage rate compression. The record supports an additional increase of $1.00 effective July 1, 2019 to avoid compression.

C. SECTION 17.01 BEGINNING RATES

I conclude that the Union's proposal to reduce the number of hours required to move from the probationary rate to full-time rate is not warranted. The primary factors which affect this are (3)((b) past contracts, (3)(f) comparability, and (3)(i) ability to retain employees.

[7] Tr. pp. 88-9

This provision applied to entry level deck and terminal employees but affects on-call employees the most. The history of this provision was that the parties adopted a three-tier progression from entry to full rate in about 1989. Employees progressed to the second tier after completing 2080 hours and the third tier after 5,200 hours. The parties eliminated the middle step, leaving the 5,200-hour requirement about ten years ago. This may have left WSF in an unusual position among its peers. While there is some disagreement, it takes an entry level on-call employee about three and half years to reach the full rate. WSF is only experiencing unusually high turnover among on-call employees. It is not clear if it is having difficulty attracting new on-call employees. The primary issue with respect to on-call employees appears to relate more to the opportunity to obtain hours of work. The availability of on-call work diminishes in the winter months. The parties have addressed that issue by attempting to increase the availability of work. It is pre-mature to adjust this long-standing provision until those changes have been implemented and can be evaluated.

D. Moving the Relief AB to the Relief AB Boson Rate

I conclude that the request to pay AB Relief employees at the Relief AB Boson rate should not be granted. The factors which affect this determination are (3)(b) [past agreements], (f) [comparisons], (i) [other factors – *quid pro quo* bargaining and "compression of wage rates]. The Union seeks this change as a *quid pro quo* for the change the parties agreed upon in the way the AB Relief employees are scheduled by allowing some to be involuntarily assigned to positions which need relief. They also argue that AB Relief employees ordinarily perform the AB Boson job when they are filling in for AB's. When they do that they are paid at the higher Relief AB Boson rate Finally, they argue that the change is supported by the way that the Relief Mates are paid in the Mates' collective bargaining agreement.

Relief AB's are often senior employees. There is a daily demand for relief work although some assignments may be for more than one day. Currently, the dispatcher calls employees by seniority to fill-in for absent employees. The relief employee generally has the option to accept or decline a specific job but must accept 80 hours of work bi-weekly. A relief employee may decline to take a job hoping to get a chance at a better assignment in a future day's call. This work involves frequent change in schedules and locations particularly for the junior employees. Dispatchers were then required to go to the on-call employees. On-call employees are generally the newest, inexperienced employees who also do fill-in work.

The parties agreed to amend the dispatch procedure for OS and AB Relief employees at the beginning of the hearing. This was based upon language in the MMP agreements. Under the newly agreed-upon language, the dispatchers will first give AB Relief's the right to use their seniority to bid for jobs. If the jobs are not filled, they will now be authorized to assign unfilled positions by inverse seniority. The effect is likely to be that AB Reliefs will be assigned to undesirable shifts or more distant locations than they have been.

The dispatch-by-seniority was established in 2007 by agreement of the parties in mediation. It created issues of potential abuse. The parties have been negotiating adjustments to it over the years. Additionally, WSF was the subject of an unfair TV expose, *Waste of the* Water. In short, this led to the elimination of travel time pay for relief employees and the substitution of a higher wage rate to compensate for the average cost of travel time.

The evidence is insufficient to conclude that an additional wage adjustment is warranted. First, the Union did not specifically propose a *quid pro quo* for the scheduling in bargaining. Second, there is little reason to make this change because AB Reliefs are often working the Relief AB Boson position. Automatically paying AB Reliefs at the Relief AB Boson rate would eliminate the incentive to seek that work. Both parties have been concerned about the effect of compressing wage rates on the incentives of employees. This would certainly have that result.

Third, employees may have been compensated for this change by virtue of wage increases in the last agreement. There has been a substantial adjustment in the relief rates by virtue of extraordinary, targeted increases. The survey results based upon 2017 results show:

Relief AB	\$34.40 prior year
comparators	\$30.97

The targeted increase is likely to have made the Relief AB comparable to the comparators' Relief AB rates even considering the difference in the way travel time is compensated by the end of the 2018 agreement.

Fourth, the analogy to Relief Mates under the Mates' collective bargaining agreement is not warranted. Mates are trained and licensed to fill all Mate positions. The pay rate differentials for Mates are essentially pay differentials. Thus, the Relief Mate would be expected to fill any Mate role. In this unit, the AB Boson and AB Boson are task rates for accepting additional responsibilities. Accordingly, the evidence does not support an additional increase for the AB Relief position.

E. Section 17.04 SHORE GANG TASK RATE

Section 17.04 currently reads as follows:

The use of the following power tools entitles the user to one dollar (\$1.00) per straight-time hour increments: chipping hammers, scrapers, wire brushes, spray painting equipment, jitterbugs, and deck grinders. The increment or overtime hours will be two dollars (\$2.00) per hour.

The Union proposed to change the tools for which the rate applies to delete chipping hammers, scrapers, and wire brushes and add the Goff deck blaster, and any pneumatic, gas or power tools. WSF agreed with the changes. The Union sought to increase the task rate from $1.00 per hour to $3.00 per hour. WSF disagreed with any increase. WSF sought to add a provision which would make the provision no longer apply to Shore Gang Employees. The Union disagreed with that change.

Union Regional Director Hart and Shore Gang member Kampman provided the testimony as to the purpose of the provision and the change in the listed tools as follows.[8] This provision has been in the agreement for over 30 years. It historically provided additional pay rate for Shore Gang employees when they work with complex tools, tools with physical or safety risks. The proposed change in named tools is to update the list to reflect the tools that are currently being used. The new tools require more training, and more hazards. The $1.00 per hour rate has been the same for 30 years and in his view should be increased to $3.00. The Employer's proposal to exclude the Shore Gang from the task rate would result in the provision not applying to anyone.

Director Faust, Labor Negotiator Holder and Eagle Harbor General Manager Kelly provided the substantive explanation for the WSF position with respect to this provision as follows.[9] Section 17.04 was intended to provide pay for using tools that are rarely used on board vessels, not to employees who are already paid a premium to be in the Shore Gang. In any event, there is no reason for the pay with respect to Goff machine because employees now receive hazardous waste penalty pay of double-time for working with the environmentally dangerous by-product produced by that machine. That explanation was supplemented by Marine Operations Director Faust who testified that he did not see a need for Shore Gang employees who are using tools that are a regular part of their work. WSF opposed increasing the task rate because the tools make the work easier, if anything. The provision to exclude the Shore Gang from the task rate is to clarify the language to meet its original intent to apply it only to those using the tools on vessels.

The applicable factors are (3)(b) past contracts and (3)(k) other factors. The current provision has been in the agreement for over 30 years. The Goff machine replaced chipping with hand tools. The machine is a 440-volt machine weighing 3000 pounds which fires shot into the deck to clear debris. It has high voltage risks, noise risks, and presents physical dangers. The machine requires substantial training. Only a few employees in the Shore Gang can run the Goff machine effectively. The Shore Gang uses a "growler" which is a lawn mower type machine that has steel wheels that beat the surface to remove rust and old material. They also use a pneumatic powered tool which does smaller surface cleaning duties by firing rods into the steel.

The changed language modernizes this provision. While the machinery makes the work easier, task rates are often paid for other purposes. As modernized, the rate would create an incentive for employees to master using the Goff machine and to compensate them for the safety and health risks.

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[8] Hart tr. pp. 89-S91; Kampman tr. p. 134-137, 750, 753, 767-769

[9] Kelly tr. pp. 324-325, 341-346; Faust tr. pp. 427, 495-498, 510, 512, 525; Holder tr. 643-47, 673-76

WSF's proposal to exclude the Shore Group from this provision is not adopted. This is a left-handed attempt to repeal the provision. There is no evidence the provision would apply to anyone with that change. The language proposed by WSF would leave the contract language with no meaning. This conflicts with the principles of contract construction.[10]

Manager Kelly testified Goff machine generates a gritty waste stream that is now classified as toxic waste and must be treated accordingly. Employees who handle the gritty waste are paid double time under a provision relating to that purpose. This point is well taken. However, it should be addressed by an anti-pyramiding provision. I add: "Payment under this provision shall not be made for hours in which another task rate such as one for handling toxic by-products is being paid."

Finally, the rate should be changed to provide a significant incentive to learn and master the use of these tools. I have awarded increasing the rate to $2.00 per hour.

2. RULE 23 – HOLIDAYS

I conclude that the Union's request to change Article 23 should be awarded with changes in the contract language proposed by the Union. The factors that apply to this issue are (3)(f) comparisons and (k) other factors. Currently, employees enjoy 12 holidays at eight hours' pay per holiday or eight hours' compensatory time. WSF is a seven day per week, 365 day per year operation. Employees may be scheduled to work on designated holidays as part of their normal assignment. The Union proposes to increase this to 10 hours' pay. Union Business Agent Brazeau testified that it based this proposal on comparisons to the same benefit in the Master, Mates and Pilot's Union's contracts The Marine Engineers and Benevolent Association employees work 12-hour days but were receiving eight hours holiday pay. They succeeded in getting 12 hours' pay in arbitration for their 2015-19 contract. Shortly after that the parties to the MMP were increased to 10 hours' pay for their holiday in the 2017-19 contracts.

Labor Negotiator Holder stated that WSF believed the current language was adequate compensation. However, he also noted that WSF opposed the Union's proposal partly on the basis that the proposed language was convoluted. For example, it appeared to require that employees who were not scheduled to work on the holiday but were called in to work would be paid quadruple time. [The Union stipulated at hearing that it was not the intent of their proposal to pay anyone more than triple time.]

Internal comparability is a strong factor when it comes to benefits enjoyed by all of an employer's employees. WSF mates and pilots work essentially similar hours to deck employees in this unit and work closely with them. They recently obtained this benefit and there is no reason why this unit should be treated differently.

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[10] May, Ed., Elkouri and Elkouri: How Arbitration Works, p. 9-36 (BNA, 8th Ed.)

WSF correctly argues that the language proposed by the Union is ambiguous. The following provision from the mates' agreement is clearer and adopted with appropriate editorial changes:

11.2 **Holiday Rules**

A. Eligibility

1. a full-time employee who is employed before the holiday, does not work on the holiday and is in pay status for eighty (80) non—overtime hours during the month, not counting holidays, shall receive ten (10) hours of regular straight-time pay for the holiday.
2. An employee who is employed before the holiday, does not work on the holiday and is in pay status for less than eighty (80) non-overtime hours during the month, not counting holidays, shall receive less than ten (10) hours of regular straight-time pay for the holiday in an amount proportionate to the time in pay status during the month [prior, sic] to that required for full-time employment.
3. An employee who resigns or is discharged or separated before a holiday will not be compensated for holidays occurring after the effective date of the resignation, discharge or separation.

B. Employees who work on a holiday will be paid two (2) times the regular straight-time rate of pay for all hours actually worked on the holiday, and up to three (3) hours of guaranteed holiday pay, for a maximum of ten (10) hours of holiday compensation, except in instances where an employee works overtime on the holiday as specified elsewhere in this Rule.

C. An employee may elect to receive compensatory time instead of being paid for the holiday.

D. Holiday compensatory time shall be reported separately from other compensatory time.

3. APPENDIX A SHORE GANG, RULE 3

WSF proposed multiple changes to Appendix A Rule 3. The Union originally proposed to keep the current language. Appendix A applies to the Deck Department. The Shore Gang performs maintenance work out of the Eagle Harbor maintenance facility. The rest of employees in the Deck Department work on board vessels. Rule 3 applies solely to the Shore Gang.

The first change WSF proposed was to make changes to the hours of work provision. The current main provision directly governing hours of work in Rule 3 is Section 3.07 which reads as follows:

> Any eight (8) consecutive hours of work excluding one-half (1/2) hour for meal periods; five (5) consecutive days per week, Monday through Friday, constitutes scheduled hours and days of work.
>
> Year-round employees, who are called to work on a scheduled day off and have a minimum of eighty (80) non-overtime compensated hours in the work will be compensated at the overtime rate of pay. In addition, they will receive four (4) hours of pay at their straight-time rate of pay regardless of the length of the overtime shift or the hours actually worked.

Sections 3.05 and 3.08 require that work beyond 8 hours, 40 hours or on Saturdays and Sundays be paid at overtime. Rule 3.03 states that: "Rule 3 shall apply only to personnel assigned to Eagle Harbor." It sets the actual hours of work for regular shifts starting at 7:00 a.m. for first shift, 3:30 p.m. for the second shift, and 11:30 p.m. for the third shifts. [WSF also proposed to strike the provision relating to the applicability of Rule 3.] Shore Gang employees work these hours and have done so for a long time. Watchpersons are part of the Shore Gang. Four of the 17 Shore Gang members are watchpersons. They work after the facility closes for the day.

WSF has proposed to incorporate the work week provision from Appendix A, Rule 1 as a new Section 3.01 in Rule 3. It proposed as follows:[11]

> 1. The principle of the eight (8) hour day is hereby established. For all practical purposes, eight (8) consecutive hours shall constitute one (1) workday. Forty (40) hours shall constitute a work week, and eight (80) hours shall constitute a two (2) week work schedule. The following work schedules shall be observed:
>
> A. Five (5) consecutive eight (8) hour days followed by two (2) consecutive days off; or
>
> B. Ten (10) consecutive eight (8) hour days followed by four (4) consecutive days off;
>
> C. Four (4) consecutive ten (10) hour days followed by three (3) consecutive days off;
>
> D. Eight (8) consecutive ten (10) hour days followed by six (6) consecutive days off;
>
> E. Nine (9) consecutive nine (9) hour days followed by five (5) consecutive days off totaling eighty-one (81) straight-time hours;

[11] I have revised the punctuation.

F. Five (5) consecutive nine (9) hours (sic) days followed by three (3) consecutive days off and four (4) consecutive nine (9) hour days followed by two (2) consecutive days off totaling eighty-one (81) straight-time hours.

G. By mutual agreement additional work schedules may be observed.

Negotiator Holder and Director Faust explained that WSF believes that the other rules of Appendix A apply to the Shore Gang unless they conflict with Rule 3's provisions. They believe that the above provision from Rule 1 applies to the Shore Gang. They acknowledge that the Union does not agree. WSF has had no problems with the hours of work and WSF does not intend any changes of hours at Eagle Harbor.

The factors which apply to this issue are (3)(b) past contracts, (i) ability to retain employees, and (k) other factors. The proposal involves two sub-issues. First, whether the extent the other rules of Appendix A apply to the Shore Gang generally and, second, whether the above hours provision already applies. The parties reached agreement about the issue of general applicability of other rules by adding a header to Rule 3 as follows:

> This Rule applies only to Shore Gang Personnel assigned to Eagle Harbor and is in addition to Rules 1 through Rule 6: if there are conflicting Rules resulting from the general contract this Rule shall be the applicable Rule governing Shore Gang Employees.[12]

WSF has not shown any change in circumstances which would require a change in the current language. The schedule is likely to be an incentive for Deck Department employees to choose to seek these jobs.

The current provision is quite specific about the hours of work at the Eagle Harbor facility for Shore Gang members. If there is any conflict between the clear language and the related language in Appendix A, Rule 1, the language of Rule 3 would apply.

The introduction of the provision from Rule 1 could serve to create ambiguity in Rule 3 about whether management would have a right to change the designated hours. It is an interest arbitrator's responsibility to try to avoid changing language to create ambiguity. The parties can always change the hours of work by mutual agreement. The proposal to add a new Section 3.01 is not adopted.

The next issue addressed by WSF is its proposal to change the compensation of Shore Gang members who are called out on their scheduled day off. WSF proposes to strike the last sentence of section 3.08 quoted above and add the following;

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[12] WSF proposed to have it apply through Rule 5, while the Union proposed to have it apply through Rule 6. There is no explanation in the record as to why the parties differed. That minor matter is left to the parties to resolve. Otherwise, the language is adopted in this award as well as the amendment to 3.03 removing the sentence: "Rule 3 shall apply only to personnel assigned to Eagle Harbor."

If the employer calls out a Shore Gang employee between regularly scheduled work shifts due to an emergency or unforeseen operational need, the affected employee will be compensated as follow:

1. A Shore Gang Foreperson or acting foreperson will receive a minimum of four (4) hours a at the overtime rate of pay for the callout. The minimum hours of pay is in recognition of the Foreperson's or acting Foreperson's availability to complete work assignments including, but not limited to, receiving and making phone calls to arrange work activities during his/her off-duty hours.

   This payment does not apply:

   a. to any subsequent calls within the four (4) hour period (beginning when the initial call was received);

   b. When a Foreperson or acting Foreperson is scheduled to work by management in advance or when he work schedule is extended on either end of a shift; or

   c. When a Foreperson or acting Foreperson receives a call out within two (2) hours of their normal start time and only coordination over the phone is required area instead, the Foreperson or the acting Foreperson will receive the overtime rate of pay until the start of the regularly scheduled shift.

2. As circumstances require substantial Foreperson coordination that exceeds the four (4) hour minimum callout, additional time spent in support that is annexed (as provided below) to the callout will be compensated at a minimum of fifteen (15) minute increments, or actual time on the phone whichever is greater. This provision also applies when the Foreperson or acting Foreperson is required to support additional callouts for separate emergencies that may occur during the same callout timeframe.

   The following callout and annexation. Provisions apply to a call of being taken by a Foreperson or acting Foreperson;

   a. Monday through Friday, a callout and annexation shall be from the time of the callout until a period not to exceed eight (8) hours in total, or the start of the next shift, whichever is shorter. One (1) or more subsequent calls for the same incident in a callout annexation shall not constitute additional callouts.

   b. If a callout occurs during the weekend or on a holiday, which commences at the end of a shift Friday, or a day preceding a holiday, the callout and annexed period shall last from the time of callout for a total length of time of eight (8) hours, or the start of the next shift, whichever is shorter. One (1) or more subsequent calls for the same incident within a callout annexation period shall not constitute additional callouts.

c. Any call for a new incident within an existing annexation period begins a new callout and ends that annexation period.

3. Shore Gang employees will receive a minimum of four (4) hours pay at the overtime rate of pay for a callout. If required to work past four (4) hours, the employee will be compensated for the actual hours worked including travel. Shore Gang employees will also receive a payment of three (3) hours a at the basic salary, per occurrence, in addition to all other compensation due for hours worked. This payment does not apply when a Shore Gang or Leadperson is scheduled to work by management in advance or when he work schedule is extended on either end of a shift, when an employee is on unapproved leave without a, or when an employee is on administrative leave.

4. The Shore Gang Foreperson shall dispatch available Shore Game employees prior to accepting the job themselves. Management approval is required for self-dispatch.

Negotiator Holder and Director Faust provided the main reasons for this proposal. The Shore Gang is one of three different work groups there. The carpenters and the metal trades have separate units. Each has its own call out procedure and pay plan. WSF's proposal is to use language taken from the metal trades' agreement. It is the same system as is used for the carpenters. It corrects the overpayment of the foreperson and of called-out employees.[13] They note that under the current provision the foreperson could receive 12 hours pay for one phone call from his or her home.

Shore Gang Member Kampman took the position that the current provision is invoked only rarely. He also noted that WSF's proposal only involves the parts favorable to WSF but excludes other benefits the trades receive when called out, such as double time pay on Sundays. He also explained that Shore Gang employees are also Deck employees and accept overtime opportunities to fill in for absent employees on vessels. Those opportunities are ordinarily full-watch eight-hour opportunities.

The chief concern of WSF about the foreperson receiving excessive pay for little work is well-taken. There is no reason for this provision. Factor (3)(b) and (k) apply. The parties have had a sad experience under relief employees' travel pay which no one should want to see repeated. Interest arbitrators historically avoid provisions without an appropriate business reason. The following paragraph is added to current Section 3.08:

The Shore Gang Foreperson or acting Foreperson will receive a minimum of four (4) hours pay for the callout when just making calls unless calls

[13] Manager Kelly tr. pp. 319- 321, 338-339; Negotiator Holder, tr. pp. 657-659, 665-669 Shore Gang Member Kampman, tr. pp. 746-7, 753-7

occur more than four (4) hours after the initial call when the foreperson shall receive an additional four (4) hours pay. A foreperson required to go to a work site from home shall be paid in accordance with the first paragraph of this provision.

The better view of the evidence is that the current method of pay for rank and file employees being called out is not only adequate compensation for the disruption, but protection against otherwise lost opportunities to fill-in on vessels. WSF's concept of negotiating a uniform call-out provision is laudable but there is no immediate need for change. This is a matter better left to the parties for further negotiation so that all parties' interests are adequately adjusted.

Finally, WSF proposes to add a new provision, 3.17 which changes the way it staffs temporary vacancies in the watchperson position. The proposal not only applies to unforeseen absences but may apply to absences scheduled with 3 days' advance notice. Watchpersons guard the facility after hours. They need to be familiar with the facilities and know those who should be there and those who should not. They must have the ability contact the duty officer, to start the generator, adjust the transfer spans, and assist docking vessels coming in after hours. They have some cleaning responsibilities. The current procedure for last minutes absences is that the watchperson calls the Shore Gang foreperson who in turn would call a Shore Gang member to fill in. If he or she could not get a person to fill-in he would call the duty officer to resolve the issue. It appears the foreperson would get paid eight hours of call-back pay and four hours of call-in pay. A Shore Gang member called in would not work his or her regular shift the next day or, if not, get overtime, as appropriate.[14] The result of this could be 40 hours of pay to fill one shift. The new proposal would shift the responsibility to dispatch and create a list from the on-call personnel who would be trained in the job and then called as needed.

Director Faust explained that the proposal would allow for a greater pool of people to fill in, give some other Deck employees a chance to be familiar with the Eagle River facility and Shore Gang work. However, the primary concern is the cost associated with having the foreperson make the call, 4 hours call-in pay and overtime just for calling someone in to do the work. The change made with respect to Sec. 3.08 above tends to ameliorate, but not eliminate the cost. Mr. Kampman raised some compelling issues in rebuttal as to whether the system proposed by WSF will provide adequate security and damage prevention. WSF's proposed for a new system covers both planned and unplanned vacancies. The evidence indicates that the current system of filling vacancies with three days' notice from the watchperson are usually filled without additional cost. The above change to Sec. 3.08 should be given a chance to work. The adoption of a new system is left to further bargaining by the parties. WSF's proposal for a new Section 3.17 is denied.

[14] Shore Gang Manager Kelly tr. pp. 319-323, Director Faust tr. pp. 450- 1. Also see, tr. pp. 628 where parties agreed that if WSF's language were adopted the person called-in would be paid at the Shore Gang rate. Shore Gang member Kampman tr. pp. 758-765;

4. APPENDIX A, RULE 4, VESSEL PERSONNEL ASSIGNED TO LAID UP VESSEL

Appendix A, Rule 4.02 currently reads as follows:

> All work performed in shipyards or at Eagle Harbor shall be paid for at the rate set forth in this Agreement for shoreside maintenance work. These rates do not apply to scheduled crew members on the day the vessel is broken out of its tie up after having been taken off the run, or to regularly assign crew members of extra service vessels. A pay code shall be created for vessel crews doing such work.

WSF proposes to change this to read as follows:

> All work performed by designated Shore Gang personnel in shipyards or at Eagle Harbor shall be paid for at the rates set forth in this Agreement for shoreside maintenance work.

The factors which apply to this issue are (3)(b) past contracts and (k) other factors. Negotiator Holder indicated that WSF saw no reason why AB or OS employees should get a pay increase simply by being at the Eagle Harbor facility.[15] The Union did not see any need for the change, but made a counter-proposal adopting number 1, A and G, but deleting the remainder

This language has been in the parties' agreement since 1951 when the state took over the ferry operation. WSF has not shown any change in circumstances necessitating a change. Further, testimony indicates that annual maintenance work by AB and OS personnel is substantially more involved when their vessel is in maintenance. In any event, the Union correctly points out that this language protects the Shore Gang's work by denying WSF an incentive to transfer work to OS and AB personnel. WSF's proposal in this regard is denied.

5. APPENDIX B, RULE 3 TERMINAL VACATIONS

The parties reached agreement with respect to Appendix B, Rule 3, except for the Union's proposal to add Sections 3.08-3.10. Terminal Employee Bredin testified that when a terminal employee normally is assigned to work two pay codes at different rates, say 5 hours as a ticket taker and 5 hours as a ticket seller, he or she is paid vacation at the lower of the two rates. The proposal to add a new Section 3.08 reads as follows:

> Year-round employees will be paid vacation, sick leave or comp time at the same hourly rate they are scheduled to work on their seasonal assignments.

[15] Tr. p. 660

The Union also proposed other sections dealing with the same issue for part-time employees (3.09) and on-call employees (3.10). WSF opposed the proposals because it views those proposals as difficult to administer. WSF is correct that there may be administrative difficulties. However, employees are entitled to be paid their full vacation pay. The Union's proposal for adding these three provisions is adopted. The following sentence shall be added to Sec. 3.08: The Employer may make reasonable adjustments necessary to effectively administer the intent of this provision."

6. FINANCIAL FEASIBILITY

In furtherance of the public policy of promoting just and fair compensation, the arbitrator is required to be mindful of factors (3)(a) ability to pay (c) constitutional and statutory authority of the employer, and (h) limitations on ferry toll increases and operating subsidies as may be imposed by the legislature. The long history of rejections of many of the past arbitration awards requires a careful analysis of WSF's ability to fund this award.

This is not easy because the decision is made by the current Director of OFM when the entirety of the competing budget demands is complied. There have been differences in the way various Directors have approached that decision.

The negotiation procedure for State employers is to get an estimate of what will be acceptable from OFM while they negotiate. OFM does this by estimating the same increase across all transportation agencies. WSF did this for its 2% per year proposal for this unit and presumably did this for its 3% per year proposal for both the Masters and Mates agreements.

I have relied upon OFM Financial Analyst Grindrod's testimony in compiling the biennial cost of the economic adjustment above based upon a rolling forward of the existing personnel from the date of the expiring agreement. Continuing past increases that raise total costs in a future biennium are partially accounted for by costing from the rates in effect on the last day of the expiring agreement.

The costing is as follows:

	19-20	20-1	Biennium Total
3.0% increases	$1,827,129	$3,709,621	$5,536750
2.0% increase 1/1/21		$609,043	$609,043
Power Tools $2	$1,699	$1,699	$3,398*
10-Hour Holiday	$142, 328	$142,328	$284.656
Holiday overtime	$356,239	$356,239	$712,476
Total			$7,146,323

*The power tool increase is under-estimated because of the change in named tools.

I note some items could not be costed and some items have been excluded from OFM's analysis. They do not affect the analysis herein. WSF's proposal would cost $3,691,187 by comparison.

Funding for WSF comes from the transportation budget except the amounts "back-filled" by the legislature. The back-fill is discussed below. The revenue sources for WSF's operating budget are ferry fares which comprise about 70% of WSF revenue, the fuel tax, non-farebox revenue and federal subsidies. Labor is 68.2% of the operating budget. Another major expense is the cost of fuel which is 33.7%. Fuel costs have risen dramatically in the past year.

The fuel tax is used to fund many projects. Only a small portion of it is available to WSF combined with other agencies. Fuel taxes are fixed. The costs they are used for will increase with inflation while the fuel tax does not. Further, fuel taxes are under pressure from a decline caused by more fuel-efficient vehicles and consumer choices.

Ferry fares were increased effective October 1, 2017 and October 1, 2018, by 2.1% for passenger fares, and 2.9% and then 2.5% for vehicle/passenger fares. There have been only slight declines in ferry travel due to rising gas prices.

Non-fare revenues for WSF have risen dramatically because of changes in the way on-board concessions are handled and increases in advertising revenues.

The decision to back-fill is solely within the public policy discretion of the legislature. The legislative back-fill started when the motor vehicle excise tax was repealed in response to the 2000 referendum to that effect. The legislature has been consistently back-filling to replace that tax since then. The amount has varied but it has been higher in some years than is projected with respect to the coming biennium.

The State Economic and Revenue Forecast Council April 2018 report forecasts employment in the State of Washington to grow 2.5% this year and 1.1% per year through 2023 and personal incomes to grow by 5.8% this year and 5.1% per year through 2023. The State's revenue is now expected to grow for the 2019-21 biennium by $49.3 billion or 9.0% more than the expected revenue for the current biennium.

The Transportation Revenue Forecast Council 2018 transportation revenue forecast projects a 10.5% increase over the 2015-17 prior biennium for the expiring biennium.

The current projection for the WSF operations account is for a $3.9 million surplus for the past biennium, $17.7 million for the biennium that is the subject of this dispute, $31 million for the next biennium and $46.3 million for the biennium after that. This is assuming that the legislature maintains the $20 million increased to $25 million back-fill throughout that period. This is one of the better segments of the transportation budget.

It is important to note that OFM considers the long-term costs of any increase beyond the subject biennium in making its decision. The 2% increase effected in the last six months is consistent with the same method the State used in backfilling it general increase for state employees. In the growing economy it is not likely this will be viewed as inordinate.

In short, the greatly improved economic climate of Puget Sound area, an improved ferry system marketing approach, a supportive legislative approach and a healthy budget make this award consistent with past determinations of feasibility.

AWARD

The parties July 1, 2019, to June 30, 2021 collective bargaining agreement shall contain the agreements of the parties and the following terms;

1. Section 17.01, 17.02, and 17.05 General Wage Adjustment
   Effective July 1, 2019, 3% increase for each classification
   Effective July 1, 2020, 3% increase for each classification
   Effective January 1, 2021, 2% increase for each classification.
   Section 17.05 shall be stricken from the agreement.

2. Section 17.01 and 17.02 Shore Gang targeted increase
   Effective July 1, 2019, the Shore Gang wage rate shall be increased by $1.00 per hour before the application of the general increase specified in 1.

3. No change to the beginning wage rates as per 1. C above.

4. No change to the AB Relief as per 1. D.

5. Section 17.04 is amended to read:

   The use of the following power tools entitles the user to two dollars ($2.00) per straight-time hour increments: spray painting equipment, jitterbugs, deck grinders. The Goff deck blasting and pneumatic, gas or electric power tools. The increment or overtime hours will be four dollars ($4.00) per hour. Payment under this provision shall not be made for hours in which another task rate such as one for handling toxic by-products is being paid.

6. Rule 23-Holidays
   The language for Section 11.2 Holiday Rules from the MMP agreements specified above shall be incorporated into Article 23, with appropriate editorial adjustments to be made by the parties.

7. Appendix A, Rule 3 Shore Gang
   a. The following sentence from Section 3.07 shall be stricken: "Rule 3 shall apply only to personnel assigned to Eagle Harbor."

b. WSF's proposal to incorporate a new Sec. 3.01 is denied
c. The following shall be added as an additional paragraph at the end of Section 3.08: "The Shore Gang Foreperson or acting Foreperson will receive a minimum of four (4) hours pay for the callout when just making calls unless calls occur more than four (4) hours after the initial call when the foreperson shall receive an additional four (4) hours pay. A Foreperson or acting Foreperson required to go to a work site from home shall be paid in accordance with the first paragraph of this provision."
d. WSF's proposal to add Section 3.17 is denied.

8. Appendix A, Rule 4 Vessel Personnel Assigned to Laid Up Vessel
   Keep current provision

9. Appendix B, Rule 3 Terminal Vacations

The parties reached agreement with respect to Appendix B, Rule 3 except for the Union's proposal for Sections 3.08, 3.09 and 3.10. The Union's proposal as to those three provisions is adopted with the following sentence added to the end of Section 3.08: The Employer may make reasonable adjustments necessary to effectively administer the intent of this provision.

Dated at Sun Prairie, Wisconsin, this 22nd day of September, 2018,

Stanley H. Michelstetter

Stanley H. Michelstetter, Interest Arbitrator