THE MATTER OF THE INTEREST	)	ARBITRATOR'S
	)	
ARBITRATION BETWEEN	)	OPINION & INTEREST AWARD
	)	
BONNEVILLE POWER ADMINISTRATION	)	
	)	
"THE ADMINISTRATION" or	)	
"THE EMPLOYER"	)	
	)	
AND	)	
	)	
COLUMBIA POWER TRADES COUNCIL	)	
	)	
"THE COUNCIL" OR "THE UNION"	)	

HEARING: December 12, 13, 2012
Vancouver, Washington

HEARING CLOSED: January 12, 2013

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EXHIBITS

Employer

1. 2011 BPA Fact.
2. Press Release.
3. 2012 Integrated Program Review & Final Close out report.
4. Letter from City of Seattle.
5. 2012 Duty Stations – employee Distribution Map.
6. BPA-CPTC Bargaining Unit Employee by Duty Location – Map.
7. Benefits Offset Study.
8. Section 704 and 9(b).
9. BPA/CPTC Collective Bargaining Agreement.
10. Historical Survey Mix Chart (1960 – Present).
11. Memo of 1992 CPTC Negotiation Results.
12. 1998 FLRA Decision on Benefits Offset.
13. M-25, M-26, M-27 Management Proposal.
14. 2012 Journeyman wage Rates for Survey Mix Options.
15. M-25,26,27 Union Counter.
16. Description of CPTC and BPA Proposals w/resulting wage rates.
17. Utilities in BPA Serv Area, Avg & Distribution (wage rates)
18. Avista-bpa-pge-scl wage rates (2003 – 2014).
19. PNW Economic Outlook, Combined December 2012.
20. Oregon Office of Economic Analysis.
21. Cost Data and Assumptions Used for Calculations.
22. Summary of Hourly Separations Data
23. White House & OPM re Elimination of pay increases.
24. PP-L INEW Local 125 East/West Distribution.
25. PSE East-West Distribution.
26. PGE duty Station & back-up plan.
27. BPA Survey Mix Utilities Profiles (SWEB/Chelan/PSE/Sno)
28. E-mail from BPA to CPTC re 2009 Wage Rate.
29. Email from BPA to CPTC re Interim Wage Rate.
30. Puget Service Lineman (Email and backup info).
31. Duration of BPA-CPTC CBA's.
32. 2012 BPA-CPTC Term Negotiations Protocol.
34. Avista Wage Rates (Email).
35. Agreement and Understanding for 1999.
36. Email, 12/11/12.
37. Agreement IBEW & Avista.
38. PSF "A" Group Position Description.
39. CPTC Negotiations, 10/19/2007.
40. Wyatt Benefit Study, 2/15/94.
41. IBEW Local 125 Local Line Direct Talk.
42. Wyatt Benefit Study, 3/11/94.
43. Letter from Christopher Wood, 3/11/99.

Council

1. Map of US Department of Energy Power Marketing Administrations
2. Map of Western Area Power Administration Customer Service Territories.
3. Quick Facts, Snohomish County PUD.
4. Quick Facts, EWEB.
5. Potelco PSE Service Providers.
6. Job Standard Electricians for BPA.
7. Avista Corp Journeyman Electrical Position Profile.
8. Bargaining Minutes, 2/13/07.
9. Bargaining Minutes,6/11/07.
10. Bargaining Minutes,10/19/07.
11. Transmission Capital, 2003-2017.
12. Transmission Capital, Proposed Spending Levels to 2017.
13. Proposed Language, 3/6/12.
14. Proposed Language, 3/27/12.
15. Proposed Language, 3/28/12.
16. Proposed Language, 7/12/12.
17. Proposed Language, 7/12/12.(11:40 a.m.)
18. Proposed Language, 7/25/12.

BACKGROUND

The Bonneville Power Administration (BPA) and the Columbia Power Trades Council (CPTC) are bound together by a collective bargaining agreement (CBA). They are in the process of completing the negotiations for a successor agreement. While most of the terms for a new agreement have been agreed to and ratified by the membership of CPTC, there remain three unresolved issues which are identified as M-25, M-26 and M-27. Article 9.02 and 9.03 provide for the arbitration of unresolved issues. The language of those two provisions reads as follows:

> 9.02 If such efforts to bring about an agreement through mediation are not successful, the Council and the

> Administrator shall submit their controversy to arbitration. If the Parties are unable to agree upon an arbitrator, the procedures used to select a grievance arbitrator shall be used. The decision of the arbitrator shall be final and binding on both Parties.
>
> 9.03 The expenses of mediation and arbitration including the compensation and expenses of any mediator or arbitrator (other than one solely representing the Council or the Administrator shall be borne equally by the Council and Administration.

Per the above language, the Parties selected Labor Arbitrator Timothy Williams to hear the case. A two day hearing was held on December 12 and 13, 2012 before Arbitrator Williams in Vancouver, Washington. At the hearing, both Parties had full opportunity to make opening statements, examine and cross-examine sworn witnesses, present documentary evidence, and make arguments in support of their positions.

A protocol agreed to by the Parties for the interest arbitration hearing states "a transcript of the hearing proceeding shall be produced by a court reporter." In compliance with the protocol, an official transcript of the proceedings was made and a copy was provided to the Arbitrator. Also per the protocol, a conference call was held on November 30, 2012 at which time the Parties agreed to submit written closing arguments, following the hearing, in the form of briefs by January 11, 2013. The briefs were timely received by the Arbitrator and he declared the hearing closed on January 12, 2013.

The above mentioned interest arbitration protocol contains multiple parts which clarify the issues and spells out the Arbitrator's responsibility and authority. The document also contains a section that places certain restrictions on what the Arbitrator can do. The specific terms of the protocol, in pertinent part, are as follows:

II. **Identification of Issues to Be Decided**

A. **M-25 and M-26.** The issues to be decided by the Arbitrator shall be:

1. The term of the agreement, as well as the effective dates and amounts of general wage adjustments for the 2012, 2013 and 2014 contract years (and 2015 if applicable).

2. The mix of surveyed electric utilities the Parties will use: (a) during the term of the bargaining agreement; and (b) In the next term negotiations for purposes of conducting the Parties' traditional joint utility survey based on the Parties' exchanged proposals, as well as any proposal regarding any benefits offset gap.

3. The Arbitrator shall also adjudicate any differing positions among the Parties with respect to the appropriateness of including any surveyed Lineman or Electrician wage rate to derive the average Journeyman rate to be applied.

B. **M-27.** The issues to be decided by the Arbitrator shall be the disposition of the current 3.16% benefits offset payment being paid, as well as the amount(s) and effective date(s) of benefits offset payment(s) to be paid, if any.

III. **Latitude of Arbitrator**

The Arbitrator's award may: (a) adopt either Party's proposal; or (b) as deemed suitable by the Arbitrator, contain any other remedy that falls within the monetary parameters of the Parties' proposals (i.e., may not be of greater monetary cost/value than the CPTC's last proposal, dated August 7, 2012, or of lesser monetary cost/value than BPA's last proposal, dated August 9, 2012), subject to the

restrictions noted in Section IV. The Parties' last proposals are attached to this protocol.

IV **Restrictions Placed on Arbitrator**

A. An Arbitrator must decide all issues identified in this protocol.

B. The Parties shall encourage the Arbitrator to render a decision not later than 60 days following the final day or arbitration.

C. An Arbitrator's award must be consistent with rulings issued by the Federal Labor Relations Authority (FLRA), as amended by any Court review of FLRA decisions.

D. The Parties jointly stipulate to the following which shall serve as restrictions on the latitude of the Arbitrator:

1. With respect to the payment of the 3.16% benefits offset payment currently being paid, the Parties jointly commissioned the firm of Towers Watson to conduct a study of the value of benefits provided by BPA as compared to those provided by other Northwest electric utilities, with the understanding that the Parties would use the results of the study to bargain the amount of any benefits offset payment to be paid following the expiration of the bargaining agreement in March of 2012. Towers Watson has issued its report and both Parties accept the study results.

2. With respect to the survey mix issues, the Parties agree that the total number of utilities for the purposes described in Section II A.2 and Section II.A.3. shall be six utilities. In addition, the Parties further agree that the mix of such utilities decided by the Arbitrator will: 9a) include PacifiCorp (Local 125); Portland General Electri9c; Avista and Seattle City Light; and (b) include two other utilities among those reflected in the Parties' last proposals.

V. **Retention of Jurisdiction**

The Arbitrator maintains jurisdiction if there is a dispute in applying the award.

INTEREST ARBITRATION OVERVIEW

Interest arbitration is a process commonly used in the public sector for bargaining units that provide essential public services and whose work is deemed essential for public safety. Police, fire and prison guards usually fall into this category and interest arbitration is granted by statute in exchange for a prohibition against a work stoppage (strike). The statutes that provide for interest arbitration inevitably include a set of criteria that the arbitrator must use in fashioning his or her decision. The state of Washington is a good example in that it does provide for interest arbitration and in RCW 41.56.465 sets forth the following criteria for uniformed personnel:

(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, the panel shall consider:
   (a) The constitutional and statutory authority of the employer;
   (b) Stipulations of the parties;
   (c) The average consumer prices for goods and services, commonly known as the cost of living;
   (d) Changes in any of the circumstances under (a) through (c) of this subsection during the pendency of the proceedings; and
   (e) Such other factors, not confined to the factors under (a) through (d) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in *RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

(2) For employees listed in *RCW 41.56.030(7) (a) through (d), the panel shall also consider a 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 like employers of similar size on the west coast of the United States.

Bonneville Power Administration and CPTC do not bargain under a statute that provides for interest arbitration. Rather, the interest arbitration process in which they are engaged is a product of their collective bargaining agreement, specifically Article 9. In its brief the Employer summarizes the essence of the interest arbitration process that the Parties have agreed to when it writes:

> Article 9 in the agreement addresses arbitration when the parties reach a bargaining impasse. Article 9 does not describe any criteria or standards to be used by an interest arbitrator. In addition, there are no explicit federal statutory or regulatory criteria defining a standard for interest arbitration. Common interest arbitration principles, however, place the burden on the proposing party to demonstrate a need for a change in the status quo. (P 7)

Thus, in the absence of any statutory or contractually constructed criteria, the first essential issue for this Arbitrator is to set forth a set of appropriate guidelines upon which to base his analysis of the Parties' evidence and arguments. The Arbitrator begins the process of setting forth these guidelines by turning to one of the premier authorities on labor arbitration. *How Arbitration Works* by Elkouri and Elkouri is a massive, comprehensive volume covering the broad area of labor arbitration. The sixth edition has a section on interest arbitration that begins by setting forth the functions of an interest arbitrator. At pages 1358 and 1359 we find the

following points of view taken from the work of various interest arbitrators or interest arbitration panels:

> our task here is to search for what would be, in the light of all the relevant factors and circumstances, a fair and equitable answer to a problem which the parties have not been able to resolve by themselves.
>
> our endeavor will be to decide the issues as, upon the evidence, we think reasonable negotiators, regardless of their social or economic theories might have decided them in the give and take process of bargaining.
>
> In reality, an arbitrator's determination of what the parties would have agreed upon in negotiations if they had not arbitrated is his own opinion of what they should have agreed upon. [citations omitted]

This Arbitrator finds all of the above citations applicable to his work as the interest arbitrator in the instant case. Several points about the Arbitrator's work need to be emphasized. First, this award is the instant Arbitrator's best analysis of the evidence and arguments as presented by the Parties. He has taken the time to thoroughly review the transcript of the proceedings, read all of the documentary evidence and, most importantly, has given full consideration to the specific obligations and restrictions that the Parties placed on his work through the stipulated arbitration protocol that has been previously discussed in this award.

Second, this Arbitrator is particularly mindful that the function of interest arbitration is not to reward one party at the expense of the other. Rather, a basic criterion of all interest arbitration proceedings should be a focus on what could

have or should have been achieved at the bargaining table. In other words, a final settlement that is fair, equitable and fully recognizes and is responsive to the interests and needs of both Parties.

Third, a review of the written submissions and the opening statements clearly establishes that while there is not a set of written criteria that the Arbitrator is bound to follow, the Parties are in basic agreement as to what should guide the Arbitrator's ultimate decision. The agreement is for an award of a prevailing wage based on a total compensation analysis and the determination of an appropriate set of comparators. In other words, the Parties agree that employees should be compensated during the life of the agreement at a prevailing wage based on a total compensation consideration and using similar comparators. What they disagree on is how to arrive at a determination of the prevailing wage and the selection of the appropriate comparators. Thus they have turned those tasks over to the Arbitrator.

A quick review of the above two points leads to the following summation:

(1) The Arbitrator's award should be fair, equitable and not reward one party at the expense of the other.

(2) The Arbitrator's award should provide for a prevailing wage during the life of the collective bargaining agreement.

(3) The prevailing wage should be calculated based on total compensation and using like comparators.

Fourth, the Employer provided substantial testimonial and documentary evidence with regard to the Parties recent past bargaining history. While this evidence was useful in painting a background picture within which to interpret the current collective bargaining process, it does not appear to provide to this Arbitrator much guidance for the future. The variables that were present during the last 15 years of negotiations between the Parties do not appear to be present at the current time. What is of primary concern to the Arbitrator is a fair and equitable settlement looking forward.

Finally, interest arbitration proceedings tend to be lengthy with extensive documentation. In the instant case, the Arbitrator has the Employer's pre hearing brief, lengthy opening statements, a transcript covering almost two full days of testimony and written briefs provided by both Parties. While the Arbitrator has fully studied this record, the analysis section of this award will concentrate on those factors that constituted the primary basis for the ultimate decision. The fact that something is not discussed does not mean it was not given consideration. Rather, the fact that it was not discussed indicates that it was not given the weight of those factors which are reviewed.

With this short overview of the interest arbitration process as it applies to the instant case, the Arbitrator is ready to move forward into an analysis of the issues in dispute.

ANALYSIS and AWARD

The Parties' negotiations over the successor agreement resolved all matters with the exception of three primary issues. These issues are identified as M–25, M–26 and M—27. The three issues involve 1) the term of the agreement; 2) the list of comparable entities by which to determine a prevailing wage; 3) the disposition of the 3.16 percent benefits offset payment. The Arbitrator notes that a careful review of the Parties arguments clearly establishes that there are a number of sub issues within the larger issues and that the Parties are in agreement on some of the sub issues while in disagreement on others.

The Union, in its brief, sets forth a series of nine questions which it believes will "simplify the Arbitrator's review and analysis" (U Br 6). The Union further posits that the answers to the questions will reveal the areas of agreement between the Parties and "will highlight the relatively narrow issues remaining for the Arbitrator to resolve" (U Br 6).

The Arbitrator has determined to use these nine questions as a way of exploring the key issues. The Arbitrator will provide an answer to each of these questions in sequential order. The analysis section of this award will then conclude by looking specifically at each of the primary issues and provide the Arbitrator's reasoning and the decision.

1. What should the term of the agreement be?

The Parties are in agreement that the only point of dispute for the Arbitrator to resolve regarding the term of the agreement is whether the final year (2015) will automatically renew or whether, upon timely notice, a party can initiate new negotiations. The Arbitrator's award is for automatic renewal the fourth year (2015) of the agreement. This award is issued approximately three weeks before the second year of the agreement commences thus shortening the effective lifespan of the agreement to three years. That is sufficient reason to lock down the third year (actual 4^{th} year).

2. What should the effective dates of general wage adjustment be for 2012, and 2013, and 2014 (and 2015)?

The Union concludes that the Arbitrator has "no real issue to resolve under question #2" (U Br 8) since the Parties are in agreement that wage adjustments occur at the start of each contract year beginning March 1, 2012. While the Arbitrator generally agrees with this statement, there are two explanations that need to be set forth to fully understand the nature of the Parties agreement.

First, the Arbitrator searched the record and finds little discussion about March 1. Rather, the more general term of "March" is used as in the agreement commences in March of 2012 with the fourth and final year starting March of 2015. The

Arbitrator did find at page 16 of the Employer's brief the statement, "BPA proposes that there be no general wage adjustment for the period from March 11, 2012 through March 9, 2013, the first year of the new contract." The Arbitrator's award will specify March of 2012 but not March 1 as it appears that the Parties practice is to attach the first day of the agreement to a pay period or some other factor. If the Parties have difficulty determining the exact day of March, 2012 that the contract takes effect, the Parties interest arbitration protocol provides that the Arbitrator retains jurisdiction over the implementation of the award (see Paragraph V) and the question can be sent back to him.

Second, the Union acknowledges, a point not disputed by the Employer, that both Parties have agreed on a March of 2012 effective date for the new agreement. The difference of course is that the list of comparables used by each results in a wage increase per the Union's and a wage decrease per the Employer's. The Employer has agreed to "red circle" wages for 2012 so that employees do not suffer an actual reduction in pay and that would have a possible outcome of requiring a retroactive reduction. The Arbitrator notes that discussion of retroactive wage adjustment and the appropriate comparables will be set forth at a latter point of this award. Regardless of that discussion, however, the evidence is clear that the Parties are

in agreement as to a March of 2012 effective date for the new agreement.

3. What should the amount of the general wage adjustments be for 2012, and 2013, and 2014 (and 2015)?

The Arbitrator finds this a significant question as it helps clarify an important element in the interest arbitration proceeding. As the Arbitrator understands the evidence, the Parties are in complete agreement as to the protocol for determining the wage adjustment for 2012, 2013, 2014 and 2015[1]. This is a two-step protocol that begins by using six comparators to create an average journeyman wage rate. The second step is to calculate a percentage based on the difference between the comparator average and what BPA pays. That percentage is used to adjust bargaining unit member wages at the beginning of each contract year. Neither party wants to change this protocol.

What the Parties disagree about are the variables (comparables) that are to be placed within the protocol. The Parties are in agreement that six comparable jurisdictions should be surveyed. They also agree as to four of the six jurisdictions that should be used but they disagree on the remaining two – a disagreement that significantly impacts wages. The Arbitrator's discussion and resolution of this disagreement

[1] The Employer argued for the right to reopen for 2015 if it so desired but the Arbitrator has already indicated that he finds for the Union on that question and will lock in the 2015 contract year.

comes at a later point in this award. Thus there is no disagreement to be discussed as part of this the third question.

4. What mix of surveyed utilities shall the parties use during the term of the bargaining agreement?

This question is at the heart of the Parties inability to conclude negotiations for a new agreement without the use of an interest arbitrator. The Parties have agreed on four comparators to be used in a mix of surveyed utilities. Avista, Portland General Electric (PGE), Pacific Power and Seattle City Light (SCL) have been a part of the survey for prior agreements and are by mutual agreement to be included in the survey for the new contract. The Union notes that the 2007 agreement was based on six comparators that included the above four plus Snohomish County PUD, plus Eugene Water and Electric Board (EWEB). The Union argues to retain this same group of six.

The Employer strongly disagrees and emphasizes that there were unique factors applicable to the 2007 negotiations that led to a change in the list of comparables and that should not be considered for the instant negotiations. The Employer argues to return to the list of comparables used prior to the 2007 negotiations. This list would include the agreed upon four plus Chelan County PUD, plus Puget Sound Energy (PSE).

For reasons that will be fully explored at a later point in this award, the Arbitrator finds that the appropriate list of six comparators is:

1. Avista
2. Portland General Electric (PGE)
3. Pacific Power
4. Seattle City Light (SCL)
5. Chelan County PUD
6. Snohomish County PUD.

5. **What mix of surveyed utilities shall the Parties use in the next term negotiations for purposes of conducting the Parties' traditional joint utility surveyed based on the Parties' exchanged proposals, as well as any proposal regarding any benefits offset gap?**

The Union notes in its brief that the answers to question 4 and question 5 are the same. The Arbitrator finds that a review of the Employer's case uncovers no disagreement with this point. The Parties are in the final stages of negotiating a new contract. This arbitration decision will conclude that task. When the contract that is currently being finalized expires in March of 2016, it will need to be replaced by a successor agreement. There are no factors that have been presented to this Arbitrator to suggest that the list of six comparables used for the instant agreement would be inappropriate for the successor. Thus the answer for question 5 is the same as the answer for question 4.

6. What is the appropriate surveyed Lineman and/or Electrician wage rates to be used for deriving the average Journeyman rate to be applied?

The list of six comparators is used to survey the wages of linemen and/or electrician. These job titles, however, do not always have the same functions organization to organization. While the Parties dispute the inclusion of two out of the six comparators, they also have disagreements over the inclusion of the wage rate of certain job titles for two of the possible comparators: Avista and PSE. The Arbitrator has determined to not include PSE so any dispute over what PSE positions to include in the survey is moot. As to Avista, the Union argues to blend "that utility's journeyman lineman and electrician rates like they do for all other utilities in the survey" (U Br 10). The Employer argues to continue with the current practice of using only the journeyman lineman rate. For reasons that will be further clarified at a later point of this award, the Arbitrator finds for the Union on this question and directs the Parties to use a blended rate for Avista similar to SCL and Snohomish County PUD.

7. What should be the disposition of the current 3.16% benefits offset currently being paid?

Under the old agreement, bargaining unit members received a 3.16% benefits offset payment under the total compensation approach to determining wages. This figure came about as a

result of a survey conducted by an independent firm comparing benefits received by this bargaining unit versus those received by employees of comparators. A new survey, accepted by both Parties, has revealed that the value of the benefits provided by BPA now exceed by a factor of 0.66% the value of benefits provided by the comparators. The Arbitrator finds that the Union correctly summarizes the Parties positions with regard to the disposition of the benefits offset payment when it writes, "BPA and the council agree the current 3.16% benefit offset payments should cease with the first pay period following the date of the Arbitrator's award" (U Br 11). The Arbitrator notes that by the time the Parties have received and been able to implement this award, the second year of the four year agreement will be upon them. From a practical standpoint, therefore, the 3.16 percent benefit offset payment will cease the first pay period in the second year of the agreement.

8. What should be the amount of the benefits offset to be paid?

The Union sets forth that the Parties "agree the amount of benefits offset to be paid for the term of the new agreement should be $0" (U Br 12). The Arbitrator in review of the record, however, finds this statement accurate in part but that it glosses over the question of retroactivity. The Employer's position is that while it has continued to pay the benefit

offset payment during the pendency of the negotiations, in reality any justification for the payment ceased at the start of the first contract year (March of 2012). The Employer writes, "if the Arbitrator should grant CPTC a retroactive base pay increase, BPA argues that the Arbitrator should grant BPA a retroactive refund of 3.16% of base pay, or even 3.82% of base pay, recognizing that BPA benefits are now 0.66% above the market" (E Br 24). Ultimately the Arbitrator's decision is to have the benefit offset payment cease with the first pay period of the second year of the agreement and to provide for no retroactive wage adjustment. No additions or subtractions will be directed regarding what the employees received for wages for the 2012 contract year. The reasoning behind this conclusion is set forth at a later point in this award.

9. What should be the effective date of the benefits offset payment?

The Arbitrator has concluded that the benefits offset payment should cease with the first pay period in the second year of the agreement. It is unclear from the evidence whether there will be a pay period between the time the Parties receive this decision and the first pay period of the second year. Even if so, the Arbitrator's award does not call for the Employer to make a one pay period adjustment to employee wages. If that were to happen, it would obviously create considerable

operational difficulties for the Employer and, based on other provisions of this award, the employees would suffer an actual pay reduction which the Employer and the Union are opposed to.

Issue Analysis and Discussion

As previously noted, the issues presented to the Arbitrator are identified as M-25, M-26 & M-27. The Arbitrator was provided the Parties' last offers to each other on these three issues. Both the Union's and the Employer's last offers contain the specific language that each proposes to place in the labor agreement. From these documents it is easy to conclude that the Parties know how to construct the specific language for the agreement.

This interest arbitration decision will provide an award on each of the points in dispute but leave it to the Parties to draft the specific language. If they have trouble doing so, then Section V of the interest arbitration protocol comes into play:

> The Arbitrator maintains jurisdiction if there is a dispute in applying the award.

Turning to the merits of the three issues, the Arbitrator notes that they are all intertwined and, therefore, the analysis will proceed by reviewing both the particulars of each as well as the interrelationship. The analysis begins by emphasizing that the primary criteria for the analysis are the concepts of

prevailing wage and total compensation. The Parties have a lengthy history of determining prevailing wage by averaging a list of comparable jurisdictions. They are in agreement on four of those jurisdictions to include Avista, PGE, Pacific Power and Seattle City Light. They also agree that the list should include six entities but disagree on the last two. The Arbitrator's task is to select two from a list of four candidates (two proposed by the Union and two proposed by the Employer). The four choices from which two are to be selected are as follows:

1. EWEB
2. Puget Sound Energy
3. Snohomish County PUD
4. Chelan County PUD

The Employer provided extensive testimonial and documentary evidence related to the fact that the Parties had traditionally, from 1960 to 2007, used Chelan County PUD and Puget Sound Energy in their list of comparables (E Br 25). In 2007, at the Employer's request, the Parties chose EWEB and Snohomish County PUD in order to address a specific problem with the way wages were being calculated. The Employer now argues to return to the traditional mix of comparators.

With the exception of one specific problem area, the Arbitrator found this argument by the Employer well supported

and persuasive. The problem area is the fact that Puget Sound Energy now subcontracts a major part of the work that used to be in the bargaining unit. This fact substantially compromises the use of Puget Sound Energy as a comparator. Frankly, the Arbitrator carefully reviewed the Employer's arguments for retaining it and is not convinced that the Employer believes its own arguments. Bottom line, the Parties should not use Puget Sound Energy in its survey.

The Arbitrator has already indicated his conclusion that Chelan County PUD should return to the mix of comparators. That leaves a choice between Snohomish County PUD and EWEB. There are no perfect choices but for two reasons the Arbitrator concludes that Snohomish County PUD is a better choice: its geographic size and the fact that it stands directly across the mountains from Chelan County PUD.

Much of the Parties arguments have focused on the difference between wages paid on the west side of the mountains versus wages paid on the east side. The west side contains the major metropolitan areas of Portland and Seattle and traditionally pays higher wages offset, of course, with a higher cost of living. The fact that Snohomish County PUD on the west side mirrors Chelan County PUD on the east side is a small but significant factor for its selection. The significance of this factor is partially revealed in the fact that Snohomish County

PUD has the highest journeyman wage ($42.04) while Chelan County PUD has the lowest ($37.69). The two become the logical bookends for the comparators.

The Union, in its brief, expresses substantial concern with what it sees as the Employer's selection of comparators based on the desire to impose a wage freeze (U Br 32). While, in the Arbitrator's view, that argument may have some merit, it does not change the fact that the Employer proposes to return to the comparators that used for some 47 years. Moreover, it seems to the Arbitrator that the Union may be guilty of the old fallacy referred to as the kettle calling the pot black. Union arguments are also driven by their financial interest. The Arbitrator has the strong belief that if Chelan County PUD paid Snohomish County PUD wages and if Snohomish County PUD paid Chelan County PUD wages, that the Union would quickly change its position and strenuously argue to include Chelan County and to exclude Snohomish County PUD. The point, both Parties arguments are tainted with the fact that the choice of comparators either raises or lowers prospective wages.

Ultimately the Arbitrator concludes that there is no perfect list of comparables but when all factors are considered (size, geographic distribution, similarity of operations, individually specific anomalies, etc.) the following is the best list of comparables for the Parties.

1. Avista
2. Portland General Electric (PGE)
3. Pacific Power
4. Seattle City Light (SCL)
5. Chelan County PUD
6. Snohomish County PUD.

Finally, Avista by mutual agreement is included in the list of comparables but the Parties disagree as to the inclusion of the electrician rate in the calculation. On this issue the Arbitrator sides with the Union and concludes that the Parties should use a blended rate as they have with Seattle City Light and Snohomish County PUD. The Employer's argument to exclude based on differences in work functions was not persuasive. Some differences can exist between all of the comparables and the fact that a prior premium payment was rolled into the base rate simply means that Avista does not pay its electricians and linemen at the same rate of pay; a fact that is also true for Seattle City Light and Snohomish County PUD.

Moreover, the Arbitrator is mindful of the testimony of Jay Bellefuille who had 28 years of experience working as an electrician for Avista. The Union's brief summarizes Bellefuille's testimony as making "it clear that Avista electricians have the same or, perhaps, even less responsibilities than BPA electricians; he also made it clear that their training is less significant than BPA electricians"

(U Br 39). The Arbitrator's review of Mr. Bellefuille's testimony leads him to the same conclusions and ultimately to the decision that a blended rate should be used for Avista. As a result of this conclusion, the following is the list of comparables as determined by the Arbitrator along with the corresponding rates of pay:

2012 Journeyman Wage Rates for Survey Mix Options

Utility	Lineman	Electrician	Rate
Avista Corp	38.38	39.35	38.87
PGE	39.78	39.78	39.78
Pacific Power	39.74	39.74	39.74
Seattle City Light	42.37	41.14	41.76
Snohomish Cty PUD	42.45	41.63	42.04
Chelan County PUD	37.69	37.69	37.69
		Average	**39.98**

A journeyman rate of $39.98 effective first pay period March of 2012 is equal to a 0.7% pay increase over the 2011 wage.

At the outset of this discussion, the Arbitrator emphasized that the analysis is based on determining a prevailing wage based on total compensation. Two factors are needed in order to make that determination. The first is to create the appropriate list of comparables, a task that has been completed. The second is to address the matter of the benefits offset. It is again noted that an earlier study concluded that benefits paid to the CPTC bargaining unit were 3.16% less than benefits paid to the

comparables. Thus the members of the bargaining unit had been provided an additional payment equal to 3.16% of base wages.

A new survey now indicates that benefits provided the CPTC unit now exceed the comparators. Thus both Parties have agreed that at the implementation of the new collective bargaining agreement the 3.16% benefits offset payment should cease. The Arbitrator notes that, as a result of standard collective bargaining protocol[2], while these negotiations have been ongoing, the benefits offset payment has continued even though the justification for such payment no longer exists.

The Employer, at page 43 of its brief, uses 2087 hours as the basis for determining base wages for a one year period of time. The Arbitrator notes that the number 2080 is sometimes used but that 2087 is appropriate when the big picture is considered and leap year is entered into the equation. Thus the Arbitrator will use 2087 and focus his continuing analysis on what has been called a journeyman rate. Annual wages at the journeyman rate are set forth as follows:

Year	Wages	Benefits Offset	Total
2011	39.70 X 2087 = $82,854	+ $2618	= $85,472
2012	39.98 X 2087 = $83,438	+ $0	= $83,438
		Wage Reduction	**$1,934**

[2] That protocol requires that any reduction in existing benefits be the product of the collective bargaining process. The fact that the justification no longer exists does not change the additional fact that the benefit has been provided as a matter of the expiring collective bargaining agreement.

If the decision by the Arbitrator is applied retroactively, employees should be granted a 0.7% wage increase effective March, 2011 and face the elimination of the benefits offset payment. The result is a loss of wages of almost $2,000 – 2011 to 2012. Additionally, both Parties have indicated that they are operating under the assumption that wage adjustments associated with the comparables will yield an increase of 2% for the 2013 the contract year. The Arbitrator notes that a 2% increase to the $39.98 wage is equal to $.80 or $40.78; an annual wage of $85,108 – another annual wage reduction this time equal to $364 over the 2011 contract year.

Thus, a strict application of the party's traditional wage adjustment protocol while eliminating the benefits offset payment produces two consecutive years of wage reductions for the members of this bargaining unit. Employees will not see an increase in wages until the 2014 bargaining year. The Employer has made it clear that it is not interested at all in implementing a wage reduction. For example, at page 23 of its brief it discusses red circling which is a word used in labor negotiations to indicate a wage freeze. At page 37 of its brief it discusses an earlier proposal made to the Union related to eliminating the benefits offset payment through a "soft landing" approach which the Arbitrator interprets to mean not eliminating the offset in one move so as to make its loss less burdensome.

It obviously goes without saying, the Union has no interest in seeing its members suffer a wage reduction.

What makes this a particularly difficult problem to deal with is the fact that the benefits offset payment is significant amounting to more than $50.00 per week ($2,618/52 weeks = $50.35). In the current, noninflationary economy and with normal wage increases, there is insufficient money in annual increases to immediately overcome the effect of removing the benefits offset payment. To address this problem and to avoid any loss of wages the Arbitrator is directing the Parties to implement the following:

1. March of 2012 a wage increase of 0.7% ($39.98) which equals annual wages of $83,438. A benefits offset payment reduced by 1/3 to .0211 (soft landing approach) which equals an annual payment of $1,761 ($83,438 X .0211 = $1,761). Add the two together and the result is $85,199. That number is very close to $85,472 wages of 2011. While close, there is still a loss. The loss is eliminated by the fact that this decision is issued at the threshold of the second year of the agreement and by the fact that the Arbitrator is not directing any retroactive wage adjustment. The Employer should make no pay adjustments regarding the rate of pay and the benefits offset payment until the changes are made for the second year of the contract (March 2013).

2. The Parties have both indicated the desire to have the benefits offset payment eliminated[3] with the 2013 contract year. If base wages are increased 2.5% to $40.98 it will ensure an annual wage of $85,525; a $53 wage increase. Thus the Arbitrator directs BPA to

[3] The alternative for the Arbitrator would have been to further reduce the benefits offset payment by 1/3 and to simply award the pay increase as provided by the average of the comparables. Ultimately he concluded that it was better to eliminate the benefits offset payment, as instructed by both Parties.

increase wages for the first pay period in March equal to the increase provided by the comparables or 2.5%, whichever is greater. The benefits offset payment is eliminated starting with the first pay period in March of 2013.

3. The Parties are directed to use the list of comparables as fashion by the Arbitrator and their standard protocol to determine any wage increases for the 2014 and 2015 contract years.

Clearly, the Parties will see this decision in different ways. From the Employer's perspective, it has been over paying the members of this bargaining unit because of the benefits offset payment. By the third year of the agreement, all questions of overpayment are resolved and the Parties will have returned to their historical pattern of setting wages. Meanwhile, the actual pay to employees is a virtual freeze but without a pay reduction thus addressing many of the Employer's concerns about financial conditions.

The employees will see the matter differently as for almost two years there will be no new money in their paychecks. Still, no new money is better than a loss of money. Also, had the Arbitrator awarded as the Union proposed, the employees would have retained the benefits offset payment in 2012 and had a retroactive pay increase for that year. In 2013, the benefits offset payment would have been lost and, even with the 2% increase, the employees would have suffered an actual reduction in wages over 2012. The point is that there was no way around

the substantial negative impact on wages of losing the 3.16% benefits offset payment.

Ultimately the Arbitrator concludes that the award is consistent with the criteria of a prevailing wage based on total compensation. The award has the additional advantage of removing the 3.16% benefits offset payment from the wages of employees without taking any actual dollars away. Thus, the award meets what the Arbitrator views as the primary goals and considerations that were presented to him.

AWARD SUMMARY

Section IV of the Parties interest arbitration protocol places certain restrictions and obligations on the Arbitrator. The first of these requires the Arbitrator to "decide all issues identified in this protocol." The prior section of this award is the Arbitrator's best effort to comply with this requirement. The following is a summary of the decisions contained in the award.

- The agreement commences March of 2012, is a four year agreement, concluding with the contract year that begins March of 2015. Wage adjustments are to be applied beginning the first pay period of March 2012; March 2013; March 2014; March 2015.
- There is no retroactive wage adjustment. Wages actually paid up to the start of the second year of the agreement (first pay period March, 2013) should continue without change.
- There will be six surveyed electrical utilities to include: 1) Avista, 2) PGE, 3) Pacificorp, 4) Seattle, 5) Snohomish, 6) Chelan. The Avista rate will be a composite rate of lineman and electrician calculated in the same fashion as Seattle City Light and Snohomish County PUD.
- The benefits offset payment of 3.16% will be reduced to 2.11% effective March, 2012. The benefits offset payment of 2.11% will be eliminated effective March, 2013. To ensure that the elimination of the benefits offset payment in March of 2013 does not create a pay reduction for regular time work (standard work week), the percentage wage increase for 2013 is to be the average of the comparables or 2.5%, whichever is greater.

This interest arbitration award is respectfully submitted on the 15th day of February, 2013 by,

Timothy D. W. Williams
Arbitrator