

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS - LOCAL 1245

AND

PACIFIC GAS AND ELECTRIC COMPANY
(SAN FRANCISCO, CALIF.)

REVIEW CASE #7

OPINION OF CHAIRMAN OF
ARBITRATION BOARD

ISSUE: INTERPRETATION OF
CONTRACT CLAUSES 205.4,
205.5 AND 205.11.

DATE OF OPINION: JUNE 6,
1953

Issue 1.

THE FIRST ISSUE IS SUBMITTED AS FOLLOWS: "IS THE CLASSIFICATION OF GROUNDMAN IN THE COMPANY'S ELECTRIC OVERHEAD DEPARTMENTS A "BEGINNER'S CLASSIFICATION" WITHIN THE MEANING OF SECTIONS 205.4 AND 205.5 OF THE AGREEMENT OF SEPTEMBER 1, 1952 BETWEEN THE COMPANY AND THE UNION?"

SECTION 205.4 SAYS THE COMPANY SHALL POST ALL JOB OPENINGS WITH CERTAIN EXCEPTIONS, ONE OF WHICH IS "BEGINNER'S CLASSIFICATIONS". SECTION 205.5 READS AS FOLLOWS: "AS USED HEREIN, A BEGINNER'S CLASSIFICATION IS DEFINED AS THE CLASSIFICATION WITH THE LOWEST WAGE RATE IN EACH OF THE RECOGNIZED DEPARTMENTS AND SUB-DIVISIONS OF THE DIVISIONS AND DEPARTMENTS DESCRIBED IN SECTION 200.1." SECTION 200.1 READS, IN PART, AS FOLLOWS: "THE DEPARTMENT OF GAS SUPPLY AND CONTROL, THE CENTRAL SUPPLY DEPARTMENT AND THE BUILDING DEPARTMENT OF THE GENERAL OFFICE."

THE UNION CONTENDS THAT SECTION 205.5 SHOULD BE INTERPRETED AS FOLLOWS: 1) THE DEPARTMENTS ARE THE THREE JUST ENUMERATED. 2) THE DIVISIONS ARE THE THIRTEEN GEOGRAPHICAL AREAS INTO WHICH THE COMPANY HAS DIVIDED ITSELF. 3) THE DEPARTMENTS ARE THE FIVE OPERATING DEPARTMENTS -- ELECTRIC, GAS, STEAM, WATER COLLECTION, AND DOMESTIC WATER. 4) THE SUB-DIVISIONS OF THE DIVISIONS ARE THESE FIVE DEPARTMENTS IN EACH OF THE DIVISIONS (ALTHOUGH NOT ALL DIVISIONS HAVE ALL FIVE DEPARTMENTS IN THEM).

THE LOWEST WAGE RATE IN THE ELECTRIC DEPARTMENT OR SUB-DIVISION IS LABORER. THEREFORE THE UNION CONTENDS THE JOB OF GROUNDMAN AT A HIGHER RATE SHOULD BE POSTED. THE COMPANY, HOWEVER, HAS A UNIT CALLED "ELECTRIC OVERHEAD" AND IN THIS UNIT THE LOWEST WAGE RATE IS PAID TO GROUNDMEN AND THEREFORE AS A "BEGINNER'S CLASSIFICATION" THE COMPANY CONTENDS IT NEED NOT BE POSTED. THE UNION SAYS "ELECTRIC OVERHEAD" IS NOT A DEPARTMENT, OR A DIVISION, OR A DEPARTMENT, OR A SUB-DIVISION OF A DIVISION; IT IS, RATHER A "SUB-DEPARTMENT" AND, AS SUCH, IS NOT COVERED BY SECTION 205.5. THE UNION FURTHER CONTENDS THAT IN THE PAST THE GROUNDMAN JOB HAS BEEN POSTED, BUT THE COMPANY ARGUED THAT SUCH POSTING HAD NOT BEEN A UNIFORM PRACTICE AND HAD BEEN AT COMPANY DISCRETION. THE UNION SAYS THE INTENT OF THE CONTRACT IS TO ENCOURAGE BIDDING BY EMPLOYEES AND THAT IF THE COMPANY HAS THE RIGHT TO SET UP SMALL UNITS THIS RIGHT TO BID CAN BE EFFECTIVELY REDUCED. THE COMPANY CLAIMS THAT THE INTENT OF THE CONTRACT IS

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TO GIVE IT MAXIMUM FREEDOM IN THE SELECTION OF "BEGINNERS" SINCE IT FOLLOWS THE POLICY OF PROGRESSION FROM WITHIN. THE COMPANY ALSO CLAIMS, ALTHOUGH THE UNION DENIES THIS, THAT ON OCCASIONS IN 1949, 1950 AND 1951 THE UNION SPECIFICALLY ACCEPTED THE GROUNDMAN JOB AS THE BEGINNING CLASSIFICATION IN THE ELECTRIC OVERHEAD DEPARTMENT.

THE CHAIRMAN OF THE ARBITRATION BOARD CONSIDERS THE MOST IMPORTANT DOCUMENT AFFECTING THIS ISSUE TO BE THE AGREEMENT OF THE PARTIES DATED DECEMBER 1, 1946. THIS AGREEMENT IS ENTITLED "JOB CLASSIFICATIONS AND DEFINITIONS". IT LISTS THE "DEPARTMENTS AND SUBDIVISIONS" AND ONE OF THESE IS SHOWN AS "ELECTRIC OVERHEAD". NOW THE CONTRACT, AS WE HAVE SEEN, REFERS TO "RECOGNIZED DEPARTMENTS AND SUB-DIVISIONS OF THE DIVISIONS" - AND THIS WORDING HAS NOT BEEN CHANGED SINCE 1944, ALTHOUGH "AND DEPARTMENTS" WAS SUBSEQUENTLY ADDED. WHEN THE WORD "RECOGNIZED" IS USED, WE MUST ASK RECOGNIZED BY WHOM. IF WE SAY IN ANSWER, IT MEANS RECOGNIZED BY THE COMPANY, THEN THE COMPANY REALLY COULD MAKE NEARLY MEANINGLESS THE BIDDING PROVISIONS BY RE-DEFINING DEPARTMENTS AND SUB-DIVISIONS AS IT WISHES; AND SO COULD THE UNION MAKE NEARLY MEANINGLESS THE RIGHT OF THE COMPANY TO FILL "BEGINNERS CLASSIFICATIONS" FREELY, IF THE ANSWER IS RECOGNIZED BY THE UNION. THE ONLY SENSIBLE CONCLUSION IS THAT IT MEANS "RECOGNIZED BY THE PARTIES". THERE IS ONLY ONE DOCUMENT WHICH SETS FORTH CLEARLY SUCH JOINT RECOGNITION AND THAT IS THE AGREEMENT OF DECEMBER 1, 1946. THIS AGREEMENT RECOGNIZES "ELECTRIC OVERHEAD" AS ONE OF THE "DEPARTMENTS AND SUBDIVISIONS". GROUNDMAN CARRIES THE LOWEST WAGE RATE IN ELECTRIC OVERHEAD, AND, THEREFORE, THE JOB NEED NOT BE POSTED. THE ANSWER TO THE FIRST QUESTION PRESENTED BY THE PARTIES IS IN THE AFFIRMATIVE.

Issue 2.

THE SECOND ISSUE FOLLOWS: "IS IT IN VIOLATION OF SAID AGREEMENT FOR THE COMPANY TO REFUSE TO PLACE IN THE CLASSIFICATION OF GROUNDMAN AN EMPLOYEE WHO IS NOT QUALIFIED TO PROGRESS BEYOND SUCH CLASSIFICATION IN THE NORMAL LINE OF PROGRESSION FROM GROUNDMAN TO LINEMAN?"

SECTION 205.11 READS: "NOTWITHSTANDING ANYTHING CONTAINED IN THIS TITLE, COMPANY MAY REJECT THE BID OF ANY EMPLOYEE WHO DOES NOT POSSESS THE KNOWLEDGE, SKILL, EFFICIENCY AND PHYSICAL ABILITY REQUIRED FOR THE JOB IN WHICH THE BID IS MADE." IMPLICIT IN THE QUESTION ASKED BY THE PARTIES IS THE ASSUMPTION THAT THE EMPLOYEE IN QUESTION HAS THE QUALIFICATIONS FOR A GROUNDMAN BUT NOT A LINEMAN. THE COMPANY SAYS IT WANTS ONLY AS GROUNDMEN EMPLOYEES WHO APPEAR TO BE ABLE TO PROGRESS TO LINEMAN. HOWEVER, THE CONTRACT SAYS "THE JOB". IT DOES NOT SAY "THE JOB" AND "OTHER JOBS BEYOND THAT JOB WHICH LIE IN THE LINE OF PROGRESSION." FURTHERMORE, GROUNDMAN CAN PROGRESS TO OTHER JOBS THAN LINEMAN (FOR EXAMPLE, TRUCK DRIVER) AND THIS IS SET FORTH IN COMPANY EXHIBIT 9. THUS IT WOULD SEEM THE COMPANY HAS THE FULL RIGHT TO REJECT AN EMPLOYEE WHO DOES NOT QUALIFY FOR "THE JOB" BUT NOT TO REJECT HIM WHEN HE DOES QUALIFY FOR IT BUT MAY NOT FOR ONE OF THE JOBS FARTHER ALONG IN THE LINE OF PROGRESSION. ASSUMING THAT THE EMPLOYEE IS QUALIFIED TO BE A GROUNDMAN, THE ANSWER TO THE QUESTION RAISED IN THE SECOND ISSUE IS IN THE AFFIRMATIVE.

/s/ CLARK KERR
BERKELEY, CALIFORNIA

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LOCAL-1245

International Brotherhood of Electrical
Workers - Local 1245

Opinion of Chairman of
Arbitration Board

and

Pacific Gas and Electric Company
(San Francisco, Calif.)

Issue: Interpretation of contract
clauses 205.4, 205.5 and 205.11.

Date of opinion: June 6, 1953

Issue 1.

The first issue is submitted as follows: "Is the classification of Groundman in the Company's Electric Overhead Departments a "beginner's classification" within the meaning of Sections 205.4 and 205.5 of the agreement of September 1, 1952 between the Company and the Union?"

Section 205.4 says the company shall post all job openings with certain exceptions, one of which is "beginner's classifications." Section 205.5 reads as follows: "As used herein, a beginner's classification is defined as the classification with the lowest wage rate in each of the recognized departments and sub-divisions of the Divisions and Departments described in Section 200.1." Section 200.1 reads, in part, as follows: "the Department of Gas Supply and Control, the Central Supply Department and the Building Department of the General Office."

The union contends that Section 205.5 should be interpreted as follows:

- 1) The Departments are the three just enumerated. 2) The Divisions are the thirteen geographical areas into which the company has divided itself.
- 3) The Departments are the five operating departments - electric, gas, steam, water collection, and domestic water. 4) The sub-divisions of the Divisions are these five departments in each of the Divisions (although not all Divisions have all five departments in them.)

The lowest wage rate in the electric department or sub-division is

labels. Therefore the union contends the job of groundman at a higher rate should be posted. The company, however, has a unit called "electric overhead" and in this unit the lowest wage rate is paid to groundmen and therefore as a "beginner's classification" the company contends it need not be posted. The union says "electric overhead" is not a Department, or a Division, or a department, or a sub-division of a Division; it is, rather a "sub-department" and, as such, is not covered by Section 205.5. The union further contends that in the past the groundman job has been posted, but the company argued that such posting had not been a uniform practice and had been at company discretion. The union says the intent of the contract is to encourage bidding by employees and that if the company has the right to set up small units this right to bid can be effectively reduced. The company claims that the intent of the contract is to give it maximum freedom in the selection of "beginners" since it follows the policy of progression from within. The company also claims, although the union denies this, that on occasions in 1949, 1950 and 1951 the union specifically accepted the groundman job as the beginning classification in the Electric Overhead Department.

The Chairman of the Arbitration Board considers the most important document affecting this issue to be the agreement of the parties dated December 1, 1946. This agreement is entitled "Job Classifications and Definitions". It lists the "Departments and Subdivisions" and one of these is shown as "Electric Overhead". Now the contract, as we have seen, refers to "recognized departments and sub-divisions of the Divisions" - and this wording has not been changed since 1944, although "and Departments" was subsequently added. When the word "recognized" is used, we must ask recognized by whom. If we say in answer, it means recognized by the company, then the company really could make nearly meaningless the bidding provisions by re-defining departments and sub-divisions as it wished; and so could the union make

nearly meaningless the right of the company to fill "beginners classifications" freely, if the answer is recognized by the union. The only sensible conclusion is that it means "recognized by the parties". There is only one document which sets forth clearly such joint recognition and that is the agreement of December 1, 1946. This agreement recognizes "Electric Overhead" as one of the "Departments and Subdivisions". Groundman carries the lowest wage rate in Electric Overhead, and, therefore, the job need not be posted. The answer to the first question presented by the parties is in the affirmative.

Issue 2.

The second issue follows: "Is it in violation of said agreement for the company to refuse to place in the classification of Groundman an employee who is not qualified to progress beyond such classification in the normal line of progression from groundman to lineman?"

Section 205, 11 reads: "Notwithstanding anything contained in this Title, Company may reject the bid of any employee who does not possess the knowledge, skill, efficiency and physical ability required for the job in which the bid is made." Implicit in the question asked by the parties is the assumption that the employee in question has the qualifications for a groundman but not a lineman. The company says it wants only as groundman employees who appear to be able to progress to linemen. However, the contract says "the job". It does not say "the job" and "other jobs beyond that job which lie in the line of progression." Furthermore, groundman can progress to other jobs than lineman (for example, truck driver) and this is set forth in company exhibit 5. Thus it would seem the company has the full right to reject an employee who does not qualify for "the job" but not to reject him when he does qualify for it but may not for one of the jobs farther along in the line of progression.

*no bid
to give*

Assuming that the employee is qualified to be a groundman, the answer to the question raised in the second issue is in the affirmative.

Clark Kerr

Clark Kerr
Berkeley, California

International Brotherhood of Electrical
Workers - Local 1245

and

Pacific Gas and Electric Company
(San Francisco, Calif.)

Award of Arbitration Board

Issue: Interpretation of contract
clauses 205.4, 205.5 and 205.11.

Date of Award: June 6, 1953

Issue 1. Yes.

Issue 2. Yes.

Clark Kerr

Clark Kerr, Chairman

L. L. Mitchell, Union Member

M. B. Badgood, Company Member

Ronald T. Weakley, Union Member

R. J. Tilsen, Company Member

Concurring Issue _____.

Dissenting Issue _____.

Concurring Issue _____.

Dissenting Issue _____.