International Brotherhood of
Electrical Workers
Local 1245

and

Pacific Gas & Electric Company

Review Case #856
San Jose Division Gr. #8-69-2
Review Case #949
San Francisco Division
Gr. #2-69-17
Review Case #974
San Jose Division Grievances
Nos. 8-70-7 and 8-70-9

Arbitration Case #34

Issue: Did the Company violate the applicable Collective Bargaining Agreements by preventing the grievants from reporting for work as a Serviceman or a Customer Service Clerk with: (1) sideburns that extended below the lobe of the employees' ears? (2) a beard or goatee?

Date of Opinion: September 10, 1970

BACKGROUND

There are no published rules of the Company regarding beards, sideburns, or goatees. The agreement between the Union and the Company requires that gas servicemen, "Shall maintain a high standard of public relations and personal appearance."

There are five grievants - one a customer service clerk, the other four gas servicemen. All five are in contact with the public as part of their regular duties.

The Company rested its case on what it claimed to be a long-standing, albeit unwritten, policy that sideburns shall not extend below the ear-lobes, mustaches shall not drop below the corners of the mouth, and beards and goatees shall be forbidden.

It was the Union's view that these are arbitrary and unreasonable rules, beyond the requirements of the basic rule requiring a high standard of personal appearance, with which the Union agrees, and that such rules are a serious infringement on the personal rights of the employees.

UNION'S ARGUMENTS

It was the Union's first contention that the basis for the Company's rule lies either in the personal prejudice of responsible supervisors, or that the basis is undiscoverable, and that the rule is therefore unreasonable.

Secondly, the Union pointed out that there were no customer complaints against any of the grievants, and that the Company had no solid evidence that the proscribed ornamentation would be offensive to its customers.

Thirdly, the Union offered recent court cases in which it was recognized that the right of an individual to choose his own hair style may in some cases be a Constitutional right. Union suggested that the existence of such rights might have a bearing on the reasonableness of the Company rule.

Lastly, the Union suggested that a reinterpretation of the Company's own neatness rule would solve the matter: namely, that the Company's own neatness rule, which the Union does not dispute, should be amended to allow hair on the heads of its employees fore and aft, top, bottom, or sides, so long as it is neatly trimmed.

COMPANY'S ARGUMENTS

The Company first pointed to the ample evidence of the record that its policy had been one of long standing, and that it was well known to the employees. Each grievant in this case was aware of the policy, was given an opportunity to conform to the policy, and each in fact did conform.

Secondly, the Company pointed out that Constitutional rights do not apply where no governmental action is present, and that PG&E is not a governmental body.

Thirdly, the Company pointed to the fact that by bargaining between the parties the Company's right to require a "high standard of personal appearance" of its employees was recognized. Therefore, it was argued, the Company had broad discretion in the matter, and it was up to the Union to show that the exercise of that discretion was arbitrary, discriminatory, or capricious.

Finally, the Company asserted that as a public utility it is required to meet higher or more conservative standards than might be appropriate to private businesses.

THE ISSUE

The Board agreed with the first argument of the Company, finding from the evidence that the policy against goatees, long sideburns, droopy mustaches, and beards is one of long standing, that it was known to the grievants in this dispute, that each grievant was given an opportunity to conform to the policy, and that each did so, though under protest.

With regard to Company's argument that the high standard of personal appearance was negotiated by the Union and Company, and that the Board cannot substitute a standard of its own - the Board noted that all that was agreed upon in bargaining was that a "high standard of personal appearance" should be maintained. Nothing was said about its specific content, and nothing required that the standards remain forever fixed. The Company itself stated that exceptions are made; that differences are recognized to accommodate different working activities; and that the policy is continually reviewed both against the experience of other public utilities and non-utility companies. This surely does not describe a fixed policy bargained into the Agreement.

Several arbitration cases were cited as precedent, and furnished valuable guidance. They suggested, first, the principle that rules regarding hair style and grooming must bear a reasonable relationship to the employer's business and to the work of the employee involved, and that there must be evidence that damage to the employer's sales, or to his "image", will result if his rules are not followed. Secondly, while there is greater dispute about this, the more persuasively reasoned cases suggested that, while providing for the needs of the Company, rules concerning neatness today should reflect contemporary changes in style.

Fears on the part of Company officials concerning customer complaints were expressed only in the most general terms. Perhaps the Company's view was best summed up in the statement that, "we do want our customers to witness a conservative approach, where we feel that there would be a lot less criticism than there will if we go on the liberal side."

It is the belief of the Arbitration Board that the customers of PG&E are quite capable of distinguishing between a dirty, matted-haired hippie, and the sort of competent and conscientious employee characterized by the grievants in this dispute.

CONCLUSIONS

In deciding whether the grievants in this case met the required "high standards of personal appearance", the Company made no individual judgments. Rather, it relied upon an antiquated and restrictive rule, the necessity for which was not shown by any concrete evidence. It seems likely that not every one of PG&E's three million customers or thousands of employees could be entirely pleased no matter what the Company's hair policy, or this Board's decision, might be. We must judge the Company's rule in the context of the community in which the Company operates, and according to the reasonableness of the rule in relation to the Company's proven business requirements.

We conclude that the Company did violate the applicable collective bargaining Agreements in its refusal to make individual judgments as to the neatness of the grievants, and in relying on a rule which was not shown to bear a reasonable relationship to the needs of the Company or to the standards of the community within which the Company operates.

We make one exception to our conclusion, taking into consideration Company's wishes to project a "conservative image". The full beard, the most excessive of the new facial styles, by its natural effulgence is much more difficult to keep neat and well trimmed than are more localized growths.

Some of the employees involved serve customers in their own homes, and on occasion must approach the customer's home unannounced. Likewise, it is apparent that many of the customers approaching the Company's service counters do so with complaints, and in an angry mood.

We feel that the full beard tends to result in an excessive and flamboyant facial hair style which, in the situations faced by the employees in question, is most likely to provoke the angry public reaction which the Company fears. Other facial hair styles, such as goatees of various shapes, or mustaches and sideburns, all of which can be closely trimmed, conservative, and controlled, do not present the same danger in the opinion of the Board.

While the negotiated "high standard of personal appearance" applies directly only to gas servicemen, the principles and problems are the same for customer service clerks. The Opinion of the Chairman and the Decision of the Arbitration Board which follows therefore apply uniformly to both categories of public contact personnel.

DECISION OF THE ARBITRATION BOARD

1. Based upon the considerations set forth in the Opinion of the Chairman, the Arbitration Board unanimously concludes that the Company rule at issue is in violation of the applicable collective bargaining Agreements. The Board further concludes that in order to decide precisely the nature of the violation it is necessary to formulate rules which conform to the requirements of the Agreements. Those rules, which are to supplant the Company rule at issue, are as follows:

a. Mustaches are permissible, but shall be neatly trimmed, and shall not extend below the corners of the mouth.

b. Sideburns are permissible, but shall be neatly trimmed, and shall not extend below the level of the mouth.

c. Goatees are permissible, but shall be neatly trimmed, and shall be closely confined to the area of the lower chin.

d. Full beards are not permissible.

2. Accordingly, the Arbitration Board is of the unanimous opinion that:

a. The Company violated the applicable collective bargaining Agreements by preventing four of the grievants from reporting to work as a Serviceman or a Customer Service Clerk either with sideburns which extended below the lobe of the employees' ears, or with a goatee.

b. The Company did not violate the applicable collective bargaining Agreements by preventing the fifth grievant from reporting to work as a Serviceman with a full beard.

William Eaton, Chairman

Allen D. Owen, Company Member

Robert J. Steele, Company Member

John Wilder, Union Member

Frank Quadros, Union Member

San Francisco California
September 10
~~August~~ 1970