

IWC
(12-27-84)

DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL WELFARE COMMISSION

525 GOLDEN GATE AVE.
SAN FRANCISCO, CALIFORNIA 94102
(415) 557-2590



December 27, 1984

ADDRESS REPLY TO:
P.O. Box 403
San Francisco, CA 94101

Follow-up:		IWB		SJS	
DJB	INDUSTRIAL RELATIONS			MAS	
JPB	JAN 4 1985			DMS	
LVB				LMT	
AMK	LDB	LSC	DH	MML	
PNL	SFE ME	REPLY FOR MY SICH	HANDLE	RLS	
JAM	FYI	FOR YOUR RECOMM.	FILE		

I. Wayland Bonbright
Pacific Gas and Electric Company
245 Market Street
San Francisco, CA 94106

Dear Mr. Bonbright:

In reply to your letter of December 10, 1984, your proposed agreement seems generally to be in accord with state standards established by the Industrial Welfare Commission, except that the IWC order (No. 4-80) specifies rest periods based on a rate of 10 minutes net rest time per each four hours. The IWC did not accept a proposed 15 minute period and included the word "net" as a compromise; it means 10 minutes for rest after a little time is allowed for coming and going to the usual resting place (which might be at a coffee machine, etc.). For that reason, I would advise including the word "net", or making each period 12 minutes long. A copy of the IWC's statement as to the Basis of Section 12 in Order 4 is included. It was adopted in 1976. The provision for meal periods is adequate, which is important, since collective bargaining agreements cannot override standards for any part of the IWC orders except those affecting hours of work and overtime pay.

Since all of the employees in question will be paid at least \$4.35 per hour (as I recall from our earlier conversation), and since the contract will provide for premium pay for overtime under specified circumstances, PG&E would be exempt from IWC overtime requirements insofar as the collective bargaining agreement applies. (Any employee who earned less than \$4.35 per hour, or who was not covered by the agreement would be entitled to overtime as specified in the IWC order Section 3(A).) How you compute the overtime pay under the agreement is up to you, so are your provisions regarding sick leave, holidays, jury duty, and establishment of shifts. I hesitate to say anything about rights to vacation pay because I am aware that the extent of employees' rights to such pay has been an important issue in the courts (the "Suastez case") and I do not know enough about that to give you any assurances. If you want to discuss that matter further, I suggest you call Al Reyff, Chief Deputy Labor Commissioner, at (415) 557-3827.

Sincerely,

Margaret T. Miller
Executive Officer

MTM:cm
Enclosure



With regard to Section 12, Rest Periods:

Although relief periods were required by the IWC in 1932 where toilets were distant from the work place or where employees were required to stand, the general ten-minute rest period was introduced, in addition, in 1947. Authorization to dispense with such rest periods when work totals $3\frac{1}{2}$ hours or less has been included since 1952. The Commission sees no reason to change its earlier findings that the general health and welfare of employees requires periods of rest during long stretches of physical and/or mental exertion. The provisions of this section have proved to be reasonable and minimal.

Some wage boards recommended changing the 10 minutes to 15 and even 20 minutes in consideration of the practice in many industries of going to a special area for coffee. Some employer representatives argued that a 15-minute break would tend to be longer than that. The Commission did not deem it necessary to so extend the rest time, but it did allow a little leeway for going and coming in specifying "net" rest time. In response to arguments that in some situations workers are almost continually resting while they monitor machines and cannot be spared from their places, the Commission provides for the possibility of exemptions in accord with the requirements of Section 18.

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