



# REVIEW COMMITTEE

212.10 - Crew working OT  
relieved by out-  
of-district crew

MAY 10 1990



PACIFIC GAS AND ELECTRIC COMPANY  
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**CASE CLOSED  
LOGGED AND FILED**

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
LOCAL UNION 1245, I.B.E.W.  
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R.W. STALCUP, SECRETARY

RECEIVED MAR 29 1990

D.J. BERGMAN, CHAIRMAN

Mission Division Grievance No. EB-MI-36-92-89-01-01  
P-RC 1350

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

March 28, 1990

JOE DE MARTINI, Company Member  
Mission Division  
Local Investigating Committee

PERRY ZIMMERMAN, Union Member  
Mission Division  
Local Investigating Committee

### Subject of the Grievance

This case alleges a violation of Letter Agreement 85-61 (Arb. 120) when a Hayward Electric crew was relieved of their emergency overtime assignment by a Livermore crew.

### Facts of the Case

On Wednesday, December 14, 1988, a wind storm caused extensive damage throughout Mission Division, East Bay. Crews worked until Sunday, December 18, 1988 to restore service in the Hayward area. All available Hayward Electric T&D employees who could be reached were called out Wednesday night; enough to assemble three crews. The grievants began work between 10:30 p.m. and midnight. This crew continued to work until notified by the Acting Electric Construction Supervisor that they would be relieved by a crew from Livermore. The crew expressed a desire to continue working. Nevertheless, the grievants were relieved at 11:30 p.m. on Thursday, December 15, 1988, by the Livermore crew. They then had a meal and were dismissed at 1:30 a.m., Friday, December 16, after having worked 27 consecutive hours. Following a rest period, two of the crew members returned to work at 11:30 a.m. on Friday, the second half of their work-day. The third crew member called in sick. The crew Foreman continued to work until Saturday at 5:30 p.m., another 30 consecutive hours. The Local Investigating Committee did not determine how long the other employee worked.

The Livermore crew that relieved the grievants on Thursday evening was released at 7:30 a.m. on Friday, December 15, 1988.

In addition to the Livermore crew, assistance was received from General Construction (two crews - 12 people), Monterey (one crew), and contractors (two crews). More crews were requested of Region Staff, but none were available.

The Gas and Electric Construction Superintendent testified that he did not know how long crews from outside Hayward would be available to him. Due to the severity of the storm and the uncertainty concerning the continued availability of

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outside crews, he decided that it was necessary to split the Hayward work force Thursday evening to ensure that a portion of his work force was continually available. At the time he made this decision, he had been advised that the General Construction crews would be withdrawn Friday morning, and he felt that if he did not split the crews, he could possibly lose his entire work force to a rest period Friday morning. Two other Hayward crews were released prior to the grievants.

### Discussion

The Union cited the language of Letter Agreement 85-61 as the basis for their position that a violation of the contract occurred. The relevant portions of the letter agreement are as follows:

"1. An employee working overtime pursuant to Titles 212, 208, or 308 of the Agreement has the obligation to inform his supervisor when he is too tired to continue working safely. Except in cases of emergencies (hazard to life or property), the Company agrees to accept an individual employee's determination that he is too tired to work safely and to permit such individual to leave work.

"2. If Company determines, based on observing objective behavior by an individual employee performing overtime work, that the employee can no longer continue to work safely, the Company will send the employee home. The Company will not send an employee home for the purpose of circumventing a rest period or increased overtime penalties."

Union noted that the grievants had not indicated they were too tired to continue, on the contrary, they asked to be allowed to continue. Union opined that the decision to send the grievants home was for the purpose of avoiding a rest period and that no objective observation was made by the supervisor.

Company responded that from the time the letter agreement was signed, Company informed Union that it had not given up its right to manage overtime assignments giving consideration to issues of practicality such as scheduling the work in such a manner as to ensure the availability of rested employees during regular work hours or to cover extended periods due to storms or other events. However, the Company acknowledged that the Union had not agreed with Company's position.

It was noted by the Company that if the grievants had continued to work in lieu of the Livermore crew, that by 7:30 a.m. on Friday morning, they would have been into regular work hours (Hayward Electric T&D was on a 7:00 a.m. to 3:30 p.m. schedule) at which point pursuant to Subsection 208.11(f) Company would have the right to require the employees to continue working until the end of their regular work hours. The employees do not have the right to invoke the provisions of the letter agreement during regular hours.

However, Company also recognizes that it would be disadvantageous and possibly unsafe to require employees to continue working for excessive periods. In this case, the grievants could have worked 40-1/2 consecutive hours if kept until the end of regular work hours on Friday. It is precisely this situation that Company was in part attempting to avoid.

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The other significant issue is that the headquarters with the work does not have control over the availability of the loaned manpower. The loaners are subject to needs of their own organizational unit. In fact, the G.C. crews were re-assigned to the Concord area on Friday morning. In these situations, it is not improbable that the Electric and Gas Construction Supervisor's concern could become a reality. The Committee noted that the grievants were replaced by a loaned crew and not other employees from their own headquarters. The Committee also reviewed P-RC Case No. 1222.

### Decision

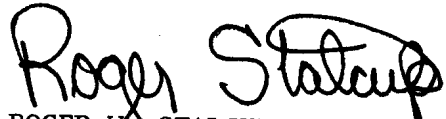
The Committee recognizes that the supervisor's decision was based on legitimate concerns to provide adequate coverage; however, recognizing the language of Letter Agreement 85-61, the age of the case, and the facts, the parties agree to a non-prejudicial settlement to pay the grievants six hours at the double time rate as though they had continued to work until 7:30 a.m. on Friday, December 15, 1988.

Further, the Pre-Review Committee strongly recommends that the issue raised by this grievance and others concerning Letter Agreement 85-61 be discussed in the upcoming General Negotiations.

This case is considered closed based on the foregoing, and such closure should be so noted by the Local Investigating Committee.



DAVID J. BERGMAN, Chairman  
Review Committee

  
ROGER W. STALCUP, Secretary  
Review Committee

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