



# REVIEW COMMITTEE

RECEIVED OCT 09 1995

**IBEW**



PACIFIC GAS AND ELECTRIC COMPANY  
201 MISSION STREET, ROOM 1508  
MAIL CODE P15B  
P.O. BOX 770000  
SAN FRANCISCO, CALIFORNIA 94177  
(415) 973-8510

**CASE CLOSED  
FILED & LOGGED**

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
LOCAL UNION 1245, I.B.E.W.  
P.O. BOX 4790  
WALNUT CREEK, CALIFORNIA 94596  
(510) 933-6060  
R.W. STALCUP, SECRETARY

MARGARET A. SHORT, CHAIRMAN

- ☐ DECISION
- ☐ LETTER DECISION
- ☐ PRE-REVIEW REFERRAL

Pittsburg Power Plant Grievance No. CON-94-11  
Fact Finding Committee No. 5628-94-77  
Pre-Review Committee File No. 1793

Pittsburg Power Plant Grievance No. CON-94-16  
Fact Finding Committee No. 5629-94-78  
Pre-Review Committee File No. 1793

## SUBJECT OF THE GRIEVANCE

This file is comprised of two grievances filed because company denied two employees' request for unscheduled vacation days due to operational necessity.

## FACTS OF THE CASES

In the first case (FF#5628/CON-94-11), the grievant called in on January 4, 1994 stating that he was sick and asked for a vacation day because he was on an active Written Reminder for unsatisfactory attendance and "didn't want to be written up" for being sick again. The supervisor allowed the employee to choose between a sick day or a Floating Holiday. The grievant opted for the Floating Holiday, then grieved asking to have the Holiday converted to a vacation day. The grievant also called in on the morning of January 5, 1994, asked for and was granted a Floating Holiday.

The grievant is one of two tool clerks at Pittsburg Power Plant. The other tool clerk was off on extended absence due to a medical condition. The tool room must remain open at all times. Operationally, Unit 5 was having a problem after an overhaul and was coming off line. Unit 7 was off line. There were facility and tool problems. Overall the plant was short-handed due to the hiring freeze.

In the second case (FF#5629/CON-94-16), the grievant requested February 3 & 4, 1994 as vacation days. He was denied the 3rd and granted the 4th after operational conditions changed and his request could be accommodated. The Company's answer to the grievance indicates the employee had requested unscheduled vacation "seven other times during February". This does not seem possible and the statement is not explained

further in the Joint Statement of Facts except to say that there was some confusion over the dates in question.

The grievant is a Traveling Utility Worker. On February 3, 1994 there were no other Utility Workers off on vacation. The operational considerations resulting in the denial of the vacation day were: Unit 7 was forced out to repair tube leaks and perform a header inspection; Unit 2 was forced out with repairs #2 feedwater hose isolation valve; #4 Boiler was forced out with a tube leak; system demand was high and dispatch was looking for power; 15 Pittsburg Power Plant employees were on a traveling assignment to Moss Landing Power Plant, two of them were Utility workers.

#### DISCUSSION

Section 111.12 of the Physical Agreement states in part.... "However, by prior arrangement with the employee's supervisor, an employee shall be allowed vacation in increments of one day or more on any day of the week, except where prohibited by operational needs or where necessary relief cannot be provided, or where the payment of overtime to another employee would be required."

Section 111.13(b)(1) states in part..... "An employee may schedule in increments of one day or more. (Amended 1/1/88) Prior to this amendment, vacation had to be scheduled in increments of five days or more.

"The committee reviewed Review Committee Decision 1168 and 1306 which states in part....the Division is changing their vacation scheduling arrangements ...and will allow at least one employee off on vacation per district each month during the second vacation period."

The committee also reviewed Fact Finding Case No 1564 which was distributed systemwide. This case is similar to the ones at issue here in that the grievant called in one-half hour before the start of his shift to request a vacation day. In reference to Section 111.12, this decision states in part... "before the employee is to report for work he must seek permission from his supervisor. The supervisor, on the other hand, has the right to deny the request if the employee is needed from an operational standpoint, if relief cannot be provided, or if the absence would result in overtime to another employee. The supervisor cannot deny the request for one day of vacation because the employee has a poor attendance record since vacation is earned and employees are entitled to take it."

"It is the intent of the Agreement for vacations to be prescheduled and that last minute emergency requests are to be kept to a minimum.

"It was not demonstrated in the case that it was impractical from an operational standpoint to grant the request. The grievant's request for the vacation day should have been granted."

With respect to both cases, it is company's position that the granting the vacation was prohibited by operational needs and therefore the denial does not violate the contract. Company recognizes that this position is somewhat undermined by the granting of the Floating Holiday (FF#5628). However, given that the grievant stated he was sick, we have to assume that it would have been pointless to direct him to report for work. Since the grievant was on a Written Reminder for attendance, and the request came on the first workday of the new year after the holiday, the January 4 request raised a reasonable suspicion about his claimed illness. A request for proof of illness should have been made. If and when that was satisfactorily demonstrated, then a discussion about how to record the absence could have followed. In this limited circumstance, that is, the employee was not able to be at work, notwithstanding company's operational need, it may be appropriate to retroactively record the time as a vacation day. Absent the demonstration that the grievant was incapable of reporting for work, the supervisor was right to deny the unscheduled vacation day based on operational need.

The Union's position on these cases is that "zero is not a number" for vacation, referring to the minimum number of employees who may be off at any given time. The Union points to the 1/1/88 amendment to Subsection 111.13(b)(1) to demonstrate the evolution of the "zero is not a number" rule from applying to Floating Holidays to also applying to vacations. Union opines that in 1988 when employees could begin scheduling vacation in single day increments, the company was obliged to allow at least one employee on vacation on any given day.

Company is in agreement with the Union's position as it relates to SCHEDULED vacation.

#### DECISION

In the first case, the grievant is seeking the conversion of the Floating Holiday to a vacation day on January 4, 1994. To do so, would result in the loss of the Floater because they have to be used in the year in which they are granted.

PRC 1793

Page 4

In the second case, the committee is in agreement that company does have the right to deny unscheduled vacation based on the provisions of Section 111.12.

Based on the foregoing, these cases are closed without adjustment.

Margaret A. Short  
Margaret A. Short, Chairman  
Review Committee

10/9/95

Date

Roger W. Stalcup  
Roger W. Stalcup, Secretary  
Review Committee

10/9/95

Date