



REVIEW COMMITTEE

IBEW



PACIFIC GAS AND ELECTRIC COMPANY
2850 SHADELANDS DRIVE, SUITE 100
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**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
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SALIM A. TAMIMI, SECRETARY

MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

Pre-Review Committee No. 11860
GC Fleet – Hayward

Deanna Radford
Company Member
Local Investigating Committee

Bernard Smallwood
Union Member
Local Investigating Committee

Subject of the Grievance

This grievance alleges an improper bypass for temporary upgrade to the Field Mechanical Inspector classification.

Facts of the Case

The job definition of the Field Mechanical Inspector reads in part:

"An employee who without direct supervision makes complete inspections and repairs to all types of vehicles, construction equipment and appurtenances....makes reports thereon; inspects vehicles or equipment being assembled, fabricated, or repaired to make sure that they meet Company's and manufacturer's specifications..." (emphasis added)

The Cal OSHA License Requirements (Section 344.60) state in part:

"Any person engaging in the testing examination, and/or certification of cranes, including but not limited to tower cranes, or derricks, used in lifting service exceeding three tons rated capacity...shall apply for and obtain a license from the Division; pursuant to this article or be approved by the Division to work as a surveyor under a license issued pursuant to this article prior to engaging in such activities." (emphasis added)

- (1) For purposes of this article a "licensed certifier" refers to any individual or agency holding a license pursuant to this article.

- (2) For the purposes of this article "approval", "approved surveyor" or "surveyor" refers to an individual who has been approved to certify cranes only under the authority and supervision of a licensed certifier."

This licensing requirement became effective in 1982. In implementing the change, regulation provided that anyone authorized by the CAL/OSHA to certify cranes and/or derricks prior to the effective date were allowed a 10-year period until 1992 to obtain approved surveyor status.

Since the Crane group was decentralized in May 2000 the Company has annually offered and provided training in the past to employees in the line of progression who have expressed an interest in holding the Mechanical Inspector classification on a temporary or regular basis. Company has not upgraded employees to this classification unless they have first attained approved surveyor status.

An exhibit submitted by the LIC indicates there are two Mechanical Inspectors (1007) and two temporary Field Mechanical Inspectors (1006) system-wide. Another 1007 Inspector is on LTD. All hold the approved surveyor status. The licensed certifier status is held by a management employee. This same exhibit does not show anyone more senior who holds approved surveyor status to the two upgraded employees. There is no named grievant; the grievance was filed on behalf of "all affected".

Discussion

Union argued that the job definition for Mechanical Inspector does not specifically require a surveyor's license, and if Company wanted to require it, it must negotiate such requirement with Union. Union opined that Company should upgrade the most senior employee regardless of qualifications and then provide training.

Company responded Union's position is, at best, impractical as an unqualified upgraded Mechanical Inspector would not be able to perform the full duties of the job. Further, the requirement is not one of Company's, it is not discretionary, it is the law. Under the terms of Section 500.5 of the labor agreement, the parties agree that any provision of the agreement that is in conflict with law is to be suspended. Title 305 throughout and Section 305.4(a)(1) specifically call for the filling of vacancies whether on a regular or temporary basis to be awarded only to qualified employees.

Company also expressed that alleged bypass for temporary upgrade is the type of grievance for which it is appropriate to name a grievant and not the type of issue contemplated by the "all affected" filing. The Committee reviewed PRC 1059. Company pointed out that no dates are shown on the grievance form as to when the first step and HR Department discussions occurred. It would appear that during either conversation, it could have been determined who the named grievant should be. In fact, the grievant is usually the employee that seeks out the Union to investigate a perceived contractual violation.

Finally, the PRC reviewed and discussed Review Committee Decision 1031 and 1268. The issue in that grievance is similar to this one in that the state had imposed the Class I Driver's License requirement for operators of certain class of vehicles. The T&D Driver classification was impacted. Union filed a grievance over Company's bypass of employees to job vacancies who did not possess the license. The Review Committee at that time agreed that the Class I Driver's License is a bona fide requirement of the T&D Driver classification.

The effect of that decision was that bidders had to be qualified at the time of consideration for a vacancy or bypass is appropriate.

Decision

The PRC is in agreement that there is no contractual violation. This case is considered closed on the basis of the foregoing.

Margaret A. Short

Margaret A. Short, Chairman
Review Committee

4/11/02

Date

Sam Tamimi

Sam Tamimi, Secretary
Review Committee

4-11-02

Date