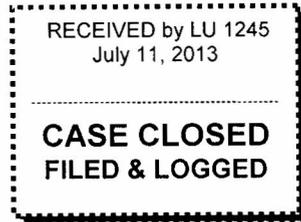




## REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY  
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INTERNATIONAL BROTHERHOOD OF  
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(707) 452-2700

DOUG VEADER, CHAIRMAN  
 DECISION  
 LETTER DECISION  
 PRE-REVIEW REFERRAL

F.E. (ED) DWYER Jr, SECRETARY

### Pre-Review Committee Number 21672 Electric Operations – Electric M&C – Oakland

Marcus Mitchell  
Company Member  
Local Investigating Committee

Lou Mennel  
Union Member  
Local Investigating Committee

#### Subject of the Grievance

This case concerns a Written Reminder issued to a Lineman for violating the Company's hands-free cell phone policy.

#### Facts of the Case

The grievant is a Lineman with 15 years of service at the time of the incident. His active disciplinary record consisted of a Written Reminder in the conduct category. A third party caller reported that the grievant had stopped at a cross walk near a school and was refusing to backup to allow children to cross, as directed by the crossing guard. The caller also reported that the grievant was talking on his cell phone at the time.

The grievant indicated that he had entered the cross walk and had been asked by the crossing guard to back up. He chose to not back up as he felt it was unsafe. The supervisor checked the grievant's cell phone and confirmed that he was on the phone at the time of third party call. A review of the phone records showed that he was on the phone from 7:55 a.m. until 8:07 a.m. The third party call came in at 8:05 a.m. The grievant's response during the Local Investigating Committee (LIC) was that he was on the speaker phone with the phone on the arm rest.

#### Discussion

The Committee reviewed prior grievance settlements regarding violations of the hands-free cell phone policy. In those settlements, the parties have upheld Written Reminders which have been issued. The cell-phone policy is a well communicated rule which is also a state law. Under the Company's new approach to safety, discipline is appropriate for such a violation as it would be considered as an intentional violation of a key to life. The issue in

this grievance is whether the facts support the conclusion that the grievant violated the policy.

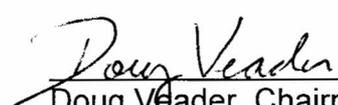
The Union argued that the grievant stated he was on the speaker phone. Additionally, the grievant was not given the opportunity to "face his accuser" and the Union has not been given the opportunity to ask questions of the third party caller. Finally, the third party never actually said he was on his phone without a hands-free device, only that he was on his phone.

The Company responded that it would make no sense for the third party to report seeing the grievant talking on the phone if the phone was out of view on the arm rest. Additionally, other evidence including phone records and the grievant's own statements support the conclusion that he was violating the hands-free policy. When asked the very next day following the incident, the grievant neither confirmed nor denied whether he was not using a hands-free device. He only said that he "believed" he was on the speaker phone. During the LIC, the grievant acknowledged that he violated the hands free-policy in the past.

The Committee thoroughly reviewed the facts of this case and could not reach agreement. The Company believes the facts clearly support the conclusion that the grievant violated the policy. The Union believes the facts do not support the conclusion, given the grievant's statement that he was using the speaker phone.

Decision

Given that the Written Reminder has de-activated, the Committee agrees the issue is moot and closes this case without prejudice to the positions of the parties.

  
\_\_\_\_\_  
Doug Veader, Chairman  
Review Committee  
7/11/13  
Date

  
\_\_\_\_\_  
F.E. (Ed) Dwyer Jr., Secretary  
Review Committee  
7/11/13  
Date