



## REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY  
LABOR RELATIONS DEPARTMENT  
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RECEIVED by LU 1245  
September 6, 2013  
  
**CASE CLOSED  
FILED & LOGGED**

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
LOCAL UNION 1245, I.B.E.W.  
P.O. BOX 2547  
VACAVILLE, CALIFORNIA 94696  
(707) 452-2700

DOUG VEADER, CHAIRMAN  
 DECISION  
 LETTER DECISION  
 PRE-REVIEW REFERRAL

F.E. (ED) DWYER Jr, SECRETARY

### Pre-Review Committee Number 21820 Electric Operations – Electric T&D – San Rafael

Kelly O'Haire  
Company Member  
Local Investigating Committee

J.V. Macor  
Union Member  
Local Investigating Committee

#### Subject of the Grievance

This case concerns the termination of a Compliance Inspector who was unable to perform his job as a result of court-ordered restrictions imposed in connection with an off-duty arrest.

#### Facts of the Case

The grievant was a Compliance Inspector who had seven years of service at the time of his termination. The grievant was arrested and then released with the following restrictions:

*“Stay 100 yards away from any day care centers, K-12 schools, and cannot be left alone with any child under the age of 18.”*

The grievant was suspended and subsequently terminated as a result of being unable to perform the duties of his job based on these restrictions. The grievant had been given the opportunity to participate in an investigative interview, but declined to do so on the advice of his attorney.

Subsequent to his termination, the grievant pleaded to a misdemeanor and the original restrictions were replaced with new restrictions which included, registering as a sex offender, three years of supervised probation, subject to search and seizure, with or without probable cause, with or without a warrant, of any property under his control which would include Company computers. In addition he is required to provide law enforcement with any computer passwords which would also include passwords provided by the Company.

Discussion

The Company pointed out that the grievant's position as a Compliance Inspector required him to conduct inspections alone, on public and private property, including locations that could require him to be in the presence of children and/or violate the court order. The restrictions precluded the grievant from performing the duties of his classification.

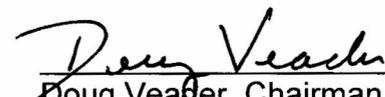
The Union responded that the grievant was not guilty of the charges and only pled to a lesser charge at the advice of his attorney. He wanted to get the matter behind him and get back to work. The Union argued that the grievant was a good employee and has the support of his co-workers as evidenced by the letters in the LIC Report. The Union requested that the Company reinstate the grievant within his line of progression and accommodate his new restrictions.

The Company responded that the grievant's guilt or innocence was not a factor in the termination decision and is not a factor in whether there was just cause. The termination was based on the grievant's court-ordered restrictions at the time of termination. It is undisputed that his restrictions precluded him from performing his job duties.

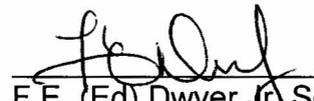
Finally, the Company pointed out that there is no legal or contractual requirement to accommodate the grievant's restrictions (either those in place at the time of termination or the current ones). Never the less, any such accommodation would place an undue burden on supervision, expose the Company to increased liability, and potentially jeopardize the public's trust.

Decision

The Committee agrees the termination was for just cause and this case is closed without adjustment.

  
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Doug Veader, Chairman  
Review Committee

9/6/13  
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Date

  
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F.E. (Ed) Dwyer Jr, Secretary  
Review Committee

9/6/2013  
\_\_\_\_\_  
Date