

**REVIEW COMMITTEE****PG and E**

PACIFIC GAS AND ELECTRIC COMPANY  
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D.J. BERGMAN, CHAIRMAN

- DECISION  
 LETTER DECISION  
 PRE-REVIEW REFERRAL

**CASE CLOSED**  
**LOGGED AND FILED**  
**RECEIVED APR 29 1987**

**REVIEW COMMITTEE DECISION**

Steam Generation Grievance Nos. 24-190-86-63 and  
 24-176-86-49

Review Committee File No. 1645-86-16

**IBEW**

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

**Subject of the Grievance**

This case concerns the discharge of a Geysers Power Plant Materialsman, with approximately 20 years of service and no active discipline under Positive Discipline, for allegedly using and selling drugs at work and theft of Company property.

**Facts of the Case**

On May 19, 1986, a search warrant was executed by the Lake County Sheriff's Department at the grievant's residence. Twenty marijuana plants were found as well as some items that were marked "PGandE." The grievant was arrested at the Geysers by a Lake County Sheriff's Deputy and charged with cultivation of marijuana, possession of marijuana for sale, and possession of methamphetamine. He was later charged with grand theft. A Company Security Representative was present during the arrest. The arresting officer stated that he asked the grievant if he (grievant) wished to be interviewed by the Sheriff's Department. The grievant declined. The Security Department Representative then asked the grievant if he would agree to give a statement. To this the grievant agreed. According to the Security Department report, the grievant admitted to using drugs as recently as two days prior to the interview and to selling drugs at work as recently as one week prior to the interview. At the conclusion of the interview, the Security Department Representative prepared a written statement. He testified that the grievant read the statement and agreed that it was correct, but refused to sign it. The statement addressed drug use and sale but did not address theft of Company property. The statement was then witnessed by two Security Department Representatives and the arresting officer from the Sheriff's Department, who was present during the interview. When interviewed by the Local Investigating Committee, the grievant denied ever making the admissions contained in the unsigned statement. The Deputy Sheriff told the Local Investigating Committee that he specifically remembered the grievant admitting to using drugs but could not remember if the grievant admitted to providing or selling drugs. At the time of the grievant's arrest, he was charged with, among other things, possession of methamphetamine. The methamphetamine charge was dismissed as the white powder confiscated was not methamphetamine.

Due to the items found marked "PGandE" at the grievant's home during the execution of the search warrant, the Sheriff's Department requested that a PGandE representative come to the grievant's residence to identify the property. Initially, the Security Department Representative who had interviewed the

grievant went to the residence to view those items. Later, a Geysers Materials supervisor identified 83 items with the approximate total value of \$5000 that he believed to be Company property. The vast majority of these items did not have PGandE identification marks but were items stocked at the Geysers warehouse, where the grievant worked as a Materialsman. The grievant was then charged with grand theft by the Lake County District Attorney. In his testimony to the Local Investigating Committee, the grievant stated that he and his wife purchased the items at flea markets.

### Discussion

In extensive discussion of this case, the Committee addressed the drug and theft allegations separately. On the issue of drug use and sale, the Union argued that the Company relied almost solely on the grievant's alleged statement to the Security Department. The Union found it incredible that the grievant would have been arrested, searched, handcuffed, read his rights by a Lake County Sheriff Deputy, and refuse to be interviewed by the Sheriff's Deputy but would then agree to be interviewed by the Security Department Representative in the presence of that same Deputy. Union noted that when the Deputy was interviewed by the Local Investigating Committee on July 17, 1986, he could not remember the grievant's alleged confession of drug sales, even though he signed the statement indicating he had been present while the grievant admitted his guilt to the crime for which the Deputy had arrested the grievant. Again, the Union found it incredible that the Deputy could be a witness to such a confession that would be of great interest and possibly material to a criminal charge brought against the grievant, but not remember it.

Company members of the Committee stood by the statement that had been prepared by the Security Department Representative and noted that another employee had signed a statement that the grievant had sold him drugs.

The Committee noted that the Lake County Sheriff's Deputy who arrested the grievant told the Local Investigating Committee that there was methamphetamine found in the grievant's coat pocket and marijuana that was packaged for sale in the grievant's lunch box. It was also noted that in the report prepared by the Security Representative related to the arrest and interview, there is no mention of the grievant having drugs in his possession at the time of his arrest. The Sheriff's Department subsequently stated that the arresting officer found in the grievant's lunch box two hand-rolled marijuana cigarettes and a match box containing cigarette rolling papers and less than one gram of marijuana.

On the issue of stolen property, the Committee reviewed the list of items prepared by the Materials Supervisor. Of the 83 items, the following were marked with PGandE identification: a Sky Genie Model #D, a PGandE electric meter, used canvas gloves, a raincoat with the grievant's name inside, two empty tap and die boxes and a crescent wrench. In addition, an engraver was marked "machine shop." The Geysers did not have an inventory control procedure that would allow the tracing of any of the items as being missing due to theft. A meter history study of the electric meter could not tie the meter to the grievant. The Company was able to obtain a letter from an electric supply company that established that certain extension cords were made up and supplied specifically for PGandE. Extension cords of that specific description were found among the 83 items. The Company was also able to obtain a letter from an industrial tool supplier stating that certain hanger brackets that are used with

Super Vac Fans found in the 83 items were supplied to PGandE and that PGandE was the only customer to purchase the item in this area.

Due to the nature of the evidence in this case, the Review Committee agreed that it was necessary to send a subcommittee to view the items held by the Lake County Sheriff's Department. In a review of all the property, the subcommittee was impressed by the fact that almost all of the items were new, many in their original package, none contained price tags or markings, and all were of the type used at the Geysers. Additionally, the subcommittee noted the unusual quantities of many items, such as sharpening stones, grinding wheels, polishing wheels, jig saw blades, tape measures, putty knives, files, etc.

In further discussion of this case, the Committee reviewed the controlling decisions in theft cases, RC 1451 and 1452 which state, in part:

"To the extent that this Decision sets forth policy for the future, and in accord with our understanding of the Company's policy, violations of Standard Practice 735.6-1 must be judged on the merits of each incident; taking into account the value of the property at the time of misappropriation, the seriousness of the misconduct, the employee's service record and length of service. These considerations of merit will be applied only following a finding that the misconduct occurred. However, violations of this policy will still be considered serious transgressions of the employee/employer relationship."

#### Decision

The Committee was unable to agree that the grievant used, sold or provided drugs in violation of the Drug Policy. However, based on a review of the evidence in the case, and in light of Review Committee Decision Nos. 1451 and 1452, the Committee does agree that numerous items found at the grievant's residence clearly are Company property and, therefore, discharge for theft is warranted.

This case is closed without adjustment.

#### FOR COMPANY:

Floyd C. Buchholz  
William J. Rowe  
Robert C. Taylor  
David J. Bergman

By \_\_\_\_\_

Date \_\_\_\_\_

4-27-87

#### FOR UNION:

Patrick S. Nickeson  
Fred H. Pedersen  
Arlis L. Watson  
Roger W. Stalcup

By \_\_\_\_\_

Date \_\_\_\_\_

Roger Stalcup  
4/24/87