IN ARBITRATION PROCEEDINGS PURSUANT TO TITLE 9

OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT

BETWEEN THE PARTIES

In the Matter of a Controversy

between

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION NO. 1245,

and

PACIFIC GAS AND ELECTRIC COMPANY

Grievance No. 18

OPINION AND AWARD

BEFORE ARBITRATION BOARD:

ROBERT E. BURNS, ESQ., Attorney at Law, 155 Montgomery Street, San Francisco, California.
Fifth Member and Chairman.

FRANK A. QUADROS, 579 Tamarack Drive, San Rafael, California.
Member appointed by the Union.

JAMES H. FOUNTAIN, 251 Leland Lane, Ukiah, California.
Member appointed by the Union.

L. V. BROWN, Senior Industrial Relations Representative, Pacific Gas and Electric Company, 245 Market Street, San Francisco, California.
Member appointed by the Company.

PAUL M. BAILEY, Division Personnel Manager, 1625 Clay Street, Oakland, California.
Member appointed by the Company.

APPEARANCES:

ON BEHALF OF THE UNION:

JOSEPH R. GRODIN, ESQ., Attorney at Law, 1035 Russ Building, San Francisco, California.

ON BEHALF OF THE COMPANY:

HENRY J. LaPLANTE, ESQ., Attorney at Law, Pacific Gas and Electric Company, 245 Market Street, San Francisco, California.

PRESENT:

DONALD J. BAXTER, Editor, PG&E Life, Pacific Gas and Electric Company, 245 Market Street, San Francisco, California.

V. J. THOMPSON, Manager, Industrial Relations, Pacif Gas and Electric Company, 245 Market Street, San Francisco, California.

FRANK P. LALLEMENT, San Francisco Manager, Internal Auditing, Pacific Gas and Electric Company, 345 Mission Street, San Francisco, California.

G. M. HENDERSON, Marin District Manager, Pacific Gas and Electric Company, San Rafael, California.

L. P. BIANCALANA, Marin District Commercial Supervisor, Pacific Gas and Electric Company, San Rafael, California.

BRUCE LOCKEY, Business Representative, Local 1245.

BONNIE DAY, Clerk, Pacific Gas and Electric Company, Novato, California, the Grievant.

PAUL POULOS, Indistrual Relations Representative, Pacific Gas and Electric Company, 245 Market Street, San Francisco, California.

L. D. PITTS, Personnel Assistant, Pacific Gas and Electric Company, San Rafael, California.

The Parties and the Issue

Pacific Gas and Electric Company and Local Union No. 1245 of International Brotherhood of Electrical Workers, Affiliated with American Federation of Labor - Congress of Industrial Organizations, are parties to a collective bargaining agreement executed

on July 1, 1953, as amended on July 1, 1960. Pursuant to the collective bargaining agreement, the written submission of the parties and the stipulations entered at the hearing held on Thursday, May 10, 1962, at San Francisco, California, the parties have submitted to the Arbitration Board selected pursuant to the collective bargaining agreement Grievance No. 18 as follows:

> Was the transfer of Mrs. Bonnie Day from the San Rafael office to the Novato office on November 2, 1961, in violation of the collective bargaining agreement applying to office and clerical workers, dated July 1, 1953, as amended, effective July 1, 1960?

The parties have stipulated that the grievance procedures provided in the collective bargaining agreement have been fully complied with and that the issue as worded by the Chairman of the Arbitration Board has been properly brought before the Arbitration Board in accordance with the provisions of the collective bargaining agreement.

The company's position is that the transfer of the grievant was pursuant to a company rule of long standing, and that the rule is a proper one and within the management's prerogative. Thecompany also urges that Section 18.6 of the collective bargaining agreement is a separate basis for the assignment of grievant and that the company was within its rights under that section in effecting the transfer of grievant.

The union contends that the company rule in question is arbitrary and unreasonable and that the transfer of grievant

was an interference with her employment rights secured by the collective bargaining agreement.

The Facts

Pacific Gas and Electric Company is a public utility engaged in furnishing gas and electricity and related services to its customers in Northern California. It maintains commercial offices in San Rafael, California, and at Novato, California, about 10 miles distant from San Rafael. The company has about 125 commercial offices.

Mrs. Bonnie Day, the grievant, was employed by the company in April, 1959. In the spring of 1961 she was transferred to the San Rafael office of the company and was there employed as a C-Clerk. Her duties as a C-Clerk included the counting of cash and checks received by counter clerks at the office, and the entry and reconciliation of these amounts on company forms. There were about eight persons employed in the department in which grievant was employed and three of them were clerks who served the public by receiving cash and checks in payment of gas and electric bills and in payment of other accounts which the company has with its customers. The work of grievant in counting and recording the moneys and checks is checked by another employee before the money and checks are sent to the bank for deposit.

The company has a rule which has been in effect since prior to 1927 which provides that employees who are related and

and handle cash may not be employed in the same office. The rule is not written in the sense that it is specifically recorded in a rule book or in any document furnished to the union or employees in general. The rule is written in the form of instructions to internal auditors of the company who are required to report, among other things, whether any of the employees of the department subject to audit and who handle cash are related.[1]

Grievant became engaged to marry another employee of the company in the San Rafael office during July, 1961. Mr. Day was employed as a counter clerk in the San Rafael office and his receipts together with those of two other counter clerks were checked by grievant in the manner described above. Grievant was married to Mr. Day on October 27, 1961, and on November 2, 1961, she was transferred against her will to the Novato office of the company. Mr. and Mrs. Day reside in San Rafael. Mr. Day is still employed in the San Rafael office. Novato is about 10 miles from San Rafael. The transfer did not involve any loss of wages or seniority to Mrs. Day, but it does involve the expense of a round trip of 20 miles per day.

[1]The "Cash Traveling Auditors - Duties" document provides: "Other miscellaneous duties of a cash auditor include checking of stationery (for excess stocks), noting of condition of paid stamps, noting of any relationship of employees in positions which may lead to collusion in the mishandling of Company funds, and be alert to observe any unusual conditions." The Internal Auditor's Report contains the following: "4-Are any employees of Collection, Register, or Accounting Depts. related____"

The transfer was made because of the company rule set forth in the footnote above that related persons shall not be employed in the same office or department of the company where they are handling cash. The company also claims that it had the right to transfer grievant in any event under the provisions of Section 18.6 of the contract which reads as follows:

> "When a vacancy occurs in a clerical or office classification Company may fill it in its discretion by assignment, provided that the employee who is assigned is within the promotion and transfer unit in which the vacancy occurs, and is either in the same classification as that in which the vacancy occurs or is in a classification having a scheduled wage rate identical thereto. Successive vacancies created by such assignment may be filled in like manner. If any vacancy is not filled as provided herein it shall be filled in accordance with the provisions of Section 18.8."

Novato is in the same promotion and transfer unit as San Rafael. The type of work to which grievant was assigned upon her transfer is substantially the same as the work she performed in San Rafael.

The only provision in the collective bargaining agreement dealing specifically with the matter of company rules is Section 9.12, which reads as follows:

> "If an employee has been demoted, disciplined or dismissed from Company's service for alleged violation of a Company rule, practice, or policy and Company finds upon investigation that such employee did not violate a Company rule, practice, or policy as alleged, it shall reinstate him and pay him for all time lost thereby."

Before her marriage grievant knew that it was against the company policy to allow married employees handling cash to work in the same office. Prior to her transfer to Novato, grievant was offered a similar position in the Mill Valley office, also about 10 miles away. She decided not to accept this transfer. There has never been any question whatsoever of the honesty and integrity of Mr. and Mrs. Day. The transfer of Mrs. Day was in no way a reflection on her. It was the result of the company rule of long standing.

Opinion and Decision

There is no specific provision in the collective bargaining agreement providing for the adoption, promulgation, or posting of rules or policies of the company. Any limitation on the company with respect to the adoption or maintenance of rules or policies must be based upon the general principle that the rules may not conflict with or abrogate the rights of the employees which are granted or secured by the collective bargaining agreement and that the rules or policies may not be arbitrary or unreasonable.

The rule or policy in question is one of many years' standing. Although it is not set forth in writing in the company records as a specific rule, the substance of the rule is incorporated in instructions to internal auditors who must report in writing at the time each audit or examination is made to the manager of internal auditing whether or not any employees in the offices subject to audit are related. When such a report is made

the manager of the internal auditing department of the company confirms the information and then is required by the rules of the auditing department to take such appropriate action as may be necessary to the end that related persons who handle cash are not employed in the same office. This was done in the case of grievant and as the result of her marriage to Mr. Day she was transferred to Novato.

In most, if not all, business organizations the handling of and accounting for cash is subject to auditing procedures and controls and every effort is made to assure that the company not only receives all funds paid by its customers but also that no employee is embarrassed or placed in a position where an explanation or accounting for missing funds may be difficult. An employer is entitled to adopt reasonable rules to secure the funds received from customers as well as to protect its employees from situations which could lead to embarrassment. Independent checking of cash is a protection to the company as well as the employees.

The question here to be decided is whether the rule in question is arbitrary or unreasonable. The rule is one of long standing. The evidence does not establish that it was fixed or arrived at by the company without a basis relevant to the subject matter of the rule or that it does not have a direct bearing on the functioning of the department to which it applies. In fact, it does apply in those areas where employees are responsible for funds and certify to the cash receipts and computations of one another. The company has reasoned in the past, as it does now, that the married relationship is such that it increases the

opportunities for collusion and that persons who occupy such a relationship should not be in the position of one verifying the cash receipts of the other. This is not to say that the persons involved in this proceeding as individuals are in any way suspect. Any such suspicions are expressly disclaimed by the company and all parties concerned. The rule was not adopted with respect to them as individuals. However, an employer may establish procedures and conditions of employment so long as they are not unreasonable or contrary to the provisions of the collective bargaining agreement. The rule in question is not arbitrary, unreasonable or contrary to the collective bargaining agreement.

The company itself has not had the experience of married persons handling cash and working in the same office because the rule is of such long standing. The evidence does show that auditing officers of other employers are of the view that auditing controls of this nature are necessary in attaining the objective of security for company funds. The contention that married persons are no more likely to be dishonest than unmarried persons does not provide a substantial ground for proving unreasonableness in this proceeding. The usual practice of having one person verify the computations and receipts of another is based on the experience that such a practice tends to eliminate error as well as giving additional security that funds will be properly transmitted to the employer. Such a check, as has been said, is also a protection to the person involved. A verification or

check is good to the extent that it is independent and skillfully performed. Persons closely related as are married persons are not independent of one another either in law or in fact. It cannot therefore be said that the company is unreasonable in requiring independence of those who verify or check the cash transactions of other employees of the company.

It is true that the company took no steps to transfer grievant from the San Rafael office during the period of her engagement to Mr. Day. An engagement to marry is a relationship and one which can be said to be a close one. Yet, as in the case of most rules, it is necessary to draw the line separating those areas in which the rule applies from those in which it does not apply. The fact that the company did not take action with respect to the transfer during the engagement period does not establish that the rule is unreasonable or arbitrary in its application to the marital status.

Finally, it should be noted that Mrs. Day was transferred to the same type of position without loss of salary or seniority. Although the transfer involves inconvenience and expense to her, this fact does not establish that the rule is unreasonable or arbitrary; nor does the evidence show that the application of the rule to Mrs. Day was arbitrary, unreasonable, or capricious under the circumstances of this proceeding.[2]

[2] Curtis-Wright, 11 LA 139, cited by the parties, holds that an employer in transferring an employee must act reasonably under the circumstances. This decision recognizes the principle.

Accordingly, the company rule that related persons who handle cash shall not be employed in the same office is not arbitrary or unreasonable under the circumstances of this proceeding, nor is the determination by the company that the marriage of grievant to Mr. Day created a relationship within the meaning of the rule, and in transferring grievant from the San Rafael office to the Novato office without loss of compensation or seniority, the company did not violate the collective bargaining agreement.

It is therefore unnecessary to determine whether the company had the right under Section 18.6 of the collective bargaining agreement to transfer grievant from the San Rafael office to the Novato office.

Dated: June 6, 1962.

Robert E. Burns

Robert E. Burns
Chairman, Arbitration Board

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AWARD OF THE ARBITRATION BOARD

Pursuant to the collective bargaining agreement between Pacific Gas and Electric Company and Local Union No. 1245, International Brotherhood of Electrical Workers, Affiliated with American Federation of Labor - Congress of Industrial Organizations, made and entered July 1, 1953, as amended July 1, 1960, the submission agreement and the stipulations of the parties, and the evidence, both oral and documentary, adduced at the hearing held before the Arbitration Board in San Francisco on Thursday, May 10, 1962, the Arbitration Board makes the following award in arbitration case No. 18 as follows:

The transfer of Mrs. Bonnie Day from the San Rafael office of the company to the Novato office of the company on November 2, 1961, was not in violation of the collective bargain-

ing agreement dated July 1, 1953, as amended, effective July 1, 1960.

Dated: June 6, 1962.

Robert E. Burns

Robert E. Burns
Chairman, Arbitration Board

We concur:

R. V. Brown

Paul M. Bailey

Members of the Board appointed by
Pacific Gas and Electric Company

We dissent:

Frank A. Madson

James A. Fountain

Members of the Board appointed by
Local Union 1245, International
Brotherhood of Electrical Workers,
AFL-CIO