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**REVIEW COMMITTEE**

**PG and E**

PACIFIC GAS AND ELECTRIC COMPANY  
245 MARKET STREET, ROOM 444  
SAN FRANCISCO, CALIFORNIA 94106  
(415) 781-4211, EXTENSION 1125

112.10 (P)  
BENEFIT AGREEMENT  
PART B, 2.14(a)(2)  
PART 1, 1.03

**IBEW** 

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
LOCAL UNION 1245, I.B.E.W.  
P.O. BOX 4790  
WALNUT CREEK, CALIFORNIA 94596  
(415) 933-6060  
R.W. STALCUP, SECRETARY

**CASE CLOSED** JAN 6 1982  
**LOGGED AND FILED**

D.J. BERGMAN, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

East Bay Division Grievance No. 1-1139-81-233  
P-RC 621

November 24, 1981

MR. P. N. LONG, Company Member  
East Bay Division  
Local Investigating Committee

MR. J. VALENTINO, Union Member  
East Bay Division  
Local Investigating Committee

The above-subject grievance has been discussed by the Pre-Review Committee prior to its docketing on the agenda of the Review Committee and is being returned, pursuant to Step Five A(ii) of the grievance procedure, to the Local Investigating Committee for settlement in accordance with the following:

As a result of an industrial injury, the grievant, formerly a Helper in the Gas T&D Department in East Bay, was returned to work from the Compensation Payroll, as a Utility Clerk in Oakland. While the grievant was off on the Compensation Payroll, he moved his personal residence from the East Bay area to Upper Lake in North Bay Division. When offered the position as a Utility Clerk in Oakland, the grievant returned to work and filed a grievance on the basis that he was being required to report to a headquarters more than 30 road miles or 45 minutes travel time from his residence in violation of the LTD Agreement. The correction requested that the Company provide a job within the grievant's capabilities and also within the designated area of travel, and further to pay the grievant for all expenses incurred in reporting to this (Oakland) location.

Following the grievant's return to work on October 27, 1980 as a Utility Clerk and during the processing of this grievance, the grievant informed the Company by letter of November 24, 1980 that he would "be unable to report to work in Oakland any longer due to the extreme hardships imposed on me and my family". Further, he requested Long Term Disability benefits. As a result of this letter, the Company notified grievant by letter dated December 3, 1980 that it had accepted his resignation from his employment. On the basis of such termination, the grievant filed another grievance (East Bay Division Grievance No. 1-1181-80-275) which was pended by the Division with the understanding that this issue would also be discussed by the Pre-Review Committee.

As to the first issue; that is, the grievant's right to request a job closer to his residence, as provided for in Part B, Paragraph 2.14(2) of the Long Term Disability Agreement, the Committee reviewed Part 1, Paragraph 1.03 of the

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Benefit Agreement wherein it is stated that grievance issues are limited by the parties to matters relating to an employee's length of service. As a result, the Committee agrees that the issue in this grievance is improper and such case is closed without adjustment.

As to the issue addressed in East Bay Division Grievance No. 1-1181-80-275 relating to the termination, it is helpful to review the employee's history as follows:

- December 10, 1973 - Helper, Gas T&D Department, Oakland - Hired.
- December 30, 1976 - Compensation Payroll following a knee injury.
- February 14, 1977 - Helper, Gas T&D Department, Oakland - Returned to work.
- July 7, 1977 - Returned to Compensation Payroll.
- October 27, 1980 - Reported to Oakland as a Utility Clerk on the Rehabilitation Payroll at the weekly rate of \$277.55.
- November 25, 1980 - Resigned.

During the periods of his disability, the grievant was examined and treated by Company's Panel Physicians on several occasions. A November 13, 1979 medical report from Doctor Johnson indicated that the employee was permanently precluded from returning to his job of Helper and that he was limited to work not involving heavy lifting, walking on rough ground for long periods and other physical limitations. The report further indicated that the grievant was interested in and could perform jobs with minimal physical demands. The grievant was given a Clerical Test Battery in August of 1980 and passed. The grievant was seen by Dr. Johnson at different times during the year of 1980, and extracts of those medical reports continued to state that the grievant's disability status remained essentially unchanged. On the basis of the medical reports and the grievant's successful completion of the Clerical Test Battery, he was offered the job as Utility Clerk in October of 1980. He reported on October 27, 1980, and as noted above, the Company considered the employee to have resigned on November 25, 1980. Grievant was again examined by Dr. Johnson on January 5, 1981 which was confirmed in a Long Term Disability Medical Information report dated February 10, 1981, as continuing the limitation from extensive physical activity. Grievant produced a note, however, dated January 5, 1981, from Dr. Johnson which stated that he had not been released to perform any type of work with PGandE. As a result of the confusion between the February 10, 1981 report and the earlier note of January 5, 1981, and because none of the medical reports clearly indicated the grievant was stationary and rateable at the time he returned to work on October 27, 1980, at the direction of the Pre-Review Committee, a subcommittee of the Local Investigating Committee interviewed Dr. Johnson. He stated that his February 10, 1981 report, which did not restrict the employee from returning to work, was proper, and that his note of January 5, 1981 was not accurate. The Committee further determined by medical report dated June 30, 1981 from Dr. Johnson that the grievant was stationary and rateable. Again, the subcommittee of the Local Investigating Committee determined through interview of Dr. Johnson that the grievant was considered stationary and rateable as of November 2, 1979. The subcommittee of the


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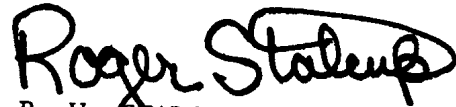
Local Investigating Committee provided the information requested by the Pre-Review Committee in an addendum dated September 24, 1981.

After review of all of the evidence in this case, the Committee concluded that the grievant was physically capable of returning to the Utility Clerk job which the Division offered him in October of 1980. The Committee further notes that the grievant's letter dated November 24, 1980 makes no reference to being physically unable to perform this job but rather cites "the extreme hardship and unbearable burden that this is causing my family".

As noted specifically in P-RC 471 and other recent settlements by the parties, the triggering point for permanent placement of industrially injured employees come when the employee is noted as stationary and rateable. In the grievant's case, that occurred in November 1979. The Company endeavors in these cases then to place the employee in a position commensurate with the employee's physical limitations. In settling previous grievances over this issue, the parties have noted that, when an employee rejects the offer of rehabilitation within the Company, the Company's only continued obligation is to provide the grievant with whatever outside rehabilitation rights the employee might have under the Workers' Compensation laws of the State of California. On the basis of the employee's rejection of the offer of rehabilitation as a Utility Clerk, then the Committee agrees that the employee's separation from Company employment was proper.

This case is considered closed on the basis of the foregoing and the closure should be so noted by the Local Investigating Committee.

  
D. J. BERGMAN, Chairman  
Review Committee

  
R. W. STALCUP, Secretary  
Review Committee

PEPettigrew(1123):ml/RWS:rlm

- cc: FCMarks
- LCBeanland
- IWBonbright
- LVBrown
- FCBuchholz
- RHCunningham
- NRFarley
- TMacWilliams
- DOKabayashi
- TCPhebus
- LSilton
- WKSnyder
- JBStoutamore
- CPTaylor
- CEWelte
- Division Personnel Managers