



# REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY  
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MARGARET A. SHORT, CHAIRMAN

DECISION  
LETTER DECISION  
PRE-REVIEW REFERRAL

RECEIVED by LU 1245  
JANUARY 4, 2001  
**CASE CLOSED**  
**FILED & LOGGED**

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

## Pre-Review Committee Case Nos. 12018, 12019 and 11413

Pat Medrano  
Company Member  
Local Investigating Committee

Bernard Smallwood  
Union Member  
Local Investigating Committee

### Subject of the Grievances

These cases all concern the grievant. The subjects are two Written Reminders, one each in Conduct and Work Performance categories, and a Decision Making Leave.

### Facts of the Cases

The grievant is an Electric Crew Foreman with a hire date of October 19, 1977. He has been a Crew Foreman since 1988. At the time of the discipline that are the subject of these grievances, the grievant had an active Oral Reminder in the Work Performance category issued March 24, 1999 for failing to give adequate tailboard meetings and for berating his crew members.

### **Grievance No. 12019**

On June 2, 1999 the grievant's supervisor met with him to discuss his excessive cell phone bill. The grievant had been coached and counseled twice before about excessive and inappropriate cell phone use, once just the prior month. This meeting resulted in the Written Reminder dated June 8, 1999.

The grievant's June 1999 phone bill reflected 788.42 minutes or more than 13 hours of usage resulting in charges of \$161.73 for the month. The prior month his bill was \$190.36. The average of the other Crew Leaders for the same months was \$58.27.

The grievant indicated he is a Shop Steward and uses the cell phone for Union business and that it was his understanding that they were allotted so many minutes and could use the phone for personal business.

The supervisor testified he reviews all phone bills that are in excess of \$50. He told the grievant the phone is to be used for Company business not for Union business and not during non-work days. He also stated he had taken the phone from the grievant before because of his using it for Union business.

**Grievance 12018**

On June 8, 1999 the grievant was a passenger in a crew truck, the first of two carrying himself and his crew from one job site to another. The driver of the grievant's crew truck drove past a freeway on-ramp in error. The grievant got out onto the running board of the truck and motioned for the truck behind him to back-up. The truck did back-up into a third party vehicle causing substantial damage to the third party vehicle but no injuries. The grievant received a Written Reminder in the Work Performance category dated June 14, 1999 for failure to adequately tailboard the crew as to their destination and for violation of Code of Safe Practices Rule P-11(d) by failing to act in such a manner as to assure at all times maximum safety to yourself and fellow employees. The driver of the truck that backed into the third party was also disciplined but did not grieve.

There is conflicting testimony between the grievant's story and other crew members, however, no one stated that anyone was behind the truck directing its backing. It is clear that Code of Safe Practices Rule Number 309, Movement and Parking of Vehicles, was not followed.

**Grievance 11413**

The grievant was given a DML June 14, 1999 for creating a hostile work environment by being verbally abusive and attempting to provoke physical confrontations. A letter dated May 10, 1999 was sent to Jack McNally, IBEW Business Manager and copied to several people within the Company including the OM&C Superintendent. The letter was signed by 34 Oakport employees from various departments. It complained of the grievant's behavior and demanded that something be done to stop the abuse. Company interviewed several of the signers of the letter on June 1. They substantiated the allegations in the May 10 letter by giving specific examples. Employees signed the letter in hopes of resolving the problem.

Testimony at the LIC by several witnesses described their personal negative experiences with the grievant. Several indicated they would not work on the grievant's crew. There were also comments about the grievant working unsafely. Several employees also indicated they had previously informed management of the grievant's inappropriate behavior on more than one occasion. There is also testimony as to two incidents where the grievant made threatening comments to his supervisor. The record seems to indicate that no formal discipline was taken for any of these prior reports or incidents.

The DML letter does strongly encourage the grievant to contact the Employee Assistance Program.

**Discussion**

The Union stated that the purpose of the Positive Discipline system is to change behavior. With this grievant, Company did not allow sufficient time to change because the discipline, two Written Reminders and a DML, were all issued within an eight calendar day period. Further, the Union argued the Company disciplined the grievant because of his Union activity, his role as a Shop Steward. Union pointed out that certain Union activity is protected under federal law. Finally Union expressed great frustration

with the untimely processing of these grievances and noted that these cases are the ones Union cited causing a renewed focus on timely grievance processing.

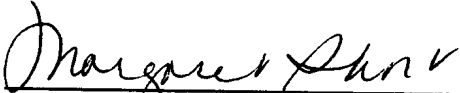
First, Company reminded Union that the grievant was already on an Oral Reminder issued three months before any of this grieved discipline. Further, Company responded that it can't be held responsible for the timing of events, that the grievant's actions are what precipitated the discipline. The investigatory interview with the grievant concerning the cell phone usage took place on June 2, 1999; the Written Reminder issued on June 8. The backing accident also occurred on June 8, however, it is unclear whether the accident occurred before or after the issuance of the WR for the cell phone misuse. The WR for the backing accident was issued June 14. On this same date, June 14, Company interviewed the grievant about the incidents reported by various employees in the letter to Jack McNally dated May 10 and in their interviews of June 1. The DML day off was June 15 and the confirming letter June 16. There isn't an explanation in the record as to why there was a two-week delay between interviewing the employees and the grievant or the delay between the May 10 letter and the June 1 interviews.

As to the grievant being disciplined for his Union activity, that argument is totally without merit. Use of Company equipment to conduct Union business is not protected activity under law and further, it is prohibited activity under Company policy. Shop Stewards may conduct Union business on Company time only to first step a grievance with management, participate in an investigatory meeting or LIC, or other committees or assignments requested by Union and approved by management. The letter which formed the basis for the DML referred to inappropriate behavior by the grievant in his roles both as an Electric Crew Foreman and as a Shop Steward. The employees reported their concerns to the Union because the problems continued despite reporting them to management. Perhaps if more action had been taken by management sooner, some of the problems and the May 10 letter could have been avoided.

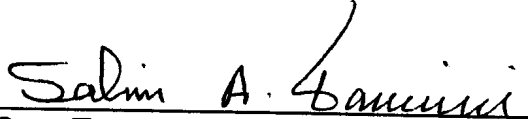
As to the untimely processing of grievances, Company stated that Union has at least 50% ownership of this generic problem and that jointly we must give much attention and effort toward meeting the contractually defined time limits. As to these specific cases, several LIC meetings were held and the drafting of the Joint Statements of Facts took too long.

Decision

The disciplinary action grieved in these cases deactivated before these cases reached Fact Finding and therefore the issue of remedy is moot. These cases are closed without adjustment and without prejudice to either party position.

  
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Margaret A. Short, Chairman  
Review Committee

1/4/01  
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Date

  
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Sam Tamimi, Secretary  
Review Committee

JAN-4-2001  
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Date