



REVIEW COMMITTEE

IBEW



PACIFIC GAS AND ELECTRIC COMPANY
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WALNUT CREEK, CALIFORNIA 94598
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INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 2547
VACAVILLE, CALIFORNIA 95696
(707) 452-2700
SALIM A. TAMIMI, SECRETARY

MARGARET A. SHORT, CHAIRMAN
DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

Pre-Review Committee No. 16536 & 16644 NPG – Operations, DCPD

Cher Anthony
Company Member
Local Investigating Committee

Dan Lockwood
Union Member
Local Investigating Committee

Subject of the Grievance

Grievance No. 16536 concerns Company's implementation of a Section 202.17 work schedule for Operators during the 2R13 Outage at the Diablo Canyon Power Plant (DCPP).

Grievance No. 16644 concerns whether employees who are on a Section 202.17 work schedule for a refueling outage can be assigned to perform routine work on the operating unit.

Facts of the Case

Grievance No. 16536 - Section 202.17 provides for the scheduling of employees on shift for emergencies and other conditions defined in the Agreement and its Clarification. Normally, this Section 202.17 applies to Day Employees only. Its application to shift employees, such as operations personnel (at Diablo Canyon Power Plant), is limited to periods of initial plant staffing and startup.

In 1989, the parties agreed in Letter Agreement 89-209 to implement a 12-hour alternate shift schedule for operations personnel at DCPD. Paragraph 8 of that letter agreement provides that Section 202.17 may be applied during refueling outages and that "The schedules shall be determined locally between Company and Union." Under normal circumstances, Section 202.17 is an 8-hour base work schedule.

The Company and Union have bargained agreements over the years that set the hours of work for operations personnel during refueling outages. These agreements have used the base 12-hour per day work schedule but changed the shift rotation and workdays, essentially balancing the work group between static day and night schedules, thus never had to implement Paragraph 8 of the 12-hour shift agreement.

The most recent agreement, Letter Agreement 05-12, was cancelled by the Union just prior to the 2R13 outage and attempts to reach a negotiated compromise were unsuccessful. Utilizing what the Company believed were their rights under Title 7 of the Agreement, the Company unilaterally implemented a schedule based on their interpretation of the intent of the parties in Letter Agreement 89-209, paragraph 8.

The Committee notes that following this grievance, the Company and Union agreed in LA 06-37 to establish a special DCPD Operations Department labor management committee with authority to discuss and recommend changes to the labor agreement. One of the items for discussion identified in LA 06-37 was future outage work schedules. This Committee is ongoing but has not yet addressed the topic of outage work schedules.

Discussion

In reviewing Letter Agreement 89-209, the language in paragraph 8 supports the position that it was the intent of the parties that Section 202.17 apply to operation employees during outages and that such schedule be based on a 12-hour base workday. Further, the language also supports the position that the specifics of that schedule, which the Committee interprets as start and stop times, workdays and non-workdays, and rotation of employees between shifts, be worked out locally between the parties.

As the Letter Agreement 05-12 was cancelled just prior to the start of the 2R13 outage, and the Company met its obligation to bargain, and considering management's rights under Title 7 of the Agreement, the Committee agrees that no violation of the Agreement occurred during the 2R13 outage. However, the Committee further agreed that this does not release the parties from their obligation to meet and negotiate, in good faith, an outage work schedule as provided in LA 89-209 for future outages.

Facts of the Case

Grievance No. 16644 - This grievance concerns assigning employees who are on a Section 202.17 work schedule, as the result of a unit in an outage, to perform routine work on the operating (i.e., non-outage) unit. The Union believes this is a violation of the agreement and at least for whatever time they are assigned this routine work it should be considered an overtime work assignment if that work falls outside of the employee's regular, non-202.17 work hours.

Historically, power plants have placed only a portion of their workforce on a Section 202.17 work schedule, working extended hours, while a portion of the workforce is left on regular hours performing routine work. At Diablo Canyon Power Plant, because of the extreme need to complete outages in a short duration, and the fact that many classifications such as Operators and C&RP Technicians perform work common to the outage and the non-outage unit, the agreed-to schedules have provided for everyone in a classification being assigned to a Section 202.17 shift schedule of extended hours.

During the 2R13 outage, Company discontinued the practice of paying overtime when assigning employees to perform routine work at the running unit, in this case Unit 1. This led to the filing of this grievance.

Discussion

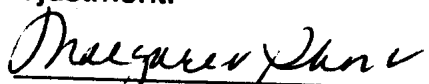
This leaves the problem of how to perform routine work on the operating unit. The Company points to RC Decision 159 to justify the assignment of routine work on the operating unit to employees on Section 202.17 schedules. RC 159 states that, "Employees who are scheduled under Section 202.17 to perform emergency work in any given plant may be utilized under such section to perform other maintenance work in such plant during the course of the situation for which the revised schedule was established."

The Union argues that Unit 1 and Unit 2 are considered to be separate plants under the Labor Agreement and that RC 159 addresses work at the same plant. Second, the Union argues that RC 159 assumes that a certain number of employees within a given classification will be assigned under Section 202.17 to perform emergency work and the remaining employees scheduled to remain on regular work hours performing regular work on the operating unit. Since all DCPD operators were assigned to a Section 202.17 schedule, RC 159 does not apply.

The Committee reviewed RC 159 and discussed its application to the Diablo Canyon Power Plant. Although this decision is very old, it is still a precedent setting agreement and provides the best insight as to the parties' intent when Section 202.17 was first negotiated. The language in RC 159 is very clear with respect to employees on a Section 202.17 schedule being available to perform routine work in the same plant, without payment of overtime. The argument that DCPD Unit 1 and Unit 2 are separate plants, and that therefore this decision should not apply, is not credible as DCPD is considered one plant for all other purposes, including job bidding, job displacement and demotion and overtime distribution. Therefore, the Committee agreed that employees assigned to a Section 202.17 schedule may perform work on the operating unit without an overtime penalty. However, nothing would preclude the parties from agreeing through bargaining to pay overtime under these circumstances.

Decision

No violation of the Agreement occurred. These grievances are considered closed without adjustment.



Margaret A. Short, Chairman
Review Committee

11/29/06

Date



Sam Tamimi, Secretary
Review Committee

11/29/06

Date

RECEIVED DEC 4 1989

Pacific Gas and Electric Company

215 Market Street
San Francisco, CA 94016
415/973-3425

Richard B. Bradford
Manager
Industrial Relations

December 1, 1989



Mr. Jack McNally
Business Manager
Local Union No. 1245
International Brotherhood of
Electrical Workers, AFL-CIO
P. O. Box 4790
Walnut Creek, CA 94596

Dear Mr. McNally:

Attached is a permanent proposal for 12-Hour Shifts for the Operators at Diablo Canyon Power Plant.

As you know, the issue of paying for a meal and 30 minutes paid time to eat the meal after 8 hours on the fourth day of a 48-hour workweek is currently in the grievance procedure. Please refer to FF #4277-88-190, which is in the Ad Hoc Committee level (Case No. 89-2). The Company and Union's disagreement concerns the definition of regular work hours and Title 104 (Meals) of the 12-Hour Shift Agreement.

The meals provision of the DCCP 12-Hour Shift Agreement would be subject to modification dependent on the outcome of the final decision of this grievance.

We would appreciate Union's concurrence of this 12-Hour Shift Agreement prior to the expiration of the current 12-Hour Shift Agreement on December 31, 1989.

Sincerely,

Richard B. Bradford /ccr

CFPoteet(973-4110):nj

Pacific Gas and Electric Company

1700 California Street
 San Francisco, CA 94109
 415/972-7000

December 1, 1989



Local Union No. 1245
 International Brotherhood of
 Electrical Workers, AFL-CIO
 P.O. Box 4790
 Walnut Creek, CA 94596

Attention: Mr. Jack McNally, Business Manager

Gentlemen:

Pursuant to Subsection 202.16(b) of the Physical Agreement, Diablo Canyon Power Plant proposes to establish a permanent 12-hour rotating shift schedule for Operations Department shift employees effective the first payroll period following the signature date of this agreement. This specific agreement will be in accordance with the generic 12-Hour Shift Agreement (R2-86-89-PGE) with the exception of the areas noted below:

1. SHIFT SCHEDULE

- a. Two 12-hour shifts with starting times of 0700 and 1900
- b. One 4-day/10-hour Shift during the Training week with a schedule of 0700-1700. The Control Room Assistants' hours during the Training week are normally 0700-1700. Alternate schedules of 0600-1600, 0800-1800, or 0900-1900 during the Training week may be utilized with Company approval.
- c. Monday-Sunday workweek
- d. Five-Week Cycle as follows:

	MON	TUES	WEDS	THURS	FRI	SAT	SUN	
Week 1:	O	O	O	N	N	N	N	48 Hours
Week 2:	O	O	O	O	D	D	D	36 Hours
Week 3:	O	T	T	T	T	O	O	40 Hours
Week 4:	D	D	D	D	O	O	O	48 Hours
Week 5:	N	N	N	O	O	O	O	36 Hours

- e. Alternate schedules and workweeks may be agreed upon by Company and Union.

Pursuant to the generic agreement, at the beginning of each year, all holidays are converted to vacation hours. At the employee's option, he may elect to be paid for these converted vacation hours. This election must be made prior to March 31 of that year.

6. SHIFT TURNOVER TIME

Shift turnover time, travel time, and overtime meal periods will not be considered as time worked for the purposes of determining the required time off as specified in Section 10(d) of this Agreement.

7. CHANGE OF HOURS FOR TRAINING

- a. Employees assigned to License Training, not to include Requal Training, may be assigned to any schedule of days and hours to facilitate simulator training and on the job training opportunities, so long as such employee shall be assigned to work periods of at least 8 hours with 2 consecutive days off during the week.
- b. Those requal individuals assigned to take NRC type requal exams may also be assigned as above for the purpose of additional simulator preparation.
- c. Employees who schedule vacation or are absent during their training shift may be transferred from their normal schedules to a training shift to make up the missed training. Schedule changes can be made for less than one weeks' duration.
- d. Entitlement for overtime as it applies to paragraphs a, b, and c, above will be pursuant to Title 208.18.

8. CHANGE OF HOURS - 202.17

The application of 202.17 for Operations Department shift employees will be expanded to include refueling outages and those periods in which the units are in modes 5 and 6. A refueling outage is defined as the point at which the output breakers are opened until the unit is paralleled to the grid. The schedules shall be determined locally between Company and Union.

9. SHIFT PREMIUM

The night shift shall receive a shift premium based on 12 hours at the third-shift premium. Sunday premium will continue to be paid at the present rate and will apply to those shifts which start on Sunday.

11. SPECIAL PROJECTS

Employees may be assigned to different schedules for special projects. No more than two employees per watch may be assigned to a special project. Assignments will be made on a volunteer basis. If there are no volunteers, the most junior person (30-month Auxiliary Operator or above) can be assigned the project.

Assignments will be rotated at intervals no greater than six months to different employees.

If required, the resulting vacancy on the watch may be filled by an employee on another watch on a volunteer basis.

12. TERM

This agreement will continue in force until such time either party gives the other 60 days notice of cancellation.

If you are in accord with the foregoing and agree thereto, please so indicate in the space provided below and return one executed copy of this letter to the Company.

Very truly yours,

PACIFIC GAS AND ELECTRIC COMPANY

By Richard B. Bradford /CFR
Manager of Industrial Relations

The Union is in accord with the foregoing and it agrees thereto as of the date hereof.

LOCAL UNION NO. 1245, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

Jan 19, 1989⁹⁰

By Jack McHenry
Business Manager

:nj

REVIEW COMMITTEE DECISION

R. C. File Number 159
East Bay Division Grievances Nos. 107 and 110

Subject of Grievances:

Grievance No. 107

Under the provisions of Section 202.17 of the Agreement a scheduled work period from 4:00 p.m. to 12:00 midnight was established for maintenance employees in order to overhaul a turbine at Avon Power Plant. On January 29, 1957, at 6:30 p.m., three employees who were performing the turbine overhaul work on such schedule at the straight rate of pay were transported to Martinez Power Plant to make emergency repairs at that location. They worked at Martinez Power Plant until 9:00 p.m. at which time they were returned to Avon to resume the turbine overhaul work and to complete the 4:00 p.m. - 12:00 midnight work period. Overtime compensation was not paid for any of the work performed.

Grievance No. 110

A maintenance employee was working at Avon Power Plant on a scheduled work period of 4:00 p.m. to 12:00 midnight established under the provisions of Section 202.17 of the Agreement. On March 7, 1957, the employee, during such work period, was transported to Martinez Power Plant to repair an acid pump after which he was returned to Avon Power Plant to complete the scheduled 4:00 - 12:00 midnight work period. Overtime compensation was not paid for any of the work performed.

With respect to the foregoing the Union contends that in each case the work at Martinez Power Plant was not related to the work at Avon Power Plant, therefore, Section 202.17 was not applicable to the work performed at Martinez. The Division contends that it has been the practice for many years to transport employees from plant to plant when they are working under the provisions of Section 202.17.

Statement and Decision:

Section 202.17 provides that the Company may schedule maintenance employees to work for periods of eight hours at other than their regular work hours when additional shifts are required in a situation described as an emergency condition involving the maintenance, construction, or repair of plant or station equipment. Under such provision the employees are paid at the overtime rate for work performed outside of regular work hours for the first four work days of any such situation. On the fifth work day and thereafter for the duration of the situation, the straight rate of pay is paid for work performed on work days during the hours of work established under the section.

All of the conditions which govern the establishing of new work hours are specifically stated in Section 202.17. It was not intended that a schedule once established under this Section for the performance of emergency work in one plant be utilized for the purpose of taking care of emergencies thereafter occurring in other plants during the course of the revised schedule of work hours. Such other emergencies would ordinarily be handled in the conventional manner within the framework of the provisions of the labor agreement. Where necessity requires that an employee working in one plant under the provisions of Section 202.17 be temporarily transferred to another plant to perform other work, the overtime rate should be applied for such other work performed outside of regular work hours.

The above conclusion of this Committee is confined to circumstances where employees working under the provisions of Section 202.17 are moved to another plant and then returned to perform work under the former emergency situation. Employees who are scheduled under Section 202.17 to perform emergency work in any given plant may be utilized under such schedule to perform other maintenance work in such plant during the course of the situation for which the revised schedule was established.

FOR UNION:

Robert D. Bevers
Kenneth Stevenson
L. L. Mitchell

By L. L. Mitchell

Date 1-14-58

FOR COMPANY

E. F. Sibley
C. L. Yager
V. J. Thompson

By [Signature]

Date December 23, 1957