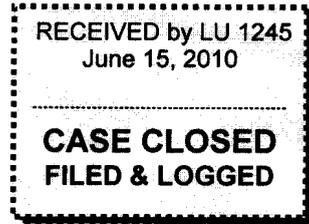




## REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY  
LABOR RELATIONS DEPARTMENT  
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INTERNATIONAL BROTHERHOOD OF  
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LOCAL UNION 1245, I.B.E.W.  
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JOHN MOFFAT, CHAIRMAN

BOB CHOATE, SECRETARY

DECISION  
LETTER DECISION  
PRE-REVIEW REFERRAL

### Pre-Review Committee Nos.

15810, 16062, 16064, 16087, 16207, 17065, 17066, 17067, 17070, 17137, 17178, 17368, 17397, 17402, 17474, 17794, 17505, 17658, 18131, 17584, 18399, 18469, 18229, 18230

Durla Kelleher  
Melanie Curry  
Jeff Neeley  
Monica Oakes  
Debbie Sargent  
Voncille Williams  
Company Member  
Local investigating Committee

Bob Dean  
Mike Grill  
Mike Haentjens  
Debbie Mazzanti  
Landis Martilla  
Darryl Norris  
Union Member  
Local Investigating Committee

### Grievance Issue:

This PRC Decision addresses 24 grievances alleging various violations of Exhibit XVI, Contracting. The file dates range from April 7, 2005 through 2008.

Arbitration Decision No. 266 is the 2005 settlement of another series of grievances that alleged violations of contracting out provisions. Arbitration No. 266 committed the parties to establishing a committee specifically for the purpose of resolving contracting grievances. The committee is comprised of Laura Sellheim, ED Director - Area 3; Margaret Short, Director, Labor Relations and Review Committee Chairman; John Moffat, Director Labor Relations; Bob Choate, IBEW Assistant Business Manager and Secretary of the Review Committee.

The committee noted that Exhibit XVI superseded provisions of Subsection 207.2 and that the Labor Agreement has long recognized the Company's right to contract bargaining unit work. Since July 2000, the effective date of some provisions of Exhibit XVI, there have been numerous grievances filed. These grievances use time and resources and are costly to process. The parties agree that it is in the best interests of the Company and Union to try to keep the costs of processing grievances down.

The committee also noted that many grievances were closed out on the basis of Arbitration Decision 266 in 2005, however, that Decision only addressed a process for documenting overtime availability and optimum overtime. It did not address other issues such as "work normally performed".

The issues to be addressed by this PRC Decision are:

- Work Jurisdiction
- Work Normally Performed
- Optimum Overtime
- Remedy

The committee approached its task with the objectives of:

- Providing sufficient joint guidance for those charged with administering (Company) and those charged with ensuring compliance with (Union) the provisions of Exhibit XVI.
- Providing a common sense application for day-to-day operations.
- Providing a definition of terms.
- Providing operating principals.
- Agreeing whether specific tasks are "work normally performed."

Facts of the Case; Discussion; Decision:

**Nuclear Power Generation – DCPD 17090<sup>2 PRC</sup> Case sent to Ad Hoc pursuant to Letter of Agreement #10-23**

Company scope contracted out engineering design work. There is no claim that engineering design work is within IBEW jurisdiction or that the IBEW Labor Agreement is in any way governing over Company's decision to contract out this work.

The grievance seeks compliance with Exhibit XVI and states in the Grievance Issue section of the grievance filing form: "In essence if PG&E Engineers were done this work then PG&E clerical would do the support."

That statement sums up the case. Plant clerical positions are there to support PG&E employees and certain Work Company performs in-house. Company assured Union that after final approval and acceptance of the designs prepared by the engineering contractor, the designs become a PG&E work product. As such whatever tasks such as copying, filing, distribution that internal clerical support normally performs, is covered by the provisions of Exhibit XVI.

No Intent to Contract is required. No violation of the agreement occurred. This case is closed without adjustment.

**California Gas Transmission – Maintenance – Hinkley 16207**

In a 2004 environmental audit, it was determined that oil around the compressor building needed to be steam cleaned. This is work that has been performed by maintenance and operations employees in the past. The record does not indicate on how frequent a basis employees cleaned oil around the building in the past, but apparently not regularly or routinely enough to pass an inspection. The work was offered to employees first, T200 and T300. Employees were either already assigned to an overhaul or declined the assignment. The work was contracted and was performed over a four-day period totaling 257 hours.

The committee believes the work at issue in this grievance falls into the category of what could be performed, but not usually performed and is not preferred work. The parties recognize that there is work that employees would rather not do. Requiring employees to do this work when there are other options available is usually not the best course of action. On the flip side, employees should not try to lay claim to lost opportunities after the fact.

There have been on-going complaints from the Union about reluctance on the part of CGT management to provide timely information about contracting. Compliance with the Labor Agreements is an expectation of all levels of management in the Company.

Whether or not Intent to Contract was required for this work is debatable based on the fact the Title 200 and Title 300 were offered the work and declined..

No violation of the agreement occurred. This case is closed without adjustment.

### **INFRASTRUCTURE TECHNOLOGY AND INFORMATION SYSTEMS (ITIS)**

#### **San Francisco and Peninsula 17065, 17066 and 17067**

These grievances were filed in November 2006 alleging failure to offer the "opportunity to perform work in their classification prior to contracting out to Zhones." The correction asked for is to "pay grievants as if they had worked. Make grievants whole for any and all losses due to company action." Company's answer to the grievance was that a Notice of Intent to Contract this work was sent to the Union in August 2006.

The contracted work was the Life Cycle deployment of personal computers (PC's). Company has a program for the regular replacement of its PC's. A contract was led with Zhones for SF, down the coast to San Luis Obispo and over to Bakersfield. Company wanted to benchmark cost and performance of Zhones to employees. This project was well communicated to Union and was discussed at multiple levels of the Company and Union and in various meeting forums.

In an effort to relieve some of the administrative burden of Exhibit XVI, the parties prior to the contracting with Zhones, discussed reporting 30 minutes per computer in lieu of detailed review of invoices. The Joint Statement of Facts confirms that Company subsequently reported the hours worked by Zhones based on this understanding.

Deployment involves delivery to the job site and set up of PC's. Company and Union agree this is work normally performed by the bargaining unit. It is an appropriate assignment for the Utility Worker-Telecom, Title 200 or Title 300 or other classifications higher in the line of progression, i.e. Telecom Tech.

The contractor, Zhones, had a crew of three in an area for 3-4 days full time, amounting to approximately 72 man-hours of work. There is no statement that any of the work was performed on overtime. The contracted work was completed system-wide in December 2006.

These grievances do not specifically allege failure to offer overtime but do request to be paid overtime for work not performed. The Joint Statement of Facts indicates that ITIS has a well-established practice in place for the volunteering and offering of pre-arranged overtime. Of the 7 employees in the grieved headquarters, the 3 grievants have the least accumulated overtime worked. They were not consistently signed up for prearranged overtime from August - December 2006.

It is unclear from the record what dates the contractors actually performed work in the grieved areas. If the work was performed more than 30 days prior to the filing of the grievances and noting the date of the Intent to Contract, these grievances would not be timely filed.

Whether timely filed or not, no violation of the Agreement occurred. These cases are closed without adjustment.

**Salinas and Santa Cruz 17137**

This grievance was filed in December 2006. The notice of Intent to Contract PC Deployment to Zhones was sent to the Union in August 2006.

The grievant from Santa Cruz was not signed up to work pre-arranged overtime from August to December 2006. The grievant, ,was working approximately 20% overtime; and at the Labor Management Committee meetings pleading for the Company to fill a journeyman vacancy in Salinas. An additional Telecom Tech did report in 2007. It would seem that this grievant did work optimum overtime.

No violation of the Agreement occurred. This case is closed without adjustment on the basis of specific facts and is not intended to establish 20% as optimum overtime ..

**Sacramento 17397; Vacaville 17402; Fresno 17474**

These grievances challenge Company's contracting with Ricoh for the purchase, installation, and servicing of Multi-Function Devices (MFD'S). An MFD is one piece of equipment that copies, prints, scans, and faxes. It replaces all the individual pieces of the equipment, plus it is internet enabled. Telecom Technicians have not historically installed or serviced copiers, scanners, or faxes. They have delivered printers and plugged them into the computer and wall. They have and continue to install the internet connections to facilitate computers and MFD's.

No notice of Intent to Contract work was submitted to the Union, as the work that was contracted is not considered to be work normally performed.

That notwithstanding, due to the volume of telecommunications work and the number of vacancies, the department Manager authorized in August 2006 cart blanche overtime system wide. There is no need to resolve the issue of work jurisdiction since the issue raised in the grievance is failure to offer optimum overtime. The Manager's authorization for overtime directly addresses the correction requested.

These cases are closed based on the facts and without adjustment.

**ENERGY DELIVERY**

**Area 3 – Electric T & D – Salinas 17638** <sup>368</sup> *PLC*

A notice of Intent to Contract was sent to Union in January 2006 for the replacement of 63 wood poles in various locations in Area 3. Estimated start was March 1 and completion June 30, 2006. In fact, the contractor was in the area to perform this work in March 2007 when the grievance was filed alleging the employees were "not offered the overtime to do this work."

Area 3 is following the quarterly sign-up procedure outlined in Arbitration Decision 266. The grievant is a Lineman and signed-up indicating his availability to work pre-arranged overtime during the first quarter of 2007. Including the grievant, the total employee count who signed the quarterly list indicating their availability was 10: 2 EC's, 6 Linemen; 1 Apprentice. Lineman; and one T&D Assistant 4 contract workers worked 10-hour days on March 1 in Prunedale; March 2 in Salinas and Santa Cruz; March 5 and 6 in Santa Cruz. The contractor worked a total of 160 straight time hours. No overtime was worked by the contractors.

On March 1, 2.75 hours overtime was worked by Amtstutz inspecting the work of the contractor crews. Presumably, he worked his regular hours that day at straight time, as did the contractors.

On March 2, Stuart Evans worked 6.25 hours of OT assisting a crew in Hollister. Neither of these employees is among those that signed the quarterly list to be available for overtime.

It appears that the overtime worked on March 1 & 2 was a continuation of the workday assignments. No POT was worked on March 5 or 6. 282 hours of EOT was worked during March.

The LIC report did not provide detailed records of overtime worked so it cannot be determined if the grievants were available for pre-arranged overtime or whether the grievants had the opportunity for either of the assignments resulting in overtime on March 1 and 2 or whether they may have worked EOT on those dates. It is also unclear whether there are employees headquartered at any of the locations other than Salinas. If so, no grievance was filed on their behalf.

An argument can be made that even if the contractors worked overtime, there is no entitlement to overtime for employees, as the decision to contract the work is the conclusion of the assessment that there are insufficient resources to accomplish the work in the time frame needed. Once the work is contracted, there is no obligation to revisit that decision or to assign that work to the bargaining unit on straight time or overtime. Further, there is no obligation to "make work" to be performed on overtime. The Company's obligation under pre-arranged overtime remains to make an equitable distribution by year-end. The employees who make a commitment to be available for overtime should not be overlooked for such assignments. It is recognized that pole replacement work requires sufficient resources to assemble a crew. Regular and frequent communication, between those responsible for contracting pole replacement work and those who assign overtime, is strongly encouraged.

Based on the facts in this case, no violation of the agreement was demonstrated in the spirit of Arb 266.

This case is closed without adjustment.

#### **Area 4 – Electric T & D – Fresno 17178**

This grievance was filed in January 2007. It alleges that the Company on a continuous basis fails to provide optimum overtime to employees. No specific dates are given, no specifics around when the contractor worked in the area or what work was performed. The Local Investigating Committee reviewed overtime records for the period of November 2006 through January 2007.

The Business Rep stated that Arb. 266 states that Company will not limit prearranged overtime while contractors are working. The Business Rep further stated that limits were placed on overtime from November through January.

The Supervisor countered that he provided the opportunity for prearranged overtime when there was a need. During the weeks the contractors were in the area, he worked a minimum of one crew on overtime each weekend, often more than one crew. Additionally, this is a headquarters with a Tuesday-Saturday crew, which provides greater coverage for straight time work. Some employees were prearranged to provide relief on the Saturday crew. There were some weekends where there were insufficient employees available for overtime.

Arb. 266 does not require providing overtime for any or all who sign the quarterly list. It specifically states:

"Overtime will be authorized by management on an as needed basis; signing the list is not an entitlement to overtime on a specific day. The parties agree that optimum overtime is not a contractually specified number and varies depending on workload and resources."

It appears based on the facts of this case that Company was in compliance with the literal and intent of Exhibit XVI and Arb. 266.

This case is closed without adjustment.

#### **Area 5 – Electric T & D – Jackson 15810**

This grievance challenges the contracting with Davey Tree to install steel pole stubs. The correction asked for is to pay employees an equivalent number of hours at the overtime rate (1.5) as worked by the contractor. A Notice of Intent to Contract was submitted after the contractor began work and after the filing of this grievance. Davey Tree inspects, tests, and treats poles and through this process identifies which poles need to be reinforced/stubbed with steel.

Company agrees that pole inspection and testing and wood stubbs is work normally performed by the PG&E bargaining unit, but chemically treating and/or installing steel stubs is not work normally performed. To chemically treat requires licensing that our employees do not have and the steel stubbing requires equipment that the Company has very few of.. There is a trailer especially equipped with steel pole stubs, steel bands, and other material for the installation of steel stubs in Stockton.. However, this trailer is used for emergencies only. All steel pole stubbing is contracted out and has been for many, many years, at least 10

The Committee is in agreement that chemical treating of poles and steel stubbing of poles is not work normally performed. This work is not covered by Exhibit XVI. No notice of Intent to Contract was required. The Committee also agree that this issue is for the steel stubbing of poles that are in the cycle when contractors come in to test and treat. This agreement is not intended that tree contractors can be used instead of using PG&E crews for repairs to broken poles or poles that are found non-climbable outside of the pole test and treat cycle. .

No violation of the Agreement occurred. This case is closed without adjustment

#### **Area 5 – Electric T & D – Stockton 16062**

The issue in this grievance is one small steel pole stubbing job in Stockton. All steel pole stubbing contracts were discontinued as of October 24, 2005. As stated in the prior case, this is not work normally performed. Wood pole stubbing is work normally performed by PG&E crews

This case is closed without adjustment.

#### **Area 5 – Electric T & D – Stockton 16064**

This grievance is filed on behalf of All T200 and T300 Electric T&D employees in Stockton. The Company contracted the pole replacement and new business connections. The new business connections were contracted under the provisions of Letter Agreement 04-52, which provided for a 24 month pilot during which time the provisions of Exhibit XVI would not apply to contracted new business work if the work is contracted with contractor signatory to Local 1245.

As for the pole replacement work, the Intent to Contract for 88 poles was submitted. The work was to be performed between March 21, 2005 and May 30, 2005. The overtime sign-up sheets for this

period were not submitted, but the ones that were evidence that most employees in the headquarters refuse far more overtime than they worked.

For the periods of July and August, when prearranged overtime was offered, all employees who signed up worked and a number of other employees were charged hours for failing to work. Overtime was not offered every weekend nor was it offered as an extension of the workday.

Based on the facts and Arb 266, no violation of the agreement occurred. This case is closed without adjustment.

#### **Area 5 – Electric T & D – Merced 18229 and 18230**

This grievance challenges the contracting to install steel pole stubs. The correction asked for is to cease and desist and pay employees for missed overtime. The work performed by the contractor was as part of the pole test and treat program.

As described in the previous case the Committee is in agreement that chemical treating of poles and steel stubbing of poles is not work normally performed. This work is not covered by Exhibit XVI. Committee agrees that all wood stubbing work is exclusive to PG&E crews.

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

#### **Area 5 – Electric T & D – Tracy 16087**

This grievance challenges the contracting of street light maintenance work in the Tracy area without offering optimum voluntary overtime to regular employees in Tracy. No Notice of Intent to Contract was filed. The contractor performed 8 hours per day for 29 days between August 17 and September 20, 2005 for a total of 152 hours.

The Company did provide an all hands overtime opportunities to the Tracy employees for work in Manteca on August 27, September 3, September 10, and September 17. All declined except for two employees who worked on September 17 in Manteca. No Tracy employee was charged for declining work in Manteca. The LIC report does not indicate whether there are employees regularly headquartered in Manteca or if this area is serviced by employees headquartered in Tracy. On August 31, September 8, and September 15, prearranged overtime was worked by one crew in Tracy conjunction with clearances or regularly scheduled jobs in progress.

There is a Street Light Maintenceman (SLM) at Stockton who works all over the Division. During the period in question, the SLM worked some weekends and declined some weekend overtime opportunities. The SLM was not offered the opportunity to work in Tracy. The SLM was assigned full time on straight time and had the some opportunity to change street lights on overtime.

Since the SLM was not offered the Tracy overtime for the six weekends in question. The parties agreed to an equity settlement in this case. The committee agreed to an equity settlement of 16 hours pay at 1.5 times the straight time hourly pay .

This case is closed per the above adjustment.

#### **Area 4 – Gas M & C – Fresno 18469**

The Company contracted out leak survey work. The Company submitted an intent to contract the work out on March 21, 2008. The LIC stated that the qualified Fieldpersons in the yard do not regularly sign the POT or EOT list. Three additional Fieldpersons completed the training in October. The work the contractors were performing was re-surveying work. It is not the intent of the supervisor to continue to use contractors and now has six employees trained to perform this work.

The Company and Union have continued to discuss this issue and have reach agreement on this work in Letter Agreement 09-02.

This case is closed without adjustment.

#### **Area 4 – Gas T & D 18399**

The Company contracted out a 30" 2.5 mile pipeline project and is using contract inspectors on the job. The Union argued that this is work normally performed and the Company is currently below their required headcount. The Company stated that we have not done this work in decades and do not have the staff or the equipment to perform the work.

This is the type of situation that was discussed in General Bargaining which resulted in the revisions to Exhibit XVI for Gas T&D. This issue is better addressed in the joint Company and Union contracting/staffing meetings.

This case closed without adjustment.

### **BUILDING SERVICES**

#### **Building Services – Fresno 17584**

The Company is requiring Building Services employees to perform clerical work which leads to the contracting of work normally performed by this work group. Work is assigned from the RMC to the Building Mechanics via a PDA system. Overtime is not an issue in this case. The two isolated incidences of contracting mentioned in the grievance were de minis in nature. The Company is tracking the hours for the Exhibit XVI Committee to ensure they are properly reported.

The committee agreed that there is no violation of the agreement and this case is closed without adjustment.

#### **Building Services – Fresno 18131**

The Company is using C. B. Richard Ellis to provide direction and work assignment to the Building Mechanics. The Union stated that management employees are performing bargaining unit such as the safety chairperson putting written instruction in with the fire extinguishers, employees have to empty their trash and maintenance of return air filters. The Union had a further concern that the intent to contracts has not been completed as required by Exhibit XVI and the company needs to fill additional positions.

The department is currently fully staffed and is working optimum overtime and the Company is submitting intents as required. The Exhibit XVI committee tracks the hours by using a formula method to track small and incidental work performed by contractors.

This case is closed without adjustment.

#### **Building Services – G.O. 17658**

The Union alleged that bargaining unit work is being performed by non-bargaining unit employees. The work in question was a Norcal employee moving a scanner. Large moves are done by Norcal and other items are sent through Service Express for assignment, either to PG&E employees or contractors.

There is no information in this case that provides any evidence of a violation of Exhibit XVI.

This case is closed..

### **General Construction – Paint 17505**

The Company contracted out the asbestos abatement and removal in and around the elevator shafts at 77 Beale Street. The question is whether this is work normally performed. The work in question asbestos removal and abatement has been done in some PG&E facilities most notable is the work in power plants. There has not been any evidence that the paint department performed work that is in the scope and magnitude of this job.

The Union argument in this case is that the Company did not fill out an "Intent to Contract" form and did not report the hours. The Company position is that it is not work normally performed.

This type of work will now be discussed in the newly formed contracting committee as a result of the recent General Bargaining settlement.

This case is closed ..

## **HYDRO GENERATION**

### **Southern Area Hydro – Balch Camp 17794**

The Company contracted out work without providing optimum overtime, not reporting hours and allowing the contractor to use company equipment. The grievants in question worked 21% and 24% overtime during this period. The Company has bargaining unit employees now inspecting the work, Intents to Contract we turned in and it was identified as an omission and hour are reported.

The Company has made the necessary corrections and is in compliance with the provisions of Exhibit XVI and this case is closed without further adjustments.

## **UNDERSTANDINGS of the PARTIES**

The parties agree to post these Exhibit XVI Principles and Work Normally Performed Matrix on Company's HR Intranet website and Union's website, and to update the information as necessary.

## **PRINCIPLES**

Exhibit XVI does not prohibit or limit Company from contracting out work under Arb 266.

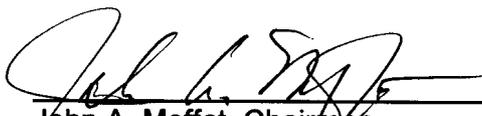
- If contracting out "work normally performed" by the bargaining unit, certain obligations are placed on the Company, starting with filing an Intent to Contract.
- Prior to contracting work normally performed, the Company must assess whether the work can be performed by existing employees on straight time and voluntary overtime within the needed time frame. If not, contracting is one option available to the Company. Others, including Hiring Hall, additional employees and forced overtime.
- Once the work is contracted there is no obligation to revisit that decision or to assign that work to the bargaining unit on straight time or overtime.
- Pay for work performed.

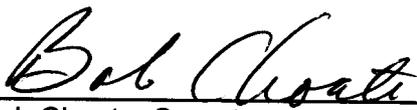
- To be considered a legitimate grievant, an employee must be signed-up to work pre-arranged overtime prior to and during contracting.
- There is no obligation to provide overtime once the decision to contract is made.
- There is no obligation to provide overtime just because there are contractors in a service territory.
- There is no obligation to provide overtime performing the same work as the contractors.
- There is no obligation to "make work" to be performed on overtime.
- Pre-arranged work must be managed so that employees are available for regular hours and emergencies.

**DEFINITIONS**

Work Normally Performed:

Dept.	Classification	Work Normally Performed	Document*
ITIS	Utility Worker- T200 or T300	Deployment and set-up of Personal Computers	PRC 17065
	Telecom Tech T200 or T300	Installation of internet connection.	PRC 17397
Elect T&D	Lineman T200 or T300	Wood pole replacement	PRC 16404 16064 RLC
Dept.		Work Not Normally Performed	
ITIS		Installation of MFD's	PRC 17397
Elect T&D		Chemically Treat Poles	PRC 15810
		Steel pole stubbing	PRC 18229

  
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 John A. Moffat, Chairman  
 Review Committee  
 6/4/10  
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 Date

  
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 Bob Choate, Secretary  
 Review Committee  
 6/4/10  
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 Date