

RECEIVED NOV 18 1993



REVIEW COMMITTEE

IBEW



PACIFIC GAS AND ELECTRIC COMPANY
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SAN FRANCISCO, CALIFORNIA 94177
(415) 973-8510

**CASE CLOSED
FILED & LOGGED**

NOV 18 1993

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(510) 933-6060
R.W. STALCUP, SECRETARY

RICK R. DOERING, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

Review Committee File No. 1762
Fresno Division Grievance No. FRO-93-03

James Drake, Company Member
Fresno Division
Local Investigating Committee

Frank Hutchins, Union Member
Fresno Division
Local Investigating Committee

Subject of the Grievance:

Discharge of a ten-year field person for a conduct violation, making personal phone calls on a company cellular phone.

Facts of the Case: The grievant, with 10 years of Company service and, a Fieldperson with an unremarkable employment history was terminated for a violation of 735.6.1 "Employee Conduct," use of a Company cellular phone for personal use.

The grievant was responsible of charges of at least \$2,378.07 in personal telephone calls.

Discussion and Disposition:

The Company argued that the employee admits that the cellular telephone was used for personal calls. This excessive use of the telephone caused the Company to incur costs of at least \$2,378.07. This is an abuse of a clear policy and exceeds any reasonable permissive standard of reasonable use. The local practice is clear, it is OK for employees who have cellular phones to make a few personal calls as needed as long as they are kept to a minimum. It is OK to use telephones as long as no costs are incurred for long distance charges.

Employees are responsible for their actions. The Company does not nor does it desire to police each and every employee action to prevent the employee from violating Company policies, nor does the Company believe a complete ban on Company telephone use is necessary.

The Union argued that the Company was not correct in discharging the grievant. There was no policy on excessive use, therefore, it is permissible to use the cellular phone just as other employees who were not disciplined. The Company was in error by not monitoring cellular phone usage so as to identify the excessive use early and therefore prevent the large volume and cost of the charges. The employee did not know there was a charge for the calls and could have stopped the behavior had the grievant known. A lesser level of discipline would have been appropriate.

The Committee agreed that a reasonable person should have known that costs were being incurred by the Company for using the phone in such a manner as did the grievant. The Committee further agreed that discipline is appropriate.

The Committee looked at a number of factors to determine if the level of discipline was appropriate. The grievant was given prior warning, a fair investigation, there was proof of wrong doing and the rule was reasonable. However, given the years of service, the employee's lack of discipline and the fact the Company did not detect the violation sooner, the Committee agrees to reinstate the grievant with the following conditions: No back pay; placed at the DML step for conduct effective the date the grievant returns; the grievant's service and benefits intact.

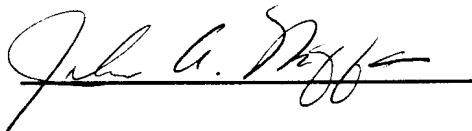
This case is closed without further adjustment.

FOR COMPANY

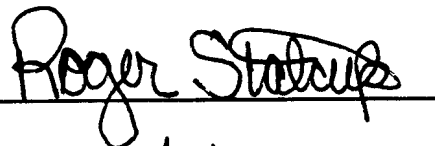
William G. McLoughlin
Lawrence F. Womack
Jane K. Yura
Rick R. Doering

FOR UNION

William R. Bouzek, II
Sherrick Slattery
James G. Lynn
Roger W. Stalcup

By: 

Date: 11/18/93

By: 

Date: 11/18/93