

Exh. XVI: Issue: "Union may be losing dues paying members during the period of non-compliance by the Co." Agreed that once the Exh. XVI Comm. determines that a dept. is out of compliance, the Co. will have up to 90 days following the filing of a grv. to get to the target staffing number, otherwise, Co. will pay dues to the Union calculated accordingly.



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MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

REVIEW COMMITTEE

RECEIVED by LU 1245
November 17, 2005

CASE CLOSED
FILED & LOGGED

IBEW



INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
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SALIM A. TAMIMI, SECRETARY

REVIEW COMMITTEE No. 15457 Business Manager's Grievance 04-03 OM&C - Electric T&D

Subject of the Grievance

The Electric T&D is out of compliance with Exhibit XVI. Attrition has occurred while utilization of contractors and hiring hall personnel exceeded 15%.

Facts of the Case

At the end of the fourth quarter of 2003, the department was in compliance with Exhibit XVI. The rolling 12-month contracting average was 18.17% and the actual headcount and target headcount were both at 2506.

At the end of first quarter of 2004, the department was out of compliance with Exhibit XVI. The rolling 12-month contracting average was 18.59%, however, attrition had occurred with the actual headcount falling to 2476 (30 below the target of 2506).

The Union filed this grievance on October 21, 2004. The reason for the delay was that neither party was aware that the department was out of compliance until approximately 6 months after the fact. This is due to the extensive amount of detailed work which the joint Exhibit XVI Committee must complete in order to reconcile the data to determine the contracting percentage.

During the first half of 2005, the Company filled 215 positions in the Electric T&D department with another 113 in various stages of the filling process. Despite filling these positions, the Company has not been able to close the original gap of 30 positions. In fact, due to continued high turn over, especially due to retirements, the gap has grown.

Discussion

Item 6 of the Departmental Contracting Out of Work Provisions states:

"On a quarterly basis, the bargaining unit may only be reduced by attrition when the utilization of contract and hiring hall personnel has been at a 10% or lower ratio for the prior twelve months in that department, with the exception of Gas and Electric T&D which may be at a 15% or lower ratio for the prior twelve months."

At the outset, Company agreed it is not in compliance with the staffing requirements of Item 6, above. The Company noted, however, that it has taken great efforts to reach compliance. The Company has filled 7 times as many jobs as the original gap (215 compared to 30).

Union noted that Electric T&D had been deficient in staffing levels since the July 2000 implementation of Exhibit XVI; that it took until October 2003 to come into compliance and then almost immediately thereafter the headcount started to decline below the target. The problem was compounded by failure to hire in sufficient numbers during 2004.

The parties discussed how to interpret and apply the staffing requirements of Exhibit XVI. Company indicated that the process is a backwards look, that is, being out of compliance is an after the fact realization. When the numbers fall below the target, there has to be a recovery period.

As a side issue, the parties noted that the Exhibit XVI Committee agreed to a standard hourly rate of \$85 for pole replacement work to calculate the number of contractor hours. In order to accurately reflect the increase in costs, this standard rate (and any others used in other departments) should be increased annually by the Exhibit XVI Committee beginning in January 2005. Company believes that an adjustment to accurately reflect the increase in costs will not have the effect of reducing the contracting to below 15%.

Decision

Exhibit XVI is silent as to a remedy when a department is out of compliance. The parties recognize that the Company needs a reasonable amount of time to come back into compliance, but also recognizes that the Union may be losing dues paying members during the period of non-compliance. In order to address both of these issues the Committee agrees to the following:

The parties agree that once the Exhibit XVI Committee determines that a department is out of compliance, the Company will have up to 90 days following the filing of a grievance to come into compliance, that is, to get to the target staffing number. If at the end of 90 days, Company is still not in compliance the following remedy shall apply:

Company will pay dues to the Union. The dues will be calculated based on the top rate of the Utility Worker classification, converted to a monthly rate (weekly rate x 4.33), times the number of positions understaffed at the end of each month, times 1.14%. In this specific grievance, the dues liability begins effective January 31, 2005 and will continue monthly until the department reaches compliance.

This case is closed on the basis of the foregoing and the adjustment contained herein.

For the Company:

Margaret A. Short
Bob Lipscomb
Dave Morris
Craig Porter

For the Union:

Sam Tamimi
William R. Bouzek
Louis Mennel
Sherrick A. Slattery

By: Margaret Short

By: Sam A. Tamimi

Date: 11/17/05

Date: 11-17-05

