

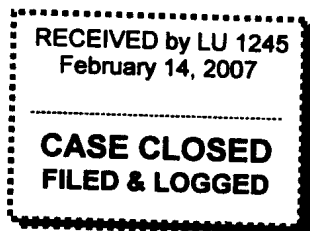
Exhibit XVI: Agrees that the Co. has until 12/31/06 to reach Exh. XVI compliance in the Station, Substation, & Hydro Construction department when the Co. has contracted in excess of 20%, but not filled sufficient vacancies. If compliance is not reach by that time dues liability will begin and continue monthly; in addition, the Co. will notify the Union when any remedy payment is made.



REVIEW COMMITTEE



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BOB CHOATE, SECRETARY

MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

**REVIEW COMMITTEE No. 16963
Business Manager's Grievance No. IR-IBEW 06-06
Station, Substation, and Hydro Construction**

Subject of the Grievance

This grievance alleges a violation of Exhibit XVI, Contracting. Specifically, that Station, Substation, and Hydro Construction (SSH) has contracted in excess of 20%, but not filled sufficient vacancies to be compliant with the provisions of the labor agreement.

Facts of the Case

This grievance was filed on September 28, 2006. At the end of 4th Quarter 2005, SSH had been contracting 30.22% over the preceding 12-month period. The actual headcount in the department is 512. Based on the amount of contracting, to be compliant with Exhibit XVI, the department needs to fill an additional 48 positions.

Item 5 of the Departmental Contracting Out of Work Provisions states:

"On a quarterly basis, Company shall hire additional bargaining unit employees in the event hours worked by hiring hall personnel and contractors exceed 20% of the total number of hours worked by bargaining unit employees for the previous twelve months. The number of employees to be hired will be equivalent to the numbers of hours worked by contractors and hiring hall personnel in excess of 20% divided by 2080."

Discussion

At the outset, Company agreed that given the 30.22% contracting and the formula in item 5 above, the department must fill an additional 48 positions to reach compliance. The Company pointed out that it is currently filling 65 positions, including 50 Utility Workers and 15 Apprentices. Additionally, the SSH regular workforce has grown from the initial compliance target of 420 to the current actual number of 512.

Union noted that the department had previously been found in violation of Exhibit XVI in RC 14489 for contracting in excess of 20% without filling sufficient positions. Since the closure of that case in December of 2004, the department has continually contracted in excess of 20%. The Union expressed frustration in the Company's typical response that job requisitions have been submitted.

The Committee reviewed RC 15457. In that case, the parties agreed 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. If at the end of 90 days, Company is still not in compliance, the 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 applying this remedy to this specific grievance, any dues liability begins effective December 31, 2006 and will continue monthly until the department reaches compliance.

The Committee had further discussion regarding what affect changes to the contracting percentages might have on reaching compliance. The Committee agreed that a decrease in contracting would reduce the number of positions to be filled (one position for every 2080 hours). Likewise, an increase in contracting would increase the number of positions to be filled (one position for every 2080 hours). In the case of an increase, the Company would have an additional 90 days to fill the incremental increase.

Decision

The Committee agrees that the Company has until December 31, 2006 to reach Exhibit XVI compliance in the SSH department. If compliance is not reach by that time, dues liability will begin and continue monthly until the department reaches compliance. The Company will notify the Union when any remedy payment is made. This case is closed on this basis.

For the Company:

Margaret A. Short
Bob Lipscomb
Dave Morris
Craig Porter

For the Union:

Bob Choate
William R. Bouzek
Louis Mennel
Sherrick A. Slattery

By: Margaret Short

By: Bob Choate

Date: 1/25/07

Date: 1/25/07