



REVIEW COMMITTEE

IBEW



PACIFIC GAS AND ELECTRIC COMPANY
LABOR RELATIONS DEPARTMENT
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INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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ROBIN WIX, CHAIRPERSON
 DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

KIT STICE, SECRETARY

Review Committee Number 24270 Gas Operations–Gas T&D– Morgan Hill

Maria Eggert
Company Member
Local Investigating Committee

Casey Barker
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the alleged bypass of a Utility Construction Inspector for promotion to a Construction Inspector pursuant to Letter of Agreement (LOA) 14-39.

Facts of the Case

The Grievant was hired in 2015 and on September 29, 2016, accepted a vacancy as a Utility Construction Inspector.

In September 2014 the Company and the Union signed LOA 14-39 to consolidate certain classifications and establish new classifications within the General Construction (GC) Gas Department job definitions and lines of progression. New job definitions for the Inspector classification were developed (and are the only relevant classifications in this case.)

LOA 14-39 provides in pertinent part, “The parties agree that... mandatory NACE CIP Level 1 training certification requirements will be made part of the Inspection classifications where applicable.”

LOA 14-39 further provides under the heading “Construction Inspector”, “The Inspector will be required to obtain and maintain NACE CIP Level 1 certification as part of their job duties...”

In September 2016, Grievant indicated and signed his Temporary/Permanent Upgrade Form for Construction Inspector as, “Employee is interested; however, he is not qualified.”

On June 13, 2017, Grievant indicated and signed his Temporary/Permanent Upgrade Form for Construction Inspector as, “Employee is interested; however, he is not qualified...” and added the following comments, “Ready to learn and advance my career. Able to obtain NACE when Company provides training.”

On June 15, 2017, two co-workers of Grievant's, both Utility Construction Inspectors, were promoted to Construction Inspectors; both co-workers were NACE CIP 1 certified.

As this case progressed through the grievance procedure, the Grievant obtained his NACE 1 certification. Subsequently, the Company and the Union entered into LOA No. 18-05 which increased the certifications required for a Construction Inspector, including API 1169 and NACE CIP 2.

Discussion

The Union argued the language in LOA 14-39, specifically allowed Grievant to bid into the new Construction Inspector classification because of the following, "The Inspector will be required to *obtain* and maintain NACE CIP Level 1 certification as part of their job duties." (Italics added.) According to the Union, the language does not preclude Grievant from being able to bid into the job and then obtain his NACE certification after his promotion to Construction Inspector. The Union further urges the Company to provide Grievant with training for both new certifications under LOA 18-05.

The Company argued that when management decided to fill the two vacancies both employees who were promoted had their NACE CIP Level 1 certification prior to promotion whereas Grievant did not.

Decision

The Committee discussed this case at length and agreed that, notwithstanding the language within LOA 14-39 with respect to filling a vacancy, Section 305.5 of the collective bargaining agreement provides relevant language to settle this grievance, specifically, (a) & (c) as noted below.

(a) *In the case of **each such promotion** such preferential consideration shall first be given to that employee who qualifies under the provisions of Section 306.9, then to that employee who has the greatest Service and is at the top rate of pay in the classification next lower in the normal Line of Progression to the one in which the vacancy exists, provided that the employee is **fully qualified** to perform the duties of the job which is vacant, and provided further that the employee is headquartered in the area in which the vacancy exists. As used herein, the term "area" means the geographic promotion-demotion area established by agreement between Company and Union as indicated in Exhibit II, General Construction Promotion-Demotion Geographic Areas, which is attached hereto and made a part hereof. (Amended 1-1-88)*

(c) *A permanent upgrade form shall be used so that **employees can indicate interest in and qualification for permanent upgrade to classifications higher** in the normal Line of Progression. Such forms shall be signed and dated by the employee and the employee's supervisor, following which a copy of the completed form shall be returned to the employee. Such form shall remain in effect until either the employee is promoted to a higher classification or for one year from the date signed by the employee. An employee may revise and resubmit a permanent upgrade form at any time. (Added 1-1-91)*

This case is not new to the grievance procedure and parties agree that employees who indicate an interest in becoming qualified for promotion to a classification next higher in the normal Line of Progression will be given the opportunity to become qualified based section 305.5 and based on seniority.

Given the new training requirement of LA 18-05, the Committee agrees to settle this case as follows:

The Company agrees that the Grievant has submitted his interest in promotion to Construction Inspector classification and has requested the required training. The NACE CIP 2 and API 1169 training are to be provided by the Company within a reasonable timeframe. If the Grievant is successful in obtaining the certifications and he is the most senior qualified employee pursuant to section 305.5 when a vacancy is to be filled, the Grievant will be awarded the position. Based on this decision, this case is settled and closed.

For the Company:

For the Union:

Robin Wix 7-17-19
Robin Wix, Chairperson Date
Review Committee

Kit Stice 7-17-19
Kit Stice, Secretary Date
Review Committee