



ESC Local 20 PG&E Steward Training Module 4: Jurisdiction

Why is jurisdiction important?

- Job Security
- Job Quality
- This is YOUR job that you were trained for

ESC is a union of professionals. Our work jurisdiction is the control we have over the standard of work we perform. If we allow others to do our work, we cannot vouch for the quality of the product.

The Union is a “bargaining unit” at PG&E because of the Nation Labor Relations Board recognition, listed in section 3.1 of the Contract. Bargaining Unit, a very common legal term, is commonly abbreviated BU and non-bargaining Unit is NBU. ESC has only one bargaining unit at PG&E, called “Professional and Technical;” IBEW has two bargaining units: Physical and Clerical. There is also a bargaining unit of security guards at DCPD only which is represented by the union SEIU.

Loss of jurisdiction is sometimes called “erosion of the Unit. Erosion of the Unit can occur when work that is the jurisdiction of the Unit is eliminated, assigned to others outside of the Unit (i.e. managers or contractors) or positions are not filled when they become vacant. It takes constant vigilance to maintain the Union’s jurisdiction. Stewards are often the first to know a jurisdictional issue.

Staffing decisions are generally a management prerogative, but the contract provides that use of temporary employees or non-bargaining unit employees not cause an erosion of the unit.

Management may introduce new work procedures. It is vital to assert jurisdiction when appropriate. Otherwise it can lead to an erosion of the Unit.

Management rights: Sections 27.1 & 27.2 of the contract

From 27.1: Management of the Company is vested exclusively in the Company, including:

- direct and supervise
- hire, promote, demote, transfer
- suspend and discipline or discharge for just cause
- plan, direct and control operations
- lay off for lack of work or other legitimate reasons
- to introduce new or improve methods or facilities

...provided, however, that all of the foregoing shall be subject to the provisions of this Agreement, arbitration, or Review Committee decisions or letter agreements or memorandums of understanding clarifying or interpreting this Agreement. (Added 7/1/72)

From 27.2: (a) **Non-unit employees shall not perform work usually assigned to bargaining unit employees** except ...

- (1) emergency situations,
- (2) training of employees and demonstrating work methods,
- (3) work which is incidental to their assigned duties and de-minimus.

Work performed by non-unit employees under the circumstances listed above shall not cause an erosion of the unit through demotion, layoff or attrition. (Amended 1/1/88)

(b) Outside Contractors: The Company may, at its discretion, assign such work to outside contractors provided that such contracting out shall not, within 120 calendar days of the letting of such contract, cause a layoff or demotion in rate of pay by reason thereof of any employee in the bargaining unit who is engaged in the same type of work or activity as that involved in the work which was contracted. Before contracting out work normally performed by bargaining-unit employees, Company will offer and schedule overtime so long as it is economically feasible and operational time constraints can be met. (Added 1/1/00).

(c) Temporary Agencies: The Company may use the Services of temporary agency personnel provided that in the exercise of such right the Company will not make a contract with any company or individual for the purpose of dispensing with the Services of employees who are covered by the bargaining Agreement. The following guidelines will be observed;

- (1) Where temporary services are required for a limited period of time **not to exceed 120 calendar days**, such as an emergency situation or for a specific special function.
- (2) Where the regular employees at the headquarters are either not available or normal work loads prevent them from doing the work during the time of the emergency or special function situation. The Union Business Representative in the area should, if possible, be informed of the Company's intentions before the agency employees commence work. (Added 1/1/88)

(d) A monthly salaried exempt employee may be assigned unit work as part of the employee's career development training program for the sole purpose of familiarization with the work for a period not to exceed a maximum **career total of 90 calendar days**. Such training assignments shall not be utilized for the purpose of circumventing the authorization of additional bargaining unit positions or to avoid permanently filling vacant bargaining unit positions. (Added 1/1/83)

Other people doing your work

1) What is your work?

The unit's jurisdiction is "work usually assigned to bargaining unit classifications". That is usually described by the Contract in job descriptions. Other documents that can describe the unit's jurisdiction are:

- Contract – job descriptions for hourly positions are in Exhibit D (part of the main contract), job descriptions for Monthly positions are in Appendix 1 (not printed with the main book)
- Review Committee Decisions
- Labor Management Committee minutes
- Letter of Agreements
- Past Practice
- Agreed-to training programs (especially for ESC jobs with short job descriptions in Exhibit D)
- Work procedures, manuals and job aids

2) IBEW: Clerical or Physical

Some work is exclusively ESC. Some work is shared with management or other BU's (i.e. the IBEW). When ESC work is assigned to a non-ESC employee, do not grieve the employee, grievance is always against supervisor for directing or permitting non-ESC employees to perform BU work.

3) Supervisors and Managers and non-supervisory non-union employees (27.2)

There are limited exceptions that allow supervisors and managers to do BU work:

- "De minimis" rule of thumb: 15 minutes– except for specified new groups (some of those organized after 2009)
- Emergency. Not all storms are Emergencies. In fact, storms are predictable and regular events, and PG&E has emergency operating plans to prepare for them. Unless the storm is such a magnitude that "all hands on deck" is declared, the union jurisdiction remains in place and every employee should follow their storm duties.
- Training

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- Note: Many groups have “entry engineer” language that allows more than 90 days of doing BU work for training.

In any case BU work done by NBU cannot cause an erosion of the unit.

4) Other ESC employees (example Local Headquarter Estimator vs. RMC Estimator, Project Manager or Land Agents)

Other ESC employees doing your work are a different case than NBU doing your work. The work is staying in the BU, but by the contract the inappropriate classification may be assigned the work. There are a number of ways that the Union asserts internal jurisdiction. Keep in mind that there is often shared jurisdiction between classifications and that the Union may choose not to assert internal jurisdiction.

Ways to address internal jurisdiction:

- Talk to your co-workers. Attempt to settle internally before going to supervisors.
- Do not grieve the employee, always the supervisor.
- Internal jurisdiction can also be enforced by upgrade grievances or qualifications for that work.

5) Outside Contractors.

The Contract permits contracting (outsourcing), with some restrictions. There can be no erosion of the Unit within 120 days of contracting. The Union asserts that management is supposed to use overtime before contracting out. The Union also challenges the distinction between “Contractors” and “Temporary Agencies” employees. The Legal distinction between legitimate contractors and temporary agency staff is based on the following factors:

Legitimate Contractor (27.2.b)	Temporary Agency (27.2.c)
How to identify	
Works off site Has own clerical support, email address and phone Own supervisors assign work at daily/weekly level Goes to other company staff meetings Works under a large scope contract Ex: PG&E hires Bechtel to design an entire new substation	PG&E provides office space, email address, phone and clerical support PG&E supervisors (or employees) assign and check their work Gets frequent direction and guidance from PG&E personnel Works on many little projects and is always around Comes to PG&E staff meetings Trained by PG&E personnel Ex: PG&E uses Agile1 to supply two

	Project Controls Analysts who support PG&E employees
What contract says	
Company may use such contractors. Only two limiting factors: 1. no layoff or demotion within 120 days 2. offer and schedule OT to BU employees first	Only can be on-site for 120 days Cannot be used to dispense with services of BU employees

6) Hiring Hall

Staffing is the preferable solution, but often agency employees are converted to Hiring Hall. Hiring Hall is a contractual way for PG&E to bring on temporary employees (but not within 120 days of a layoff).

- Hiring Hall are temporary employees (no seniority or bidding). They are either retired PG&E employees or “off-the-street” hires who enroll in the hall and must meet the requirements of the position (meaning the PTB and Tech Test for Estimator and Mapper positions)
- HH are for a specific HQ. They cannot move to other HQ’s.
- Open to all classifications including Leads, if there are no bidders for temporary Lead assignments
- The HH agreement has provisions that provide for overtime for estimators and mappers that incent staffing
- One year limit except when: company can’t fill position, fill behind employee, training for estimators.
- HH are paid per the provisions of Exhibit C and also receive health insurance (a limited plan, not the same as regular employee benefits) or \$8.22/hr in lieu of benefits.
- Retirees may not want to work as Hiring Hall, because they cannot maintain their retiree health insurance while working for PG&E. In this case, ESC has a contract with the firm Canus who will dispatch those employees.

7) Reporting of Outsourced Work

“Workload Oversight” is a requirement for management to report all outsourced work on a quarterly basis. Management reports for each project the name, date of contract, amount of work measured in FTE’s (Full Time Equivalents), and the reason for outsourcing for many ESC groups. These contracting reports are presented and discussed at the quarterly Labor-Management meetings (for Design, Engineering, ATS, and DCPD).

If you are told to do work outside your classification

8) Higher Classification Upgrade

- Extra pay: 2.5% or bottom of rate if higher weekly classification, 5% or bottom of rate if higher monthly classification (Title 15.3)
- Upgrade opportunities should be offered by seniority (Title 21.7(b))
- Upgrades lasting longer than 6 months trigger creation of a new job (Title 15.3(d))
- What is a "higher classification." Compare the salary maximum of both classifications.

Upgrades outside of Bargaining Unit

- Less than 10 days ("Timecard" basis): 5% upgrade, you get meals and OT per union contract. More than 10 days (old "yellow tag"): no guarantee of 5% but you get what you negotiate. Their progression in training programs is put on hold. They still pay dues but are not represented for purposes of discipline. They can return to their previous non-upgrade position at any time. Employees on upgrade outside of BU may not perform BU work. (see 1987 contract cover letter)

9) Not higher classification work

- General rule is "work now, grieve later". Steward should challenge inappropriate assignments. This often can stop the infraction, but always avoid insubordination. Contact union rep to discuss if a grievance should be filed.
- You CAN refuse an unsafe work assignment
- Be Creative! Show your boss why the assignment is a "joke".
- Challenge PG&E on standards or safety.