

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
Washington, DC 20590**

Locomotive Engineer Review Board

Decision Concerning
Northeast Illinois Regional Commuter Railroad Corporation's
Revocation of Ms. B. Castile-Munoz's
Locomotive Engineer Certification

FRA Docket Number EQAL 2012-12

Decision

The Locomotive Engineer Review Board (Board) of the Federal Railroad Administration (FRA) has reviewed the decision of the Northeast Illinois Regional Commuter Railroad Corporation (Metra), to revoke Ms. B. Castile-Munoz's (Petitioner) locomotive engineer certification (certification) in accordance with the provisions of Title 49, Part 240 of the Code of Federal Regulations (49 CFR part 240). The Board hereby determines that Metra's decision to revoke Petitioner's certification was proper for the reasons set forth below.

Background

On December 20, 2011, Petitioner was the engineer on Metra Train 403 operating on Main Track Number 2 in a westward direction between Chicago and Joliet, Illinois. At approximately 07:25, Petitioner allegedly passed a yellow flag at Mile Post (MP) 13 and proceeded past MP 14 at excess speed. Trainmaster M. H. Yock and District Superintendent M. T. Husar had placed the flag there as part of a General Code of Operating Rules (GCOR) operational test and Metra System Timetable No. 2. The test was specifically directed toward compliance with Rules 5.4.2 Display of Yellow Flag and 5.4.2B Restriction Is Not Specified in Writing. Petitioner's speed was measured at approximately 65 miles per hour (MPH) at MP 13 and 76 MPH at MP 14, well in excess of the maximum allowable speed limit of 10 MPH. Trainmaster Yock stopped Petitioner at Blue Island Station at MP 15.7 and accompanied her in the operating cab of train 403 to Joliet, where she was relieved from duty.

By letter dated December 21, 2011, Metra notified Petitioner that her certificate had been suspended for violating 49 CFR § 240.117(e)(2) by failing "to adhere to limitations concerning train speed when the speed at which the train was operated exceeds the maximum authorized limits by at least 10 mph." On January 10, 2012, Metra held a formal hearing to investigate Petitioner's responsibility in this incident.

At the hearing, Trainmaster Yock testified that Petitioner had passed the yellow board and had not acknowledged it by calling the road dispatcher. Tr. 19. He testified that, using a radar gun,

he had measured Petitioner's speed at 66 MPH when she passed the flag. Tr. 21. The maximum allowable speed at this location was 10 MPH. Tr. 25. After determining that Petitioner had failed an operational test, he boarded her train strictly as an observer and not as a member of her crew, when it proceeded to Joliet. Tr. 25-26.

Superintendent Husar testified that Metra had downloaded the video from the camera and the data from the event recorder on Petitioner's train. Tr. 52. Photographs from that video showed the yellow flag to be in plain view at MP 13 and event recorder data showed Petitioner's speed to be approximately 76 MPH when she proceeded across 119th Street at MP 14, where the test required her to proceed at a speed not exceeding 10 MPH. Tr. 52-53, 68. Metra policy requires a responding supervisor to determine whether an engineer who has committed a violation is fit to operate to a location where a relief engineer is available, whenever an occupied passenger train is occupying the main track. Tr. 71. Trainmaster Yock examined Petitioner and determined that she was fit for duty. Tr. 80.

R. Tague, Metra Supervisor of Engineers, testified that he arrived at Blue Island after the Petitioner returned from Joliet at which time he took Petitioner's certificate after determining that she had committed a rule violation. Tr. 88.

During her testimony, Petitioner stated that she was qualified on GCOR provisions. Tr. 103. She admitted that she did not comply with the requirement to reduce her speed because she did not see the yellow flag. Tr. 49, 90, 104.

By letter dated January 19, 2012, Metra notified Petitioner that her certificate had been suspended for 30 days for violating GCOR Rule Nos. 1.1, 1.1.1, 1.6(1)(2), 1.47(B)-item 1; Rule 5.4.2(B) of Metra System Timetable No. 2, and 49 CFR § 240.117(e)(2).

Petitioner timely filed a Petition for Review by letter dated February 27, 2012 (Petition). Petitioner asserts that the revocation was improper because:

- (1) Metra showed a disregard of the well-being of both Petitioner and her passengers by requiring her to continue operating to Joliet, an additional 25 miles after her operational test failure, particularly since Blue Island contained a number of places to yard her 600 foot train.
- (2) Metra should not have required Petitioner to operate under the observation of Trainmaster Yock, who was not a certified engineer.
- (3) Metra should not have allowed Petitioner's train to proceed while Trainmaster Yock was on board using a cell phone.

Pursuant to 49 CFR § 240.405(b) and (c), a copy of the Petition was sent to Metra on March 12, 2012 and the railroad was afforded an opportunity to comment for response. Metra submitted a response to the Petition by letter dated May 10, 2012. The letter responded to each of Petitioner's assertions.

Board's Determination

Based on its review of the record, the Board has determined that:

- (1) On December 20, 2011, Petitioner was the engineer on Metra Train 403 between Chicago and Joliet, Illinois. Ex. C.
- (2) At 07:25 hours, Petitioner's train was speed checked with a radar gun and found to be traveling approximately 65 MPH when it passed a yellow flag at MP 13 and 76 MPH at MP 14, well in excess of the maximum allowable speed limit of 10 MPH. Tr. 21, 52-53, 68.
- (3) Petitioner was charged with violating § 240.117(e)(2) for exceeding the maximum allowable speed by more than 10 MPH, and with numerous Metra and GCOR rule violations.
- (4) Metra suspended Petitioner's certificate and a formal hearing was held on January 10, 2012.
- (5) Petitioner signed a December 20, 2011 statement admitting that she had "got past an unspecified flag around Mile Post 13." Tr. 90.
- (6) Photographs downloaded from the train's video camera showed that the yellow flag was clearly visible, and data downloaded from the event recorder indicated Petitioner's speed to be approximately 76 MPH at MP 14. Tr. 52-53.
- (7) Petitioner admits that she did not see the yellow flag and that she proceeded at speeds in excess of the maximum authorized speed. Tr. 104; Petition at 3.

Analysis of the Petition

In reviewing a petition of a revocation decision, the Board considers whether substantial evidence exists to support the railroad's factual findings in its decision for revocation under FRA's regulations. See Fed. Reg. 18982, 19001 (Apr. 9, 1993). The Board finds that Metra has presented substantial evidence that Petitioner violated 49 CFR § 240.117(e)(2), including Petitioner's admission that a violation occurred. Tr. 49, 90, 104. The assertions made in the Petition, although critical of Metra's actions following the violation, do not refute that a violation occurred or assert that Metra did not have substantial evidence to support its revocation decision. Accordingly, the assertions made in the Petition cannot sustain a finding that the revocation decision was improper.

Conclusion

Based on the above findings, the Board hereby denies the petition in accordance with the provisions of Title 49, Part 240 of the Code of Federal Regulations.

Issued in Chicago, IL on **AUG 27 2012** .

A handwritten signature in blue ink, appearing to read "Richard M. McCord", is written over a horizontal line.

Richard M. McCord
Chairman,
Locomotive Engineer Review Board

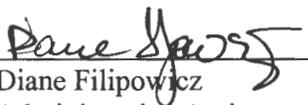
SERVICE LIST EQAL 2012-12

A copy of the Locomotive Engineer Review Board decision in this matter has been sent by certified mail to each person shown below.

Ms. B. Castile-Munoz
816 Pomeroy Street, Unit 101
Naperville, IL 60540

Mr. M. A. Taylor
General Chairman
BLET-Division 815
23800 Kurt Lane
Crete, IL 60417

Mr. D. N. Cook
Assistant Superintendent - Rock Island District Operations
Northeast Illinois Regional Commuter RR Corporation (Metra)
414 S. LaSalle Street
Chicago, IL 60605



Diane Filipowicz
Administrative Assistance

AUG 27 2012
Date

enc: Post LERB Memo

cc: FRA DOCKET EQAL 2012-12

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Ms. B. Castile-Munoz
816 Pomeroy Street, Unit 101
Naperville, IL 60540

EQAL 2012-12

2. Article Number (Transfer from service label) 7011 0470 0002 3685 7966

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1. Article Addressed to:

Mr. M. A. Taylor
General Chairman
BLET-Division 815
23800 Kurt Lane
Crete, IL 60417

EQAL 2012-12

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1. Article Addressed to:

Mr. D. N. Cook
Assistant Superintendent - Rock Island District Operations
Northeast Illinois Regional Commuter RR Corporation (Metra)
414 S. LaSalle Street
Chicago, IL 60605

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2. Article Number (Transfer from service label) 7011 0470 0002 3685 8734

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