



Brotherhood of Locomotive Engineers and Trainmen

A Division of the Rail Conference — International Brotherhood of Teamsters

NATIONAL LEGISLATIVE OFFICE

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JOHN P. TOLMAN

Vice President and

National Legislative Representative

November 2, 2006

Docket Clerk
DOT Central Docket Management Facility
Room PL-401
400 7th Street, SW (Plaza Level)
Washington, DC 20590-0001

Re: Docket No. FRA-2006-25794

Dear Docket Clerk:

On August 15, 2006, Quantum Engineering, Inc. (“Quantum”) petitioned the Federal Railroad Administration (“FRA”) for a waiver from compliance with the requirements of 49 CFR Section 232.403(g)(2). *See* FRA-2006-25794-1 (“Petition”). On September 26, 2006, FRA published notice of the filing of Quantum’s petition, soliciting comments thereon from interested parties. *See* FRA-2006-25794-3.

These comments are submitted by the Brotherhood of Locomotive Engineers and Trainmen, a Division of the Rail Conference of the International Brotherhood of Teamsters (“BLET”), which is the duly designated and recognized collective bargaining representative for the craft or class of Locomotive Engineer employed on all Class I railroads. BLET also represents operating and other employees on numerous Class II and Class III railroads. Consequently, Quantum’s petition would have a significant impact upon our members. For the reasons set forth below, BLET opposes granting the requested relief.

Section 232.403 sets forth design standards for one-way end-of-train (“EOT”) devices. The provision from which Quantum seeks relief, mandates that if radio equipment “power is supplied by one or more batteries, the operating life shall be a minimum of 36 hours at 0°C.” 49 CFR § 232.403(g)(2).

Earlier this year, Quantum filed a petition for waiver of compliance from this very same section. *See* FRA-2006-23751-1. In that petition, Quantum sought to “reduce battery capacity by eliminating one of the two batteries from Quantum’s current EOT device.” *Id.* at p. 1. A waiver of Section 232.403(g)(2) was necessary in order for Quantum to reduce battery capacity, because

DOT Docket Clerk
November 2, 2006
Re: Docket No. FRA-2006-25794
Page 2

testing disclosed that the operating life of a single battery after the loss of train line air was only 18 hours; half that required by FRA's regulation. Id. at p. 2.

We filed comments setting forth our opposition to Quantum's petition on March 30, 2006, including voicing a concern that it was possible for a train to be left on the line of road without markers if the battery charging system failed shortly after the train departed its initial terminal. *See* FRA-2006-23751-3. On July 26, 2006, FRA granted Quantum's waiver, in part.¹ *See* FRA-2006-23751-5. In response to our concerns, FRA pointed out that

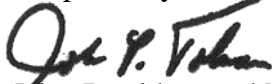
49 C.F.R. § 232.407(f)(2) requires that the batteries of EOT devices "be sufficiently charged at the initial terminal or other point where the device is installed and throughout the train's trip to ensure that the [EOT] device will remain operative until the train reaches its destination." Railroads that fail to meet this standard can be held strictly liable for such failure.

Id. at p. 2.

Now, only three weeks after persuading FRA to allow a single battery with only half the required operating life, Quantum proposes to develop another two-battery system. However, the operating life of the battery of this new system would be a mere twelve hours. Petition at p. 2. This is one-third less than the just-approved single battery, and is a mere third of what is required by Section 232.403(g)(2).

Given current capacity issues throughout the industry, a 12-hour battery standard not only makes it likely that trains will be operating without markers; it makes such events inevitable. Indeed, capacity would be exacerbated by the extent to which batteries having an operating life of only one-third of that required by regulation fail to permit an EOT to remain operative until the train reaches its destination. Accordingly, we strongly urge FRA to deny Quantum's petition.

Respectfully submitted,



Vice President and National Legislative Representative

cc: Don M. Hahs, National President
Thomas A. Pontolillo, Director of Regulatory Affairs

¹ That portion of the petition denied by FRA is not involved in the instant petition.