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MSHA V. UNITED STATES STEEL MINING  
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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION  
WASHINGTON, DC  
June 12, 1985

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA)

v. Docket No. PENN 82-299

UNITED STATES STEEL MINING  
COMPANY, INC.

BEFORE: Backley, Acting Chairman; Lastowka and Nelson,  
Commissioners

DECISION

BY THE COMMISSION:

This civil penalty case arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 et seq. (1982), presents the question of whether United States Steel Mining Company, Inc. ("U.S. Steel") violated 30 C.F.R. 75.1003, a mandatory safety standard dealing with the guarding of trolley wires. 1/ A Commission administrative law judge concluded that U.S. Steel violated the standard and assessed a civil penalty.

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1/ 30 C.F.R. 75.1003 repeats the statutory standard at section 310(d) of the Mine Act, 30 U.S.C. 870(d), and provides in part:

Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings, and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately:

(a) At all points where men are required to work

or pass regularly under the wires;

(b) On both sides of all doors and stoppings; and

(c) At man-trip stations.

The Secretary or his authorized representatives shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

(Emphasis supplied).

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5 FMSHRC 1752 (October 1983)(ALJ). We granted U.S. Steel's petition for discretionary review. 2/ For the reasons set forth below, we affirm the judge's decision.

On June 3, 1982, an inspector of the Department of Labor's Mine Safety and Health Administration ("MSHA"), William R. Brown, conducted a regular health and safety inspection at U.S. Steel's Maple Creek No. 1 underground coal mine. During the inspection, Inspector Brown, accompanied by U.S. Steel's assistant mine foreman, John Pacsko, rode the mantrip to the 8 Flat 56 Room section of the mine. Inspector Brown observed the mantrip (also referred to as a "trolley" or "portal bus") stop to discharge miners at a location which he believed to be approximately 100 feet beyond a designated mantrip station, which placed the mantrip under an energized and unguarded 550-volt trolley wire. 3/

The unguarded trolley wire at this location was approximately six and a half feet from the mine floor and directly over the mantrip operator's head. After the mantrip stopped, the inspector observed the mantrip operator stand up in the bus, removed the pole from the overhead wire and hook the pole to the end of the mantrip; this procedure is commonly referred to as "dogging" the pole. The inspector believed that while dogging the pole the operator was in danger of contacting the energized unguarded trolley wire. Based upon his observations, the inspector cited U.S. Steel for a violation of section 75.1003 in that "there was no guarding provided at the mantrip station in the 8 Flat 56 Room section."

At the hearing, Assistant Mine Foreman Pacsko testified initially that the mantrip "didn't go beyond the portal bus station [mantrip station]. It was the end of the wire." Tr. 91. In a follow-up question from U.S. Steel's counsel, however, Mr. Pacsko testified that the mantrip may have gone beyond the guarded area by "a foot or two, the length of the portal bus, but I don't think the operator himself went beyond the unguarded portion." Tr. 92. On cross-examination, Mr. Pacsko testified that there was guarding "[w]ithin a short distance after where he [the mantrip operator] parked the portal bus, the portal bus station that we always parked." Tr. 94-95. Mr. Pacsko further stated on cross examination that the location where the citation was issued was the place where they "always" parked and left the mantrip until the end of the shift. Tr. 95.

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2/ The hearing in this case before the administrative law judge also involved citations for alleged violations of other safety

standards. However, we limited review to the issue of whether a violation of 30 C.F.R. 75.1003 occurred.

3/ Guarding of trolley wires at the subject mine typically consists of six-inch wide wooden boards placed approximately eight inches apart on either side of the trolley wire.

The judge concluded that U.S. Steel violated section 75.1003. 5 FMSHRC at 1754. The judge credited Inspector Brown's testimony that the mantrip stopped approximately 100 feet beyond the designated mantrip station to discharge miners. In accepting the inspector's testimony, the judge noted Mr. Pacsko's testimony that the mantrip may have gone beyond the station by "a foot or two." The judge stated that the hazard posed by the violation was that the mantrip operator was likely to contact the energized, unguarded wire. The judge found, "The operator had to stand to dog the pole, and the wire was head high." Id

The primary purpose of the guarding requirement in section 75.1003 is to prevent miners from contacting bare trolley wires. As noted above, this standard repeats section 310(d) of the Mine Act, 30 U.S.C. 870(d), which, in turn, was carried over unchanged from section 310(d) of the 1969 Coal Act, 30 U.S.C. 801 et seq. (1976)(amended 1977). The legislative history of the 1969 Coal Act relevant to section 75.1003 reveals a strong Congressional concern with the hazards associated with bare trolley wires:

This section requires that trolley wires and trolley feeder wires be insulated and guarded adequately at doors, stoppings, at mantrip stations, and at all points where men are required to work or pass regularly.... Also, this section would require temporary guards where trackmen or other persons work in proximity to trolley wires and trolley feeder wires. The Secretary or the inspector may designate other lengths of trolley wires or trolley feeder wires that shall be protected.

... The guarding of trolley wires and feeder wires at doors, stoppings, and where men work or pass regularly is to prevent shock hazards.

Because of the extreme hazards created by bare trolley wires and trolley feeder wires, the committee intends that the Secretary will make broad use of the authority to designate additional lengths of trolley wires and trolley feeder wires that shall be protected.

S. Rep. No. 411, 91st Cong., 1st Sess. 77 (1969), reprinted in Senate Subcommittee on Labor, Committee on Labor and Public Welfare, 94th Cong., 1st Sess., Part 1 Legislative History of the Federal Coal Mine Health and Safety Act of 1969, at 203 (1975).

As the language of section 75.1003 specifies, in order to effectuate the purpose of the standard, guarding is especially necessary at mantrip stations. Miners are discharged at such stations and pass under trolley wire in the process. Further, a common hazard presented by unguarded trolley wire at a mantrip station is the possible shock hazard to the mantrip operator when he stands to remove the trolley pole from the overhead wire.

Thus, the purpose of section 75.1003 and the hazards against which it guards are clear. In pertinent part, the standard provides, "trolley wires and trolley feeder wires shall be guarded adequately ... at mantrip stations." The judge found that the location where the mantrip stopped was under unguarded wire. Substantial evidence supports this finding. Therefore, the specific question presented on review is whether the location where the mantrip stopped was a "mantrip station," at which trolley wire must be guarded. We answer that question in the affirmative.

Crediting the inspector's testimony, the judge found the mantrip stopped at a point along the track 100 feet from the designated mantrip station and that miners disembarked from the mantrip and proceeded to their working places. The inspector also testified that the trolley bus operator "rode right to the spot." Tr. 80. Moreover, according to U.S. Steel's witness, Mr. Pacsko, the place where the mantrip stopped was not a random or one-time-only stopping place, but rather was the same location at which the mantrip "always did" stop. Tr. 95. Thus, we hold that a mantrip station can be established through routine or regular stopping practice, as well as by explicit designation. Such a construction of the standard is founded in the practicalities of daily mining operations and furthers the protective concerns of Congress cited above.

U.S. Steel argues that the effect of the judge's decision is to convert any location where a mantrip stops into a "mantrip station" requiring guarding of the trolley wire. Given the facts in this case, we need not resolve whether a random or one-time-only stop at a particular location would render that location a station within the meaning of section 75.1003. We hold only that where, as here, a location has become a stopping place for the disembarkment and embarkment of miners through regular usage, it is a "mantrip station" for purposes of the standard.

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Accordingly, we conclude that substantial evidence supports the judge's conclusion that the standard was violated. Therefore, insofar as the judge's decision is consistent with this decision, we affirm. 4/

Richard V. Backley, Acting Chairman

James A. Lastowka, Commissioner

L. Clair Nelson, Commissioner

4/ Pursuant to section 113(c) of the Mine Act, 30 U.S.C. 823(c), we have designated ourselves as a panel of three members to exercise the powers of the Commission.

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