

OVERVIEW						
PSR #	450639	INCIDENT DATE	03-18-2014	DATE RECEIVED	03-18-2014	
LINE/ROUTE	44	LOCATION	Evans / Newhall			
HEARING DATE	05-07-2014	HEARING TIME	2:00pm	HEARING LOCATION	1 South van Ness, 7 th Floor, Room 7074	
FORMAT (check box)			In person? <input checked="" type="checkbox"/>	By phone? <input checked="" type="checkbox"/>		
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]		
UNION REP	Name	Siegfried Henderson Willie Johnson	Division	Woods		
HEARING OFFICER	Name	George Milnovich	Telephone Number	7015455		
HEARING LOGISTICS						
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input type="checkbox"/>
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>	
	No	<input type="checkbox"/>		No	<input checked="" type="checkbox"/>	
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?	<i>recall day believe this can't i.d. purpose</i>		
	No	<input type="checkbox"/>				
COMMENTS						
<p>C: AFR-AMER. Hair-dont recall. Approx 5'7" female 180 lbs. O: I didnt say anything when he paid 75¢. But when he asked for transp., I said this time, I'll allow it. C: when I heard I said hi disabled. I found it (disabled) and then she gave me transp. She rushed me. My problem</p>						
HEARING OUTCOME						
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	
			To be rescheduled	<input type="checkbox"/>		
Signature of Neutral Hearing Officer			Date			
<i>[Signature]</i>			07 May 14			

is the customer service-

O: He never showed me a customer board. i.d.
 I'm a 15 yr. professional.

**Administrative Hearing
PSR 450639**

Heard on 7 May 2014

Summary of Facts

The person named as the customer in the complaint appeared by telephone and identified himself orally as being the customer who lodged the complaint. The operator named in the complaint appeared personally and was identified as the operator named in the complaint by their patch and by the union representative, also present at the hearing. The customer is disabled. The customer claims that on his boarding the operator demanded that the customer pay the full adult (non-disabled) fare. The customer claims that he did not have his disabled identification card which qualifies him to pay the discounted fare with him at the time. The customer claims that the operator nevertheless accepted the discounted fare on the customer's assertion that he possessed a disabled persons transit card, but did so with an "attitude."

Rule

To be eligible for DISCOUNT fare, passenger must present one of the following:
Regional Transit Connection (RTC) Discount ID Card
Medicare Card (with Photo ID)
DMV Placard Registration Card (with Photo ID)
Transit Discount ID Card issued by another CALIFORNIA transit agency
Valid ID for Seniors (65 years of age or older) (*Municipal Railway Bulletin 08*)

Avoid disputes with any person, no matter what the provocation. (2.8.3, *Rules and Instructions Handbook, SFMTA*)

Discussion

The facts presented at the hearing raise two issues, one: did the operator by demanding a showing of a disabled identification card violate the rights of the customer and two: did the operator violate Muni rules by engaging in rude discourse with the customer.

As to the first issue, the fact that the operator made a demand for the showing disabled identification as a predicate for the acceptance of a disabled fare is not a violation of the Muni rules. Rather than acting in violation of the rule cited above, the operator was complying with the instruction of the rule by making the demand.

In the matter of the second issue, while the comments of the operator may have been somewhat direct, the facts presented represent a very short verbal exchange and one in which the comments of the operator did not rise to the level of insult or discourtesy to the customer. Additionally, the operator's comments did not refer to the customer's disability. Accordingly, no violation of Muni rules is found.

Decision

No violation of Muni rules is found in this case.


George Milinovich
Neutral Hearing Officer

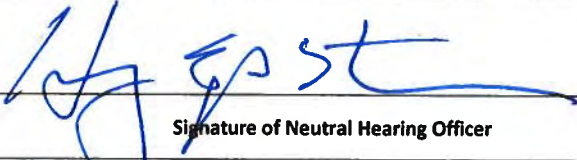
8 May 2014

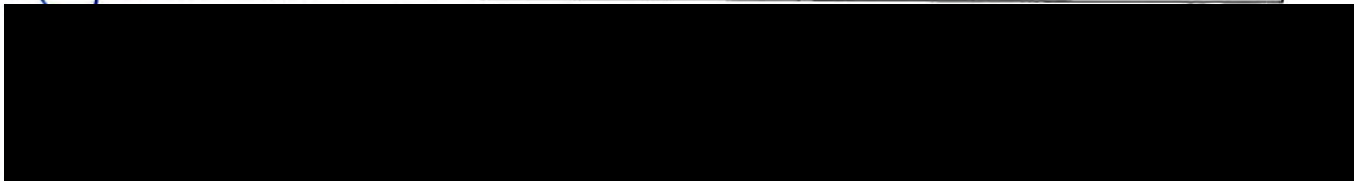
CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 44 O SHAUGHNESSY		Direction INBOUND
Incident Date 03-18-2014		Incident Time 20:24
Vehicle Number 8619		Location EVANS AVE NEWHALL ST SAN FF
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description African American, woman, heavy set, ponytail,		
<p>Incident Details Patron stated" I am disable she stop and I board the bus and I did not have my disable ID with me and I put in 75 cents and she look at me kind of stupid like I said Im disable and she said I dont care you need to pay the full fare, I told her I need to look at my stuff and she ignored me and I had to go through my stuff and my personal Id and then she gave the transfer with an attitude, very unprofessional like she owns the MUNI".</p> <p>4-4-1 [REDACTED] FTapia-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-18-2014		
Date Closed		
Resolution Code [REDACTED]		

NEUTRAL HEARING REPORT FOR ADA PSRs

SFMTA

Municipal Transportation Agency

OVERVIEW							
PSR #	450832	INCIDENT DATE	3-20-2014	DATE RECEIVED	3-21-2014		
LINE/ROUTE	38L	LOCATION	Geary Blvd. / 25 th Ave				
HEARING DATE	5-19-2014	HEARING TIME	1:30pm	HEARING LOCATION	1 South Van Ness, 6 th Floor, Room 6042		
FORMAT (check box)				In person?	<input type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Scott Ashley		Division	Flynn		
HEARING OFFICER	Name	Hepstein		Telephone Number	510.467.3679		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input type="checkbox"/>				
COMMENTS							
see attached							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
				6-6-14			
Signature of Neutral Hearing Officer				Date			



Neutral Hearing, regarding alleged Disability Rule Violation,
Room 6042, 11 South Van Ness, San Francisco, CA 94103

May 19, 2014,

PSR 450832

[REDACTED]
[REDACTED]
Scott Ashley ["Union Representative"]

Incident Date: March 20, 2014

Incident Time: 4:20 PM

Route: 38L Outbound

Patron, Operator and Operator's Union Representative appeared. Patron identified Operator acknowledged that he was a party to this incident.

I. PATRON TESTIMONY

Patron alleged that after standing behind the yellow line and holding onto the pole behind the Operator, the latter stood up and told him to sit down or get off the bus. When Patron refused, Operator called Central and stopped the bus. The police were called.

II. OPERATOR TESTIMONY

Operator testified that Patron stood behind him with one foot on the yellow line, and that he asked him to stand back. (Patron denied that his foot was on the yellow line.) Operator stated that there were two or more empty seats available to Patron on each side of the disabled section.

III. THE CD

A CD of the incident was available and reviewed by the Hearing Officer. It showed the following:

Patron boards bus from the back and sits in disabled seating. He gets up to give his seat to an older man. He later stands directly behind Operator. It is not clear if he is standing on the yellow line, but he is very close to Operator. Operator asks him to move back and when Patron refuses, Operator gets up and asks him to take a seat. There are empty seats available in the disabled section. Patron refuses, saying he does not have to move or sit down. They argue. Operator tells Patron to sit down or get off the bus. Operator calls Central for assistance and stops the bus.

IV. HEARING OFFICER ANALYSIS

Operator had two defenses: i) it was reasonable for him to believe that Patron's standing immediately behind him was dangerous for the Patron himself, in case of a short stop or lurch, and ii) he could reasonably fear that Patron would distract him from driving the bus safely. The hearing officer finds both of these defenses valid.

Operator might have told Patron to move back and hold on to another pole if Patron did not want to sit, but as he perceived the situation, it was not unreasonable for Operator to ask Patron to sit down. Patron testified that he had leg cramps and could not sit, but he did not make this known to Operator at the scene.

However, Operator acted hastily by telling Patron to either sit down or get off the bus - and stopping the bus when Patron refused to do either. In mitigation, Operator called Central for assistance in handling the matter, and although Operator became exasperated, Patron was belligerent towards him.

This incident does not constitute an ADA violation. Although Patron stated that he was a disabled veteran, Operator had no evidence of his disability. In a post-

hearing submission, Patron stated, "How did he (Operator) know I was disabled? He didn't until reading complaint."

As the video shows, and Patron recounted, he entered the bus from the second door and scanned his card. He then sat down in the disabled row, but gave up his seat to an elderly patron. Operator could not have inferred Patron's disability from this sequence. Thus, there is no evidence that Operator knew of Patron's disability and Operator did not act on the basis of Patron's disability, a requirement to find an ADA violation.

V. FINDING

By a preponderance of the evidence, the incident designated **PSR 450832** does not constitute an ADA violation.



Henry Epstein
SFMTA Hearing Section
June 6, 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 302 ALTERC: EMP/CUST
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 38L GEARY LIMITED		Direction OUTBOUND
Incident Date 03-20-2014		Incident Time 16:20
Vehicle Number		Location 25TH AVE GEARY BLVD SAN FRA
Department FLN OPS		Division FLYNN
Employee ID [REDACTED]		
Employee Physical Description african american male about 62 tall		
<p>Incident Details Patron states I boarded the bus at 19th Ave at Geary. I sat in the senior seats. I am a disabled veteran. There were other seniors older than me getting on. I gave up my seat to the senior. I was standing behind the yellow line holding onto the pole railing behind the driver. He stops the bus at 27th Ave. He stands up and looks to me and says Im only going to 33rd Ave you either have to sit down or get off the bus. I told him Im not sitting down or getting off the bus. I dont better do anything. I refused to sit down. I coming from work I was cramping up I did not want to sit down. I was only going up the street to 33rd Ave. The driver called central. He says "I have a passenger who refuses to sit down". They inform him to tell the passenger to sit down and or find a safe place to pull over and call the police. The police arrived they id me the Muni supervisor came and question me. They did not cite me they could not find what the problem was. I wanted to get back on the bus so the driver could take me to my stop. I did not do anything wrong. The driver wasted an hour of my time. I would like a hearing regarding this. I did not break the law I was not drunk or anything.</p>		
<p style="text-align: right;">MAY 19 1:30 IN PERSON</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-21-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	450965	INCIDENT DATE	3-24-2014	DATE RECEIVED	3-24-2014
LINE/ROUTE	22	LOCATION	16 th Street / Potrero		
HEARING DATE	04-25-2014	HEARING TIME	10:30am	HEARING LOCATION	1 South Van Ness, 6 th Floor, Room 6042
FORMAT (check box)			In person?	<input type="checkbox"/>	By phone?
					<input checked="" type="checkbox"/>
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	Robert M. Szinger <i>Brian Gordon</i>	Division	Potrero	
HEARING OFFICER	Name	<i>George Melnick</i>	Telephone Number	<i>7015455</i>	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
					<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?		Yes <input type="checkbox"/>	Did the operator verify the customer's identity?		Yes <input checked="" type="checkbox"/>
		No <input checked="" type="checkbox"/>			No <input type="checkbox"/>
Is this a rescheduled hearing?		Yes <input type="checkbox"/>	If yes, why?		
		No <input type="checkbox"/>			
COMMENTS					
<p><i>c:- Door was closed when we got there. Heard commens through glass. Sp-Am- man, late 40's, thin hair, short hair.</i></p> <p><i>op:- don't recall incident c: around 1045-1130 AM.</i></p> <p><i>op: Possible WFO-405 Area @ loc. F/B yes.</i></p>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
Signature of Neutral Hearing Officer			Date		
<i>[Signature]</i>			<i>29 APR 14</i>		

**Administrative Hearing
PSR 450965**

Summary of Facts

The persons appearing at the hearing were satisfactorily confirmed as being the same persons present on the date of the incident and named respectively as the customer and operator in the complaint. The customer made his appearance by telephone. The customer is disabled and uses a cane. The customer asserts that he and his daughter, after having disembarked another bus which had mechanical difficulties, walked up to the front door of the bus in question and were denied boarding. The operator responded that he had admitted passengers in the normal course of his run and closed the doors when he noticed additional customers approaching the bus. The operator claims that he opened the doors a second time and admitted those passengers, again closed the door and then resumed his run. The operator admits seeing the customer approaching his bus from the rear, but claims the customer had not reached the boarding area. Additionally, the customer claims that the operator used coarse language toward him, saying that the customer should have "...ran..." his "...ass...off," presumably for the customer to have been boarded by the operator.

Applicable Rules

Operator is prohibited from moving a coach or electric car when passengers are standing in front of the designated standing load line. *San Francisco Municipal Railway Rules and Instructions Handbook, Rule 4.18.1*

Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other. *San Francisco Municipal Railway Rules and Instructions Handbook, Rule 2.8.1*

Issue no. 1

Did the operator violate Muni rules by moving the coach when a passenger was waiting board as contemplated in rule 4.18.1, above?

Discussion

The claim of the customer and the response of the operator summarized above were considered when viewing the video record of the event. The video record, in addition to audio information, includes several views of the interior of the transit vehicle as well as the immediate environs of the bus along its right side where the customer was visible. Consistent with the operator's claim, the bus arrived at the bus stop and admitted two consecutive groups of passengers at the front door on two openings and closings of the doors. After closing the door after the second group of passengers, the operator began pulling away from the stop. At that time, nearing the rear doors of the vehicle from behind the bus, the customer is seen walking toward the front entrance. No evidence of

unreasonable haste on the part of the operator was evidenced in either of the aforementioned loadings of passengers.

Decision

The customer had not arrived at the stop in sufficient time for an obligation to arise in the operator to admit him. Accordingly, the operator did not violate the rule by failing to await the arrival of the customer.

Issue no. 2

Did the operator violate Muni rules by failing to engage in a polite and respectful manner with the customer?

The audio-video record is unrevealing of any harsh or obscene remarks by the operator. The operator is heard to inform the customer in a loud voice that he would have to take the next bus and that it would be along in a short time. While the advisement was loud and somewhat abrupt, given the circumstances, among these, the distance of the customers and the noise of the bus, the remark of the operator did not constitute disrespectful or impolite behavior.

Decision

Insufficient evidence of disrespectful or impolite behavior was found in the discourse of the operator to find that the rule was violated.

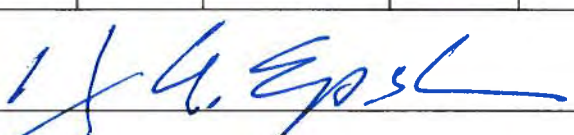
Notes

It is clear that the customer (and his daughter) were in a difficult position due to the impeded pace of the customer due to his disability. The operator could have delayed his departure and engaged in a third loading at the bus stop. Weighing against such an action by the operator are the need to stay on schedule, the fact that he accomplished two loadings and the fact that the bus line in question is one of great frequency which indicates a relatively short waiting time for the next bus.

The customer requested a copy of the audio-video record. The request was transmitted to and acknowledged by P. Vigil, ADA hearings coordinator.


George Milinovich
Neutral Hearing Officer

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 22 FILLMORE		Direction INBOUND
Incident Date 03-24-2014		Incident Time 10:49
Vehicle Number 5420		Location 16TH ST POTRERO AVE SAN FRA
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description male		
<p>Incident Details Patron states: Yes, I want Muni to respond to me on this complaint. I want whats being done to this operator! The inbound #22 that we took from Connecticut/16th had to end at 16th/Potrero as last stop due to mechanical issue, so everybody has to get off , ran and catch the bus across the street to continue. I am on a cane and travelling with a 4yr old girl. Theres another lady on cane too. As were hobbling our way towards that bus and got to the front door, operator said You should have ran your ass off, my door is open! Then he closed door and took off leaving us behind to wait for another bus! His vehicle no. is 5420. Thank you.</p> <p>3/27/14 PER PHONE CALL INTO PATRON @ 12:12PM HE WAS GIVEN NOTIFICATION OF REPORT RECIEVED ALONG WITH PSR, PATRON ALSO REQUESTED A HEARING.-MS</p>		
<p><i>HN SENT 4-7-14</i></p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-24-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	451962	INCIDENT DATE	4-9-2014	DATE RECEIVED	4-9-2014		
LINE/ROUTE	N Express	LOCATION	Judah / 34 th Ave				
HEARING DATE	5-19-2014	HEARING TIME	3:00pm	HEARING LOCATION	1 South Van Ness, 3 rd Floor, Rm 3075		
FORMAT (check box)				In person?	<input type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Siegfried Henderson		Division	Woods		
HEARING OFFICER	Name	H. Epstein		Telephone Number	510 967-3679		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input type="checkbox"/>
		No	<input checked="" type="checkbox"/>			No	<input checked="" type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input type="checkbox"/>				
COMMENTS							
<p>Patron adopted an intemperate, contemptuous tone which made it difficult for the hearing officer to elicit testimony or other evidence from him, e.g. time he boarded and where. Patron made collective accusation against MUNI operators but was not specific regarding the operator he accused. Patron called operator an "Asshole" and</p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
				<p>5-19-14</p>			
Signature of Neutral Hearing Officer				Date			

after warning by H.O. that he would have to be civil called the hearing officer a "jerk." Hearing officer terminated hearing because of incivility and the fact that Patron offered no information that could resolve the issues involved.

CUSTOMER DETAIL

Name [REDACTED]

Phone [REDACTED]

Email [REDACTED]

Address

INCIDENT DETAIL

Category INATTENTIVENESS/NEGLIGENCE

Type 207 REF KNEEL/LOW

ADA? X

Title VI? X

Other Disc.

Trapeze Line/Route N Express

Direction OUTBOUND

Incident Date 04-09-2014

Incident Time 17:30

Vehicle Number 8613

Location 34TH AVE JUDAH ST SAN FRANC

Department WDS OPS

Division WOODS

Employee ID [REDACTED]

Employee Physical Description Male, asian driver,

Incident Details Passenger stated, "Asked driver to kneel the bus & he had an attitude like I was putting him out. Do not understand why I have to ask & isn't the cane enough to let him know. Driver only kneel the bus 1/2 an inch. It only beeped twice & that's how I know it didn't kneel all the way down. This happens every single day would have to ask & most time they won't do it. Most of the time, they pretend they don't know English. Was told I was being a racist when asked another passenger at the disabled seat to let me sit there. Driver did not have a patch# on his sleeve but told me his id# 3116"

4-17-14 @ 1:17 PM

I called and spoke to him and he said that he has congested heart failure with cane-efl

4-23-14 email copy of the PSR to NWeingarten, Ftapia & GCarey-efl

Received: Tue 4/29/2014 12:31 PM

By: Wolther, Carol <Carol.Wolther@sfmta.com>

1479 was coupled to 1454 on the incident date, 4/23/14. 1479 did not report any door problems but 1454 did. The door hanger, a major component in the door system, was found to be defective and was replaced.

Thanks,
 Carol Wolther
 Chief Mechanical Officer, Rails
 (415) 337-2223 Office
 (415) 533-3597 cell
 (415) 337-2264 fax

AGENCY HANDLING AND RESOLUTION DETAILS

Date Logged 04-09-2014

Date Closed

Resolution Code [REDACTED]

OVERVIEW							
PSR #	451372	INCIDENT DATE	3-30-14	DATE RECEIVED	3-30-14		
LINE/ROUTE	31	LOCATION	Turk St. / Masonic St.				
HEARING DATE	5-5-2014	HEARING TIME	1:00pm	HEARING LOCATION	1 South Van Ness, 3 rd Floor, Rm 3074		
FORMAT (check box)				In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Michael Green		Division	Presidio		
HEARING OFFICER	Name	H. Epstein		Telephone Number	510 967-3679		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/> *
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?	Union rep. accepted that customer was a party to incident.		
		No	<input checked="" type="checkbox"/>				
COMMENTS							
<p>Union Rep. (in absence of operator) stated that bus must slow down to make turn ^{back to yard} without intending to stop when at end of shift. Hearing Officer verified that at time of incident, Operator was at end of shift (see Exbt. A) and would not be boarding more pass-</p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
Signature of Neutral Hearing Officer				Date			

engers. Thus, although slow-down & then apparent neglect to stop & pick-up, appeared as a violation. Pass-up to Patron, who so testified, it was not such a violation.

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 31 BALBOA	Direction OUTBOUND	
Incident Date 03-30-2014	Incident Time 00:49	
Vehicle Number 5520	Location MASONIC AND TURK/	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description NA		
<p>Incident Details Patron states "I just hopped off the 43 and the 31 was approaching. I waved to the bus and ran towards it in plenty of time to make it. The driver (I didnt see if ts was a male or female but the bus number was 5520) slowed down as if to let me on then just left me. I just made a simlilar Muni complaint and wonder why these drivers act like this. Im disabled and request an in person hearing."</p> <p>4-7-14 @ 4:27 PM I called and left a vm given his PSR # if he is still interested of hearing procedure-efl</p> <p>@ 4:45 PM patron called back given his address-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-30-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	451386	INCIDENT DATE	3-28-14	DATE RECEIVED	3-30-14
LINE/ROUTE	19	LOCATION	Aquatic Park		
HEARING DATE	5-14-14	HEARING TIME	11:45am	HEARING LOCATION	1 South Van Ness, 6 th Floor, Rm 6042
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	Barbara J. Brooks	Division	Kirkland	
HEARING OFFICER	Name	George Milunovic	Telephone Number	701 5455	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
Did the customer verify the operator's identity?	Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>
	No	<input checked="" type="checkbox"/>		No	<input checked="" type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?		
	No	<input type="checkbox"/>			
COMMENTS					
<p><i>C: h's film</i> <i>0311 report; 'customer detail,' inpa describes operator as "tall black American male" whereas operator present is Asian male.</i></p> <p><i>C: lie detector</i></p> <p><i>C: camera</i></p> <p><i>Customer affirmed the operator called & appearing in the operator complaint of</i></p>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
Signature of Neutral Hearing Officer			Date		
[Signature]			14 May 14		

CUSTOMER DETAIL

Name [REDACTED]

Phone [REDACTED]

Email

Address [REDACTED]

INCIDENT DETAIL

Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT

Type 301 DISCOURTESY

ADA? X

Title VI? X

Other Disc. X

Trapeze Line/Route 19 POLK

Direction OUTBOUND

Incident Date 03-28-2014

Incident Time 15:30

Vehicle Number 8217

Location AQUATIC PARK /

Department KIR OPS

Division KIRKLAND

Employee ID [REDACTED]

Employee Physical Description Tall Black African American male

Incident Details ADA Patron stated that I would like to report this incident that happened on March 28th 2014 at approximately between 330 and 4 o clock in the afternoon. I was mistreated, insulted, humiliated, denegated in front of all the passengers and I was also threatened and I was subjected to racial remarks. As I said I am disabled from upper to lower extremities and I have to depend on a walker with 4 wheels and brakes in order to balance and to walk in order to move around. As I waited on the bus stop at the Aquatic Park the Muni driver or operator yelled at me and asked me if I needed to have the platform down and I said yes and he started by making remarks and yelling and screaming at me saying that he didnt mind he didnt mind to lift the platform to help a person with a REAL wheelchair but that he did mind lifting the platform for someone who only walks with a walker and kept on going in a very aggressive way making remarks in front of other passengers . There was a point where I told him to stop yelling at me and he said you cannot say anything to me and if you say anything to me speak with clear English . I told him that I am disabled and he is not supposed to speak to me like that but he didnt care and kept on saying all kinds of horrible things to my person and as a human person I do not deserve to be treated like this by anybody. I dont know who the driver is. I dont know anybody in his family and I dont owe him any money in order to be treated in this miserable way . I felt disoriented, scared and threatened. I hope that this incident is filmed by the cameras that the Muni has inside the bus because that will be the solid evidence for me when I get to present this complaint to the management and Labor Relations of the SF Municipal Transportation.

AGENCY HANDLING AND RESOLUTION DETAILS

Date Logged 03-30-2014



Date Closed

Resolution Code [REDACTED]

NEUTRAL HEARING REPORT FOR ADA PSRs

SFMTA

Municipal Transportation Agency

OVERVIEW					
PSR #	448998	INCIDENT DATE	2-17-14	DATE RECEIVED	2-18-14
LINE/ROUTE	49	LOCATION	14 th St between 24 th St		
HEARING DATE	June 29, 15	HEARING TIME	10:00am	HEARING LOCATION	150 Van Ness Ave. 3 rd FL RM 3071
FORMAT (check box)			In person?	<input type="checkbox"/>	By phone?
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
OPERATOR	Name		Cap ID		
UNION REP	Name	Robert Gainer	Division	Potrero	
HEARING OFFICER	Name	<i>Hepsten</i>	Telephone Number	<i>510 967-3679</i>	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes
		No	<input type="checkbox"/>		<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>		<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input checked="" type="checkbox"/>	If yes, why?	
		No	<input type="checkbox"/>		
COMMENTS					
<i>See attached</i>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<i>[Signature]</i>			<i>6/30/15</i>		
Signature of Neutral Hearing Officer			Date		

Neutral Hearing, regarding Alleged Disability Rule Violation

Room 3071, 11 South Van Ness, San Francisco, CA 94103

June 29, 2015

PSR 448998

[REDACTED]
[REDACTED]
Robert Gainer ["Union Representative"]

Incident Date: February 17, 2014

Incident Time: 12:19 PM

Route: 49 Mission, Outbound

There was no video of this incident.

I. PATRON'S ALLEGATIONS

Patron admitted that the bus was crowded.

Patron alleged that when he tried to board at 14th and Mission Operator pointed to the rear door and would not open the front door for him. However, right afterward Operator opened the front door for a man using a walker who was standing behind Patron, and lowered the lift for him. Patron believed opening the door for the man with the walker but not for him was racially discriminatory because Operator and the man with the walker were both African American and he is not.

While Patron claimed he has a disability, he admitted that his disability is not evident. He testified that had Operator opened the front door for him, he would have informed her of his disability, and he would (presumably) have been able to board from the front. However, he admitted to not showing an RTC or Medicare card to Operator through the closed door or front windshield.

Patron stated that he ended up boarding at the rear door and got a seat near the rear door.

II. OPERATOR'S TESTIMONY

Operator stated that as she approached 14th and Mission with a crowded bus she spotted the man with the walker. She drew the bus to the curb to lower the lift and asked patrons in the front section to make room for him. Once at the curb, she opened all the doors.¹

Operator testified that because the bus was crowded she directed Patron to the rear of the bus, not having any evidence that he too was disabled. She cited SFMTA guidance requiring boarding of patrons requiring the lift before boarding other patrons.

Operator also testified credibly that she did not have enough room at the front of the bus to accommodate both Patron and the man with the walker, even after she asked patrons to make room for the latter.

IV. HEARING OFFICER ANALYSIS

The hearing officer has no authority to rule on a claim of racial discrimination. However, the salient factor in boarding the man with the walker in the front of the bus and pointing Patron to the rear door is that the man with the walker was evidently disabled and needed the lift, and Patron was not evidently disabled and did not appear to need the lift.

Patron believes that Operator should have routinely opened the front door for him so that he could have made known his disability to her. He believes he would then have been able to use the disability seats in the front of the bus.² However,

¹ The Union Representative testified that once the front door is open, all doors open automatically.

² However, this would have left one less seat available in the front and made it more difficult if not impossible to accommodate the man with the walker.

Operator testified that the bus was so crowded that a passenger or two had to stand over the yellow line in front.

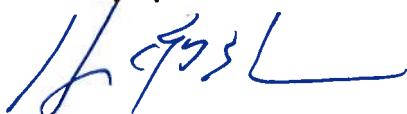
because she was trained to accommodate patrons in need of the lift, Operator focused on the man with the walker and gave him priority.

In the end, both disabled patrons were accommodated as both the man with the walker and Patron found a seat.

FINDING

By a preponderance of the evidence there is no disability-related rule violation, or other rule violation, in this case.

Henry Epstein

A handwritten signature in blue ink, appearing to read 'H. Epstein', written over the printed name.

Hearing Officer,

SFMTA Hearing Section

June 30, 2015

OVERVIEW					
PSR #	453765	INCIDENT DATE	5-11-2014	DATE RECEIVED	5-11-2014
LINE/ROUTE	49	LOCATION	Mission St. / 24 th St.		
HEARING DATE	6-6-2014	HEARING TIME	10:00am	HEARING LOCATION	1 South Van Ness, 6 th Floor, Rm 6042
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]
UNION REP	Name	Robert M. Gainer		Division	Potrero
HEARING OFFICER	Name			Telephone Number	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<i>per Chicago Card photo i.d.</i>	<i>per U. Rep. & self i.d. & potter</i>	<i>self i.d.</i>	
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>		No	<input type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?		
	No	<input type="checkbox"/>			
COMMENTS					
<p><i>Chrup: Potter 8390 new location in [REDACTED]</i> <i>C: 18th & mission</i> <i>O: I pulled into the stop</i> <i>C: I feel disrespected here because he had eye con-</i> <i>tact + he pulled forward causing me to walk "little further</i> <i>than from 6042 to lobby door. over?</i></p>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
<p><i>[Signature]</i></p>			<p><i>June 11, 2014</i></p>		
Signature of Neutral Hearing Officer			Date		

Administrative Hearing
PSR 453765

Summary of Facts

The customer and operator appearing at the hearing were satisfactorily confirmed as being the persons named in this matter. The customer and the operator each identified the other as being the person involved in the situation precipitating the complaint. Each made a personal appearance. A union representative was present. The customer is disabled and uses a cane. The customer complains that despite the operator having seen her position at the bus stop stopped the bus at a point beyond where she was standing making her have to walk a further distance within the bus stop to board. The customer also complains that another patron pushed by her and boarded ahead of her in a rude fashion. The customer claims that she was the object of discrimination and disrespect by the operator. An audio-video record of the incident was viewed at the hearing.

Applicable Rules

Cars and coaches will stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30 a.m. and 8:30 p.m. At other hours, in addition to the above, stops will be made for boarding passengers and on verbal request of alighting passengers at the nearside of streets between designated stops.. *San Francisco Municipal Railway Rules and Instructions Handbook, Rule 4.16.1*

Issue no. 1

Did the operator violate the Muni rule above stated or the Americans with Disabilities Act by not stopping in front of the awaiting customer?

Discussion

The customer states that she had to walk an additional distance of approximately 25 feet because the operator did not stop where she was waiting. The bus stop at the location in question is a multi-line bus stop which accommodates several buses. While the Muni rule above stated requires that buses be stopped at bus stops, the precise location within the bus stop is not definitively articulated. The accepted general practice is for buses to pull further into the bus stop in a longer bus zone, such as the one in question, to accommodate buses following on from the same or another line preventing intersection blocking or other traffic problems. The operator conformed to the aforesaid practice in this case. While this caused the customer to reposition herself for boarding, the distance involved was minimal given the circumstances and thus did not represent a substantial detrimental impact on the customer.

Decision

Since the operator acted in conformance with Muni rules and practices, no violation of Muni rules is found. Since no substantial damage to the customer was found, no violation of the Americans with Disabilities is found.

Notes

The actions of the other unnamed passenger at the bus top in boarding out of order ahead of the customer and possibly pushing the patron occurred outside of the vehicle, were not connected to the action of the operator and hence were not considered as an actionable claim in this case.



George Milinovich
Neutral Hearing Officer

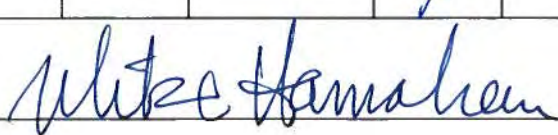
10 June 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT	Type 301 DISCOURTESY	
ADA? X	Title VI? X	Other Disc.
Trapeze Line/Route 49 MISSION/VAN NESS	Direction OUTBOUND	
Incident Date 05-11-2014	Incident Time 09:51	
Vehicle Number 7109	Location MISSION ST 24TH ST SAN FRANC	
Department POT OPS	Division POTRERO	
Employee ID [REDACTED]		
Employee Physical Description Latino, Male		
<p>Incident Details Patron stated, "He saw me with a cane and he was going to pass me over and he didnt want to allow me to get on the bus. Another person a man who was boarding was pushing me when I was boarding the bus. I want to file a report of discrimination the way he was treating was not fear. The driver was treating me different due to me and A.A disable female and what he was doing was not right. I want a ADA hearing and want to speak with someone in muni about this driver."</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 05-11-2014		
Date Closed		
Resolution Code [REDACTED]		

NEUTRAL HEARING REPORT FOR ADA PSRs

SFMTA

Municipal Transportation Agency

OVERVIEW					
PSR #	456334	INCIDENT DATE	06-24-2014	DATE RECEIVED	06-24-2014
LINE/ROUTE	14L	LOCATION	Mission St. / Silver Ave.		
HEARING DATE	7-22-2014	HEARING TIME	11:30am	HEARING LOCATION	1 South Van Ness, 6 th Fl. Rm 6042
FORMAT (check box)			In person?	<input type="checkbox"/>	By phone?
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]
UNION REP	Name	LVE Scott Ashley JONES		Division	Flynn
HEARING OFFICER	Name	MIKE HAWRAHAN		Telephone Number	415 201 5445
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>		No	<input checked="" type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?		
	No	<input type="checkbox"/>			
COMMENTS					
NO ADA OR MUNI VIOLATION. SEE ATTACHED.					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
			8-5-14		
Signature of Neutral Hearing Officer			Date		

Neutral Hearing Officer Report for ADA PSR # 456334

Patron stated on this occasion and several earlier ones he was unable to catch the inbound Mission 14L after getting off the westbound 44 O'Shaughnessy (intersection of Mission and Silver) because the operator of the 14L would not wait for him and other passengers to cross Silver Avenue.

The operator had no specific recollection of this incident and did not know there was a problem until contacted by Central Control. The Union Representative stated an operator may, as a courtesy, wait for someone who is not already at the bus stop but it is important they maintain their schedules particularly on a heavily traveled line such as the 14 Mission.

Finding:

After consulting with a disability access professional and reviewing the Muni ADA guidelines, I find there is no ADA violation or Muni rule violation. Operators do not have a duty to wait for any patron who is not waiting to board Muni at the bus stop.

Mike Hanrahan

Neutral Hearing Officer

Mike Hanrahan 8-5-14

CUSTOMER DETAIL

Name [REDACTED]

Phone [REDACTED]

Email [REDACTED]

Address [REDACTED]

INCIDENT DETAIL

Category INATTENTIVENESS/NEGLIGENCE

Type 201 PASSUP/DIDNT W8

ADA? X

Title VI?

Other Disc.

Trapeze Line/Route 14L/14X MISSION

Direction INBOUND

Incident Date 06-24-2014

Incident Time 15:34

Vehicle Number 6208

Location MISSION & SILVER/

Department FLN OPS

Division FLYNN

Employee ID [REDACTED]

Employee Physical Description Male appeared to be Asian

Incident Details Patron stated " On numerous occasions this is the 3rd time I called on this issue. The corner of Silver and Mission. When the 44 bus is disembarking at the same time a 14L is at the stop sign. The 14L never wait for the passngers to disembark and get on there bus. The bus driver even threw up his hands liek to say what the hell. Because he obviously didnt care that there were a bunch of people going from the 44 bus to the 14L. And he took off. This happen at least the 2nd time I called on this very issue. I never heard back from you guys this is unacceptable. Especially as a person with disabilities."

7-9-14 @ 8:59 AM

I called and left a message sending her an invite for hearing procedure-efl

AGENCY HANDLING AND RESOLUTION DETAILS

Date Logged 06-24-2014

Date Closed

Resolution Code [REDACTED]

NEUTRAL HEARING REPORT FOR ADA PSRs

SFMTA

Municipal Transportation Agency

OVERVIEW

PSR #	455749	INCIDENT DATE	06-13-1406-13-14	DATE RECEIVED	
LINE/ROUTE	19	LOCATION	Polk St. / Sutter St.		
HEARING DATE	7-29-14	HEARING TIME	3:30pm	HEARING LOCATION	1 SVN 6 th Floor, Room 6042
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input checked="" type="checkbox"/>	
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	Barbara J. Brooks	Division	Kirkland	
HEARING OFFICER	Name	George J. Linnrich	Telephone Number	701.5317	

HEARING LOGISTICS

ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>
				NO ABSENT		
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>	
	No	<input type="checkbox"/>		No	<input type="checkbox"/>	
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?			
	No	<input type="checkbox"/>				

COMMENTS

u.p. I don't believe this is an ADA bus. Customer was on street.
C: ID. male, 6'-6"2", sunglasses, beard, grey, heavy set, grey hair - no maybe hearing. Saw him on the 19 a lot.

HEARING OUTCOME

Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
Signature of Neutral Hearing Officer				Date			
<i>[Signature]</i>				<i>01 August 31 July 14</i>			

Are you disabled? yfs, Jim Hansen, appd (C)
C: no doors opened @ stop. Room at back: possibly a seat or open. Admits front full. Admits Standers to 4 children standers.

**Administrative Hearing
PSR 455749**

Summary of Facts

The person appearing at the hearing was satisfactorily confirmed as being the customer referenced in this matter. The operator did not appear. The union representative was present. The customer is disabled. The customer complains that the customer was prepared to board the bus when it stopped on a red light at the bus stop where the customer was waiting. On perceiving that the operator was not admitting passengers at the stop, the customer walked over to the window of the operator and requested entry. The operator refused to admit him claiming that the bus was full. When the light turned green, the bus proceeded forward without boarding the customer. The customer testified at the hearing that while there were numerous standees in the bus and that the rear area of the bus was not visible to the customer, there was still sufficient room to admit him.

Applicable Rules

Operators on Cable Cars, coaches, and electric cars, in revenue service, or on pull-out and pull-in trips, are to stop for intending passengers, when there is room enough to board, except as follows:

[in pertinent part:]

B. When coach or electric car is loaded to capacity
Rules and Instructions Handbook, Rule 4.17.1

Issue no. 1

Did the operator violate Muni rules by refusing to board the customer?

Discussion

The audio and video record of the time immediately preceding the incident was obtained and reviewed. The seats in the bus are seen in the audio and video record to be occupied with standees populating the bus from the front to the rear. The evidence accordingly supports the position of the bus driver submitted by the union representative at the hearing that the bus was full and that the operator did not act in violation of Muni rules in denying boarding to the customer.

Decision

No violation of Muni rules is found.

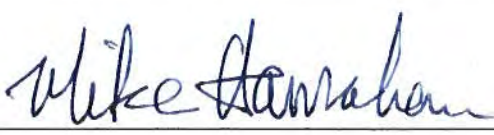
Notes

It is noted that the customer was required to wait according to his testimony approximately 20 minutes for the succeeding bus to complete the customer's journey.


George Milinovich
Neutral Hearing Officer

1 August 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 19 POLK		Direction OUTBOUND
Incident Date 06-13-2014		Incident Time 16:44
Vehicle Number 8206		Location POLK ST SUTTER ST SAN FRANC
Department KIR OPS		Division KIRKLAND
Employee ID [REDACTED]		
Employee Physical Description male, wears sunglasses, goete, gray hair, heavy set side		
<p>Incident Details Intending ADA patron states that "operator stopped at the bus stop but wont open the door. There are still plenty of room at the back. I was in front of the bus and I talked to the operator on the window side of the operator asking why he wouldnt open the door and operator responded that the bus was full. I was telling the operator that the bus was not full. When the light turns green, I moved away and went back to the sidewalk".</p> <p>7-8-14 @ 11:33 AM called for Michelle Enciso of Kirk Div was out and spoke to Kenneth that this report needs to be reopen cause it was closed on 6-23-14 by her for it is an ADA hearing requested PSR-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 06-13-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	456854	INCIDENT DATE	7-3-14	DATE RECEIVED	7-3-14		
LINE/ROUTE	14	LOCATION	16 th St/Mission				
HEARING DATE	9-17-14	HEARING TIME	10:00am	HEARING LOCATION	1 SOUTH VAN NESS, 6th FLOOR RM 6042		
FORMAT (check box)				In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Robert M. Gainer		Division	Potrero		
HEARING OFFICER	Name	MIKE HANRAHAN		Telephone Number	701-5445		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input type="checkbox"/>	Union Rep?	<input type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input type="checkbox"/>
		No	<input type="checkbox"/>			No	<input checked="" type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input checked="" type="checkbox"/>	If yes, why?	UNAWARE OF REASON		
		No	<input type="checkbox"/>				
COMMENTS							
OPERATOR DID NOT APPEAR - NOR DID UNION REP. CONDUCTED HEARING WITH PATRON PRESENT - WATCHED VIDEO OF INCIDENT TOGETHER. SEE ATTACHED.							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
				9-20-14			
Signature of Neutral Hearing Officer				Date			

Neutral Hearing Officer Report for PSR# 456854

Patron complained that operator did not ready securement area for her wheelchair nor did he offer to assist with securement. Video of event shows operator lowering lift for Patron and no exchange of words between them when Patron boarded. Another patron briefly assisted complainant. Video does not show evidence of wheelchair lurching as a result of bus movement. Patron acknowledged she did not ask for assistance from the operator.

Finding: Operators are required to assist wheelchair using patrons when asked – at present there is no requirement that assistance be offered. No ADA violation.

Mike Hanrahan 2/20/14

Mike Hanrahan

Neutral Hearing Officer

CUSTOMER DETAIL		
Name [REDACTED]		
Phon [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category UNSAFE OPERATION		Type 108 GEN CARELESS OP
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 14 MISSION		Direction INBOUND
Incident Date 07-03-2014		Incident Time 20:30
Vehicle Number 7108		Location 16TH STREET & MISSION STREE
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description Mexican, Male,		
<p>Incident Details patron stated that " the patron is in a wheelchair and the patron got on the bus and the driver did not lift up the seat for the patron where the wheel chair would go". patron stated that " patron was in the middle of the isle and the driver drove off without securing the patron to the bus". patron stated that " the patron did not have the brake on and almost rolled to the front of the bus". patron stated that "another patron had to come and secure the patron to the bus in the wheelchair area and then the patron who was female called up to the driver and told the driver that the driver was to be securing the patron to the bus". patron stated that "the bus driver did not say anything and kept moving on". patron stated that " when the patron started to get off the bus at 6th street and mission the patron told the driver that the patron was going to report the driver and the driver said go ahead my number is 4543".</p> <p>7-16-14 email copy of the PSR to sarita.britt@SFMTA.COM; brent.jones@sfmta.com and to BBadasow-efl</p> <p>7-24-14 @ 11:52 AM I called and spoke to patron given her address to send the hearing invite: [REDACTED]</p> <p>- @ 11:55 AM I spoke to Sari and said Mr. Brent Jones is in a meeting. I told her to pass the message that I needed to reopen the report because it is an ADA hearing requested that he closed on 7-22-14-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 07-03-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	457054	INCIDENT DATE	7-8-14	DATE RECEIVED	7-9-14		
LINE/ROUTE	30	LOCATION	Kearny / Market				
HEARING DATE	Aug. 19, 2014	HEARING TIME	3:00 PM	HEARING LOCATION	1 SOUTH VAN NESS, 3 rd FLOOR RM 3075		
FORMAT (check box)				In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Michael Green		Division	Presidio		
HEARING OFFICER	Name	MIKE HAURAHAN		Telephone Number	701-5445		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input type="checkbox"/>	Operator?	<input type="checkbox"/>	Union Rep?	<input type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input checked="" type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input checked="" type="checkbox"/>	If yes, why?	PROPERLY RE-SCHEDULED DO NOT KNOW WHY RE SCHEDULED		
		No	<input type="checkbox"/>				
COMMENTS							
EGREGIOUS BEHAVIOR BY OPERATOR. BOTH ADA AND MUNI RULES VIOLATION. SEE ATTACHED.							
HEARING OUTCOME							
Valid	<input checked="" type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
Mike Haurahan				9/20/14			
Signature of Neutral Hearing Officer				Date			

Neutral Hearing Officer Report for PSR# 457054

After boarding and showing his disabled pass Patron said operator began making disparaging remarks about him because he had boarded before a wheelchair user – specifically he said operator called him “rude”. Patron said after operator continued to insult him he went to front of bus and asked operator for her badge number but she refused to give it to him. Patron then stated the operator stopped the bus and announce it would not continue unless patron got off. After going one more stop patron said operator stopped bus again and repeated announcement. Patron said after 20-25 minutes a Muni Supervisor appeared who immediately gave him operator’s badge number. Patron then debarked. Patron stated he was late for work as a result of delay.

Union rep said at prior hearing neutral hearing officer had said matter was dropped because Patron did not appear. Operator admitted she “was rude”.

To this date I have not received the video of this incident.

Finding: Patron’s testimony was not contradicted by the operator. Prior hearing officer’s “drop” of the matter not dispositive – the hearing officer was unaware that the hearing had been re-scheduled. Operator was extremely rude and discourteous to a patron she knew to be disabled. Not giving patron her badge number and stopping the bus and demanding that he leave because he asked her for her badge number was extraordinarily unprofessional behavior by this operator. Both ADA and Muni rule violations.

Mike Hanrahan 9/20/14

Mike Hanrahan

Neutral Hearing Officer

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT	Type 306 GEN UNPROF CONDU	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 30 - 45 STOCKTON - UNION	Direction OUTBOUND	
Incident Date 07-08-2014	Incident Time 10:15	
Vehicle Number	Location KEARNY/MARKET	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description Female, approx. 58", 140#, black		
<p>Incident Details Arriving at its designated stop, the 30 Stockton bus doors open. I immediately step aboard, scan my Disabled Pass and seat myself. Behind me, a wheelchair using passenger and a man accompanying him request access via the buss lift. As they wait for the lift to present, the MUNI Operator accesses appropriate seating area and prepares ("folds") seats into position. As she does so, she makes several comments to me to the effect that I am "rude" for failing to allow a wheelchair using passenger to board ahead of me. I make no response.</p> <p>After the wheelchair using passenger is aboard, Operator continues to make disparaging, insulting statements at me from her position in Drivers Seat. Sensing that I am being provoked, I make a point of not responding in any manner. However, the Operators continued comments seem to have the affect of encouraging the passenger accompanying the wheelchair using passenger to begin his own stream of invective. With the intent of ceasing this process I walk to the front of the bus and quietly ask the Operator to provide her MUNI ID number. My request is necessary because the Operator is wearing "non-MUNI uniform" clothing, specifically, she is wearing a beige "hoodie-style" sweatshirt which totally obscures any MUNI clothing she may be wearing beneath this sweatshirt. Operator refuses to provide her ID number. She then declares that "This is MY bus," and orders me to debark. I state that I will exit the bus as soon as she allows me to view the MUNI Employee ID number on either her uniform or badge. She declares "I dont have to show you anything," even when I state that it is my belief that MUNI rules require her to provide her ID number at the request of a customer.</p> <p>I want to be be clear; in my judgement, this MUNI Operator was escalating the situation. She could have resolved the situation by either proceeding along the route or providing me with her MUNI ID number. Likewise, I made a decision to not allow her to "get away" with being insolent, provocative and willfully unaccountable to me, a reasonable, politely behaving and paying MUNI passenger. She made the situation a challenge to her personal authority, I responded by promising to respect her authority on the condition that she accept responsibility for her actions in exercising that authority (ie. Provide positive identification).</p> <p>At this time, the Operator began fomenting antipathy towards me by declaring to both on-board and</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 07-09-2014		
Date Closed		
Resolution Code [REDACTED]		

Arriving at its designated stop, the 30 Stockton bus doors open. I immediately step aboard, scan my Disabled Pass and seat myself. Behind me, a wheelchair using passenger and a man accompanying him request access via the buss lift. As they wait for the lift to present, the MUNI Operator accesses appropriate seating area and prepares ("folds") seats into position. As she does so, she makes several comments to me to the effect that I am "rude" for failing to allow a wheelchair using passenger to board ahead of me. I make no response. After the wheelchair using passenger is aboard, Operator continues to make disparaging, insulting statements at me from her position in Drivers Seat. Sensing that I am being provoked, I make a point of not responding in any manner. However, the Operators continued comments seem to have the affect of encouraging the passenger accompanying the wheelchair using passenger to begin his own stream of invective. With the intent of ceasing this process I walk to the front of the bus and quietly ask the Operator to provide her MUNI ID number. My request is necessary because the Operator is wearing "non-MUNI uniform" clothing, specifically, she is wearing a beige "hoodie-style" sweatshirt which totally obscures any MUNI clothing she may be wearing beneath this sweatshirt. Operator refuses to provide her ID number. She then declares that "This is MY bus," and orders me to debark. I state that I will exit the bus as soon as she allows me to view the MUNI Employee ID number on either her uniform or badge. She declares "I dont have to show you anything," even when I state that it is my belief that MUNI rules require her to provide her ID number at the request of a customer. I want to be be clear; in my judgement, this MUNI Operator was escalating the situation. She could have resolved the situation by either proceeding along the route or providing me with her MUNI ID number. Likewise, I made a decision to not allow her to "get away" with being insolent, provocative and willfully unaccountable to me, a reasonable, politely behaving and paying MUNI passenger. She made the situation a challenge to her personal authority, I responded by promising to respect her authority on the condition that she accept responsibility for her actions in exercising that authority (ie. Provide positive identification). At this time, the Operator began fomenting antipathy towards me by declaring to both on-board and waiting MUNI customers that she would not drive any further on the route unless/until I debarked or the police arrived to resolve the situation. The Operator "held" the bus at the stop for approx. 20-25 minutes, all the time declaring to any who would listen that her actions were compelled by me. During this time the Operator engaged in multiple communications from whomever she is designated to request support. I and several other passengers were "audible witnesses" to her demanding, belligerent and condescending (and increasingly loud) communiques. Eventually she allowed many patrons to board the bus and drove further on the route, specifically to the next designated stop, where she again began "suggesting" passengers debark and board subsequently arriving buses, again emphasizing that she was not going to proceed because of me. To be sure, at this point I have not spoken with or to the Operator for at least 20 minutes. It also seems pertinent to state that I never, at any time, acted in a way that could be considered disrespectful, argumentative, threatening or violent toward the Operator or any passenger. To continue, at this stop (Sutter, just before Stockton) a man wearing a uniform and badge I believe identified him as a MUNI Security Officer boarded the bus and approached me. I honestly felt welcoming towards him and initiated conversation by telling him that I had, several times, promised the bus Operator that I would exit the bus immediately if only she would display her uniforms MUNI ID

OVERVIEW					
PSR #	458112	INCIDENT DATE	7-29-14	DATE RECEIVED	7-29-14 <i>Please</i>
LINE/ROUTE	31	LOCATION	Market St. and Powell St		
HEARING DATE	Aug 26, 2014	HEARING TIME	11:00am	HEARING LOCATION	1 South Van Ness 3 rd Floor RM 3075
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	
OPERATOR	Name		Cap ID		
UNION REP	Name	Michael Green	Division	Presidio	
HEARING OFFICER	Name	<i>George McIntosh</i>	Telephone Number	701.5317	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>		No	<input type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?		
	No	<input type="checkbox"/>			
COMMENTS					
<p><i>triple headway @ time. 1201 zone. 18 minute headway. OP: were supposed to pull way ahead C: variance in load. How could she miss the OP look emphasize non-intentional & she didn't see him</i></p>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
Signature of Neutral Hearing Officer			Date		
<i>[Signature]</i>			8 Sep 2014		

call in a pass-up? Yes. Called that. Central & full
Announcements are posted by really demanding.
 3C-RPT-1 6/30/09

**Administrative Hearing
PSR 458112**

Summary of Facts

The customer and operator appearing at the hearing were satisfactorily confirmed as being the persons named as the parties in this matter. The customer and the operator each identified the other as being the person involved in the events precipitating the complaint. Each made a personal appearance. A union representative was present. The customer is disabled and is a wheelchair user. The customer complains that the customer was within the bus stop in question, but that he had to move forward along the bus zone to be at the point of the front door of the bus due to the bus arriving at the leading edge of the bus zone. By the time he had arrived at that point, other riders awaiting the bus were crowding the entrance area of the front door and boarding ahead of him. As the bus filled to standing room capacity, the operator informed the customer that she was unable due to the load of the bus to accommodate the customer. The operator then called central control to report the failure to board the disabled customer. The operator claims that she did not see the customer and so did not take the necessary steps to attempt to board him first ahead of the other passengers causing the customer to have to take a subsequent bus to complete his journey.

Applicable Rules

[in pertinent part:] Cars and coaches will stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30 a.m and 8:30 p.m. *Rules and Instructions Handbook, San Francisco Municipal Railway 4.16.1*

Muni Policy on Wheelchair Boarding

Intending passengers in wheelchairs are NOT to be passed up unless your coach is loaded to capacity or the wheelchair securement areas are already occupied by passengers in wheelchairs. **At busy stops, Operators are urged to board wheelchair users first to prevent the coach from becoming too full to accommodate them, and forcing them to wait for a later coach.** Following the procedure will better serve Muni's disabled riders and reduce ADA-related Passenger Service complaints. *S.F. Municipal Railway Bulletin, bulletin number 05-074*

Issue no. 1

Did the operator violate the Muni Rule 4.16.1, *supra*, by failing to stop at a location where the customer could board.

Discussion

The operator was compelled by Muni policy governing bus zones which accommodate multiple buses including articulated buses to pull forward ahead of where the customer was waiting. Although this may, as in this case, compel a wheelchair user to relocate

from a bus shelter or other area of a bus zone to the forward area where a bus stops to comply with the aforesaid policy, the valid civic interests of safety and practicability of transit operation outweigh the possible inconvenience to the disabled customer. It is noted that in this case as will be stated in the following discussion, the operator credibly and excusably did not see the customer waiting.

Decision

Given the countervailing Muni policy of pulling forward in the bus zone in question, the operator is not held found to have acted in violation of the above rule by not stopping where the customer was waiting.

Issue no. 2

By failing to load and transport the disabled customer, did the operator violate the Muni rule articulated by Bulletin No. 05-074?

Discussion

Evidence supports finding that the bus stop in question at the time in question, served a great number of patrons awaiting the bus in question, resulting in an a level of passenger load at or above nominal capacity including standees. As stated above, the bus stop is one which accommodates several buses, requiring buses to pull forward to the leading edge of the bus zone to facilitate the use of the bus zone by following buses. On the date in question, the operator in conformance with the aforementioned requirement pulled to the forward edge of the bus zone, causing the customer, who was awaiting the bus at a location closer to the midpoint of the bus zone, to relocate. It is reasonably credible given totality of the circumstances, including, among others, the burden on the operator to safely maneuver the vehicle on the busy street, the lower profile of the wheelchair using customer and the great number of awaiting patrons, that the operator, consistent with her testimony excusably failed to perceive the presence of the customer when first pulling into the bus zone. At that point, as is often the case, the rush of the awaiting customers presented the operator when she subsequently saw the customer with a situation calling for more than the normal good faith and diligent effort required of her to board the disabled patron first prior to the other customers.

Decision

Given the circumstances outlined above excusing the operator from failing to see the customer, the impracticability of loading the customer and the fact that the operator called in to central control the passing up of the customer in compliance with Muni rules, no violation of the Muni rules nor of the ADA is found.


George Milinovich
Neutral Hearing Officer

8 September 2014

OVERVIEW					
PSR #	459015	INCIDENT DATE	08/16/14	DATE RECEIVED	08/16/14
LINE/ROUTE	22	LOCATION	WASHINGTON ST/ FILLMORE		
HEARING DATE	10/01/14	HEARING TIME	10:45AM	HEARING LOCATION	1 SOUTH VAN NESS, _6TH_ FLOOR RM _6042_
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	<i>Andrew Robert M. Garner</i>	Division	Potrero	
HEARING OFFICER	Name	<i>George M...</i>	Telephone Number	<i>415.701.5317</i>	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<i>MEXICAN PASSPORT</i>	<i>Dispatch</i>		
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>		No	<input checked="" type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?	<i>Doesn't deny, but doesn't recall person</i>	
	No	<input type="checkbox"/>			
COMMENTS	<i>Witness: [REDACTED] daughter, appears. testifies</i>				
<i>No video. Convo. offered per C. C. I said "please down the ramp." "of said ramp not working!"</i>					
<i>Daughter: C & I were @ church at Washington St. & wanted to go on 22 O/B stipulated. URep: Ramp or kneller?</i>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	

as to request video of I said ramp not working I did know the bus. If I said ramp not working it wasn't. I don't know now.

[Signature]
Signature of Neutral Hearing Officer

10/16/19
Date

C: re:
the description of ramp or knurl?

H: Later ramp was deployed for again?

H: did it stick out?

D: When PM said can you lower ramp & of said no, ~~emerson~~ said "can you do something" (else?) lady say no.

OP: (to C) were other boarding before you got on?

H: can ramp & knurl be deployed @ same time?

yes.

H: do you auto-lower every stop?

MSR: yes bus lowered or not? always same to.

I asked 2 prev drivers for ramp for ramp & got it.

Ramp broken record; exact

video.

I never had a PSR
I'm not
racist.

Spokega posited w/ admission to
herist that acted concisely.

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 207 REF KNEEL/LOW
ADA? X	Title VI? X	Other Disc.
Trapeze Line/Route 22 FILLMORE		Direction OUTBOUND
Incident Date 08-16-2014		Incident Time 13:50
Vehicle Number 5482		Location WASHINGTON ST FILLMORE ST S
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description Black lady, tall, a little fat		
<p>Incident Details patron stated, "I am a little disabled and I cannot walk very well, I asked the driver to go down on the bus. The lady refused to go down on the bus and I had to get on the bus with great difficulty. I sat down on the bus and two blocks later there was a black lady waiting to get the bus and the driver did go down on the bus abd lower the steps, so this is descrimination. Later when I came down she lowered the bus."</p> <p>9-10-14 @ 1:41 PM I called and spoke to patron but she needed a spanish speaking person and so I transferred the call to PVigil to get her address to send the hearing invite-efl</p> <p>-email the copy of the PSR to sarita.britt@SFMTA.COM; brent.jones@sfmta.com of Pot Div for it needed to reopen that SBritt closed on 8-28-14</p> <p>9-12-14 Per S.Britt [REDACTED] PV 9-15-14 patron called to schedue neutral hearing_PV</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 08-16-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	455659	INCIDENT DATE	06-12-2014	DATE RECEIVED	06-12-2014
LINE/ROUTE	J	LOCATION	On the train		
HEARING DATE	7-25-2014	HEARING TIME	11:00am	HEARING LOCATION	1 South Van Ness, 3 rd Floor, Rm 3075
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
OPERATOR	Name	[Redacted]	Cap ID	[Redacted]	
UNION REP	Name	Roderick Mills	Division	Green	
HEARING OFFICER	Name	George M. Minovick	Telephone Number	7015317	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
Did the customer verify the operator's identity?	Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>
	No	<input checked="" type="checkbox"/>		No	<input type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?		
	No	<input type="checkbox"/>			
COMMENTS					
<p>Counting out stops? Telling patron to get D. 3) Borden for BOND to REG DEST. STOP? (NO) Boarded from west. A-Rep: Hernandez - disabled/blind W. reg. destination he called when boarding Call out trap. pt. 2 C: I didn't know how far I was to get up & start asking for help</p>					
HEARING OUTCOME					
Valid	<input checked="" type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
Signature of Neutral Hearing Officer			Date		
[Signature]			7/31/14		

C: doesn't know where door I boarded - I was so front door.
 A: from 18th to 24th there are no trap pts., so no necessity to call out.

Administrative Hearing
PSR 455659

Appearances

The customer and operator personally appearing at the hearing were satisfactorily confirmed as being the persons named in this matter. The operator identified the customer as being the person present when the incident occurred. The customer, being blind, was unable to identify the operator as being the operator involved in the incident. The operator present at the hearing was confirmed to be the operator involved in the incident based on video evidence and the operator's familiarity with the facts of the matter. A union representative was present.

Summary

The customer complains that the operator failed to call out the stops while riding the transit vehicle and that the operator engaged verbally with the customer in a sarcastic or rude manner, telling him to sit down. The customer made an inquiry with the operator prior to the customer's desired stop resulting in the receipt of correct information from the operator as to when the vehicle would arrive at the customer's stop (which was the succeeding stop). The customer alighted from the vehicle without difficulty at the desired stop. A review of the video and audio record was unrevealing of any stops having been called out by the operator except the final stop visible on the video after inquiry by the customer. The transit vehicle, in question, a light rail vehicle, is not equipped with an automatic announcement system which could have made the announcements on the failure of the operator to do so.

Applicable Rules

Operators must always announce stops, at least at transfer points with other fixed routes, major intersections and destination points, all MUNI Metro stations in the subway and at intervals along a route sufficient to permit individuals to be oriented to their location. *San Francisco Municipal Railway Rules and Instructions Handbook, Rule 4.20.1*

[in pertinent part:] Attention All Rail Operators: Federal Law requires that operators make stop announcements. *SFMTA Division Bulletin no. 2013-027*

[in pertinent part:] Attention Operators: : Federal Law requires that operators make stop announcements. *SFMTA Division Bulletin no. 2013-027*

[in pertinent part:] If the DVAS System is not working, or your vehicle does not have one, announce every other stop and: Your Line and Terminal[,] All transfer Points[,] All Major Destinations and Intersections *SFMTA Division Bulletin no. 2013-027*

Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other. *San Francisco Municipal Railway Rules and Instructions Handbook, Rule 2.8.1*

Issue no. 1

Did the operator violate Muni Rules and/or the Americans with Disabilities Act by failing to call out the stops on the date in question?

Discussion

Consistent with the customer's complaint, no announcements are apparent in the audio and video record until the announcement prompted by the customer's request for announcements. During the course of travel by the customer in the video and audio, there were, according to Muni procedures, at least five stops which should have been announced. By failing to call out stops between the time the vehicle emerged from the Church Street tunnel exit (outbound) and the environs of 22nd Street, the operator was in violation of even the minimal requirement of calling out every other stop. Since the effect of the violation had a disparate impact on the disabled, in this case a blind customer, the ADA was violated as well.

Issue no. 2

Did the operator violate Muni rules by verbally engaging harshly with the customer?

Discussion

The demand or demands by the operator that the customer be seated are consistent with safety requirements and constitute no violation of Muni rules. No evidence in the video and audio record nor in testimony given at the hearing exists of any verbal discourse which would rise to the level of inappropriate behavior contemplated by the rule cited above. No violation of the rule against inappropriate behavior by the operator in dealings with the customer is found.

Decision

A violation of Muni Rules and the ADA is found as to the failure of the operator to call out stops (Issue no. 1). No violation of Muni rules is found as to the conduct of the operator (Issue no. 2).

Notes

It is noted that the customer was able to alight at the customer's desired stop although this was likely due to the customer making inquiry with the operator.


George Milinovich
Neutral Hearing Officer

31 July 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 203 NO STOP ANNOUCE
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route LRV J-N MUNI METRO		Direction OUTBOUND
Incident Date 06-12-2014		Incident Time 11:53
Vehicle Number 1495		Location ON THE TRAIN /
Department GRN OPS		Division GREEN
Employee ID [REDACTED]		
Employee Physical Description Male driver		
<p>Incident Details Patron states: I am legally blind. I got on the J outbound at Van Ness Station. The driver didnt call the stop until it got to 24th Street. I didnt know where I was going. I asked him where we were. He said 22nd Street. I asked for the train number. He was hesitant at first but told me train number is 1495. He then told me to sit down. I told him I am getting ready to get off. He told me to sit down. I told him you finally follow the rules. He said he always follow all the rules. I told him he didnt call stops. As I was getting off, he asked me in a very sarcastic way if I need any help. I had a guide dog with me so he has to know that I am blind.</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 06-12-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	460340	INCIDENT DATE	09/08/14	DATE RECEIVED	09/08/14
LINE/ROUTE	9	LOCATION	11 th St/ Market St.		
HEARING DATE	10/14/14	HEARING TIME	1:30PM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_FLOOR RM _3072_
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]
UNION REP	Name	Siegfried Henderson	Division	Woods	
			<i>Siegfried Henderson for A.H.O.</i>		
HEARING OFFICER	Name	<i>George Medinora</i>		Telephone Number	7015444
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<i>Equivalently</i>			
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>		No	<input type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?		
	No	<input type="checkbox"/>			
COMMENTS					
<p><i>Of I was on 9L, I don't recall all going him on approach. I approached him & said there were d.f. occupying the d.p. chairs & have - elderly & d.f. in these seats. I called CTL & started writing up a "miscellaneous". Don't recall a wheelchair on bus.</i></p>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
<p><i>1</i></p>					

Manic, cane & elderly, but no wheelchair, but still could not accommodate. Co. states these seats must be vacated for disabled. There were 2 seats, not rows, which can be stepped up.

Administrative Hearing
PSR 46340

Summary of Facts

The person appearing at the hearing and identifying himself as the customer was satisfactorily confirmed on the basis of an official identification card as being the customer referenced in this matter. The operator was identified as the operator named in the complaint by their badge number. A union representative was present. The customer satisfactorily identified the operator present at the hearing as being the operator involved in the incident. The operator recognized the customer from the incident. The customer uses a wheelchair. The customer claims that the customer was at the bus stop in question, was prepared to board and requested boarding of the vehicle but was denied by the operator. The operator stated to the customer at that point that he could not board the customer because the bus was at capacity (with standees) and the seats designed to fold up and provide a location for the wheelchair were already occupied by seniors and/or the disabled. The operator made no request of the passengers occupying the seats which can be folded up to provide a location for the wheelchair to relinquish those seats and asserted that the occupants of those seats were seniors or disabled and could not be required to move. After proceeding onward, the operator called in the required report of having passed up the customer. The events were observed in an audio and video record of the incident displayed at the hearing.

Applicable Rules

Operators must ask passengers to yield seats in the securement area for wheelchair users.
Rules and Instructions Handbook, Rule 4.20.7

Passing Up Passengers 4.17

Operators on Cable Cars, coaches, and electric cars, in revenue service, or on pull-out and pull-in trips, are to stop for intending passengers, when there is room enough to board, except as follows:

[in pertinent part:] B. When coach or electric car is loaded to capacity;
Rules and Instructions Handbook, Rule 4.17.1

Issue no. 1

Did the operator violate Muni rules and by extension the Americans with Disabilities Act by denying boarding to the customer?

Issue no. 2


Did the operator violate Muni rules and by extension the Americans with Disabilities Act by failing to make a request to the occupants of the special wheelchair area seats to accommodate the customer and thus load the customer.

Discussion

The audio and video record depicts the bus in question arriving at the bus stop with all the seats, including the seats which can be folded up for use by wheelchair users occupied and at least four standees. The operator made no request for the occupants of the special seats to relinquish the seats in favor of the customer. Rather, the operator informed the customer that another bus, a line 9 bus, but not the desired 9 limited such as the bus in question would be following and that the customer would need to take that succeeding bus. The actions of the operator in denying boarding to the customer fall within the exception contained in subsection (B) of rule 4.17.1, cited above, based on the audio and video record. Acting in compliance with the latter rule would preclude compliance with rule 4.20.7, above, which calls for an effort to induce occupants of the wheelchair area seats to relinquish them. Although the video record is supportive of his action, some deference as well is made to the operator in making the judgment call as to whether the bus was too loaded at the time given his status as the manager of the vehicle responsible for its safe conduct, his training and experience and an absence of any facts suggesting any bad will with reference to the customer.

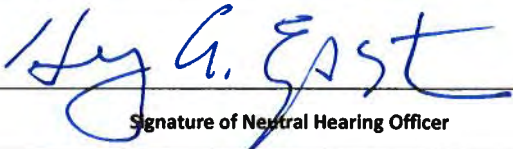
Decision

No Muni rule violation nor ADA violation found in this matter.


George Milinovich
Neutral Hearing Officer

21 October 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 208 NO PRIOR SEATS
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 9-9L SAN BRUNO		Direction OUTBOUND
Incident Date 09-08-2014		Incident Time 11:31
Vehicle Number 8418		Location 11TH ST MARKET ST SAN FRANC
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description African American male		
<p>Incident Details Patron stated: "I would like to file an ADA complaint. I was waiting for the 9L. It pulled up. I am in a wheelchair. The operator said that there was a 9 behind him. I said No, I need a 9L. He then told me that there were other disabled patrons on board, but I didnt see another wheelchair on board. I would like the video pulled on this."</p> <p>9-22-14 email copy of the PSR to neil.weingarten@sfmta.com; francisca.tapia@sfmta.com and GCarey of Woods Div to identify the operator-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 09-08-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	459161	INCIDENT DATE	08/13/14	DATE RECEIVED	08/19/14		
LINE/ROUTE	T	LOCATION	Oakdale and 3 ^d				
HEARING DATE	October 6, 2014	HEARING TIME	12:00PM	HEARING LOCATION	3071		
FORMAT (check box)				In person?	<input type="checkbox"/>	By phone?	<input checked="" type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Roderick Mills		Division	Green		
HEARING OFFICER	Name	H. Epstein		Telephone Number	510.967.3679		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input type="checkbox"/>	Operator?	<input type="checkbox"/>	Union Rep?	<input type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>			No	<input checked="" type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input checked="" type="checkbox"/>				
COMMENTS							
see attached							
HEARING OUTCOME							
Valid	<input checked="" type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
				10-19-2014			
Signature of Neutral Hearing Officer				Date			

SFMTA Hearing: Allegation of Disability-Related or other MUNI Rule Violation

PSR 459161

Patron/Complainant: [REDACTED] by telephone

Operator: [REDACTED], at SFMTA offices

Union Representative: Roderick Mills, at SFMTA offices

Incident Date: August 13, 2014; Time: 3PM; Location: 3rd and Oakdale

Hearing Date: October 6, 2014, b

I. Threshold Issues

- A. Parties' Identification: The Patron identified Operator as "a tall slender black male, very dark complexion." The operator, a black male, pointed out that he is not tall." However, Nextbus, SFMTA's real time tracking system, established Operator's Light Rail Vehicle (the "T") at Oakdale and 3rd Street within minutes of 3PM, the incident time.

Finding I

[REDACTED] was the Operator during this incident.

II. Hearing Officer Analysis: Was there a Disability-related or other Rule violation on boarding?

Patron stated that she boarded the LRV using her wheelchair. She alleged that for five minutes Operator failed to come to her assistance in securing the wheelchair. However, she later revised her estimate to three to four minutes. More crucially, she conceded that she was talking to a woman as she boarded, and for several stops afterwards, and Operator

may have had reason to believe that the woman was Patron's caregiver and that Patron was not in need of assistance.

Further, Patron testified that she did not request Operator's assistance in securing her wheelchair.

Operator testified that he hesitates to offer assistance in the presence of caregivers.

Finding II

There was no disability-related or other Rule violation on boarding.

III. Hearing Officer Analysis: Was there a Disability-related or other Rule violation on de-boarding?

Patron testified that when her stop came she un-secured her wheelchair and followed a teenager off the LRV, de-boarding from the middle door. As she did so, she stated that the left door closed on her left leg. She testified that when she got home the leg was swollen from the knee down, and that she later went to the ER at St. Luke's where she was treated with pain medications and told to elevate her leg. She stated that she is fine now.

Operator testified that there are blind spots which prevent him from seeing patrons directly behind where he sits. However, Patron stated she exited the middle door, not the door directly behind Operator. Even if, for the sake of argument, there are blind spots, Operator did not establish that they affected his vision in this instance. In any case, Operator should have scanned the mirrors more carefully and operated the doors in such a manner that Patron was able to de-board safely. According to Patron's testimony, which was credible, Operator was aware that she boarded in her wheelchair. Therefore, Operator knew that she would de-board at some point, and had the obligation to look out for her, literally.

According to Rule 6.11.1: “Employees shall provide ample time for passengers to board and de-board vehicles. Seniors and persons with disabilities may require additional time for boarding and alighting.”

According to Rule 6.11.2: “Employees shall ensure that all passengers have boarded and alighted safely, and utilize exterior mirrors both on the trains and platform stations to ensure safe departures.”

Finding III

Operator violated Rule 6.11.1., a disability-related Rule violation.

Operator violated Rule 6.11.2, which is not specific to patrons with disabilities.

Respectfully yours,



Henry Epstein
SFMTA Hearing Section

October 17, 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category UNSAFE OPERATION	Type 107 FALL WITH INJURY	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route LRV K-L-M-S-T METRO	Direction INBOUND	
Incident Date 08-13-2014	Incident Time 15:00	
Vehicle Number 1415	Location OAKDALE AND 3RD/	
Department GRN OPS	Division GREEN	
Employee ID [REDACTED]		
Employee Physical Description black male, tall, slender, very dark complexion		
<p>Incident Details patron says " it took the driver over 5 mins to come out and assist with lifting the chair so that i can park my power chair in the handicap spot. when i was getting off the train, the driver closed the door on my left leg on purpose, im in a power chair with several ailments, my leg and ankle both swole up and hurting. it took me this long to call because i just moved and got my phone line hooked up"</p> <p>8-29-14 email copy of the PSR to Zela.rowland@sfgov.org; michael.lucero@sfgov.org of Claims-efl</p> <p>9-10-14 @ 3:41 PM I called and left a vm given her PSR # if still interested of hearing procedure-efl</p> <p>09/30/14 Called Patron and left vm to reschedule neutral hearing. sk</p> <p>09/30/14 2:17PM Patron called (left vmail) stating that Tues after 12pm would be the preferred time to hold the telephone Neutral Hearing. sk</p> <p>09/30/14 3:00PM Rescheduled Patron. sk</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 08-19-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	461218	INCIDENT DATE	09/20/14	DATE RECEIVED	09/20/14		
LINE/ROUTE	71	LOCATION	HAIGHT ST/ STANYAN ST				
HEARING DATE	10/27/14	HEARING TIME	1:30PM	HEARING LOCATION	1 SOUTH VAN NESS, 3RD FLOOR RM 3072		
FORMAT (check box)				In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Scott Ashley		Division	Flynn		
HEARING OFFICER	Name			Telephone Number			
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input type="checkbox"/>
		No	<input type="checkbox"/>	States did not recall		No	<input checked="" type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input checked="" type="checkbox"/>				
COMMENTS							
<p>No ADA violation. Patron not apparently disabled. Ran from rear of bus stop to front.</p> <p>Other Rule violation: Per video, driver did not open rear doors on articulated bus. Bulletin 12-041 + 12-051</p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 6-71 HAIGHT/NORIEGA		Direction INBOUND
Incident Date 09-20-2014		Incident Time 12:51
Vehicle Number 6207		Location HAIGHT ST STANYAN ST SAN FR
Department FLN OPS		Division FLYNN
Employee ID [REDACTED]		
Employee Physical Description African American Male		
<p>Incident Details Patron states "The 71 inbound, a double decker bus. I pushed the button to open the back door and it wouldnt open, then I started to walk to the front of the bus and driver looked at me and it just took off on me. The double decks should automatically open all the doors, so he didnt open the door. & I have a clipper card & I am disabled."</p> <p>9-24-14 email copy of the PSR to ayn.antonio@sfmta.com; elizabeth.valdellon@sfmta.com of Flynn div to identify the operator-efl</p> <p>Received: Tue 9/30/2014 1:12 PM From: Valdellon, Elizabeth <Elizabeth.Valdellon@sfmta.com> Per; Pablo Vigil <Pablo.Vigil@sfmta.com> Pablo,</p> <p>Can you please re-open PSR 461218 because we found out through drivecam the coach number so we were able to ID the operator.</p> <p>Thank you. Liz</p> <p>10-9-14 @ 4:23 PM I called and patron given his addrss to have the hearing scheduled-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 09-20-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	461189	INCIDENT DATE	09/19/14	DATE RECEIVED	09/19/14		
LINE/ROUTE	48	LOCATION	24 TH ST/ MISSION ST				
HEARING DATE	10/24/14	HEARING TIME	11:00AM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_ FLOOR RM __3075__		
FORMAT (check box)				In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Seigfried Henderson		Division	Woods		
HEARING OFFICER	Name	MIKE HANRAHAN		Telephone Number	701-5445		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input checked="" type="checkbox"/>				
COMMENTS							
<p>MUNI RULE VIOLATIONS ONLY 6.14.1A NO ADA VIOLATION 2.26.7 SEE ATTACHED</p>							
HEARING OUTCOME							
* Valid	<input checked="" type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<p>Mike Hanahan</p> <p>* For Muni Rules violations</p>							

Neutral Hearing Report for PSR#461189

Patron testimony

In her initial complaint Patron stated she wanted to get off at 22nd Street near the Cal Train Stop. She said the operator stopped at the stop sign at 700 Pennsylvania Avenue prior to the bus stop on 22nd Street just around the corner. She then said she went to the front of the bus and the driver told her to get off at the rear of the bus. She said she has a cane and as she was exiting the bus the doors slammed on her left wrist. She also said the operator did not lower the step for her. She said the operator opened the front door and asked her if she was ok and she replied "I don't think so I am not OK". She said the driver closed the door and she left.

At the outset of the hearing the initial complaint was read into the record and the Patron was given an opportunity to add to it. At this time she did not rescind any part of her initial complaint.

Operator testimony

The operator stated she did not speak to the Patron.

A video of the incident was observed by all those present at the hearing: the patron, a friend of the patron's, the operator, the operator's union representative, and the neutral hearing officer.

Neutral Hearing Officer's observations after viewing the video

Patron was the sixth of twelve boarders and did not show any outward signs of disability – she was not carrying or using a cane. She showed what appeared to be a RTC card as she passed by the operator. She sat directly behind the operator with a partition between them. Approximately 15 minutes later in the video, after numerous stops, the bus opens the rear doors at a stop sign and a young male passenger disembarks. The video shows the patron getting up, looking at the front door, then going to the rear door to exit. As she took her last step on the bus before getting off the rear doors closed in on her - a folding door from each side. Patron made a startled sound. Both doors retracted automatically and patron got off the bus. There was no conversation between the patron and the operator at any time.

Neutral Hearing Officer's findings

No ADA violation. Merely displaying an RTC card 15 minutes earlier on a crowded bus is not enough to alert the operator that patron is disabled and in need of assistance when getting off the bus.

Muni rule violations: 6.14.1 and 2.21.7 When the operator decided to let a passenger disembark at a stop sign she had a duty to see if other passengers were also getting off. She failed to do this and inadvertently closed the rear doors on the patron.

Wife Hansen
NHO. 11-24-14

OVERVIEW					
PSR #	461959	INCIDENT DATE	10/02/14	DATE RECEIVED	10/02/14
LINE/ROUTE	24	LOCATION	24 TH ST/ NOE ST		
HEARING DATE	11/24/14	HEARING TIME	3:00PM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_ FLOOR RM _3071_
FORMAT (check box)			In person?	<input type="checkbox"/>	By phone?
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	Robert M. Gainer	Division	Potrero	
HEARING OFFICER	Name	<i>H. Epstein</i>	Telephone Number	<i>510 967.3879</i>	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes
		No	<input type="checkbox"/>		<input checked="" type="checkbox"/>
				No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?	
		No	<input type="checkbox"/>		
COMMENTS					
<i>see attached</i>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
				To be rescheduled	<input type="checkbox"/>
<i>[Signature]</i>				<i>12/29/14</i>	
Signature of Neutral Hearing Officer				Date	

OVERVIEW							
PSR #	461614	INCIDENT DATE	09/26/14	DATE RECEIVED	09/26/14		
LINE/ROUTE	24	LOCATION	24 TH ST/ CASTRO ST				
HEARING DATE	11/24/14	HEARING TIME	3:00PM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_FLOOR RM _3071__		
FORMAT (check box)				In person?	<input type="checkbox"/>	By phone?	<input checked="" type="checkbox"/>
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]			
UNION REP	Name	Robert M. Gainer	Division	Potrero			
HEARING OFFICER	Name	<i>H. Epstein</i>		Telephone Number	<i>510 967 36 79</i>		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>		
	No	<input type="checkbox"/>		No	<input type="checkbox"/>		
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?				
	No	<input type="checkbox"/>					
COMMENTS							
<i>see attached</i>							
HEARING OUTCOME							
Valid	<input checked="" type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<i>H. Epstein</i>				<i>12/29/14</i>			

OVERVIEW							
PSR #	461814	INCIDENT DATE	09/30/14	DATE RECEIVED	09/30/14		
LINE/ROUTE	24	LOCATION	24 TH ST/ CASTRO ST				
HEARING DATE	11/24/14	HEARING TIME	3:00PM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_FLOOR RM _3071_		
FORMAT (check box)				In person?	<input type="checkbox"/>	By phone?	<input checked="" type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Robert M. Gainer		Division	Potrero		
HEARING OFFICER	Name	<i>HEPS</i>		Telephone Number	<i>510 967-3679</i>		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input type="checkbox"/>				
COMMENTS							
<i>See attached</i>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<i>1 J.A. Gil</i>				<i>12/29/14</i>			

SFMTA Hearing: Allegation of Disability-Related or other MUNI Rule Violation

PSR 461614, September 26, 2014; 24th and Castro
PSR 461814, September 30, 2014; 24th and Castro
PSR 461959, October 2, 2014; 24th and Noe

Patron/Complainant: [REDACTED] by telephone

Operator: [REDACTED]

Union Representative: Robert Gainer

I. Threshold Issue

Parties' Identification: The Operator acknowledged that he drove during these three incidents.

PSR 461614

I. Hearing Officer Analysis: Was there a Disability-related or other Rule violation on boarding?

The Dog

Operator admitted that he tried to bar Patron from boarding the bus because there was a dog on the bus already. Although Patron informed him that Patron's dog was a service animal, Operator testified that he believed he could not allow two dogs on the bus at one time.

Operator acknowledged he was wrong about the rules. He testified he did not know there was an exception to the "one dog" rule, for service animals. Rules 6.7.3 and 6.7.5 clearly state that exception. Further, SFMTA Bulletin 06-043 states that "You may only exclude a service animal when that animal's behavior poses a direct threat to the health or safety of others."

Patron testified, and Operator acknowledged that the other dog was at the back end of the bus. No evidence was advanced that the introduction of the second, service dog would pose a direct threat to the health or safety of others.

Finding 1

By a preponderance of evidence, Operator violated ADA-related Rule 6.7.3 by attempting to bar Patron's service dog from riding the bus.

Aggression on Boarding

Patron alleged that Operator put his hand in his face to bar him and his service dog from the bus, and otherwise acted aggressively toward him once he boarded the bus. Patron also alleged that Operator embarrassed him in front of others on the bus.

Patron admitted that he forced his way on the bus because he was "enraged" by Operator's refusal.

Operator testified that, believing as he did that only one dog was allowed, he asked Patron not to board the vehicle, and to take the next coach (because it might not have another dog on it).

It was not clear from their testimony precisely when during their interaction Patron became "enraged," but Operator testified that besides trying to bar Patron from boarding because of the other dog, he was trying to avoid an unruly situation on the bus.

Patron's claimed that Operator was aggressive and "forceful" during the incident. It is true that Operator would not have had to have been forceful if he had known the rules and simply let Patron and his dog on the bus. Patron admission that he became "enraged" on boarding complicates the assignment of responsibility for the incident. Although Operator may have been forceful, it is not clear he was too forceful, if

Patron became enraged and pushed his way past Operator, as he admitted doing. At the moment of boarding, Operator may have had a good faith belief that he needed to avert an unruly situation from escalating.

Finding 2

Patron has not established by a preponderance of the evidence that Operator violated a MUNI rule by acting “aggressively” when Patron boarded.

Aggression after Boarding

Patron testified that Operator continued to be aggressive after he boarded; Operator denied this.

Whether Operator continued to be aggressive toward Patron after he seated himself with his dog is impossible to evaluate given the absence of a video tape, and the absence of any other evidence outside the parties’ testimony.

Finding 3

Patron has not established by a preponderance of the evidence that Operator violated a MUNI rule by acting “aggressively” after Patron boarded.

PSR 461814

Patron alleged that Operator called him an obscene name. Operator denied this.

Whether Operator cursed at Patron after he seated himself is impossible to evaluate given the absence of a video tape, and the

absence of any other evidence that would support one party's testimony over the other's.


PSR 461959

Patron alleged that Operator misrepresented the rule regarding allowing any number of service dogs to ride unmuzzled. After Patron informed him of the rule and got off the bus, Patron claims Operator yelled "that sign is outdated!" from across the street.

Finding 4

Although operators should refrain from provoking or being provoked by patrons, the purported statement does not rise to the level of a rule violation, even if made.

Respectfully yours,


Henry Epstein
SEMTA Hearing Section

December 29, 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 210 REF SVC ANIMAL
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 24 DIVISADERO		Direction INBOUND
Incident Date 09-26-2014		Incident Time 13:10
Vehicle Number 8359		Location 24TH ST CASTRO ST SAN FRANC
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description Bald headed male. About 6 feet tall. White		
<p>Incident Details The ADA Patron: "I got on the bus and I have a service dog and a disability pass. When I was getting on the bus, the operator said very forcefully and got up to try and block me and said "No, no, theres already a dog on the bus." The dog on the bus was not a service dog and the dog was in the very back and our dogs would not have interacted.</p> <p>I let him know that MUNI states service dogs are exempt from that one dog per bus regulation. I told him verbatim what the sign said. He started arguing with me and said thats not true and I need to educate myself on service dogs.</p> <p>The woman from the back with her dog from the back of the bus said "no hes right! Ill get off of the bus." and then the operator stated yelling at me accusing me of bullying her off the bus. He embarrassed me in front of these people on the bus.</p> <p>He said "On September 1st there was a law that went into effect where you have to have a muzzle on all dogs. Try to get on BART with a service dog without a muzzle. You need to educate yourself on your service dog laws. Youre acting like youre educated, but youre not."</p> <p>You need to put the sign on the bus that is normally on the MUNI trains that say any number of service dogs can ride the bus unmuzzled."</p> <p>09/30/14 1:40PM Patron reported ongoing harrassment by the same operator. sk</p> <p>10-1-14 email copy of the PSR to deborah.franks@SFMTA.COM; michelle.enciso@sfmta.com to confirm the operator-efl</p> <p>10-10-14 email copy of the PSR to sarita.britt@SFMTA.COM; brent.jones@sfmta.com of Pot Div to</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 09-26-2014		
Date Closed		
Resolution Code [REDACTED]		

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 210 REF SVC ANIMAL
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 24 DIVISADERO		Direction INBOUND
Incident Date 10-02-2014		Incident Time 14:15
Vehicle Number		Location 24TH ST NOE ST SAN FRANCISCO
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description		
<p>Incident Details ADA Patron Stated, "Today as I was getting off the bus today I very politely said the sign I was looking for the other day when you confronted me is right above your head to the left which I couldnt find on the other two busses. It says any number of service dogs are able to ride un muzzled. He said "that sign is outdated. I called and filed a complaint before (SR #4062991). I requested a hearing and I would like to have these complaints linked so that when I have the hearing they can see all the complaints. This man needs to be educated both in people skills"</p> <p>10-9-14 email copy of the PSR to sarita.britt@SFMTA.COM; brent.jones@sfmta.com of Pot Div to identify the operator-efl</p> <p>[REDACTED]</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 10-02-2014		
Date Closed		
Resolution Code [REDACTED]		

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 24 DIVISADERO		Direction INBOUND
Incident Date 09-30-2014		Incident Time 13:05
Vehicle Number 8155		Location 24TH ST CASTRO ST SAN FRANC
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description Bald Male		
<p>Incident Details The ADA Patron stated: "This in addition to the previous complaint (4050994). I tried to get on the bus and the bus was virtually empty. I tried getting on the bus and he said "oh its you". I get on with my dog and I tapped my clipper card and I sat down and he did not move the bus and he turned around in his chair and he asked "did you slide your card?" I said "yes". I took my MUNI disability card out of my wallet and I tapped it again. I only rode four blocks and I heard him say only loud enough for me to hear it "fucking asshole". I didnt want to deal with it so I got off.</p> <p>Please reference my old home number to review other complaints Ive filed as well."</p> <p>10/15/14 10:35AM</p> <p>I left message to Patron vmail asking for call back to coordinate a hearing time and date</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 09-30-2014		
Date Closed 10-09-2014		
Resolution Code [REDACTED]		

OVERVIEW

PSR #	463008	INCIDENT DATE	10/19/14	DATE RECEIVED	10/19/14
LINE/ROUTE	Cable Car	LOCATION	Hyde St/ California St.		
HEARING DATE	12/09/14	HEARING TIME	10:00AM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_FLOOR RM _3071_

FORMAT (check box)		In person?	<input type="checkbox"/>	By phone?	<input checked="" type="checkbox"/>
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	Antonio A. Gonzalez	Division	Cable	
HEARING OFFICER	Name	MIKE HAWRAHAN	Telephone Number	415 701 5445	

HEARING LOGISTICS

ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input checked="" type="checkbox"/>				

COMMENTS

NO ADA VIOLATION. SEE ATTACHED

HEARING OUTCOME

Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<p>Mike Hawrahan 12/9/14</p> <p>Neutral by Officer</p>							

Neutral Hearing Officer Report for PSR #463008

Patron testimony

Patron is visually impaired. At time of incident was not using his white cane and was not wearing dark glasses – his 11 year old son was assisting him. He and his son were waiting at the northwest corner of the Hyde and California intersection at the bus zone on Hyde Street. They were waiting for either the 27 Bus or the inbound California Street Cable car to take them to Market Street so they could catch Bart. When the inbound California Street Cable car stopped in the middle of the intersection they waited for traffic to clear before crossing to board. Just after boarding Patron stated the cable car started moving and he told the gripman his child was trying to get on. He said the gripman told him to get off - the car was full. Patron believed there was room on the car and he and his child should have been allowed to board.


Gripman testimony

A large tour group had boarded at Van Ness. The waiting area for the inbound California Street Cable car at the Hyde and California intersection is on the Southwest corner on California. The cable car stop is in the middle of the intersection and the cable car is able to preempt the traffic signal. The conductor got off on the South side of the cable car to direct traffic and to assist those boarding from the designated waiting area. The gripman recalled starting the cable car and then seeing the patron get on the step on the North side of the car. He stopped and told the patron to catch the next one, the patron got off, and the gripman then started the car again.

Neutral Hearing Officer finding

No ADA violation. The primary purpose of the hearing is to determine if patron's rights under the Americans with Disabilities Act were violated. When patron boarded the cable car there was no way the gripman could have known he was visually impaired. Patron was not using a white cane, was not wearing dark glasses, and did not mention his disability. Given the unique nature of the cable car as a public conveyance the hearing officer will defer to the gripman's superintendent to determine whether the patron and his son should've been allowed to board or not.

Neutral Hearing Officer

 12/9/04
Mike Hanrahan

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 59/60 POWELL-MASON CABLCAR		Direction INBOUND
Incident Date 10-19-2014		Incident Time 14:00
Vehicle Number		Location HYDE ST CALIFORNIA ST SAN FF
Department CBL OPS		Division CABLE CAR
Employee ID [REDACTED]		
Employee Physical Description African American Male		
<p>Incident Details Muni patron stated, " This cable car I guess they stopped in the middle of the street at Hyde and California ,you dont have a green light crossing so we were on the corner, by the time the street was clear we ran for the cable car in the middle of the street As we were grabbing for the cable car my I grabbed for the rail and my child was still in the street. The car started to take off and I told the driver hey man my child is trying to get on the cable car and I was told to get off the cable car the cable car is full</p> <p>10/31/14 @4:30PM I left message to Patron phone asking for clarity as to who the disabled party is described in the PSR. sk</p> <p>11/07/14 In response to the message left, Patron confirmed that he is visually impaired and his minor son (11) helps him get around. sk</p> <p>11-12-14 email copy of the PSR to ed.proctor@sfmta.com and GWu of Cable Car Div to identify the operator -efl</p> <p>11/21/14 3:18PM Left Patron a voicemail with possible Telephone Neutral Hearing times: Tues 12/09 10am. Wed 12/10pm. Tues 12/16 10am. Wed 12/17 10am sk</p> <p>[REDACTED] Sent: Wednesday, November 26, 2014 6:29 AM Subject: Re: PSR #463008</p> <p>Can you give me a date and time To call for the hearing</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 10-19-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	445552	INCIDENT DATE	12-19-2013	DATE RECEIVED	12-19-2013		
LINE/ROUTE	48	LOCATION	24 th Street / Diamond Street				
HEARING DATE	2-10-2014	HEARING TIME	12:45pm	HEARING LOCATION	1 South Van Ness, 6 th Floor, Room 6042		
FORMAT (check box)				In person?	<input type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Andrew Simmons <i>S. Henderson</i>		Division	Green		
HEARING OFFICER	Name	<i>H Epstein</i>		Telephone Number	<i>510 967-3679</i>		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input type="checkbox"/>	Operator?	<input type="checkbox"/>	Union Rep?	<input type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input checked="" type="checkbox"/>	If yes, why?		<i>Operator not noticed for first hearing 1/27/14</i>	
		No	<input type="checkbox"/>				
COMMENTS							
<i>See attached</i>							
HEARING OUTCOME							
Valid	<input checked="" type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<i>[Signature]</i>				<i>2-24-14</i>			
Signature of Neutral Hearing Officer				Date			



PSR No. 439877

Complainant/Patron: [REDACTED]
Operator [REDACTED]
Union Representative: Siegfried Henderson
Incident Date: December 19, 2013
Hearing Date: February 10, 2014

NO VIDEO TAPE OF THIS INCIDENT WAS AVAILABLE

I. Threshold Issue: Identification of Operator

Operator did not contest she was the operator involved in this incident.

Finding A

Operator was identified correctly.

II. Testimony, Part 1, Disability-related issues

Patron testified that when he boarded the 48 bus earlier in the trip Operator lowered the lift for him. However, when he attempted to de-board at 24th and Diamond, near his residence, cars were parked at the curb and Operator could not bring the bus close enough to the curb to "flatten out" (extend) the ramp to it. Patron testified that he was especially worried about stepping down the ramp at an angle because he had slipped off the ramp during a previous attempt to use it in that position a month or so before, and ripped the nail off his toe. He alleged that part of the reason he had slipped was that the tread on the ramp was worn down. He believed that this was especially dangerous when the ramp was set at an angle.

Patron testified that he urged Operator to move to the other side of Diamond Street to a spot where the ramp could have been easily deployed. However, Operator refused to do this.

Operator testified that she refused because it was against MUNI rules to stop at an unauthorized stop. The Union Representative testified that although Operators may sometimes have discretion to stop at unauthorized stops if there is no safety issue, they also understood they were exposed to liability if someone were injured at such stops.

Hearing Officer Analysis

On their face, the Rules do not give operators unambiguous guidance:



Rule 4.15.1 Cars and coaches shall stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30 A.M. and 8:30 P.M.

If Operator was in fact unable to accommodate Patron at the designated stop, she had the following option:

Rule 4.15.3: If unable to comply with Rule 4.15.1, then the operator is to stop at a safe boarding location....

Operator did not deny that the space across the intersection, where the Patron wanted her to position the bus, was safe. Nor did she deny that the lift could have been extended there.

However, because the space across the intersection was unauthorized, Operator testified that she believed she was not allowed to stop the bus there. Moreover, a photo of the authorized stop shows a solid bar rather than a sawtooth bar marking the top of the stop. Stops marked with a sawtooth bar are not recommended for wheelchair lift or ramp usage, and in that case, an operator may have authority to move forward to another space across the intersection, if safe, to allow passengers to board or alight. [Bulletin 08-033]. However, bulletins also warn operators to board and de-board passengers at designated spots only [Bulletin 09-025].

Given these ambiguities, the hearing officer believes that Operator was entitled to her belief that she should not cross the intersection to an unauthorized stop to accommodate Patron's request to extend the ramp.

However, the hearing officer believes that Operator failed to avail herself of an opportunity to resolve the situation in favor of Patron. She should have called Operations Control (OCC).

Rule 4.21.1: Unauthorized Stops: Operator must not stop for passengers... at any station, platform, or bus stop location(s) unless authorized by OCC.

Operator claimed that she did in fact call OCC. However, no record exists of a call to OCC regarding any aspect of this incident. This damaged Operator's credibility.

Another way to solve the problem may also have been available. Operator could have withdrawn the ramp and knelt the bus to accommodate Patron. However, Patron admitted that he did not suggest this, and Operator may be given the benefit of the doubt as to whether this was feasible in the position the bus was in, given the cars at the curb, and given the fact that Patron may have already started down the ramp, even though with difficulty.

**Finding B**

Although Patron may not have been completely accommodated by lowering the ramp at an angle at the authorized stop, Operator's good faith belief that she was not permitted to position the bus at an unauthorized stop to accommodate Patron's request to further extend the wheelchair ramp was mitigating, and Operator's refusal to do so did not constitute a disability-related rule violation on her part.

SFMTA is urged to examine the uphill bus stop at the N.E. corner of 24th and Diamond with the view to re-designing it, either by establishing a red zone, establishing a full box, or a full box and shelter as on the downhill stop on the S.W. corner.

SFMTA is also urged to determine if the traction coating on the wheelchair ramp is sufficient to prevent slips and falls when the wheelchair ramp is not fully extended.

Finding C

Operator violated Rule 6.2.2: Pleas and requests for assistance from passengers must be acknowledged and immediately reported to OCC.

III. Testimony: Discourtesy

Patron testified that Operator treated him like a moron and made him out as a fool in front of other passengers on the bus. According to Patron, she asked him, "can't you understand that there are cars there" (referring to why she could not pull closer to the cab), and said "I'm the driver, I'll handle this" when she refused his request to move across the street. Operator did not deny these statements.

Finding D

Patron's uncontroverted testimony that Operator was rude was credible. Operator violated Rule 2.8.1: Polite, respectful behavior is required of all employees in dealing with the public....

Respectfully yours,



Henry Epstein
SFMTA Hearing Section

February 24, 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 48 QUINTARA/24TH STREET	Direction OUTBOUND	
Incident Date 12-19-2013	Incident Time 11:40	
Vehicle Number 8433	Location 24TH ST DIAMOND ST SAN FRAN	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		
Employee Physical Description Female, African American		
<p>Incident Details Patron stated: "I am disabled, with a crippled leg and a heavy cart loaded with groceries. The ramp that lowers was missing some tread so it was slippery. Due to a previous injury from falling on a Muni bus (SR 3025961), I did not want to go down the ramp because the tread was missing and the bus could not pull to the curb as there was a fire plug at the stop and there was also a car parked at the curb. The ramp, if lowered to the street would be at a steep angle and I was afraid I would slip. This intersection is at the NEC of 24th & Diamond. I asked the operator to let me out across the street where the ramp would rest on the curb and it would be level, not steep. She refused, but she was very nasty about it, telling me that she would not stop across the street and that I could get off in the middle of the street. Finally, a man offered to walk my cart of groceries down the ramp and set them in the street while I let myself down stepping off the side of the ramp. I could not get off the back as I had recent knee surgery and the steps are so high up. There is never a space where the bus ramp can pull right up to the curb at the NEC of 24th & Douglass, but there is a large strip by the NWC of 24th & Douglass where the bus stop can be relocated. There should be an exception to the rule about where the bus can stop, Muni should allow buses to pull over to the next intersection if the stop is blocked from allowing the ramp to be at the curb. Also, the bus ramps/lifts should be checked regularly to make sure the tread is there to prevent falling/slipping. I am requesting a hearing, please leave a message if I am slow getting to the telephone as I have difficulty walking."</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 12-19-2013		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW

PSR #	462116	INCIDENT DATE	10/04/14	DATE RECEIVED	10/04/14
LINE/ROUTE	24	LOCATION	Divisadero St/ Eddy St.		
HEARING DATE	11/12/14	HEARING TIME	11:00AM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_FLOOR RM _3075_

FORMAT (check box)		In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[Redacted]	Cap ID	[Redacted]	
UNION REP	Name	Robert M. Gainer	Division	Potrero	
HEARING OFFICER	Name	Geo. Melnikov	Telephone Number	415.701.5317	

HEARING LOGISTICS

ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?	Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>	
	No	<input checked="" type="checkbox"/>		No	<input checked="" type="checkbox"/>	
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?			
	No	<input type="checkbox"/>				

COMMENTS

[Redacted] is the line called in for C. [Redacted] doesn't work with operators time.
 C: I gave him. [Redacted] closest race is Filipino, but unsure - but driver not that not what
 C: [Redacted] is what I thought anyway

HEARING OUTCOME

Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
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Op: I was on 5442 that day & was off shift @ 4:42 PM. hand-off to run # 402 & was run 344. Union Rep corroborates
 justification evidence to be operator @ hearing to facts of the case

WHO: Operator appeared as Asian American
 Docs submitted. C: unsure of hair, height - only male next arbitrator not to

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE	Type 201 PASSUP/DIDNT W8	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 24 DIVISADERO	Direction OUTBOUND	
Incident Date 10-04-2014	Incident Time 21:00	
Vehicle Number 5443	Location DIVISADERO ST EDDY ST SAN FF	
Department POT OPS	Division POTRERO	
Employee ID [REDACTED]		
Employee Physical Description male,		
<p>Incident Details ADA patron states," I am a senior with disabilities and I was trying to pick up my laundry and was walking toward the front door. Someone got on the at back door and the driver closed the front door. I banged on the door and he drove away anyway."</p> <p>10/16/14 2:50PM Patron called stating that he would like to participate in the In Person Neutral Hearing. (Morning preference). sk</p> <p>10/28/14 10:25 I left message to Patron phone in regards to coordinating a Hearing date. sk</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 10-04-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	450380	INCIDENT DATE	03-13-2014	DATE RECEIVED	03-13-2014
LINE/ROUTE	21	LOCATION	Market / 7 th street		
HEARING DATE	05-06-2014	HEARING TIME	1:00pm	HEARING LOCATION	1 South Van Ness, 6 th Floor, Room 6042
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	Michael Green	Division	Presidio	
HEARING OFFICER	Name		Telephone Number		
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes
		No	<input type="checkbox"/>		<input checked="" type="checkbox"/>
					No
					<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?	
		No	<input checked="" type="checkbox"/>		
COMMENTS					
Video viewed by all present at hearing.					
Operator properly lifted seat upon request by Patron.					
Patron stated that the lift was not an issue.					
No evidence that Operator was rude.					
Patron failed to pay upon boarding. Operator properly ask for proof of eligibility for discount.					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
				To be rescheduled	<input type="checkbox"/>
Julie Rosenberg			5-6-14		
Signature of Neutral Hearing Officer			Date		

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT	Type 301 DISCOURTESY	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 21 HAYES	Direction INBOUND	
Incident Date 03-13-2014	Incident Time 15:05	
Vehicle Number 5493	Location 7TH ST MARKET ST SAN FRANCI	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description Male, maybe Philippino		
<p>Incident Details The patron stated, "Im in a wheelchair and when the operator arrived and put the lift down he put it down so it was too short so I couldnt get on. I got him to move the vehicle twice, and when I got on and he got very smart. He asked me for my pass and I asked him to put the seat up first. There were people in the seat and I had to tell him to ask them to move. The operator was more interested in asking me for my fare than helping me with the seat for my wheelchair. I want a hearing and I want the video at the hearing." The caller is requesting a letter regarding his feedback, he does want a hearing and is requesting the video be available at the hearing.</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-13-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	452021	INCIDENT DATE	04-10-2014	DATE RECEIVED	04-10-2014
LINE/ROUTE	F	LOCATION	Market St. / Church St.		
HEARING DATE	06-04-2014	HEARING TIME	3:00pm	HEARING LOCATION	1 South Van Ness, 3rd Floor, Rm 3075
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	<input type="checkbox"/>
OPERATOR	Name		Cap ID		
UNION REP	Name	Roderick Mills	Division	Geneva	
HEARING OFFICER	Name	<i>George Milnaw</i>	Telephone Number	<i>7015317</i>	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<i>per driver i.d.</i>	<i>per cap i.d.</i>	<i>NO</i>	
Did the customer verify the operator's identity?	Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>		No	<input type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?		
	No	<input type="checkbox"/>			
COMMENTS					
<i>Apology said & avoid from of tuc.</i>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
			<i>14</i>		
Signature of Neutral Hearing Officer			Date		

**Administrative Hearing
PSR 452021**

Summary of Facts

The customer and operator appearing at the hearing were confirmed as being the persons referenced in this matter. The customer and the operator each identified the other as being the person involved in the situation precipitating the complaint. Each made a personal appearance. No union representative was present. The customer is disabled. The customer complains that when the customer attempted to board, the operator forbade him to board prior to the disembarkation of the riders then on the light rail vehicle who were awaiting the stop. The customer complied after informing the operator that he disagreed with the operator's contention that passengers could not board and alight from the transit vehicle at the same time. Later, on leaving the vehicle, the customer again informed the operator that the customer believed that boarding and alighting was possible by riders at the same time. The operator replied that this was not practicable when a passenger is as big as the customer is. The customer disembarked and filed this complaint in regard to the discrimination represented by the driver's statement regarding the customer's size. The customer requested a video of the event be retrieved and submitted. No video was available for this case. At the commencement of the hearing, the operator submitted a written motion (in folio) requesting that the case be withdrawn (sic) on his motion. The operator was informed that there was no procedure had been established for a summary decision to be made based exclusively on the documents in file, that the hearing would commence and that the motion would be considered a submission of fact and argument in opposition to the complaint.

Applicable Rules

Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other. *San Francisco Municipal Railway Rules and Instructions Handbook, Rule 2.8.1*

Issue no. 1

Did the operator violate Muni rules by referring in conversation with the customer to the customer's size?

Discussion

The statement of the operator in regard to the size of the customer, while impolite and unnecessary represents an isolated comment in a brief oral exchange with the customer. It does not refer to the customer's disability. Nor, were pejorative expressions or epithets utilized by the operator in his discourse.

Decision

The brief duration, lack of pejorative speech and isolated nature of the reference by the operator to the customer's size does not rise to the level of a violation of the rule above cited.

Issue no. 2

By forbidding the customer from boarding prior to the disembarkation of the customers alighting at the stop in question, did the operator violate Muni rules?

Discussion

There is no Muni rule dictating the precise order of admission and disembarkation of passengers at a stop. The general practice of disembarkation of passengers prior to boarding of new customers is well established. As well, the management authority of an operator of his vehicle in maintenance of safety, operational order and peaceful conduct is settled, although unpublished doctrine. When the operator required of the customer a delay of entry until the departing passengers had left the vehicle, the operator behaved in a manner consistent with the aforementioned doctrine and within his authority as the operator.

Decision

The operator did not violate Muni rules nor established doctrine in requiring that the customer await the disembarkation of alighting passengers prior to boarding.

Conclusion

No violation of Muni rules nor of the Americans with Disabilities Act is found.

Notes

A copy of the motion for pre-hearing dismissal of the complaint submitted by the operator was received by the customer with the original reposing in the case file. Additionally, the operator submitted several accolades for previous performance which are in the file. Copies of the latter documents were declined by the customer. The originals were returned to the operator with the copies thereof filed with the case.


George Milinovich
Neutral Hearing Officer

05 June 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT	Type 301 DISCOURTESY	
ADA? X	Title VI?	Other Disc. X
Trapeze Line/Route F-MARKET & WHARVES	Direction OUTBOUND	
Incident Date 04-10-2014	Incident Time 14:35	
Vehicle Number 1062	Location CHURCH ST MARKET ST SAN FR	
Department GNVA OPS	Division xCAMERON BEACH	
Employee ID [REDACTED]		
Employee Physical Description Caucasian male, late 50s to early 60s. Kind of husky, with gray hair. Wearing white sungl.		
<p>Incident Details "I was at 8th and Market and as I was boarding the F a patron was getting off. I started to board. The operator told me to wait until to wait until the patrons got off. I said the doors are wide enough for people getting off at the same time as someone getting on. He said no they werent. As I was getting off at Church and Market I told him 2 people can get get on and off. He said to me not as big as you are. Thats discrimination. Hes discriminating against me because of my weight. I told him you cant say that. He was about ready to say something and I said what did you say? I put my foot on the step and he told me to take if off. I complied, when he told me there was another passenger trying to board. I disembarked and he left. Im also disabled so can get on through the back or the front. MUNI can view the tape of what happened. I am requesting a video pull and a supervisor to respond at Church and Market"</p> <p>4-23-14 email copy of the PSR to Edelbarrio, nancy.banda@sfmta.com; sunny.lam@sfmta.com-efl</p> <p>4-29-14 email the PSR again to Edelbarrio and NBanda of Green Division to confirm the operator that is now working for Potrero Division-efl</p> <p>Received: Wed 4/30/2014 8:43 AM From: Banda, Nancy <Nancy.Banda@sfmta.com></p> <p>Operator [REDACTED] still with Green (on Loan) scheduled for conference this Friday, May 2.</p> <p>Thanks Nancy</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-10-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	452905	INCIDENT DATE	April 23, 2014	DATE RECEIVED	April 25, 2014
LINE/ROUTE	28	LOCATION	Daly City Bart		
HEARING DATE	May 28, 2014	HEARING TIME	10:00 am	HEARING LOCATION	1 So. Van Ness Ave. 7 th fl. RM 7074
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]
UNION REP	Name	Barbara Brooks		Division	Kirkland
HEARING OFFICER	Name	<i>Hyster</i>		Telephone Number	510.967.3679
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes
		No	<input type="checkbox"/>		<input type="checkbox"/>
		No	<input type="checkbox"/>		
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?	
		No	<input checked="" type="checkbox"/>		
COMMENTS					
<i>See attached</i>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled		
			<input type="checkbox"/>		
[Signature]			5/28/14		
Signature of Neutral Hearing Officer			Date		

Neutral Hearing, regarding alleged Disability Rule Violation,

Room 3074, 11 South Van Ness, San Francisco, CA 94103

May 28, 2014,

PSR 452905

[REDACTED] ["Patron"]

[REDACTED] ["Operator"]

Barbara Brooks ["Union Representative"]

Incident Date: April 23, 2014

Incident Time: 10:40 AM

Route: 28 Inbound

Neither the Operator nor the Operator's Union Representative appeared. Pablo Vigil, the SFMTA liaison to the Operator's Superintendent confirmed adequate notice to the Operator. The Operator is in default.

I. THE CD

A CD of the incident was available. The CD, viewed by the Hearing Officer and Patron, showed the following:

Patron boarded bus without incident. Patron complains to Operator that the electronic sign on the front of the bus indicates its arrival destination at Daly City BART, but not its inbound destination, Fort Mason. Operator quickly responds to her complaint by getting up from his seat and correcting the sign. However, Patron goes on to complain to him that she has experienced this problem before. Operator, hearing her continued complaint while he is correcting the sign, says "I'm fixing it!" in a frustrated voice.

Thereafter, the argument between the two parties gathers momentum. Patron becomes more intemperate about the wrong sign. Operator, after responding

with initial impatience, escalates his remarks to Patron. Among the things he says are, “you need a boyfriend;” “that’s how ignorant you are;” “look at you!”¹

At one point, Operator rises from his seat and tells Patron, “get the hell off my bus,” but then relents, and continues driving. By this time the tension has risen on the bus (a man in the back is heard saying “kill, kill”). A passenger, alarmed that Operator is driving while embroiled in an argument, intervenes between Operator and Patron and calms things down.

II. ANALYSIS

Although Patron stated she showed her RTC, none of the argument between Patron and Operator appeared to involve a disability or a mention of a disability. Patron conceded that Operator did not call her ugly or fat or old, even though she became distressed when he said “look at you!” and felt he was implying these things.

Patron testified that she stands at the SF State shuttle stop at the BART station in Daly City, but hurries over to the 28 bus (which she prefers) when it arrives. But she has to know it’s the 28, and without proper signage she can’t identify it. This has resulted in her missing the bus on several occasions.

In this instance, it is not clear that Operator had sufficient time between his arrival and departure to change the sign. In any case, even if he was tardy in correcting the sign, his tardiness was not related to a disability of the Patron, and as soon as she drew it to his attention he fixed it. Finally, Patron stated that in the four times she has used this Operator’s bus since the incident, the signage was correct when she boarded at the BART station.

III. FINDINGS

Finding 1:

By a preponderance of the evidence, this incident does not constitute an ADA violation.

¹ Patron stated that Operator looked her up and down when he said this.

Finding 2:

By a preponderance of the evidence, this incident constitutes a violation of the following Rules of conduct:

2.8.2: ... Profane... language is forbidden ("get the hell off my bus").

2.8.3: Avoid disputes with any person, no matter what the provocation.

Henry Epstein

A handwritten signature in blue ink, appearing to read "H. Epstein", written over the printed name and title.

SPMTA Hearing Section

May 28, 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc. X
Trapeze Line/Route 28 19TH AVENUE		Direction INBOUND
Incident Date 04-23-2014		Incident Time 10:40
Vehicle Number 8181		Location DALY CITY BART/
Department KIR OPS		Division KIRKLAND
Employee ID [REDACTED]		
Employee Physical Description Male, dark skin, Filipino, kinda bald, black glasses		
<p>Incident Details Patron states "I was already inside the bus, I showed my RTC card. I mentioned to him, typical conversation. "Will you change the sign on your bus? It says Daly City, it should say Fort Mason". I have been looking at all the 28s that say Daly City Bart. Im missing to catch the bus cuz its misleading the people. This is happening with most drivers. It is so important to so I can take the right bus. I missed my SFSU shuttle bus cuz I missed the 28 due to the incorrect signage. Its the same stop at Daly City Bart for the 28 going both directions, but when Im in the city, I know which one to take cuz they are not at the same stop.</p> <p>When I mentioned to the driver in a normal way, the driver went ballistic. It is misleading to passengers unless you see people getting on or off the bus, then you know which direction the bus is going. He started insulting me, I am 57yr old woman, my best years are gone, Im disabled, Im ugly, I know. He told me "Look at you, so ugly, so fat!" he said this for more than 10minutes. Someone in the back of the bus said "Im going to kill somebody if you dont stop" He could have just said he would change the sign, he was at fault not me. He left me traumatized, am I a monster? I am just an old woman; I am requesting a hearing to speak to him. I dont have 3 eyes, I dont have 2 heads, I deserve respect. It is him that is at fault, not me."</p> <p>5-8-14 @ 9:30 AM I called and spoke to patron given her address for hearing procedure-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-25-2014		
Date Closed 05-08-2014		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	452985	INCIDENT DATE	APRIL 20, 2014	DATE RECEIVED	APRIL 27, 2014
LINE/ROUTE	22 FILLMORE	LOCATION	16 TH ST AND MISSION ST		
HEARING DATE	MAY 27, 2014	HEARING TIME	14:00	HEARING LOCATION	6 TH FL 6042
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	ROBERT M. GAINER	Division	POTRERO	
HEARING OFFICER	Name		Telephone Number		
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes
		No	<input type="checkbox"/>		<input checked="" type="checkbox"/>
					No
					<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?	
		No	<input type="checkbox"/>		
COMMENTS					
<p>Insufficient evidence to establish that the violation occurred. No video available. 311 operator incorrectly noted that the incident took place at 8:30 am, when it took place prior to 8:11 am, when caller called 311 at 8:00.</p>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
				To be rescheduled	<input type="checkbox"/>
Julie Rosenberg			5-28-14		
Signature of Neutral Hearing Officer			Date		

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 22 FILLMORE		Direction OUTBOUND
Incident Date 04-20-2014		Incident Time 08:30
Vehicle Number 5483		Location 16TH ST MISSION ST SAN FRANC
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description light skin african american, thin & tall with glasses		
<p>Incident Details patron states i was talking with someone when i was exiting the bus, he (driver) purposely lifted up the ramp while i was halfway on and halfway off, the back wheels my wheelchair were still on the ramp and up in the air and the wheelchair fell off the ramp, i didnt fall out of the wheelchair but still that wasnt right, i said im going to file a complaint and he said "miss me with that shit" and he wouldnt give his id number</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-27-2014		
Date Closed		
Resolution Code [REDACTED]		



OVERVIEW							
PSR #	456966	INCIDENT DATE	7-7-14	DATE RECEIVED	7-7-14		
LINE/ROUTE	49	LOCATION	Van Ness Ave/McAllister Street				
HEARING DATE	8-25-14	HEARING TIME	2:00 PM	HEARING LOCATION	1 SOUTH VAN NESS, 3 rd FLOOR RM 3074		
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>	
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Robert M. Galner		Division	Potrero		
HEARING OFFICER	Name	H. Epstein		Telephone Number	510 967. 3679		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input type="checkbox"/>
		No	<input type="checkbox"/>			No	<input checked="" type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input checked="" type="checkbox"/>				
COMMENTS							
<p>Video tape of incident establishes that ID of operator who did not deny driving during incident but claimed he never saw patron. Video shows patron boarding without any denial of access & reaching disabled seat at preferred spot near pole he can support himself with, thus no ADA violation. However, patron complains to driver as he mounts steps. Operator's response inaudible. Patron: Operator</p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<p><i>H. Epstein</i></p>				<p>Aug. 25, 2014</p>			
Signature of Neutral Hearing Officer				Date			

see attached 2 pages

testifies that Operator is telling him, and
has told him before, "you cannot ask a lady
for a seat," i.e. ^{ask} ~~you~~ a woman to get up from
the disabled section for him. Operator denies
saying this, but says he believes Patron can-
not ask a Senior to get up for another Senior
or disabled person. Operator is misinformed.
Patrons can negotiate their own seating. Operator
not credible that he did not tell Patron
"you cannot ask a lady for a seat." Operator
should be instructed regarding his role
vis à vis patrons' role in the seating & request
for seating of disabled or senior patrons. See
4.20.8 for Operator's role. ^{However, although,} Operator could have
asked someone to move out of disabled seat
for this Patron, ~~but~~ he had a good faith if
mistaken belief that he could not ask a
Senior or other disabled person to move
for this, ^{or any other} disabled Patron no matter what the
circumstances. Because good faith, he hear-
ing officer does not find a discourtesy vio-
lation here. Finally, Patron alleged that Operator

refused to reveal his badge number.
Operator was evasive on whether he
wore a jacket over his badge number
~~and~~ ^{and} video appears to show a jacket
without conspicuous badge #. Patron
was credible on this issue and Operator ^{made}
was not. However, the Complaint (via 311
transmission) does not mention ~~the~~ a
refusal to reveal badge # by Oper-
ator. Therefore, on due process grounds,
Operator ~~does~~ ^{did} not have to defend against
this allegation at this hearing, since he
had no notice of it. The hearing officer
will try to retrieve the 311 tape to see
if ~~it~~ ^{the allegation} was originally ~~made~~ reported.
If not, the allegation is dismissed. If so,
Patron may file another Complaint in
which this allegation is made and
another hearing may be held at Patron's
option.

Henry Epstein
Aug. 25, 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 31 BALBOA		Direction OUTBOUND
Incident Date 07-29-2014		Incident Time 15:10
Vehicle Number 5555		Location MARKET ST POWELL ST SAN FR
Department PRE OPS		Division PRESIDIO
Employee ID [REDACTED]		
Employee Physical Description Female, Black, heavysset w/ gray hair		
<p>Incident Details The patron stated, "I was at Powell and Market and was there for almost an hour waiting for a 31 OB. One finally showed up and the operator went right by me and pulled up past the stop. By the time I got to her of course she was full because so many people had been waiting, and I couldnt board. I said to her thanks for not picking me up and she said I didnt see you. Im in a wheelchair." ADA Hearing requested and Video pull requested.</p> <p>8-7-14 @ 3:12 PM I called and spoke to patron given his address: [REDACTED]</p> <p>8-26-14 No Response back from patron, will close now-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 07-29-2014		
Date Closed 09-16-2014		
Resolution Code [REDACTED]		

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category UNSAFE OPERATION		Type 107 FALL WITH INJURY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 48 QUINTARA/24TH STREET		Direction INBOUND
Incident Date 09-19-2014		Incident Time 16:51
Vehicle Number 8445		Location 24TH ST MISSION ST SAN FRANC
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description African American woman, medium lenght hair, cut in layers, thin build,		
<p>Incident Details patron stated, " I have an RTC card, I am disabled, I wanted to get off at 22nd at cal tran, the driver stopped at the stop sign at Pennsylvania and 22nd St not on the corner of the bus stop. I went to the front to get off the bus and the driver told me I had to get off at the back of the bus and I have a cane and that is not even the bus stop. As I was exiting the bus which was never lowered to accomadate my disability the doors slammed on my left wrist I have a splint from an injury and now I am in extreme pain and on the way to the emergency clinic at UCSF. When I got off the bus the driver opened the door and asked if I was OK and I said I dont think so, I said No I am not OK and the driver closed the door and she left. I took a picture I can forward you."</p> <p>9-25-14 email copy of the PSR to neil.weingarten@sfmta.com; francisca.tapia@sfmta.com and to GCarey of WDS Div to identify the operator-efl</p> <p>9-30-14 @ 2:14 AM I called and spoke to her given her address and noted down to schedule the hearing-efl</p> <p>10/14/14 9:15AM Called Patron and left message to coordinate Neutral Hearing. sk</p> <p>[REDACTED]</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 09-19-2014		
Date Closed 12-17-2014		
Resolution Code [REDACTED]		

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT	Type 301 DISCOURTESY	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 31 BALBOA	Direction OUTBOUND	
Incident Date 01-31-2014	Incident Time 14:15	
Vehicle Number 5496	Location MARKET ST 4TH ST SAN FRANCI	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description Black female, 25-30 yrs, pierce upper lip, dark skin		
<p>Incident Details Patron stated" The 31 balboa bus was making a stop near 4th street, the coach 5496, I did not get the number of the other driver who was driving the bus, there was another driver blocking the seats, I wanted to sit opposite side of driver. I saw the other driving had a cushion seat and I ask her politely may I seat here, she snaps at me and says no this is my seat, the sign says its federal to allow people with disabilities to seat in that area, so that happens to be a violation of my right as being a disable passenger. I got off the bus at Turk and Larkin and I told her Im going to report you and she says go ahead and that was that".</p> <p>2-5-14 @ 4:17 PM left a vm given her PSR # if interested of hearing procedure @ 4:25 PM ptn called back given her address that was inputted-ef</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 01-31-2014		
Date Closed 02-28-2014		
Resolution Code [REDACTED]		

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 27 BRYANT	Direction INBOUND	
Incident Date 01-18-2014	Incident Time 18:08	
Vehicle Number	Location OFARRELL ST TAYLOR ST SAN F	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		
Employee Physical Description Light skin, african american male with short hair		
<p>Incident Details Patron stated" At 6:08pm today, I was curbside with my walker waiting for the number 27 bus the driver speed pass me then slowed down by curbside next to the bus stop, two park spaces both of the park spaces had pick up trucks, the driver pulled up next to one of the pick up trucks and there was no way for me to get to the bus there was no curb ramp and so he just speed up and left me there".</p> <p>1/21/14 per phone call to patron @ 3:42pm her address was requested for the hearing that she requested in which it was given along w/ her being given psr # . -MS</p> <p>2-6-14 email NWeingarten and WJohnson for identifying the operator and coded-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 01-18-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	440572	INCIDENT DATE	10-05-2013	DATE RECEIVED	10-05-2013
LINE/ROUTE	19	LOCATION	On the bus		
HEARING DATE	01-14-2014	HEARING TIME	11:00am	HEARING LOCATION	1 South Van Ness, 6 th Floor, RM 6042
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	<input type="checkbox"/>
OPERATOR	Name	[Redacted]	Cap ID	[Redacted]	
UNION REP	Name	<i>Laferrita Jenkins</i> Barbara J. Brooks	Division	Kirkland	
HEARING OFFICER	Name	<i>George Milinovich</i>	Telephone Number	<i>701 5455</i>	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
				<i>Self-identified</i>	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes
		No	<input type="checkbox"/>		<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?	No
		No	<input type="checkbox"/>		<input checked="" type="checkbox"/>
COMMENTS					
<p><i>Op: * I recall the incident: A wheelchair customer with a boy - were already on board. I did admonish (customer). She dp started arguing with me. I asked her to leave & she got off @ bust stop @ front door. C: She said it in a mean way - "don't hit the bag." Did you call Capt Control? I think I did before ... talk to them. I'm supposed to... I don't remember talking to them. Call SFDP? NO.</i></p>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
Signature of Neutral Hearing Officer			Date		
<i>[Signature]</i>			<i>18 January 14</i>		

all reviewed

**ADA Hearing
PSR 440572**

Heard on 14 January 2014

Summary of Facts

The person named as the customer in the complaint appeared personally and identified herself by presenting a government issued photographic identification card. The operator named in the complaint appeared personally and was identified as the operator named in the complaint by their patch and by the union representative, also present at the hearing. The customer claimed, consistent with the audio-video record of the incident and the testimony of the operator that the operator warned the customer who uses a walker to avoid any contact with a wheelchair using passenger by whom the customer passed and an accompanying boy already on the bus and that in the verbal exchange between the operator and customer that ensued, that the customer stated at one point to the operator that the operator "...go back to the project..." The operator considered this a racial insult and after repeated instructions to the customer to leave the bus, refused to proceed further until the customer disembarked the bus at a bus stop. Several other customers demanded, at times harshly, that the customer leave the bus as well.

Rule

Employees may request passengers to leave vehicle for quarreling, fighting, indecent actions or profane language. However, employee must first ask the passenger to discontinue the offending conduct. If passenger refuses to stop the offending conduct the employee is to notify OCC. (6.3.2, *Rules and Instructions Handbook, SFMTA*)

Discussion

The operator was aware that the customer, who utilizes a walker, is disabled. According to Muni rule 6.3.2, *supra*, the operator may request a passenger to disembark under certain circumstances in conjunction with a call to central control and after a warning to discontinue the disruptive conduct. In this case, the facts present a colorable basis for such a call and request for the passenger to leave the vehicle, however, the video record is unrevealing of a call to central control (OCC) or a warning to the customer to desist. While this may form the basis for a Muni supervisor to address the matter with the operator as a violation of Muni rules, there is no evidence to suggest that driver conduct arose out of the fact that the customer is disabled or that the conduct caused harm to the customer which varied from the harm which would have occurred to a non-disabled customer under the same facts. It is noted that no claim was made by the customer that she suffered an impediment or disservice in boarding, disembarking or riding the vehicle nor of any other damage to the customer related to her disability.

Decision

No violation of the Americans with Disabilities Act is found.


George Milinovich
Neutral Hearing Officer

18 January 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 19 POLK	Direction INBOUND	
Incident Date 10-05-2013	Incident Time 14:35	
Vehicle Number 8327	Location ON THE BUS/NA	
Department KIR OPS	Division KIRKLAND	
Employee ID [REDACTED]		
Employee Physical Description Tall African American driver with a ponytail		
<p>Incident Details Patron states: I got the 19 at 7th and Howard, vehilce number 8327. We were on Golden Gate. There was a lady with a wheelchair. She told everyone to move back. There was a little boy with the lady. Driver told me not to hit the little boy with my walker. I told her nobody got hit. Driver just kept yelling at me. I told her to leave me alone. She told me to leave everybody alone. I told her to go back to the project. SHe told me that I cant say something like that. She told me to get off the bus. And then the whole bus threatened me to get off the bus. She was also lying to me and telling me the bus was going out of service.</p> <p>10-15-13 Ptn called, spoke to Pablo Vigil and said she wanted a hearing and patron is an ADA, I check marked the ADA and hearing requested -efl NO OPR ID AND NO CODE YET</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 10-05-2013		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	440684	INCIDENT DATE	10-07-13	DATE RECEIVED	10-07-13
LINE/ROUTE	27	LOCATION	California / Hyde		
HEARING DATE	1-13-2014	HEARING TIME	12:30PM	HEARING LOCATION	1 South Van Ness, 6 th Floor, RM 6042
FORMAT (check box)			In person?	<input type="checkbox"/>	By phone?
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	Siegfried Henderson	Division	Woods	
HEARING OFFICER	Name	<i>Hepst</i>	Telephone Number	<i>510 967 3679</i>	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input type="checkbox"/>	Operator?	<input type="checkbox"/>	Union Rep?
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>
	No	<input type="checkbox"/>		No	<input type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input checked="" type="checkbox"/>	If yes, why?	<i>First hearing had wrong Operator</i>	
	No	<input type="checkbox"/>			
COMMENTS					
<i>See attached</i>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>
				To be rescheduled	<input type="checkbox"/>
<i>[Signature]</i>				<i>21 Jan. 14</i>	
Signature of Neutral Hearing Officer				Date	



SFMTA
Municipal
Transportation
Agency

Edwin M. Lee, *Mayor*

Tom Nolan, *Chairman*

Malcolm Heinicke, *Director*

Joél Ramos, *Director*

Edward D. Reiskin, *Director of Transportation*

Cheryl Brinkman, *Vice-Chairman*

Jerry Lee, *Director*

Cristina Rubke, *Director*

SFMTA ADA Hearing, 13 January 2014, Henry Epstein, Hearing Officer

PSR 440684

Incident date: 7 October 2013

Location and Time: California/Hyde, 16:40

Patron: [REDACTED]

Operator: [REDACTED]

Union Representative: Siegfried Henderson

I. THRESHOLD ISSUES

A. Patron and Operator were identified as parties to this incident. The Patron recognized Operator and the Operator did not deny she was the driver of the bus on the date and time of the incident, although she said she could not recall the incident itself.

B. Patron's disability was conspicuous. He testified that he boarded the bus using a cane and wearing a "flat shoe" (for rehabilitation) for his foot. He testified that he sat down in the disability section on the boarding side of the bus. Operator knew or should have known he was disabled.

II. PATRON COMPLAINT¹

Patron testified that a woman who appeared to be on drugs boarded the bus at Market and Fifth. She was with a man who also appeared to be a drug addict or street person. The woman carried a huge backpack and jostled him repeatedly in his seat, hurting him, until he pushed her away, whereupon the woman slapped him hard on the leg. He testified that he then shouted to Operator, "We have a problem!" and asked her to stop the bus. The woman's companion started screaming in Patron's face. According to Patron, he was big, went on cursing him, and threatened to kill him, although the

¹ Patron testified that he called in his complaint an hour or two after the incident. The 311 log confirms that he called in the complaint on the day of the incident. Patron's complaint, as called in, was substantially equivalent to his testimony at the hearing.

man did not hit him, that “his bark was worse than his bite.” Patron admitted that the argument was not one-way: “strong words went back and forth.” He testified that the argument lasted six or seven minutes.

Patron acknowledged that Operator told the woman to stop bothering Patron, and asked her to move her backpack, which she did, albeit slowly. Patron also acknowledged that the woman also told her companion to stop talking, limiting that part of the argument.

Patron complained that although Operator turned her head to the three patrons during the argument, and eased the tension a little, Operator did not get out of her seat to defend him or otherwise protect him. Patron alleged that during Operator’s intervention, she also told Patron to “Shut the F ___ up.”

According to Patron, Operator eventually stopped the bus at a spot between regular bus stops. It was not clear from Patron’s testimony how far into the argument Operator stopped the bus. Patron complained that the bus stopped for only 3-5 seconds.

Patron also complained that Operator seemed more concerned with meeting her schedule than his safety on the bus. He believed that she should have stopped the bus, ordered all the passengers off, and summoned police assistance.

III. OPERATOR’S RESPONSE

Operator testified that she did not recall the incident. However, she and the union representative testified that MUNI rules prohibit an operator from leaving her seat as Patron wanted her to do during this incident, and to comply with the rule she would not have left her seat during the situation the Patron described.

Operator testified that as a rule there are many street people behaving erratically on the 27 Bryant line and that despite this she must maintain her focus navigating through the crowded streets.

IV. HEARING OFFICER ANALYSIS

Patron testified credibly regarding the level to which the altercation on the bus rose. Given this testimony, it was not credible that Operator recalled nothing of the incident.

Because Operator declined to testify regarding the incident itself, several of Patron's assertions were uncontroverted. Although Operator may not have seen the woman jostling or hitting Patron with her backpack, or seen her hit him on the leg, Operator likely heard Patron's appeal for help ("We have a problem") and likely heard his request to stop the bus.

Patron testified that Operator did turn around in her seat and relieve the tension between the disputants, and that she stopped the bus. However, he complained that she did so only briefly, for 3-5 seconds.

Operator may have thought she resolved the issue sufficiently by the words she addressed to the disputants, and by briefly stopping the bus. Operators may request passengers to leave a vehicle for quarreling or fighting (Rule 6.3.2) but must first ask the passengers to discontinue the offending conduct. Operator likely did that. Once done, asking the passengers to leave the bus was discretionary.

Nevertheless, the hearing officer finds that the level of conflict on the bus described by Patron, which required Operator to stop the bus at an unauthorized spot, required her to call Operations Control Center (OCC). Both Operator and Union Representative admitted that she did not do this, and neither testified that she submitted a Miscellaneous Report regarding the incident.

However, although Operator may have been derelict in not reporting the incident to OCC, this is not a basis for a finding of discrimination on the basis of a disability, and it did not lead to a denial of access to a disabled person. Patron was able to seat himself in the disabled row without incident. It was only after he sat in the disabled section that the incident began, and Operator regardless of whether she handled the situation appropriately appeared to be handling it as she might have done whether or not the disputants were disabled.² Thus, her action or inaction was not based on the Patron's disability.

² Although it was not entirely clear from Patron's testimony, it appears that the woman who hit him may have also been sitting in, or intending to sit in the disabled seats when she jostled him with her backpack, and may also have been disabled. Absent a finding that Operator was discriminating against both, which the hearing officer declines to make, this argues against characterizing the Operator's conduct as discriminating against Patron as a disabled person, and argues for characterizing Operator's conduct as an attempt to resolve a conflict between two (or three) angry disputants, *per se*.

Finally, although the hearing officer cannot corroborate Patron's specific allegation that Operator told him to "Shut the F ___ up," it is likely that Operator did not treat Patron respectfully during the incident. Operator had this duty even though Patron admitted contributing to the altercation by arguing with the man ("strong words went back and forth") and Operator may have been calling for both to stop yelling at each other.

V. FINDINGS³

1. Operator's conduct did not violate a disability-related rule.
2. Operator violated Rule 2.8.1: Polite respectful behavior is required of all employees in their dealings with the public.
3. There is insufficient evidence that Operator violated Rule 2.8.2: Profane or vulgar language is forbidden.
4. Operator violated Rule 2.8.3: Avoid disputes with any person, no matter what the provocation.
5. Operator violated Rule 4.12.1: Operators are to immediately notify OCC when any difficulty occurs which might disrupt the operator's schedule or cause a delay.
6. Operator violated Rule 4.13.1: Operators are to make out Miscellaneous Report forms to report all unusual occurrences, except accidents.
7. Operator violated Rule 6.1.4: Passengers must not be allowed to engage in loud, offensive, and unruly conduct.
8. Operator did not violate Rule 6.2.1. Operator likely did not observe the woman hitting Patron.
9. Operator violated Rule 6.2.2: Pleas and requests for assistance from passengers must be acknowledged and immediately reported to OCC.

³ All findings are based on a preponderance of the evidence standard with the burden of proof on Patron.

10. Operator did not violate Rule 6.3.2. Employees may request passengers to leave vehicle for quarreling, fighting... [but] must first ask the passenger to discontinue the offending conduct.
11. Operator violated Rule 6.3.4: Employees observing a disturbance on a train... or other MUNI property must immediately notify OCC.

Respectfully yours,



Henry Epstein
Hearing Officer
S.F.M.T.A. Hearing Section

21 January 2014



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 213 GEN DSTRACT DUTY
ADA? X	Title VI?	Other Disc. X
Trapeze Line/Route 27 BRYANT		Direction OUTBOUND
Incident Date 10-07-2013		Incident Time 16:40
Vehicle Number		Location CALIFORNIA/HYDE
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description female-black, heavy set		
<p>Incident Details got on bus and sat down, patron is disabled at this time, patron was sitting in the disabled seat. Patron wants tapes pulled and wants a hearing. A couple stops before market and 5th, there were drug addict type patrons who got on the bus and appeared to be on drugs. One woman patron who was clearly was on drugs, like crack, had a huge back pack on and she kept bumping into patron with her back pack and it was very heavy, it stunk horribly, it was hurting patron as she kept slamming into him with her back pack so patron pushed back pack away and off of him and this woman patron turned around and slapped patron really hard on his leg and patron had screamed out to driver to stop as there was clearly a problem. This woman patrons husband or boyfriend just started getting into patrons face screaming really loud at him. The driver eventually stopped bus and the big man patron would not move out of the way and kept threatening to kill patron and continuously cursing as driver kept asking him to move and eventually this big patron man did move and the driver looked over at the woman patron and asked her to move her back pack and she complied but very slowly and the big male patron still kept cursing and carrying on. Well this driver never came to patrons defense and patron feels this was not properly handled. When there is an assault on a bus the driver is supposed to call the police and stop the bus but this driver did not do any of that. Patron would like a call from a supervisor and discuss this further. Patron wants tapes pulled as well as then all can be seen.</p> <p>yhb 10/16/13 spoke to ada patron and he is wanting to know the status on the hearing he has requested</p> <p>10-21-13 [REDACTED] email copy of the PSR toNWeingarten and LRozier-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 10-07-2013		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	440684	INCIDENT DATE	10-07-13	DATE RECEIVED	10-07-13		
LINE/ROUTE	27	LOCATION	California / Hyde				
HEARING DATE	11-13-13	HEARING TIME	2:00PM	HEARING LOCATION	1 South Van Ness, 6 th Floor, RM 6042		
FORMAT (check box)				In person?	<input type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED] <i>should paid</i>		
UNION REP	Name	Siegfried Henderson <i>seg i-d</i>		Division	Woods		
HEARING OFFICER	Name	George Milinovich		Telephone Number	701.5455		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?	Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>		
	No	<input checked="" type="checkbox"/>		No	<input type="checkbox"/>		
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?				
	No	<input type="checkbox"/>					
COMMENTS							
<p>Upon entry to hring. rm, customer unequivocally stated that the operator present at hring was not the operator present on the date of the incident. Also, prior to this, customer on seeing the people appearing asked if the operator would be present.</p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input checked="" type="checkbox"/>
<p><i>[Signature]</i></p> <p>Signature of Neutral Hearing Officer GEORGE MILINOVICH</p>				<p>Date 13 NOV 13</p>			

Additionally, the video reveals a male operator, while operator named herein (and appearing) is female.

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 213 GEN DSTRACT DUTY
ADA? X	Title VI?	Other Disc. X
Trapeze Line/Route 27 BRYANT	Direction OUTBOUND	
Incident Date 10-07-2013	Incident Time 16:40	
Vehicle Number	Location CALIFORNIA/HYDE	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		
Employee Physical Description female-black, heavy set		
<p>Incident Details got on bus and sat down, patron is disabled at this time, patron was sitting in the disabled seat. Patron wants tapes pulled and wants a hearing. A couple stops before market and 5th, there were drug addict type patrons who got on the bus and appeared to be on drugs. One woman patron who was clearly was on drugs, like crack, had a huge back pack on and she kept bumping into patron with her back pack and it was very heavy, it stunk horribly, it was hurting patron as she kept slamming into him with her back pack so patron pushed back pack away and off of him and this woman patron turned around and slapped patron really hard on his leg and patron had screamed out to driver to stop as there was clearly a problem. This woman patrons husband or boyfriend just started getting into patrons face screaming really loud at him. The driver eventually stopped bus and the big man patron would not move out of the way and kept threatening to kill patron and continuously cursing as driver kept asking him to move and eventually this big patron man did move and the driver looked over at the woman patron and asked her to move her back pack and she complied but very slowly and the big male patron still kept cursing and carrying on. Well this driver never came to patrons defense and patron feels this was not properly handled. When there is an assault on a bus the driver is supposed to call the police and stop the bus but this driver did not do any of that. Patron would like a call from a supervisor and discuss this further. Patron wants tapes pulled as well as then all can be seen.</p> <p>yhb 10/16/13 spoke to ada patron and he is wanting to know the status on the hearing he has requested</p> <p>10-21-13 NO opr ID and still Supt2rev code, email copy of the PSR toNWeingarten and LRozier-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 10-07-2013		
Date Closed		
Resolution Code [REDACTED]		

N.B. Cust. rd'cc of the job

NEUTRAL HEARING REPORT FOR ADA PSRS

SFMTA

Municipal Transportation Agency

OVERVIEW							
PSR #	442688	INCIDENT DATE	11-01-13	DATE RECEIVED	11-01-13		
LINE/ROUTE	108	LOCATION	Howard St. / Main St.				
HEARING DATE	01-14-2014	HEARING TIME	1:00pm	HEARING LOCATION	1 South Van Ness, 6 th Floor, Room 6042		
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>	
OPERATOR	Name	<i>[Redacted]</i>	Cap ID	<i>[Redacted]</i>			
UNION REP	Name	Siegfried Henderson	Division	Woods			
HEARING OFFICER	Name	<i>George Milinovic</i>	Telephone Number	<i>701.5455</i>			
HEARING LOGISTICS <i>C per i.d. Clapper card photo i.d.</i> <i>OP: per packet</i>							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?	Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>	<i>self-i.d.</i>	
	<i>Can't remember</i> No	<input checked="" type="checkbox"/>		No	<input type="checkbox"/>		
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?				
	No	<input type="checkbox"/>					
COMMENTS							
<p><i>C: verifies comp't., reiterates facts presented. We weren't causing any impediment.</i></p> <p><i>OP: paid w/ cash. I heard sound of dog moving. Dog was walking around in circles - I said, sir, can you please send your dog. He said she (dog) wouldn't move. I paid w/ clapper, in cash.</i></p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<p><i>[Signature]</i></p> <p>Signature of Neutral Hearing Officer</p>				<p><i>18 Jan 14</i></p> <p>Date</p>			

OP: Dog was not up marking in circles. C: she says she said this I got off @ Trans Bay. I spoke to sign. I went home instead of going to Island.

**ADA Hearing
PSR 442688**

Heard on 14 January 2014

Summary of Facts

The person named as the customer in the complaint appeared personally and identified himself by presenting a government issued photographic identification card. The operator named in the complaint appeared personally and was identified as the operator named in the complaint by their patch and by the union representative, also present at the hearing. The customer claims that the operator refused to begin driving the vehicle until the service dog with which the customer boarded was seated. The dog was leashed. The operator testified that the dog was walking about in circles. The customer stated that while the dog was not seated, it was restrained, stable and not walking in circles. After the operator informed the customer that the operator would not move the vehicle if the animal is not seated (or lying down), the customer exited the bus after a brief verbal exchange with the operator.

Rule

Operators must allow, without limiting the number on a single revenue vehicle, Guide Signal, and Service animals of the disabled to ride free on all equipment all hours. All guide and signal dogs and service animals must be on a leash but are not required to be muzzled. (6.7.3, *Rules and Instructions Handbook, SFMTA*)

Discussion

To the extent that the operator permitted the service animal in question to ride, the operator was in compliance with the rule above cited as well as the Americans with Disabilities Act. An issue is raised as to whether imposition of the additional requirement that the animal be seated, lying or otherwise positioned in a stable manner prior to movement of the vehicle the operator violated the rules or the ADA. An operator is tasked with safe operation of the vehicle, including the minimization of distractions and impediments which would impair such safe operation. In order to effect this interest in safe transport, according to SFMTA staff within the disability access section, an operator may require an animal to be securely stationed prior to and during operation of a transit vehicle. Apart from protecting the safety of other passengers and minimizing distractions to the operator, this also inures to the safe travel of the service animal. It is stated in pertinent part in the "Service Animals on Muni" section of the "Muni Access Guide S.F. - Muni Transit Information for Seniors and People with Disabilities," at page 41, that "Passengers with disruptive or destructive service animals may be asked to remove them from the vehicle." Additionally, the union representative testified at the hearing that a service animal must be "controlled." In light of the foregoing and the fact that the service animal in this case was circling about instead of being a stable position, the demand by the operator that the service animal not be standing, but rather sit (or lie

down) did not rise to the level of denying the customer right to accompaniment by his service animal while riding the transit system as required under the Muni rules and the ADA.

Decision

No violation of the Americans with Disabilities Act is found.



George Milinovich
Neutral Hearing Officer

18 January 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE	Type 210 REF SVC ANIMAL	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 108 TREASURE ISLAND	Direction OUTBOUND	
Incident Date 11-01-2013	Incident Time 14:20	
Vehicle Number	Location HOWARD ST MAIN ST /	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		
Employee Physical Description short female african american		
<p>Incident Details Patron stated "I was at the transbay terminal I boarded the 108 going outbound with my service dog. After everyone had boarded the driver said that my service animal had to be seated before we could move. I told her that she was restrained and was wearing a harness but she could be seated now but then decide to stand up later. The driver could see that I had her on a short leash; she said she didnt want the dog running around in the isles. I let her know that I had my fingers on the harness and had control of my dog. She said she would not move the vehicle if she was not seated, that it was a rule. I told her if you are going to act like a bitch then to hell with it, and I got off I reported to a supervisor on site but I did not have the vehicle # or driver ID but he told me it was run 075"</p> <p>11-19-13 [REDACTED] email copy of the PSR for a reminder to WJohnson & NWeingarten.</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 11-01-2013		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW

PSR #	444439	INCIDENT DATE	11-30-2013	DATE RECEIVED	11-30-2013
LINE/ROUTE	5	LOCATION	Market St. / 1 st St.		
HEARING DATE	02-05-2014	HEARING TIME	2:00pm	HEARING LOCATION	1 South Van Ness, 6 th Floor, Room 6042

FORMAT (check box)		In person?	<input type="checkbox"/>	By phone?	<input checked="" type="checkbox"/>
OPERATOR	Name	Cap ID	<i>By Leds SFMTA [redacted] / [redacted]</i>		
UNION REP	Name	Division	Terrence Hall <i>Michael Green</i> Presidio		
HEARING OFFICER	Name	Telephone Number	<i>George Minerva</i> 7015465		

HEARING LOGISTICS

ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?	Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>	
	No	<input checked="" type="checkbox"/>		No	<input checked="" type="checkbox"/>	
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?			
	No	<input type="checkbox"/>				

COMMENTS

maybe short. Can't remember.
 African - American 6' tall hair? I don't know. *sex 3x asked NO purpose*
 would say can't be positive. *longer 40's-50's*
 Are you disabled? *yes.* I had just received my transit pass. I paid full fare nevertheless. *single bus.*
if stood up & walked toward me shouting. *about 3:33 pm*

HEARING OUTCOME

Valid	<input checked="" type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
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[Signature]
 Signature of Neutral Hearing Officer

07 February 14
 Date

Can't remember if used temp. or not.
Dealing behavior

**ADA Hearing
PSR 444439**

Heard on 5 February 2014

Summary of Facts

The person named as the customer in the complaint appeared by telephone and identified herself by affirmation. The operator named in the complaint appeared personally and was identified as the operator named in the complaint by their patch number and by the union representative, also present at the hearing. The operator was not able to identify the customer. The customer's description of the operator was approximate at best, varying as to sex of the operator, differing in height from the observed height of the operator and differing as to the observed age range of the operator at the hearing. The description given in the 311 complaint by the customer call refers to a "black male mature." The information in the complaint as to the (bus) line number and time of the event identify the operator present at the hearing. The customer claims that the operator shouted at the customer "...how old are you where were you born fag." The customer is a transgender (male to female) individual.

Issue: Did the customer meet their burden to positively identify the operator named in the complaint as the operator present at the hearing?

Discussion

The choice to appear by telephone instead of personally is that of the customer. The latter does not decrease the burden by the customer to identify positively the operator. Given the equivocation on three instances as to the sex of the operator and other discrepancies in physical description of the operator given by the customer from that apparent at the hearing, the burden of positive identification has not been met. Accordingly, the complaint fails to be actionable on the basis of lack of certainty of identification of the operator.

Decision

No violation of the Americans with Disabilities Act is found.

Notes

There is no evidence to show that the operator was on notice at any time that the customer was disabled. Additionally, the customer claims that while she is disabled, she paid the full (non-disabled) adult fare. While the utterances claimed by the customer to have been made by the operator are objectionable and would constitute a violation of the Muni rules, there is no element of discrimination or insult pertaining to the disability of the customer. There is no claim made that an accommodation based on the disability of the customer was requested by the customer. Accordingly, were the operator to have been positively identified, no claim which if proven, would constitute a violation of the Americans with Disabilities Act was stated in the complaint nor at the hearing.



George Milinovich
Neutral Hearing Officer

07 February 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 5 FULTON	Direction OUTBOUND	
Incident Date 11-30-2013	Incident Time 10:20	
Vehicle Number 5526	Location MARKET/FIRST	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description Black male mature		
<p>Incident Details Shouted at me : how old are you where were you born fag!</p> <p>12-2-13 email copy of the PSR to CChambers and JMayeda-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 11-30-2013		
Date Closed		
Resolution Code [REDACTED]		

NEUTRAL HEARING REPORT FOR ADA PSRs

SFMTA

Municipal Transportation Agency

OVERVIEW					
PSR #	445332	INCIDENT DATE	12-14-14	DATE RECEIVED	12-15-14
LINE/ROUTE	43	LOCATION	Presidio St. / Clay St.		
HEARING DATE	1-22-14	HEARING TIME	11:30am	HEARING LOCATION	1 South Van Ness, 6 th Floor, Room 6042
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	
OPERATOR	Name	[Redacted]	Cap ID	[Redacted]	
UNION REP	Name	Barbara J. Brooks	Division	Kirkland	
HEARING OFFICER	Name	George Milinovic	Telephone Number	7015455	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input type="checkbox"/>	Union Rep?
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes
		No	<input type="checkbox"/>	"believe so"	No
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?	
		No	<input type="checkbox"/>		
COMMENTS					
<p>Customer showed ID - issued.</p> <p>U.R. There is a video. Bus was not full. 2 observations in video: other bus driver, got off. Patron was busy w/ phone - she pulled cord & no bell, no signal - op - ok. Give to the time op - ok. Admit the the verbal response occurred w/ exception "bus late cause of you."</p> <p>1/24/14 left mess on voice mail phone 415-574-5071 w/ instruction to call me if she wishes a copy of the video CD.</p>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
Signature of Neutral Hearing Officer			Date		
[Signature]			24 January 2014		

Evidence of malfunction. op, no light, no ring. After case, yellow, no requests (unusual) I noticed problem.

**ADA Hearing
PSR 445332**

Heard on 22 January 2014

Summary of Facts

The person named as the customer in the complaint appeared personally and identified herself by presenting a government issued photographic identification card. The operator named in the complaint appeared personally and was identified as the operator named in the complaint by their patch and by the union representative, also present at the hearing. The customer suffers from a disability which is not immediately apparent. The customer characterizes the disability as "mental" in nature. The operator stated that he was not aware that the customer was disabled until the customer mentioned this fact on leaving the bus. The customer statements at the hearing were supportive of the operator's assertion in regard to the fact that the disability is not apparent. The customer claims that the operator ignored her stop request resulting in her alighting from the bus two stops later than she wished. When the customer requested an explanation as to why the operator did not stop at her desired bus stop, the operator stated that he did not hear the bell nor see the illuminated sign indicating a stop request was made. On her exiting the bus, the operator told the customer on two occasions to "have a nice fu**ing day."

Rule

[Operator] Conduct. Boisterous, profane or vulgar language is forbidden. (2.8.2, *Rules and Instructions Handbook, SFMTA*)

Avoid disputes with any person, no matter what the provocation. . (2.8.3, *Rules and Instructions Handbook, SFMTA*)

Operators must respond to timely requests for stops by stopping and disembarking passengers as requested. (SFMTA policy per accessibility staff)

Discussion

The evidentiary record clearly supports finding that the operator utilized profane and vulgar language in his discussion with the customer in violation of Muni rule, 2.8.2, referenced above. Additionally, evidence supports finding that the operator failed to avoid a dispute in his verbal engagement with the passenger, a violation of rule 2.8.3, also above cited. The union representative has already indicated that disciplinary action in regard to the above is contemplated and forthcoming. The issue arises whether the actions in violation of the rules 2.8.2 and 2.8.3 constituted violations of the ADA as well. The operator was unaware that the customer was disabled until the customer informed him after the profane language was used and the verbal engagement had commenced. Additionally, the profane behavior did not arise out of circumstances involving the disability of the customer. Since no accommodations were made for nor requested by the

customer, the operator had no reason to believe that she was disabled. While the conduct of the operator was injurious to the customer, there was no comment made nor implication in the words used by the operator pertaining to the disabled status of the customer nor any evidence of disparate impact to the customer pertaining to the customer arising out of their disability. Accordingly, no ADA violation is found as to the verbal exchange.

A review of the video record supports the operator's claim that no audio nor visual signal was effected by the customer on her first effort to request a stop. The customer is seen pulling on the stop request device in the video, however no signals emanate. On her second attempt to request a stop, the audio signal is heard on the recording and it is evident in the video recording that the audio stop request occurred as the bus was passing a bus stop and thus occurred clearly beyond the time that the operator could stop. In response to the aforementioned stop request, the operator stopped at the subsequent bus zone and the customer alighted after the aforesaid verbal engagement without

Decision

Although two violations of Muni rules are found, neither was violation as defined under the Americans with Disabilities Act.


George Milinovich
Neutral Hearing Officer

29 January 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 202 IGN STP REQUEST
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 43 MASONIC		Direction INBOUND
Incident Date 12-14-2013		Incident Time 06:50
Vehicle Number 8335		Location CLAY ST AND PRESIDIO ST SAN
Department KIR OPS		Division KIRKLAND
Employee ID [REDACTED]		
Employee Physical Description Latin male, black hair, black mustache		
<p>Incident Details Patron states - The driver of the bus ignored my stop request. I pulled the cord at Presidio and Sutter because I wanted to get off at Presidio and Pine. The driver did not stop and kept going. He proceeded to ignore the next two stop requests. Other passengers were yelling at him because he passed up other stops. I told him why he did not stop, he said you did not ring the bell. I said I did and the stop request sign kept flashing as an indication to stop. He finally stopped on Presidio and Clay and told me to have a F**king nice day. I said what did you say, he said it again Have a F**king nice day. I said I have a disability and this is not right with me and showed him my disabled c card and he said it is because of you the bus is late. I said what did you say and he said the bus is late because of me. I told him I was going to report him and he said go ahead and do it he did</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 12-15-2013		
Date Closed		
Resolution Code [REDACTED]		

NEUTRAL HEARING REPORT FOR ADA PSRs

SFMTA

Customer phone
Municipal Transportation Agency



OVERVIEW							
PSR #	445661	INCIDENT DATE	12-20-2013	DATE RECEIVED	12-20-13		
LINE/ROUTE	5	LOCATION	Fulton / 6 th Ave				
HEARING DATE	02-05-2014	HEARING TIME	3:00pm	HEARING LOCATION	1 South Van Ness, 6 th Floor, Room 6042		
FORMAT (check box)			In person?	<input type="checkbox"/>	By phone?	<input checked="" type="checkbox"/>	
OPERATOR	Name	[Redacted]		Cap ID	operator		
UNION REP	Name	Terrence Hall Michael Deane		Division	Presidio		
HEARING OFFICER	Name	Gregg Mininour		Telephone Number	7015455		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity? <i>doesn't recall but not face</i> <i>does not recognize voice</i>	Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>		
	No	<input type="checkbox"/>		No	<input checked="" type="checkbox"/>		
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?				
	No	<input type="checkbox"/>					
COMMENTS							
<p><i>C: Describes OP African American, male, glasses, maybe 6ft, "something". Video record mostly inaudible at time of incident. op. White Caucasian female about 50+ years, net. about 50 yrs old. but not about 50 yrs old. Recalls incident involving a female</i></p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
Signature of Neutral Hearing Officer				Date			
[Signature]				14 February 14			

C: I boarded Fulton (La Playa 146th Ave). I paid fare, but that didn't work. I asked if I could use same pass. He said just go (w/o a trip). So I left & went to the driver's vehicle. I told him previous driver said I already had paid. I was told to pay double fare.

**ADA Hearing
PSR 445661**

Heard on 5 February 2014

Summary of Facts

The person named as the customer in the complaint appeared by telephone and identified herself by affirmation. The operator named in the complaint appeared personally and was identified as the operator named in the complaint by their patch number and by the union representative, also present at the hearing. The customer satisfactorily identified the operator present at the hearing as the operator involved in the incident. The operator was not able to positively identify the customer but did recall the incident. Prior to boarding the bus in question, the customer had disembarked a bus which had reached its terminus and disgorged all its riders including the customer. The customer claims that the previous operator had declined to issue the customer a transfer, instructing the customer to simply inform the present operator that he had paid previously. The operator in question not being presented with a transfer compelled the customer to pay a fare to ride. The customer stated that the operator said to him "You don't speak English, so pay up or I'll throw you off the bus" and compelled him to pay another fare.

Discussion

In accordance with Muni policy, it is accepted on the affirmation of the customer that the customer is disabled. The customer declined to respond to the inquiry from the hearing officer as to whether the disability is apparent. The operator denied knowing or having reason to know that the customer is disabled. The customer made no requests for any accommodation related to the customer's disability. The complaint of the customer is two-fold: one, that the driver was abusive in his discourse to the customer and that the customer was compelled to pay twice. It is settled Muni policy that under the set of facts presented by the customer, the first operator was under the obligation to issue the customer a transfer for the bus in question. Whether the first operator breached the policy is not at issue in this hearing. The operator in question, when confronted by this passenger without a proof of payment, was under the obligation to request payment which the operator did. While the video and audio record is unrevealing of any abusive language, the customer convincingly stated that the operator addressed her in a manner which would not be in accord with Muni policy due to its harsh nature. There is, however no evidence presented the speech or conduct on the behalf of the operator was related in any way to the disability of the customer. Additionally, no evidence exists to support finding that the operator knew or should have been known that the customer was disabled. No basis exists for finding that the Americans with Disabilities Act was violated in this case.

Decision

No violation of the Americans with Disabilities Act is found.

Notes

As stated in the discussion above, the customer made a credible claim that the operator's discourse did not meet the standards expected by Muni and this may be a cause for the operator's supervisor to react accordingly.


George Milinovich
Neutral Hearing Officer

13 February 2014

Muni Rules and ADA Violation Hearing

PSR 447574

Heard on 12 March 2014

Summary of Facts

The person named as the customer in the complaint appeared in person and identified herself by presenting her California DMV-issued identification card. The operator named in the complaint appeared personally and was identified as the operator named in the complaint by his patch number and by the union representative, also present at the hearing. The customer identified the operator present at the hearing as the operator involved in the incident. The operator identified the customer as being the person involved in the incident. The customer is a wheelchair user. The customer complained that the operator declined the customer's request to allow her to station her wheelchair on entry and for the duration of travel in the transit vehicle entry area immediately adjacent the operator's door and passenger entry door of the light rail vehicle in question. The customer made the request based on the fact that her wheelchair is a motorized scooter-type mobile assistance device which she claims is too large to practically occupy the area reserved for wheelchair placement and securement. Instead of complying with the customer's request, the operator directed her to the normal area reserved for wheelchairs and lifted the passenger seats to promote the conventional manner of securement citing reasons of safety.

Rules of Law

Operators must aid passengers in wheelchairs with lifting seats and the securement systems upon the request of the passenger. *Municipal Railway Rules and Instructions Handbook, Rule 4.20.6*

Issue: Did the operator violate Muni rule 4.20.6 by refusing the request of the customer for alternate accommodation?

Discussion

The operator is under obligation to utilize the areas of the transit vehicle designated for wheelchair stationing and securement. The operator acted consistent with this mandate. The alternate location requested by the customer is not within the designated wheelchair area. Furthermore, the location requested is within the entry area of the transit vehicle and directly in front of the operator's door. Accordingly, to station the wheelchair in this location would impede passenger movement and prevent needed expeditious egress for the operator as needed. The agency and by extension, the operator are obligated under the Americans with Disabilities Act to make reasonable accommodation for the disabled

including their assistive devices. In compliance with this law, the agency has properly designated specific and sufficient means to position wheelchairs. The operator is under no obligation to deviate from established rules and procedures limiting wheelchair stationing to the areas reserved for such use as represented by the customer's request. By refusing the alternate positioning and offering the positioning required by the agency, the operator did not violate Muni rules.

Decision, Issue no. 1



No violation of Muni rules is found.


George Milnovich
Neutral Hearing Officer

13 March 2014

Notes

The customer stated at the hearing that the customer understood that the operator acted in compliance with the rules.

OVERVIEW					
PSR #	448254	INCIDENT DATE	01-20-2014	DATE RECEIVED	02-05-2014
LINE/ROUTE	9	LOCATION	Market St. / 4 th St.		
HEARING DATE	04-28-2014	HEARING TIME	10:00am	HEARING LOCATION	1 South Van Ness, 3 rd Floor, Room 3075
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
OPERATOR	Name		Cap ID		
UNION REP	Name	<i>Robert Henderson</i> Siegfried Henderson	Division	Woods	
HEARING OFFICER	Name	<i>H. Epstein</i>	Telephone Number	<i>510 967-3879</i>	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes
		No	<input type="checkbox"/>		<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>		<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input checked="" type="checkbox"/>	If yes, why?	<i>Operator did not appear 1st time</i>
		No	<input type="checkbox"/>		
COMMENTS					
<i>See attached</i>					
<i>but see other Rule violation</i>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
				To be rescheduled	<input type="checkbox"/>
<i>H. Epstein</i>			<i>4-30-14</i>		
Signature of Neutral Hearing Officer			Date		

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI? X	Other Disc.
Trapeze Line/Route 9-9L SAN BRUNO		Direction OUTBOUND
Incident Date 01-20-2014	Incident Time 13:55	
Vehicle Number 8412	Location MARKET ST/4TH	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		
Employee Physical Description african american male		
<p>Incident Details I feel discriminated against by this office. your first response makes me feel muni justifies the actions of the driver. I want to hear muni official policy carrying bags on buses how can I get a video of the incidents on the two buses When trying to enter the bus on the Island near Market and 4th Sts, the bus driver of bus number 8412 closed the front of the bus doors temporarily trapping my arms in the doors. I consider his actions a type of assault using the bus as an instrument. After the driver released my arm from the door, he refused to allow me to get on the bus because he assumed the bag of can I was carrying was leaking fluid. I tried to explain to him the bag I was carrying was not leaking any fluid but he refused to listen me to what I was saying. The rage in my opinion in his eyes made me not argue with out of fear. When the next 9 San Bruno bus came, bus # 8473 I road the bus to the bus stop near the Lowes store on Bayshore. When I got off the bus I specifically ask the female bus driver , driver number 3307 if she seen any water dripping out of my bag and she said no. Cameras from both buses should verify the information I say is true. in my opinion, the driver of bus 8412 humiliated me for no other reason than the color of my skin and I was poor. the driver of the bus made the statement he was not letting me on HIS BUS, which was an untruth, he does not own the bus, he is only doing a job, driving a bus for a company. if driver from other races can show me compassion because of my race and age, why cant he. While this driver closed my arm in the door when trying to enter, two other African American drivers tried to discourage me from entering the bus because I was carrying a bag. one driver tried to state it was Muni policy to deny entrance to the bus of people carrying a bags of bottles and cans. if it is Muni policy it is discrimination against the poor because your allow other people to bring bags on the bus with the potential of leaking fluids, and if it is a policy then it should be openly posted on the bus, not at the whim of particular bus driver. the bus driver of bus 8412 was also rude to me in trying to close the door as I was about to enter the bus, my mind and soul is full of hurt and shame in knowing that this man of African heritage like myself did not have the respect for me to explain his actions, but to close the bus doors without explaining anything to me. the bus driver closing the door on me the way he did, makes me question his mental fitness for the job. before the hearing I would like to know if Muni has a policy denying people to carry big black bags on the bus and can I have copy of the tapes of both buses before so I can use them as evidence for a potential court case</p> <p>yhb 2-10-14 forward copy to woods division .</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 02-05-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	448254	INCIDENT DATE	01-20-2014	DATE RECEIVED	02-05-2014		
LINE/ROUTE	9	LOCATION	Market St. / 4 th St.				
HEARING DATE	04-08-2014	HEARING TIME	10:00am	HEARING LOCATION	1 South Van Ness, 6 th Floor, Room 6042		
FORMAT (check box)				In person?	<input type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Siegfried Henderson		Division	Woods		
HEARING OFFICER	Name	MIKE HANRAHAN		Telephone Number	701-5445		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input type="checkbox"/>	Union Rep?	<input type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input type="checkbox"/>
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input type="checkbox"/>				
COMMENTS							
NO APPEARANCE BY OPERATOR.							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input checked="" type="checkbox"/>
Signature of Neutral Hearing Officer				Date			
Mike Hanrahan				4-8-14			



449 254

PSR No. ~~440017~~

Complainant/Patron [REDACTED]

Operator: [REDACTED]

Union Representative: Robert Gaynor

Incident Date: January 20, 2014

Hearing Date: April 28, 2014

I. Threshold Issues:**A. Identification of Operator**

Operator acknowledged his involvement in the incident.

B. Patron's disability

Patron testified that he was using a cane when he attempted to board the bus. Operator testified that he did not recall seeing a cane.

Finding 1

By a preponderance of the evidence, Patron was carrying a cane and his disabled status was apparent to Operator.

II. Video Tape

No video tape was available. According to Patron, he emailed the complaint "three days to a week" after the incident. By that time, the tape was over-written.

III. Testimony and Hearing Officer Analysis and Findings**A. Did Operator violate a disability-related Rule by not boarding Patron?**

Patron testified that Operator closed the bus door as he was about to climb the steps of the bus to board, and in closing the bus door Patron's arm was caught in it. According to Patron, after Operator released Patron's arm, he refused to let Patron board.

Patron testified that he was carrying a black plastic garbage bag, about two feet high, half-filled with cans and plastic bottles from his house. In his written complaint he states: I would like to know if Muni has a policy denying people to carry big black bags on the bus...." [Emphasis added] Patron believed that Operator did not want him to board carrying the bag.

Operator testified that the bag was leaking. However, he also testified that he stopped the bus a few feet short of where Patron was standing. It was not credible that he could see the bag leaking from that distance and angle.

Patron testified that the cans and plastic bottles came from his house where they had accumulated over several months, and were dry.

The Union representative testified that MUNI rules allow operators discretion to deny boarding to patrons carrying "hazardous liquids," and that there has been a problem with homeless people collecting cans in large plastic bags who try to board the bus.¹

The relevant rule follows:

6.7.1 Articles which, in the discretion of the employee, are improperly protected or which are likely to cause accidents, soil clothing or injure passengers must not be carried on cars or coaches.

It was probably an abuse of discretion for Operator to assume that Patron was carrying an article which was likely to cause an accident, soil clothing or injure passengers, when Operator was not able to closely observe the black garbage bag.

It appears that Operator jumped the gun by closing the door before Patron could board. Operator should have spoken with Patron before he closed the door, asked him what was in the bag, and told Patron he could not board if he determined that the bag was leaking.

According to Patron, the two did have a conversation after the door was re-opened and Patron was able to disengage his arm. Patron testified that he tried to explain that no liquids were leaking, but Operator refused to listen to him and told him he could not board because the bag was leaking. Patron said he saw rage in Operator's eyes, and "out of fear" did not board the bus.

Patron claimed that the operator of the next bus let him board, looked at the bag, and agreed with him that nothing was leaking.

Finding 2

There is no disability-related rule violation. Operator did not discriminate on the basis of Patron's disability. Operator refused entry because, correctly or not, he perceived Patron's bag as a hazard.

¹ The Union representative also alluded to dangers created by bags in the aisles as a reason why operators might refuse to board patrons with bags. C.f. 6.7.2 "Employees must warn passengers not to put any object in the aisle or other place where it could cause injury or inconvenience."

**IV. Did Operator violate a non-disability-related Rule, i.e., discourtesy?**

Rule 2.8.1: Polite, respectful behavior is required of all employees in their dealings with the public....

Operator fell well short of this requirement by closing the door on Patron.

Finding 3

By a preponderance of the evidence, when Patron attempted to board with his bag, Operator violated Rule. 2.8.1

Respectfully yours,



Henry Epstein
SFMTA Hearing Section

April 30, 2014

OVERVIEW

PSR #	449617	INCIDENT DATE	2-28-14	DATE RECEIVED	2-28-14
LINE/ROUTE	1	LOCATION	Webster/Sacramento Streets		
HEARING DATE	3-26-14	HEARING TIME	1:30 PM	HEARING LOCATION	1 SOUTH VAN NESS, 6 th FLOOR RM 6042

FORMAT (check box)		In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name		Cap ID		
UNION REP	Name	Michael Green	Division	Presidio	
HEARING OFFICER	Name	H. Epstein	Telephone Number		

HEARING LOGISTICS

ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>	
	No	<input type="checkbox"/>		No	<input type="checkbox"/>	
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?			
	No	<input type="checkbox"/>				

COMMENTS

See attached

HEARING OUTCOME

Valid	<input checked="" type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<i>1 of 9 - Fast</i>				<i>4-21-14</i>			
Signature of Neutral Hearing Officer				Date			

PSR No. 449617

Complainant/Patron: [REDACTED]
Operator: [REDACTED]
Union Representative: Michael Green
Incident Date: January 28, 2014
Hearing Date: March 26, 2014

I. Threshold Issue: Identification of Operator

Operator acknowledged involvement in the incident and was identified via the video tape.

II. Viewing of Video Tape

Both Operator and Patron were given an opportunity to review and respond to the video tape, post-hearing.

III. Testimony and Hearing Officer Analysis and Findings

A. Did Operator violate Rule.4.15(A), not pulling close enough to the curb when Patron Boarded?

Patron testified that Operator did not locate the bus close enough to the curb for her to board without difficulty.

The video tape reveals that Operator could have brought the bus closer to the curb. Although Operator lowered the lift for Patron, she has to take an awkward step from the curb, over the street, and onto the lift to board. However, it is not clear whether the distance Patron has to bridge is greater than one foot. Under Rule 4.15.4(A), a bus must be brought within one foot of the curb if the stop is a box zone. This was a box zone stop. Nevertheless, although the lift could have been deployed more effectively had Operator pulled closer to the curb, and from the tape there appears no obstacle to his having done so, there is insufficient evidence that he violated Rule. 4.15.4(A).

Finding A

There is insufficient evidence that Operator violated Rule. 4.15.4(A) when Patron boarded.

B. Did Operator violate Rule 6.14.1, by not allowing ample time for Patron to board?

C. Did Operator treat Patron discourteously, while she was boarding and seating herself, in violation of Rules 2.8.1 or 2.8.3?



Patron testified that Operator yelled at her to hurry up.

The video tape reveals Operator motioning with his hand for some passengers, including Patron, to board more quickly, after he has lowered the lift. It is not clearly audible whether he is yelling, although he has raised his voice and is saying something like "let's go, let's go" to hurry the passengers aboard. However, he does not appear to be directing his words at Patron personally, although she says, "don't yell at me."

Operator is ill-advised to hurry passengers aboard by voice or body-language, but in this case his speech and gestures do not appear directed at any of them by reason of their disability. He should be aware that disabled passengers will likely experience this conduct more negatively than able-bodied passengers. The fact that Operator lowered the lift presupposes that he was aware that disabled passengers were among those boarding. However, in this case, there is insufficient evidence that he actually cut short passengers boarding time, able-bodied or not.

Finding B

There is insufficient evidence that Operator violated Rule 6.14.1, requiring ample time for passengers to board.

Patron testified that Operator continued to yell at her after she boarded the bus.

The video shows Patron complaining about Operator having hurried her, and also complaining that he is not displaying his badge number so that she can report him. However, Operator merely defends himself, saying he is only doing his job. At one point Operator pleads with Patron to understand how difficult his job is, but he is defensive, not disrespectful. He appears to be trying to end the dispute, but Patron persists.

Finding C

There is insufficient evidence that Operator violated Rules 2.8.1 or 2.8.3, requiring respectful behavior, and avoiding disputes despite provocation.

D. Did Operator violate Rule.4.15(A), not pulling close enough to the curb when Patron De-boarded?

Patron testified that Operator did not locate the bus close enough to the curb for her to de-board without difficulty.

The video tape reveals Operator lowering the stairs at Patron's request. However, he has positioned the bus at least a yard from the curb.

**Finding D**

By a preponderance of the evidence, Operator violated Rule. 4.15.4(A) when Patron De-boarded.

Respectfully yours,



Henry Epstein
SFMTA Hearing Section

April 21, 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 209 NO PULL TO CURB
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 1 CALIFORNIA		Direction INBOUND
Incident Date 02-28-2014		Incident Time 08:30
Vehicle Number 5484		Location WEBSTER ST SACRAMENTO ST :
Department PRE OPS		Division PRESIDIO
Employee ID [REDACTED]		
Employee Physical Description white male, older, gray short hair, possibly Russian accent		
<p>Incident Details ADA Patron states, "This bus operator wouldnt pull to the curb and then I had to ask him several times to lower the stairs. I get up the first step and hes screaming at me, "Hurry up! Hurry up!" I told him, "This is dangerous for people with disability, its raining and wet and I could slip." Then he didnt check our transfers and when I tried to get his ID # he had taken it off his sweater prior. So I requested his ID # from him and he absolutely refused. He kept raising his voice at me. When it was time to get off, again he didnt pull to the curb. I want someone to get back to me on this."</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 02-28-2014		
Date Closed		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	450540	INCIDENT DATE	3-14-2014	DATE RECEIVED	3-17-2014
LINE/ROUTE	38L	LOCATION	Geary Blvd. / Arguello Blvd.		
HEARING DATE	May 20, 2014	HEARING TIME	2:00pm	HEARING LOCATION	1 South Van Ness, 6 th Floor, Rm 6042
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]
UNION REP	Name	Scott Ashley		Division	Flynn
HEARING OFFICER	Name	George Milinovich		Telephone Number	7015455
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<i>per senior residence photo id</i>		<i>per photo</i>	
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>		No	<input checked="" type="checkbox"/>
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?		
	No	<input type="checkbox"/>			
COMMENTS					
<p><i>Is the disab. apparent? Was it declared by cust.?</i> <i>Have worker & a cane. Part near the incident</i> <i>I was in the glass enclosure</i> <i>A female was @ stop and she got on. She was there me</i> <i>only one person @ the door. (He looks like his</i> <i>walkin' away. I'll hear on 30 yr 20 years.</i></p>					
HEARING OUTCOME					
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>
			To be rescheduled	<input type="checkbox"/>	
<p><i>Signature of Neutral Hearing Officer</i></p>				<p>Date <i>5/22/14</i></p>	

He was walking away, if anything.

**Administrative Hearing
PSR 450540**

Summary of Facts

The person named as the customer in the complaint identified himself by presenting a photographic identification card issued by his residential housing organization. The operator named in the complaint identified herself by presentation of her patch number. The customer identified the operator present at the hearing as being the person involved in the event in question. The operator disclaimed recognition of the customer as well as of any recollection of the incident. The customer is disabled and uses a walker. The customer claims that the operator stopped at the bus stop where the customer was prepared to board from the bus shelter and that the operator, after boarding another female passenger through the front door, closed the bus front doors on the customer and pulled away. This caused the customer to have to take the next bus resulting in delay to accomplishing the customer's business. A video and audio recording of the event was made.

Rule

Operator is prohibited from moving a coach or electric car when passengers are standing in front of the designated standing load line.

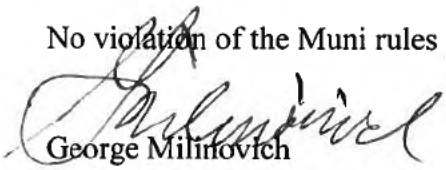
(4.18.1, *Rules and Instructions Handbook, SFMTA*)

Discussion

The video recording of the event reveals, consistent with the testimony of the customer that a female passenger boarded when the bus made the stop in question. At the same time, the customer is visible in the several feet away from loading area and outside of the bus shelter. No indication by voice nor hand or body motion was made by the customer which would indicate to the operator that the customer was attempting to position himself in the loading area. In what appears to be a normal course of operation, with the customer still not at the loading area, the operator closed the doors after the other passenger boarded and departed. The record supports finding that the operator did not act inconsistent with the rule above cited.

Decision

No violation of the Muni rules nor of the Americans with Disabilities Act is found.


George Milinovich
Neutral Hearing Officer

22 May 2014

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 38L GEARY LIMITED		Direction INBOUND
Incident Date 03-14-2014		Incident Time 12:34
Vehicle Number 6222		Location GEARY BLVD ARGUELLO BLVD S
Department FLN OPS		Division FLYNN
Employee ID [REDACTED]		
Employee Physical Description Black female driver with long finger nails, heavy		
<p>Incident Details Patron states, "I had to go to pick up my nephew at 1:35 p.m. I was at the bus stop and waiting for the other people to get on. The driver saw me and than looked to her left and she closed the door on me. I had to wait for the next bus. I was moving slow because my back is cracked</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-17-2014		
Date Closed		
Resolution Code [REDACTED]		