

Mr. OBERSTAR. Thank you, Mr. Cummings.

Mr. Carney, the gentleman from Pennsylvania.

Mr. CARNEY. Thank you, Mr. Chairman. I want to thank the panel for their patience. I can imagine you are going to do a lot of standing this evening.

[Laughter.]

Mr. CARNEY. Everybody understands the context in which these hearings are being held, and the state of the airline industry and Southwest is much better than your competitors in many regards. But still it is tough context, fuel prices, tough economy, et cetera. We never want to create the perception here that the airlines are cutting corners on safety in this context. I hope we can put that to rest, and we are all going to have to work very closely in this Committee in particular. We are doing our jobs from the Hill here, and you and all your competitors are also going to have to do that.

Mr. KELLEHER. Could I make a comment that might be helpful, Congressman, in that respect? When deregulation took place, there were a lot of predictions that because of the enhanced competition in the industry, the safety of the industry would be reduced. Because they said, ah, more competition, fewer profits as a result of it, and airlines would start cutting back on their maintenance. They didn't. Their record was better after deregulation than it was prior to that time.

Mr. CARNEY. Mr. Kelleher, I understand.

Mr. KELLEHER. And I think we are in that situation now, where no airline is going to sacrifice, no matter what the economy is like.

Mr. CARNEY. I certainly hope so. But you can understand the perception out there, because I hear that from my colleagues, and frankly, my constituents are a little nervous sometimes.

Mr. KELLEHER. I want to reassure them.

Mr. CARNEY. Of course, although you don't fly anywhere near my district, I am afraid. We can talk about that offline sometime.

For Mr. Kelly and Mr. Kelleher, has your investigation been able to determine whether anyone in your tech ops organization pressured Paul Comeau to keep the airplanes in service after the self-disclosure was filed, or was that his decision alone?

Mr. KELLY. That investigation is still continuing. We have testimony and other words from some employees. We have been able to audit some records, but there is obviously more input that we could gain, so at this point, no, there is no evidence of that.

Mr. CARNEY. Okay. Did you take 70 aircraft offline for the rudder PCU issue? Or did you self-disclose at least 70?

Mr. KELLY. I would love to spend maybe two minutes describing the rudder issue to clarify.

Mr. CARNEY. That is up to Mr. Oberstar. He has been very generous today, so I think he will probably let us.

Mr. KELLY. This is a March 2007 matter.

Mr. OBERSTAR. This is the modification you made at Boeing, that Boeing recommended that you didn't have to do but you did anyway?

Mr. KELLY. On the rudder.

Mr. OBERSTAR. No, on the windows.

Mr. KELLY. No, this is on the rudder, sir.

Mr. OBERSTAR. You're talking about the rudder. All right.

Mr. KELLY. So just a little background. The rudder has two separate power units. It has the main power unit with two hydraulic lines coming in, it has the standby power unit. The main power unit is subject to an Airworthiness Directive. The standby power unit is not. It is not.

It is the standby power unit that we had information that there was a possible non-compliance with our maintenance program, not with an AD, with our maintenance program. And we self-disclosed that. Initially, we did think it was 70 airplanes. After we researched it, we eliminated 52. They were in full compliance. We discovered that a year ago. Once we completed our research this year, we found that all of those airplanes were in fact compliant with our maintenance program.

Mr. CARNEY. How long does research take on that sort of thing?

Mr. KELLY. This particular one was confusing. Because of again just all the complexities associated with the changes that have been made to the rudder over the years. But in this particular case, it took a while to look at the paper trail, probably took three or four weeks. But we did not do, we did not complete the research last year to determine whether we were in compliance. We simply made the self-disclosure. We got the proper FAA approval for the remedy and we made the remedial action last year, even though we later found out that we didn't have to do that.

So it was an abundance of caution and hindsight.

Mr. CARNEY. That is good to know. I appreciate that.

One more question, actually, for Mr. Collamore and Mr. Bassler. Isn't it true that another team of inspectors performed the same inspections at Southwest Airlines after you did, and you found 50 favorable findings and 8 negative, is that correct? And the other team found, changed it actually to 41 negative findings and 17 favorable ones?

Mr. COLLAMORE. Actually, that SAI has been accomplished five times with five different results.

Mr. CARNEY. Do we have an average of those results then?

[Laughter.]

Mr. COLLAMORE. Not on me, no, sir.

Mr. CARNEY. Mr. Bassler?

Mr. BASSLER. I would like to add something, too, Mr. Carney. I pulled up the data, that ATOS data repository. We had nine noes and of the nine noes, we had an inspector action taken, which is required even under 1.1 on every single one, including an investigation EIR for the one that was the only one that was regulatory. An EIR was sent.

The one that they did right after ours, which was under 1.2, which has even stricter requirements, they had 17 noes and out of the 17 noes, 15 have no action taken.

Mr. CARNEY. Why is that?

Mr. BASSLER. That is a good question. And that is what I am trying to raise, is that our data is skewed. I know, I can tell you—

Mr. CARNEY. Hold on, hold it, hold it, Mr. Bassler, hold on a second. I kind of want to get to the crux of something here. How much subjectivity is actually in this process? It seems to me that there is some hard science here that you actually have to follow.

Mr. BASSLER. You answer the question. You answer the question. We are told, when we answer these questions, if it is a yes, it can be no yes, but, it is a yes, move along. We have been drilled on that for 10 years. In the SAI they have incorporated now, yes comments are required, under 1.2. But in the EPIs they are not still required to have yes comments. The reason being is when you get, it is good information to have when an inspector goes out there and he does an SAI of the subsystem level, which is what the SAI is, to look at the program, do they have a program in place? For the next inspector that comes along a year or two later, you want to see where is it, where is it in the manual system.

But like I said, here you have one, when this was right after ours, when it was known that this was a hot, critical issue, a supervisor was the TC and 15 noes have no action taken. How did that get through the data quality, all the way through the DEPM to the data base with no actions taken? That means you have 15 no answers. What is the FAA doing about it?

I am pretty sure you can go to the office and find there was a letter sent. I am almost sure. I know these two individuals, there was a letter sent. But the data base doesn't reflect it.

Mr. CARNEY. Well, data base management is certainly a critical factor here. If we can't go back and do a research or do a history on a plane or fleet, that is certainly an issue. But I think that we probably need to get a lot less subjectivity in the process and a lot more objectivity in the process by all members, everybody involved in this process.

Gentlemen, I thank you for your time. It has been a long time and I appreciate your patience. Thank you. No further questions.

Mr. OBERSTAR. Thank you.

Mr. DeFazio, Chair of our Surface Transportation Subcommittee.

Mr. DEFAZIO. Thank you, Mr. Chairman. Mr. Chairman, I regret I had to miss some of the testimony, I had to go do a television feed.

To either Mr. Kelleher or Mr. Kelly, this is a very substantial fine and in my recollection it is one of the largest, if not the largest ever assessed. But I also know historically with the FAA, things happen. There is a lot of publicity about a big fine. And then the fine is appealed and reduced and ends up in many cases being insignificant.

Have you or do you intend to appeal this fine and have it reduced?

Mr. KELLEHER. We have not sat down with the FAA legal department to discuss what approaches might be taken one way or the other. Although as soon as we found out about what had been transpiring, Congressman, Gary did take all this to Washington and sit down with the FAA with respect to the issue. But the fine itself was not, the amount of the fine was not discussed.

Mr. DEFAZIO. Right. But you would not be unique among airlines, it would be standard practice if you were to seek to have this reduced. But the FAA has made much to do here today about the magnitude of this fine and the gravity of the situation and how serious they are about changing the systemic problems we have. I just want to kind of put a caveat on that, it may or may not end up being a \$10.2 million fine.