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THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

AUG 10 2004

DOCKETED BY
NR

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE A
CROSSING OF THE UNION PACIFIC
RAILROAD AT I-10 FRONTAGE ROADS AT
M.P. 242, IN PIMA COUNTY, ARIZONA,
AAR/DOT NOS. 741-091-D AND 741-089-C.

DOCKET NO. RR-03639A-04-0379

DECISION NO. 67175

OPINION AND ORDER

DATE OF HEARING: June 24, 2004
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Marc E. Stern
APPEARANCES: Mr. Timothy Sabo, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On May 20, 2004, the Arizona Department of Transportation ("ADOT") submitted to the Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an agreement between ADOT and the Union Pacific Railroad Company ("Railroad") to upgrade the Railroad's crossing at I-10 Frontage Roads in Pima County, Arizona, at AAR/DOT Nos. 741-091-D and 741-089-C ("Application").

On June 3, 2004, by Procedural Order, the Application was set for a hearing and ADOT was ordered to notify any interested party of the Application and the hearing.

On June 17, 2004, ADOT certified that notice had been provided pursuant to the terms of the Procedural Order.

On June 24, 2004, a full public hearing was held before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the matter was taken under advisement pending submission of a recommended Opinion and Order to the Commission.

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2 Having considered the entire record herein and being fully advised in the premises, the
3 Commission finds, concludes, and orders that:

4 **FINDINGS OF FACT**

5 1. On May 20, 2004, ADOT filed an Application in which it requested an Opinion and
6 Order from the Commission approving an agreement between ADOT and the Railroad for the
7 upgrade of crossings to replace existing circuits and existing flashing lights with new LED automatic
8 warning devices at the I-10 Frontage Roads at M.P. 242 near Rillito in Pima County, Arizona at
9 AAR/DOT Nos. 741-091-D and 741-089-C.

10 2. On June 17, 2004, ADOT filed certification that it had provided notice by registered
11 U.S. mail of the Application and hearing thereon.

12 3. A hearing was held as scheduled on June 24, 2004.

13 4. The Application provides for the Railroad to install new electronic circuitry and new
14 LED flashing lights at the crossings.

15 5. Staff testified that the cost apportionment for the installation of the crossing upgrade
16 as provided in the Application was proper.

17 6. Staff has recommended that the Application be approved.

18 **CONCLUSIONS OF LAW**

19 1. The Commission has jurisdiction over the parties and over the subject matter of the
20 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
21 40-337.01.

22 2. Notice of the Application was provided in accordance with the law.

23 3. Installation of the crossing upgrade is necessary for the public's convenience and
24 safety.

25 4. The Application should be approved as recommended by Staff.

26 5. After installation of the crossing, the Railroad should maintain the crossing in
27 accordance with A.A.C. R14-5-104.

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ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application is hereby approved.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

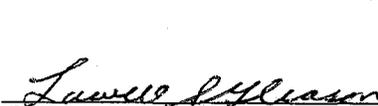
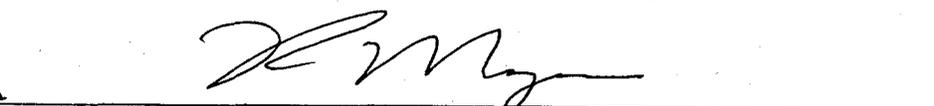
IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific Railroad Company shall maintain the crossing in compliance with the A.A.C. R14-5-104.

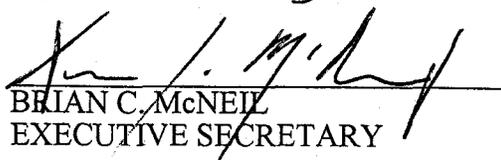
IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

		
CHAIRMAN	COMMISSIONER	COMMISSIONER

	
COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 10th day of August, 2004.


 BRIAN C. McNEIL
 EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

MES:mlj

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO. RR-03639A-04-0379

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