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THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

AUG 10 2004

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

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 10th STREET, IN THE CITY OF
PHOENIX, MARICOPA COUNTY, ARIZONA,
AAR/DOT NO. 916-290-T.

DOCKET NO. RR-03639A-04-0377

DECISION NO. 67174

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 10th Street in the City of Phoenix, Arizona, at AAR/DOT No. 916-290-T ("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 a crossing to replace existing crossbucks and to install automatic warning devices at 10th
8 Street, in the City of Phoenix, Arizona, at AAR/DOT No. 916-290-T.

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

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

12 4. The Application provides for the Railroad to replace existing crossbucks and to
13 upgrade the crossing with new stop signs and with new automatic cantilevered flashing light signals.

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

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

17 **CONCLUSIONS OF LAW**

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

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

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

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

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

27 ...

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.

[Signature]
CHAIRMAN
[Signature]
COMMISSIONER
[Signature]
COMMISSIONER

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COMMISSIONER
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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.

[Signature]
BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

MES:mlj

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO. RR-03639A-04-0377

3
4 John Syers
ADOT-Utility & Railroad
205 S. 17th Avenue
5 Phoenix, Arizona 85007-3213

6 David Gibson
ADOT - Traffic Records Section
7 206 S. 17th Avenue, MD-064R
Phoenix, AZ 85007

8
9 Freddy Chung
UNION PACIFIC RAILROAD COMPANY
19100 Slover Avenue
10 Bloomington, CA 92316

11 Christopher Kempley, Chief Counsel
Legal Division
12 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
13 Phoenix, Arizona 85007

14 Don Thompson
Railroad Safety Section
15 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
16 Phoenix, Arizona 85007

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