



1 THE ARIZONA CORPORATION COMMISSION

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2 COMMISSIONERS

Arizona Corporation Commission

DOCKETED

3 MARC SPITZER, Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

AUG 10 2004

DOCKETED BY NR

6 IN THE MATTER OF THE APPLICATION OF  
7 THE ARIZONA DEPARTMENT OF  
8 TRANSPORTATION TO UPGRADE A  
9 CROSSING OF THE UNION PACIFIC  
RAILROAD AT UNIVERSITY DRIVE, IN THE  
CITY OF PHOENIX, MARICOPA COUNTY,  
ARIZONA, AAR/DOT NO. 748-702-P.

DOCKET NO. RR-03639A-04-0378

DECISION NO. 67181

OPINION AND ORDER

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

15 **BY THE COMMISSION:**

16 On May 20, 2004, the Arizona Department of Transportation ("ADOT") submitted to the  
17 Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the  
18 approval of an agreement between ADOT and the Union Pacific Railroad Company ("Railroad") to  
19 upgrade the Railroad's crossing at University Drive in the City of Phoenix, Arizona, at AAR/DOT  
20 No. 748-702-P ("Application").

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

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

25 On June 24, 2004, a full public hearing was held before a duly authorized Administrative Law  
26 Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the  
27 matter was taken under advisement pending submission of a recommended Opinion and Order to the  
28 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 to upgrade a  
7 crossing by installing automatic warning devices at University Drive, in the City of Phoenix, Arizona,  
8 at AAR/DOT No. 748-702-P.

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 upgrade the crossing with automatic  
13 flashing light signals and automatic gates.

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.

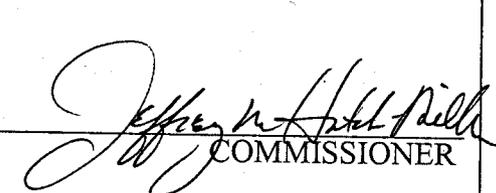
IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

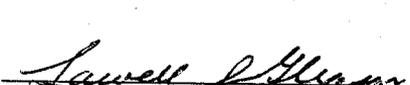
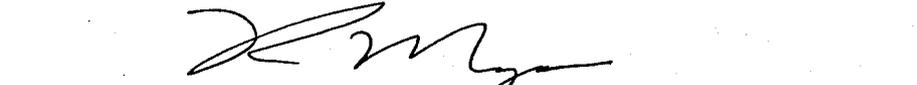
IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

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.

		
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 10<sup>th</sup> 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-04-0378

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