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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

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IN THE MATTER OF THE APPLICATION OF THE ARIZONA DEPARTMENT OF TRANSPORTATION TO UPGRADE AN EXISTING CROSSING OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY AT NORTHERN AVENUE, IN THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AT AAR/DOT NO. 025-413-R2.

DOCKET NO. RR-02635B-04-0656

DECISION NO. 67410

OPINION AND ORDER

DATE OF HEARING: October 6, 2004

PLACE OF HEARING: Phoenix, Arizona

PRESIDING OFFICER: 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 September 9, 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 Burlington Northern and Santa Fe Railway Company ("Railroad") to upgrade the Railroad's crossing at Northern Avenue, AAR/DOT No. 025-413-R2, in the City of Glendale, Arizona ("Application").

On September 16, 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 October 1, 2004, ADOT certified that it provided notice pursuant to the terms of the Procedural Order.

On October 6, 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

1 the Commission.

2 * * * * *

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

5 **FINDINGS OF FACT**

6 1. On September 9, 2004, ADOT filed an Application in which it requested an Opinion
7 and Order from the Commission with respect to an agreement between ADOT and the Railroad for
8 the upgrade of a crossing to replace existing flashing lights and to install cantilever flashing LED
9 light signals at Northern Avenue, where it crosses Grand Avenue, AAR/DOT No. 025-413-R2, in the
10 City of Glendale, Arizona.

11 2. On October 1, 2004, ADOT filed certification that it provided notice by registered
12 U.S. mail of the Application and hearing thereon.

13 3. A hearing was held as scheduled on October 6, 2004.

14 4. The Application provides for the Railroad to replace old flashing lights and to install
15 automatic right turn gates and cantilever flashing LED light signals.

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

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

19 **CONCLUSIONS OF LAW**

20 1. The Commission has jurisdiction over the parties and over the subject matter of the
21 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
22 40-337.01.

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

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

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

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

ORDER

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

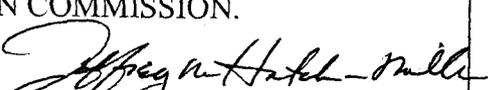
IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway 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 Burlington Northern and Santa Fe Railway 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 2 day of November, 2004.


 BRIAN C. McNEIL
 EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

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SERVICE LIST FOR: BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

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