



0000025576

BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

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

DEC - 9 2003

| | |
|-------------|----|
| DOCKETED BY | MP |
|-------------|----|

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE A
CROSSING OF THE UNION PACIFIC
RAILROAD COMPANY AT 7th STREET, IN THE
CITY OF CLIFTON, ARIZONA, GRAHAM
COUNTY, ARIZONA, M.P. 1215.44.

DOCKET NO. RR-03639A-03-0666

DECISION NO. 66609

OPINION AND ORDER

DATE OF HEARING: October 23, 2003
 PLACE OF HEARING: Phoenix, Arizona
 ADMINISTRATIVE LAW JUDGE: Marc E. Stern
 APPEARANCES: Mr. Gary H. Horton, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On September 11, 2003, 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 7th Street in the City of Clifton, Arizona, at milepost 1215.44 ("Application").

On September 24, 2003, 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 21, 2003, ADOT certified that notice had been provided pursuant to the terms of the Procedural Order.

On October 23, 2003, 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.

* * * * *

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

FINDINGS OF FACT

1. On September 11, 2003, ADOT filed an Application in which it requested an Opinion and Order from the Commission approving an agreement between ADOT and the Railroad for the upgrade of a crossing to replace the crossing surface and to install automatic warning devices at 7th Street, in the City of Clifton, Arizona, at milepost 1215.44.

2. On October 21, 2003, ADOT provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on October 23, 2003.

4. The Application provides for the Railroad to replace the existing crossbucks and the crossing surface and to upgrade the crossing surface with concrete and with automatic flashing light signals and gates.

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

6. Staff has recommended that the Application be approved.

CONCLUSIONS OF LAW

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

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

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

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

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

...

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD

2 DOCKET NO. RR-03639A-03-0666

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 Kempsey, 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

17
18
19
20
21
22
23
24
25
26
27
28