



BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF THE ARIZONA DEPARTMENT OF TRANSPORTATION TO CONSTRUCT A GRADE-SEPARATED CROSSING OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY AT MARYLAND AVENUE OVER 55TH AND GRAND AVENUES, IN THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA.

DOCKET NO. RR-02635B-03-0685

DECISION NO. 66606

OPINION AND ORDER

DATE OF HEARING: November 6, 2003
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 September 18, 2003, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") a request for the Burlington Northern and Santa Fe Railway Company ("Railroad") to construct a grade-separated crossing at Maryland Avenue over the Railroad's tracks at the intersection of 55th and Grand Avenues, in the City of Glendale, Maricopa County, Arizona ("Application").

On October 17, 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 27, 2003, ADOT filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On November 6, 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

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 18, 2003, ADOT filed an Application in which it requested an Opinion
7 and Order from the Commission to approve an agreement between ADOT and the Railroad for the
8 construction of a grade-separated crossing at Maryland Avenue over the track of the Railroad at the
9 intersection of 55th and Grand Avenues in Glendale, Maricopa County, Arizona.

10 2. On October 27, 2003, ADOT filed certification that notice had been provided by
11 registered U.S. mail of the Application and hearing thereon.

12 3. A hearing was held as scheduled on November 6, 2003.

13 4. The Application provides for the construction of an overpass at Maryland Avenue
14 extending above and over the tracks of the Railroad and the intersection of 55th and Grand Avenues
15 in Glendale. When the overpass is completed, rail traffic across Maryland and 55th Avenues will be
16 eliminated and the automatic warning devices removed.

17 5. Staff testified that the apportionment for the cost of the overpass as provided in the
18 Application will be funded by ADOT and with federal funds.

19 6. After construction of the grade-separated crossing, the Railroad will not be responsible
20 to maintain the grade-separated crossing in accordance with A.A.C. R14-5-104 because the Maryland
21 Avenue roadway overpass will be maintained by ADOT and/or Glendale.

22 7. Staff has recommended that the Application be approved.

23 **CONCLUSIONS OF LAW**

24 1. The Commission has jurisdiction over the parties and over the subject matter of the
25 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
26 40-337.01.

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

28 3. The construction of the grade-separated crossing at the intersection of Maryland

1 Avenue with 55th and Grand Avenues in Glendale, Arizona, is necessary for the public's convenience
2 and safety.

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

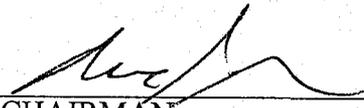
4 **ORDER**

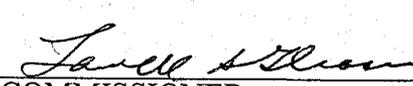
5 IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application
6 is hereby granted.

7 IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company
8 shall notify the Commission, in writing, within ten days of both the commencement and the
9 completion of the grade-separated crossing, pursuant to A.A.C. R14-5-104.

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

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

12
13   _____
14 CHAIRMAN COMMISSIONER COMMISSIONER

15  
16 COMMISSIONER COMMISSIONER

17
18 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
19 Secretary of the Arizona Corporation Commission, have
20 hereunto set my hand and caused the official seal of the
21 Commission to be affixed at the Capitol, in the City of Phoenix,
22 this 9th day of December, 2003.

23 
24 BRIAN C. McNEIL
25 EXECUTIVE SECRETARY

26 DISSENT _____

27 DISSENT _____

28 MES:mlj

1 SERVICE LIST FOR:

BURLINGTON NORTHERN AND SANTA FE
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2
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RR-02635B-03-0685

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