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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

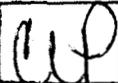
DOCKETED

NOV 20 2002

WILLIAM A. MUNDELL
Chairman

JIM IRVIN
Commissioner

MARC SPITZER
Commissioner

DOCKETED BY 

IN THE MATTER OF THE VIOLATION OF
A.A.C. R14-5-111 BY THE UNION PACIFIC
RAILROAD COMPANY

DOCKET NO. RR-03639A-02-0815

ORDER

65422

Decision No. _____

BY THE COMMISSION:

Staff of the Railroad Safety Section ("Staff") has conducted an investigation of alleged violations of A.A.C. R14-5-111 by the Union Pacific Railroad Company ("Union Pacific" or "UP"). Staff and the Union Pacific have entered into a stipulation whereby the Union Pacific admits to the violations and Staff recommends certain penalties.

Findings of Fact

1. On or about June 5, 2002, near Mescal, Arizona, one employee of the UP operated a UP train a distance of approximately 7.5 miles with no other operating personnel in the cab of the lead locomotive.

2. On or about August 5, 2002, near Wellton, Arizona, one employee of the UP operated a UP train a distance of approximately 20 miles with no other operating personnel in the cab of the lead locomotive.

3. On or about August 28, 2002, near Nogales, Arizona, one employee of the UP operated a UP train a distance of approximately 7 miles with no other operating personnel in the cab of the lead locomotive.

4. Staff and the Union Pacific have entered into a stipulation ("Stipulation"). As part of the Stipulation, the Staff has agreed to recommend the following penalties: \$500 for the violation described in Finding of Fact #1, \$1,000 for the violation described in Finding of Fact #2 and \$4,000 for the violation described in Finding of Fact #3. As part of the Stipulation, the Union Pacific has also agreed to send a notice to all of its operating employees and supervisors in Arizona, in a form attached as Exhibit 1 to the Stipulation, informing them about A.A.C R14-5-

1 111. The Union Pacific also agrees to post the notice in appropriate places throughout its
2 Arizona facilities. The Union Pacific has also agreed that a Cease and Desist order be issued
3 against it.

4 Conclusions of Law

5 1. The Union Pacific is a public service corporation as defined in Article XV § 2 of the
6 Arizona Constitution.

7 2. The Commission has jurisdiction over the Union Pacific and the subject matter of the
8 Stipulation

9 3. The event described in Finding of Fact #1 constitutes a violation of A.A.C. R14-5-111.

10 4. The event described in Finding of Fact #2 constitutes a violation of A.A.C. R14-5-111.

11 5. The event described in Finding of Fact #3 constitutes a violation of A.A.C. R14-5-111.

12 6. The Stipulation is in the public interest and should be approved.

13 Order

14 IT IS THEREFORE ORDERED that the Stipulation is approved.

15 IT IS FURTHER ORDERED that the Union Pacific shall, within 30 days of the effective
16 date of this order, pay a penalty of \$5,500 for the violations described herein.

17 IT IS FURTHER ORDERED that the Union Pacific shall, within 30 days of the effective
18 date of this order, send the notice attached as Exhibit 1 to the Stipulation to all operating
19 employees and supervisors that operate in Arizona.

20 IT IS FURTHER ORDERED that the Union Pacific shall, within 30 days of the effective
21 date of this order, post the notice attached as Exhibit 1 to the Stipulation in appropriate places
22 throughout its Arizona facilities.

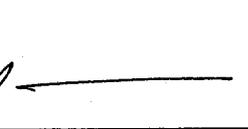
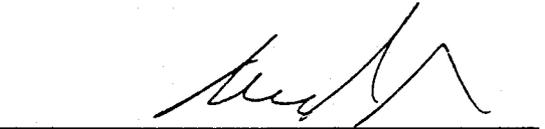
23 IT IS FURTHER ORDERED that the Union Pacific shall, within 30 days of the effective
24 date of this order, certify to the Commission that it has complied with the preceding ordering
25 paragraphs, and that such certification shall be in the form of a sworn affidavit by a responsible
26 Union Pacific officer.

27 IT IS FURTHER ORDERED that the Union Pacific shall cease and desist from any
28 further violations of A.A.C. R14-5-111.

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IT IS FURTHER ORDERED that this order shall be effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

		
CHAIRMAN	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 this Commission to be affixed at the Capitol, in the City of Phoenix, this 20th day of November 2002.



 BRIAN C. McNEIL
 Executive Secretary

DISSENT _____

TJS:vk

The original and fifteen (15) copies of the foregoing were filed this _____ day of November, 2002, with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Copies of the foregoing were mailed/hand-delivered this _____ day of November, 2002 to:

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Donald R. Thompson
Supervisor, Railroad Safety Section
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Lyn Farmer, Chief Administrative Law Judge
Marc Stern, Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Anthony Hancock, Esq.
Beaugureau Zukowski & Hancock, P.C.
2111 E. Highland Ste. 255
Phoenix, Arizona 85016
Attorneys for the Union Pacific Railroad Company

Viola R. Kizis
Assistant to Timothy J. Sabo

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL

3 Chairman

4 JIM IRVIN

 Commissioner

5 MARC SPITZER

 Commissioner

6
7 IN THE MATTER OF THE VIOLATION OF
8 A.A.C. R14-5-111 BY THE UNION PACIFIC
9 RAILROAD COMPANY

DOCKET NO. RR-03639A-02-0815

STIPULATION

10 Staff ("Staff") of the Railroad Safety Section of the Arizona Corporation Commission
11 ("Commission") and the Union Pacific Railroad Company ("Union Pacific" or "UP") stipulate
12 and agree as follows:

13 1) The Union Pacific admits that on or about June 5, 2002, near Mescal, Arizona, one
14 employee of the UP operated a UP train a distance of approximately 7.5 miles with no other
15 operating personnel in the cab of the lead locomotive, and that therefore the Union Pacific
16 violated A.A.C. R14-5-111. Staff agrees to recommend a penalty of \$500 for this violation.

17 2) The Union Pacific admits that on or about August 5, 2002, near Wellton, Arizona, one
18 employee of the UP operated a UP train a distance of approximately 20 miles with no other
19 operating personnel in the cab of the lead locomotive, and that therefore the Union Pacific
20 violated A.A.C. R14-5-111. Staff agrees to recommend a penalty of \$1,000 for this violation.

21 3) The Union Pacific admits that on or about August 28, 2002, near Nogales, Arizona, one
22 employee of the UP operated a UP train a distance of approximately 7 miles with no other
23 operating personnel in the cab of the lead locomotive, and that therefore the Union Pacific
24 violated Rule 111. Staff agrees to recommend a penalty of \$4,000 for this violation.

25 4) The UP agrees to send a notice to all of its operating employees and supervisors in
26 Arizona, in a form attached hereto as Exhibit 1, informing them about A.A.C R14-5-111. The
27 Union Pacific also agrees to post the notice in appropriate places throughout its Arizona
28 facilities.

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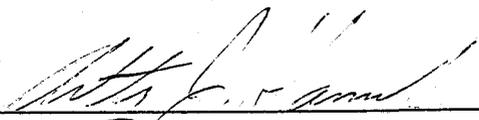
5) Staff and the Union Pacific agree that the terms of the stipulation should be incorporated into a Commission order. Staff and the Union Pacific further agree that the Commission order should contain a provision ordering the UP to cease and desist from further violations of A.A.C. R14-5-111. A proposed form of order is attached as Exhibit 2.

RESPECTFULLY SUBMITTED this 25th day of ~~September~~^{October}, 2002



Timothy J. Sabo
Attorney, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

BEAUGUREAU, ZUKOWSKI & HANCOCK, P.C.

By: 

Anthony J. Hancock
Ernest Collins, Jr.
2111 E. Highland Ave., Suite 255
Phoenix, Arizona 85016
Attorneys for Respondent Union Pacific Railroad
Company
(602) 956-4439

1 The original and fifteen (15) copies
2 of the foregoing were filed this 29
3 day of ~~September~~, 2002, with:
October,

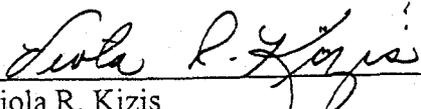
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5 Arizona Corporation Commission
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7 Phoenix, Arizona 85007

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9 this 29 day of ~~September~~, 2002 to:
October,

10 Donald R. Thompson
11 Supervisor, Railroad Safety Section
12 Arizona Corporation Commission
13 1200 West Washington
14 Phoenix, Arizona 85007

15 Lyn Farmer, Chief Administrative Law Judge
16 Marc Stern, Administrative Law Judge
17 Hearing Division
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, Arizona 85007

21 Anthony Hancock, Esq.
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23 2111 E. Highland Ste. 255
24 Phoenix, Arizona 85016
25 Attorneys for the Union Pacific Railroad Company

26
27 
28 Viola R. Kizis
Assistant to Timothy J. Sabo

NOTICE

ARIZONA TWO PERSON CREW LAW

Arizona law (A.A.C. R14-5-111), requires two (2) operating employees in the control compartment of the lead locomotive of all trains operating in Arizona, except for: switching operations, moving cars for inspection purposes, or while performing setouts in conjunction with road service.

Violation of this provision can result in fines and/or other penalties being assessed against the violating railroad. Moreover, violation of this provision or other state safety rules is a criminal offense. Any railroad officer, employee, or agent that operates a railroad in violation of this provision can be charged with a class 1 misdemeanor. A.R.S. § 40-426.

You can report any violations of this provision, or other state safety rules, to the Railroad Safety Section of the Arizona Corporation Commission at 602.262.5601.

Decision No. 65422