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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

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CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

DOCKETED BY
CLP

IN THE MATTER OF THE APPLICATION OF
THE TOWN OF GILBERT TO UPGRADE TWO
CROSSINGS OF THE UNION PACIFIC
RAILROAD COMPANY AT WARNER AND VAL
VISTA ROADS, GILBERT, ARIZONA, M.P.
928.98 AND M.P. 929.44, RESPECTIVELY.

DOCKET NO. RR-03639^A-00-0673

DECISION NO. 62992

OPINION AND ORDER

DATE OF HEARING:

September 26, 2000

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Mr. Robert Metli, Staff Attorney, Legal
Division, on behalf of the Utilities Division of
the Arizona Corporation Commission.

BY THE COMMISSION:

On August 30, 2000, the Town of Gilbert ("Town") submitted to the Arizona Corporation Commission ("Commission") a request for approval to upgrade two crossings of the Union Pacific Railroad Company ("Railroad") track at Warner and Val Vista Roads, Gilbert, Arizona at mile posts 928.98 and 929.44, respectively ("Application"). The Town requested approval to construct on behalf of the Railroad. The Application was docketed on September 5, 2000.

On September 12, 2000, by Procedural Order, the Application was set for hearing and the Town was ordered to notify any interested party of the Application and the hearing.

On September 26, 2000, 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

1 Commission finds, concludes, and orders that:

2 **FINDINGS OF FACT**

3 1. On September 5, 2000, the Town filed an Application in which it requested an
4 Opinion and Order from the Commission with respect to agreements between the Town and the
5 Railroad for the upgrading of two crossings by widening the roadways from two to six lanes with
6 crossing islands, cantilevered flashing lights, automatic gates and the installation of concrete crossing
7 surfaces at Warner and Val Vista Roads, Gilbert, Arizona, at mileposts 928.98 and 929.44,
8 respectively.

9 2. A hearing was held as scheduled on September 26, 2000.

10 3. Although the Town, prior to the hearing, provided oral notice, it failed to provide
11 written notice of the Application and hearing thereon, as ordered in the Commission's Procedural
12 Order. However, on September 26, 2000, the Town filed certification that written notice had been
13 mailed to all interested parties advising them to contact the Commission as soon as possible if they
14 had any comments or objections. Subsequently, no objections have been received by the
15 Commission.

16 4. The Application provides for the Railroad to upgrade the crossings by widening the
17 roadways from two to six lanes with cantilevered flashing lights and automatic gates.

18 5. Staff testified that the cost for the installation of the crossing upgrades as provided in
19 the Application is proper and will be fully paid for by the Town.

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

21 **CONCLUSIONS OF LAW**

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

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

26 3. Installation of the crossing upgrades are necessary for the public's convenience and
27 safety.

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

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

3 **ORDER**

4 IT IS THEREFORE ORDERED that the Town of Gilbert's Application is hereby approved.

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

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

11 IT IS FURTHER ORDERED that upon completion of the crossing upgrades, the Union
12 Pacific Railroad Company shall maintain the crossing in compliance with A.A.C. R14-5-104.

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

14 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

 CHAIRMAN	COMMISSIONER	 COMMISSIONER
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19 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
20 Secretary of the Arizona Corporation Commission, have
21 hereunto set my hand and caused the official seal of the
22 Commission to be affixed at the Capitol, in the City of Phoenix,
23 this 1st day of November, 2000.

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

25 DISSENT _____
26 MES:dap

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SERVICE LIST FOR:

UNION PACIFIC RAILROAD

DOCKET NO.

RR-03936A-00-0673

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