

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

22

ARIZONA CORPORATION COMMISSION  
**OPEN MEETING ITEM**



**RECEIVED**

2001 SEP 17 A 11: 31

ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION  
DOCUMENT CONTROL

DATE: September 17, 2001  
DOCKET NO: RR-02635B-01-0480

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

**BURLINGTON NORTHERN AND SANTA FE RAILWAY  
(AT-GRADE CROSSING)**

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

SEPTEMBER 26, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

OCTOBER 2 AND 3, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission  
**DOCKETED**

SEP 17 2001

DOCKETED BY

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 MARC SPITZER  
COMMISSIONER  
5

6 IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
7 TRANSPORTATION TO UPGRADE VARIOUS  
SIGNALS AT EXISTING CROSSINGS OF THE  
8 BURLINGTON NORTHERN AND SANTA FE  
RAILWAY COMPANY IN THE CITY OF  
9 GLENDALE, MARIZOPA COUNTY, ARIZONA.

DOCKET NO. RR-02635B-01-0480

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

10 DATE OF HEARING: August 2, 2001  
11 PLACE OF HEARING: Phoenix, Arizona  
12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
13 APPEARANCES: Mr. Jason Gellman, Staff Attorney, Legal Division, on  
14 behalf of the Utilities Division of the Arizona  
Corporation Commission.

15 **BY THE COMMISSION:**

16 On June 13, 2001, the Arizona Department of Transportation ("ADOT") submitted to the  
17 Arizona Corporation Commission ("Commission") a request for approval to upgrade signal circuitry  
18 at various existing crossings of the Burlington Northern and Santa Fe Railway Company ("Railroad")  
19 in the City of Glendale, Maricopa County, Arizona ("Application").

20 On July 11, 2001, by amended Procedural Order, the Application was set for hearing and  
21 ADOT was ordered to notify any interested party of the Application and the hearing.

22 On August 2, 2001, a full public hearing was held before a duly authorized Administrative  
23 Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing,  
24 the matter was taken under advisement pending submission of a Recommended Opinion and Order to  
25 the Commission.

26 \* \* \* \* \*

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

**FINDINGS OF FACT**

1  
2 1. On June 13, 2001, ADOT filed an Application in which it requested an Opinion and  
3 Order from the Commission approving an agreement between ADOT and the Railroad for the  
4 upgrading of signal circuitry at existing crossings in the City of Glendale, Maricopa County, Arizona  
5 as follows:

<u>AAR/DOT No.</u>	<u>RR M.P.</u>	<u>LOCATION</u>
025-420-B	AF 185.46	51 <sup>ST</sup> Avenue/Bethany Home Road @ US 60
025-419-G1	AF 184.64	55 <sup>th</sup> Avenue @ US 60
025-419-G2	AF 184.64	Maryland Avenue @ US 60
025-418-A1	AF 183.91	59 <sup>th</sup> Avenue @ US 60
025-418-A2	AF 183.91	Glendale Avenue @ US 60
025-416-L	AF 183.70	Palmaire Avenue @ US 60
025-415-E1	AF 183.59	61 <sup>st</sup> Avenue @ US 60
025-415-E2	AF 183.59	Myrtle Avenue @ US 60
025-414-X	AF 183.24	Orangewood Avenue @ US 60
025-413-R1	AF 182.56	67 <sup>th</sup> Avenue @ US 60
025-413-R2	AF 182.56	Northern Avenue @ US 60

13 2. A hearing was held as scheduled on August 2, 2001.

14 3. On July 31, 2001, ADOT provided certification that written notice had been mailed to  
15 all interested parties of the Application and hearing thereon as ordered in the Commission's  
16 Procedural Order. Subsequently, no objections to the Application were received by the Commission.

17 4. The Application provides for the Railroad to install new signal circuitry at the  
18 aforementioned locations.

19 5. Staff testified that the cost for the installation of the new signal circuitry as provided in  
20 the Application is proper.

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

**CONCLUSIONS OF LAW**

22  
23 1. The Commission has jurisdiction over the parties and over the subject matter of the  
24 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and  
25 40-337.01.

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

27 3. The installation of the signal circuitry is necessary for the public's convenience and  
28 safety.

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

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

4 **ORDER**

5 IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application  
6 on behalf of the Burlington Northern and Santa Fe Railway Company is hereby approved.

7 IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company  
8 shall complete the installation of the new signal circuitry described in the Application within fifteen  
9 months from the effective date of this Decision.

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

13 ...

14 ...

15 ...

16 ...

17 ...

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that upon completion of the crossing upgrades, the Burlington  
2 Northern and Santa Fe Railway Company shall maintain the crossings in compliance with A.A.C.  
3 R14-5-104.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6  
7  
8  
9 CHAIRMAN

COMMISSIONER

COMMISSIONER

10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
11 Secretary of the Arizona Corporation Commission, have  
12 hereunto set my hand and caused the official seal of the  
13 Commission to be affixed at the Capitol, in the City of Phoenix,  
14 this \_\_\_\_ day of \_\_\_\_\_, 2001.

15 \_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

16 DISSENT \_\_\_\_\_  
17 MES:mlj

1 SERVICE LIST FOR: BURLINGTON NORTHERN AND SANTA FE  
2 RAILWAY COMPANY

3 DOCKET NO.: RR-02635B-01-0480

4 John Syers  
5 ARIZONA DEPARTMENT OF TRANSPORTATION  
6 Intermodal Transportation Division  
205 S. 17<sup>th</sup> Avenue, Mail Drop 618E  
7 Phoenix, AZ 85007

8 Larry J. Delaney  
9 Project Engineer  
BNSF Railway Company  
1624 First Street NW  
Albuquerque, NM 87102-1538

10 Christopher Kempley, Chief Counsel  
11 ARIZONA CORPORATION COMMISSION  
12 1200 W. Washington Street  
Phoenix, Arizona 85007

13 Don Thompson, Railroad Safety Supervisor  
14 Office of Railroad Safety  
ARIZONA CORPORATION COMMISSION  
15 1200 West Washington Street  
Phoenix, AZ 85007

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28