

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

22

OPEN MEETING ITEM



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AZ CORP COMMISSION
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ARIZONA CORPORATION COMMISSION

DATE: September 17, 2001

DOCKET NO: RR-02634A-01-0476

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:

ARIZONA EASTERN RAILWAY COMPANY
(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

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1200 WEST WASHINGTON, PHOENIX, ARIZONA 85007-2996 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347
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This document is available in alternative formats by contacting Shelly Hood,
ADA Coordinator, voice phone number 602/542-3931. E-mail shood@cc.state.az.us

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 AN
EXISTING CROSSING OF THE ARIZONA
8 EASTERN RAILWAY COMPANY AT FOURTH
AVENUE IN THE CITY OF SAFFORD, GRAHAM
9 COUNTY, ARIZONA, M.P. BDA1137.48.

DOCKET NO. RR-02634A-01-0476

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
14 Division, on behalf of the Utilities Division of
the Arizona Corporation Commission.

15 **BY THE COMMISSION:**

16 On June 12, 2001, the Arizona Department of Transportation ("ADOT") filed with the
17 Arizona Corporation Commission ("Commission") a request for approval for the Arizona Eastern
18 Railway Company ("Railroad") to upgrade an existing crossing at Fourth Avenue in the City of
19 Safford, Graham County, Arizona at milepost BDA1137.48 ("Application").

20 On July 9, 2001, by Procedural Order, the Application was set for hearing and the Railroad
21 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

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1. On June 12, 2001, ADOT filed an Application in which it requested an Opinion and Order from the Commission to approve an upgrade of an existing crossing of the Railroad at Fourth Avenue in the City of Safford, Graham County, Arizona at milepost BDA1137.48.

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

3. The Railroad provided notice to all interested parties of the Application and hearing thereon as ordered in the Commission's Procedural Order. Subsequently, no objections to the Application were received by the Commission.

4. The Application provides for the Railroad to upgrade the crossing by installing flashing lights with automatic gates.

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

6. Staff has recommended that the Application be approved.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the Railroad 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 the installation of the crossing, the Railroad should maintain the crossing in accordance with A.A.C. R14-5-104.

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application on behalf of the Arizona Eastern Railway Company is hereby approved.

IT IS FURTHER ORDERED that the Arizona Eastern Railway Company shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this

1 Decision.

2 IT IS FURTHER ORDERED that the Arizona Eastern Railway Company shall notify the
3 Commission, in writing, within ten days of both the commencement and the completion of the
4 crossing upgrade, pursuant to A.A.C. R14-5-104.

5 IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Arizona
6 Eastern Railway Company shall maintain the crossing in compliance with A.A.C. R14-5-104.

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

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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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 the
Commission to be affixed at the Capitol, in the City of Phoenix,
this ____ day of _____, 2001.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
MES:mlj

1 SERVICE LIST FOR: ARIZONA EASTERN RAILWAY COMPANY

2 DOCKET NO.: RR-02634A-01-0476

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