

OPEN MEETING ITEM



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COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
BARRY WONG

ORIGINAL



ARIZONA CORPORATION COMMISSION

22

Arizona Corporation Commission

DOCKETED

DATE: July 28, 2006

DOCKET NO.: RR-03639A-06-0377

JUL 28 2006

TO ALL PARTIES:

DOCKETED BY	<i>NR</i>
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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:

UNION PACIFIC RAILROAD COMPANY
(UPGRADE 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 thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

AUGUST 7, 2006

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 Open Meeting to be held on:

AUGUST 22 AND 23, 2006

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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Brian C. McNeil
BRIAN C. McNEIL
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MIKE GLEASON
6 KRISTIN K. MAYES
7 BARRY WONG

8 IN THE MATTER OF THE APPLICATION OF
9 THE UNION PACIFIC RAILROAD COMPANY
10 TO CONSTRUCT A SECOND SET OF TRACKS
11 AT FORTUNA AND BLAISDELL ROADS,
12 AAR/DOT NOS. 753 584A AND 742 055L,
13 RESPECTIVELY, IN YUMA COUNTY,
14 ARIZONA.

DOCKET NO. RR-03639A-06-0377

DECISION NO. _____

OPINION AND ORDER

10 DATE OF HEARING: July 13, 2006
11 PLACE OF HEARING: Phoenix, Arizona
12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern
13 APPEARANCES: Beaugureau, Zukowski & Hancock, P.C., by Terrence L.
14 Sims, on behalf of the Union Pacific Railroad Company;
15 and
16 Linda Fisher, Staff Attorney, Legal Division, on behalf
17 of the Railroad Safety Section of the Arizona
18 Corporation Commission.

17 **BY THE COMMISSION:**

18 On June 5, 2006, the Union Pacific Railroad Company ("Railroad") filed with the Arizona
19 Corporation Commission ("Commission") a request for approval to construct a second set of tracks at
20 the existing crossings at Fortuna and Blaisdell Roads, Yuma County, Arizona, at AAR/DOT Nos.
21 753 584A and 742 055L, respectively ("Application").

22 On June 19, 2006, by Procedural Order, the Application was set for hearing on July 13, 2006
23 and the Railroad was ordered to notify any interested party of the Application and the hearing.

24 On June 27, 2006, the Railroad filed certification of mailing by certified U.S. mail notice of
25 the proceeding pursuant to the Commission's Procedural Order.

26 On July 13, 2006, a full public hearing was held before a duly authorized Administrative Law
27 Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the
28 matter was taken under advisement pending submission of a Recommended Opinion and order to the

1 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 June 5, 2006, the Railroad filed an Application in which it requested an Opinion
7 and Order from the Commission to approve the construction of a second set of mainline tracks at its
8 existing crossings at Fortuna and Blaisdell Roads in Yuma County at AAR/DOT Nos. 753 584A and
9 742 055L, respectively.

10 2. On June 27, 2006, the Railroad provided notice of the proceeding as ordered in the
11 Commission's Procedural Order. Subsequently, no objections to the Application were received by
12 the Commission.

13 3. The Application provides for the Railroad to construct a second set of mainline tracks
14 parallel to the existing tracks with all new automatic warning devices which will accommodate both
15 sets of tracks.

16 4. Mr. Brian Lehman, Supervisor of the Commission's Railroad Safety Section, testified
17 that the cost for the additional set of tracks as provided in the Application is proper.

18 5. Mr. Lehman has recommended that the Application be approved.

19 **CONCLUSIONS OF LAW**

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

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

24 3. Pursuant to A.R.S. §§ 40-336 and 40-337, the construction of the additional set of
25 tracks at AAR/DOT Nos. 753 584A and 742 055L, respectively, is necessary for the public's
26 convenience and safety.

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

28 5. After the addition of the second set of tracks, the Railroad should maintain the

1 crossing in accordance with A.A.C. R14-5-104.

2 **ORDER**

3 IT IS THEREFORE ORDERED that the Union Pacific Railroad Company's Application is
4 hereby approved.

5 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the
6 crossing upgrade 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 the
10 construction, pursuant to A.A.C. R14-5-104.

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

12 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

13
14
15 CHAIRMAN

COMMISSIONER

16
17 COMMISSIONER

COMMISSIONER

COMMISSIONER

18
19 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
20 Director 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 ____ day of _____, 2006.

24
25 _____
26 BRIAN C. McNEIL
27 EXECUTIVE DIRECTOR

28 DISSENT _____

DISSENT _____

MES:mj

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SERVICE LIST FOR: UNION PACIFIC RAILROAD

DOCKET NO.: RR-03639A-06-0377

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