

OPEN MEETING ITEM



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COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MIKE GLEASON
KRISTIN K. MAYES
GARY PIERCE

ORIGINAL



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ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

FEB 15 2007

DATE: FEBRUARY 15, 2007

DOCKET NO: RR-03639A-06-0793

TO ALL PARTIES:

DOCKETED BY	NR
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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 Order on:

UNION PACIFIC RAILROAD
(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 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:

FEBRUARY 27, 2007

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:

MARCH 13, 2007 AND MARCH 14, 2007

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 Secretary's Office at (602) 542-3931.

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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 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 THE CITY OF PHOENIX, ARIZONA TO
10 UPGRADE A CROSSING OF THE UNION
11 PACIFIC RAILROAD AT 67TH AVENUE IN
12 MARICOPA COUNTY, ARIZONA, AAR/DOT NO.
13 741-809-T

DOCKET NO. RR-03639A-06-0793

DECISION NO. _____

OPINION AND ORDER

14 DATE OF HEARING: February 1, 2007
15 PLACE OF HEARING: Phoenix, Arizona
16 ADMINISTRATIVE LAW JUDGE: Marc E. Stern
17 APPEARANCES: Mr. Charles Hains, Staff Attorney, Legal Division, on
18 behalf of the Utilities Division of the Arizona
19 Corporation Commission

20 **BY THE COMMISSION:**

21 On December 19, 2006, the City of Phoenix, Arizona ("City") filed with the Arizona
22 Corporation Commission ("Commission") a request for approval for the Union Pacific Railroad
23 ("Railroad") to upgrade an existing crossing at 67th Avenue in Phoenix, Maricopa County, Arizona at
24 AAR/DOT 741-809-T.

25 On January 4, 2007, by Procedural Order, the Application was set for a hearing and the City
26 was ordered to notify any interested party of the Application and the hearing. In accordance with the
27 law, notice was provided to all interested parties.

28 On February 1, 2007, a full public hearing was held before a duly authorized Administrative
Law Judge of the Commission at its offices in Phoenix, Arizona. The Commission's Railroad Safety
Section was present with counsel. 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 December 19, 2006, the City filed an Application in which it requested an Opinion
4 and Order from the Commission approving an agreement between the City and the Railroad to
5 upgrade the existing 67th Avenue public crossing between Van Buren Street and Buckeye Road in
6 Phoenix, at AAR/DOT No. 741-809-T in the following manner: by widening the existing roadway
7 from one lane in each direction to two lanes in each direction with a turning lane; by constructing
8 raised concrete medians; by replacing the existing warning devices with new 12-inch LED automatic
9 warning devices with automatic double gates; and by installing a new concrete crossing surface.

10 2. The City and all interested parties have been provided with notice of the Application
11 and hearing thereon.

12 3. A hearing was held as scheduled on February 1, 2007.

13 4. The Application provides for the widening of the roadway at the crossing with the
14 Railroad installing new LED flashing lights with opposing automatic double gates, and a new
15 crossing surface.

16 5. Staff testified that the cost apportionment for the installation of the crossing upgrade
17 as provided in the Application is proper and approximately \$440,000 will be paid by the City.

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

19 **CONCLUSIONS OF LAW**

20 1. The Commission has jurisdiction over the parties 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. Installation of the crossing upgrade is necessary for the public's convenience and
25 safety.

26 4. Pursuant to A.R.S. §§ 40-336 and 337, the Application should be approved as
27 recommended by Staff.

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

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director 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 _____, 2007.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD

2 DOCKET NO.: RR-03639A-06-0793

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