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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

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

FEB 20 2007

DOCKETED BY *nr*

IN THE MATTER OF THE APPLICATION OF  
THE CITY OF MARICOPA TO UPGRADE AN  
EXISTING CROSSING OF THE UNION PACIFIC  
RAILROAD AT PORTER ROAD, IN THE CITY  
OF MARICOPA, PINAL COUNTY, ARIZONA AT  
AAR/DOT NO. 741-345R.

DOCKET NO. RR-03639A-06-0724

DECISION NO. 69331

OPINION AND ORDER

DATE OF HEARING: January 3, 2007  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
APPEARANCES: Mr. Charles Haines, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On November 15, 2006, the City of Maricopa, Arizona filed with the Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an agreement between the City and the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at the Railroad's tracks at Porter Road in the City of Maricopa, Pinal County, Arizona, at AAR/DOT No. 741-345R ("Application").

On December 5, 2006, by Procedural Order, the Application was set for a hearing and the City was ordered to provide public notice to the Railroad and any other interested party with a copy of the Application and the Procedural Order.

The City certified that it provided notice pursuant to the terms of the Procedural Order.

On January 3, 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 represented by 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 Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On November 15, 2006, the City of Maricopa filed an Application in which it requested an Opinion and Order from the Commission for the approval of an agreement between the City and the Railroad for the upgrade of a crossing by moving an existing two lane crossing slightly to the west and widening it to a four lane crossing which will have a concrete crossing surface with new flashing LED light signals and new opposing automatic gates at Porter Road, in the City of Maricopa, Pinal County, Arizona, at AAR/DOT No. 741-345R.

2. Pursuant to the Commission’s Procedural Order, the City filed certification that it provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on January 3, 2007.

4. The Application provides for the slight relocation and widening of the Porter Road crossing from two lanes to four lanes and for the Railroad to install a new concrete crossing surface with new automatic flashing LED light signals and opposing automatic gates.

5. Staff testified that the cost apportionment for the installation of the crossing upgrade as provided in the Application is proper with the City paying the costs of the upgrade with funds provided by a home developer.

6. Staff has recommended that the Application be approved.

**CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the parties 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.

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

3 5. After installation of the crossing, the Railroad should maintain the crossing in  
4 accordance with A.A.C. R14-5-104.

5 **ORDER**

6 IT IS THEREFORE ORDERED that the City of Maricopa's Application is hereby approved.

7 IT IS FURTHER ORDERED that the Union Pacific Railroad shall complete the crossing  
8 upgrade as described in the Application within fifteen months from the effective date of this  
9 Decision.

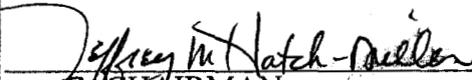
10 IT IS FURTHER ORDERED that the Union Pacific Railroad shall notify the Commission, in  
11 writing, within ten days of both the commencement and the completion of the crossing upgrade,  
12 pursuant to A.A.C. R14-5-104.

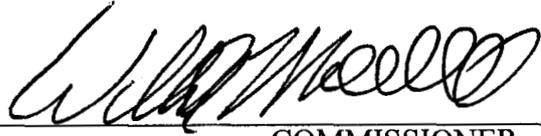
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1 IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific  
2 Railroad shall maintain the crossing in compliance with A.A.C. R14-5-104.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7 CHAIRMAN

  
COMMISSIONER

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10 COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
12 Director of the Arizona Corporation Commission, have  
13 hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this 20<sup>th</sup> day of Feb., 2007.

  
16 BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

17 DISSENT \_\_\_\_\_

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19 DISSENT \_\_\_\_\_

20 MES:dr

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1 SERVICE LIST FOR: UNION PACIFIC RAILROAD

2 DOCKET NO. RR-03639A-06-0724

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