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BEFORE THE ARIZONA CORPORATION COMMISSION

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2008 MAR 28 P 3:46
AZ CORP COMMISSION
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Arizona Corporation Commission
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IN THE MATTER OF THE APPLICATION
OF THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE
BURLINGTON NORTHERN AND SANTA
FE RAILWAY AT 35TH AVENUE AND
U.S. 60 IN THE CITY OF PHOENIX,
MARICOPA COUNTY, ARIZONA, AT
AAR/DOT NO. R1531C106.

DOCKET NO. RR-02635B-07-0437

**JOINT STIPULATION AND
REQUEST FOR PROCEDURAL
ORDER**

The Staff of the Arizona Corporation Commission ("Staff") and BNSF Railway Company ("BNSF") hereby file this Joint Stipulation and Request for Procedural Order in the above-captioned matter.

Pursuant to the procedural order dated January 15, 2008, BNSF and Staff held a meeting on March 5, 2008, to discuss matters relative to the above-captioned proceeding. BNSF and Staff stipulate that these matters cannot be adequately addressed without the participation of two indispensable parties: the Arizona Department of Transportation ("ADOT") and the City of Phoenix ("City"). ADOT is the applicant in this proceeding. The City is the road authority for the 35th Avenue crossing and therefore would be an interested party to the agreement with BNSF, which is the subject matter of this proceeding.

BNSF and Staff hereby jointly request that the Administrative Law Judge ("ALJ") schedule a procedural conference that requests ADOT, with notice to the City and BNSF,

1 to appear so that all affected parties can meet and discuss procedural issues on the record,
2 and voice any concerns about the scope and substance of issues to be addressed at the
3 hearing.

4 RESPECTFULLY SUBMITTED this 28th day of March, 2008.

5
6 By 
7 Charles Hains
8 Arizona Corporation Commission
9 1200 W. Washington Street
10 Phoenix, AZ 85007
11 (602) 542-6026
12 Attorneys for Commission Staff

13 and

14 By 
15 William L. Thorpe
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17 3003 N. Central Avenue, Suite 2600
18 Phoenix, AZ 85012
19 (602) 916-5400
20 Attorneys for Burlington Northern and Santa Fe
21 Railway Company

22 An **ORIGINAL** and 13 copies of the
23 foregoing were hand-delivered this
24 28th day of March, 2008 to:

25 Docket Control
26 Arizona Corporation Commission
1200 West Washington
Phoenix, AZ 85007

Marc Stern, Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, Arizona 85007

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COPIES of the foregoing
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