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BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

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AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

SEP - 8 2008

DOCKETED BY

IN THE MATTER OF THE APPLICATION
OF THE UNION PACIFIC RAILROAD
COMPANY TO ALTER FOUR CROSSINGS
OF THE UNION PACIFIC RAILROAD IN
THE CITY OF MARICOPA, PINAL COUNTY,
ARIZONA AT MARICOPA ROAD/STATE
ROUTE 347, PORTER, WHITE & PARKER
AND HARTMAN ROADS.

DOCKET NO. RR-03639A-07-0517

PROCEDURAL ORDER

BY THE COMMISSION:

On September 7, 2007, the Union Pacific Railroad Company ("Railroad") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Railroad to alter four crossings of the Railroad in the City of Maricopa ("City") in Pinal County ("County"), Arizona by adding a second set of mainline tracks. Three of these crossings are in the City subject to the city's jurisdiction as follows: Porter Road, AAR/DOT No. 741 345R; White & Parker Road, AAR/DOT No. 741 346X; and Hartman Road, AAR/DOT No. 741 347E. The fourth is in the City's and the State of Arizona's jurisdiction at Maricopa Road/State Route 347, AAR/DOT No. 741 343C ("Application").

On October 24, 2007, the Commission's Safety Division's Railroad Safety Section ("Staff") and the Railroad participated in a teleconference to discuss aspects of the Application including public notice, other procedural matters and to determine a date for the hearing.

On November 8, 2007, by Procedural Order, the Commission ordered that a hearing be held on the Application on January 25, 2008. The Procedural Order further ordered that notice be provided to various governmental entities by U.S. mail, established filing dates and ordered the Railroad to provide public notice of the hearing in the form and fashion set forth in the Procedural Order.

1 On November 29, 2007, Mr. Bruce Vana of the Arizona Department of Transportation
2 (“ADOT”) filed written notice that an ADOT representative would attend the hearing scheduled on
3 January 25, 2008. There have been no objections to ADOT’s attendance at the hearing.

4 On December 13, 2007, Staff filed what was captioned “Staff Motion for Extension of
5 Deadline UP Double Track Cases” (“Motion”) in which Staff stated that due to complexities in the
6 Application Staff was in the process of retaining a consultant who would require up to 30 days to
7 perform an assessment of the Application following his retention. Staff further requested an
8 indefinite extension of the filing deadline for the Staff Report until it finalized its arrangements with
9 the consultant. Staff further indicated that it would file a request for a Procedural Order at such time
10 as Staff would be in a position to be prepared for the hearing.

11 On December 17, 2007, the Railroad filed certification that it had provided notice of the
12 Application and hearing thereon pursuant to the Commission’s Procedural Order of November 8,
13 2007.

14 On December 19, 2007, the Railroad filed a response to Staff’s Motion opposing an extension
15 of longer than 30 days.

16 On December 21, 2007, by Procedural Order, Staff was ordered to file notice when it would
17 be able to file its Staff Report and the hearing date of January 25, 2008, was reserved for the purpose
18 of taking public comment only.

19 On January 25, 2008, a full public hearing was commenced before Commissioner Kristin
20 Mayes and a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix,
21 Arizona. The Railroad and Staff appeared with counsel. Public comment was taken and the
22 proceeding was recessed pending the evidentiary hearing.

23 On February 14, 2008, Staff filed a request for a procedural conference to be scheduled to
24 discuss a date for the evidentiary hearing and related filing dates.

25 On March 4, 2008, by Procedural Order, a procedural conference was scheduled on March 12,
26 2008.

27 On March 12, 2008, at the procedural conference, Staff and the Railroad appeared with
28 counsel and dates for scheduling the evidentiary hearing and related filings were discussed. Staff

1 indicated that the Staff Report on the Application would be filed by April 11, 2008. However, during
2 the January 25, 2008, hearing at which public comment was taken, Commissioner Mayes asked Staff
3 and the Railroad to consider whether the hearing should be held in the affected community, in this
4 case, the City of Maricopa.

5 On March 19, 2008, by Procedural Order, a teleconference was scheduled on May 24, 2008,
6 to discuss the location for a public comment session and for a hearing on the Application.

7 On March 24, 2008, a brief procedural teleconference was held between the parties to discuss
8 scheduling in the proceeding. The teleconference was recessed and continued to March 26, 2008.

9 On March 26, 2008, a procedural conference was held to further discuss the scheduling of the
10 proceeding. It was determined that the Railroad would first locate a venue where public comment
11 would be taken in the City and then an evidentiary hearing would be scheduled at the Commission's
12 offices in Phoenix.

13 On April 22, 2008, Staff filed its report recommending approval of the Application.

14 On June 9, 2008, the Hearing Division was advised that the Pima Butte Elementary School in
15 Maricopa could be utilized for public comment on the evening of July 31, 2008.

16 On June 12, 2008, by Procedural Order, public notice was ordered to be given, a public
17 comment hearing was scheduled on July 31, 2008, in the City and an evidentiary hearing was
18 scheduled in Phoenix for August 19, 2008.

19 On July 31, 2008, Commissioners Kristin Mayes and Gary Pierce held a public comment
20 session at Pima Butte Elementary School in the City. Staff and the Railroad appeared with counsel.
21 After public comment was taken, the proceeding was recessed.

22 On August 19, 2008, the evidentiary portion of the proceeding resumed with Staff and the
23 Railroad present with counsel. Members of the public appeared to make public comment prior to the
24 commencement of the proceeding. During public comment, the Chairwoman of the Ak-Chin Indian
25 Community ("Community") made public comment and the Community's counsel appeared on its
26 behalf. The Community requested intervention in the proceeding at that time. Neither the Railroad
27 nor Staff objected to the Community's request. Based on questions raised during public comment
28 and the Community's request for intervention, the proceeding was recessed pending the

1 Community's filing a written request for intervention and so that further discussions could be held
2 between the Railroad, the Community and Staff.

3 On September 4, 2008, the Community filed a formal request to intervene. Accordingly, the
4 Community should be granted intervention.

5 IT IS THEREFORE ORDERED that the Ak-Chin Indian Community is granted intervention
6 in the proceeding.

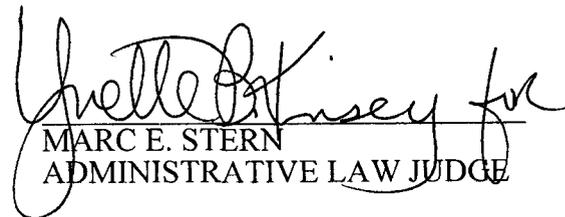
7 IT IS FURTHER ORDERED the Union Pacific Railroad Company shall file a request to
8 reschedule the evidentiary hearing after discussions between the parties are completed.

9 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
10 Communications) continues to apply to this proceeding as the matter is set for public hearing.

11 IT IS FURTHER ORDERED that all parties must comply with Rule 31 and 38 of the Rules of
12 the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission
13 *pro hac vice*.

14 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,
15 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
16 ruling at hearing.

17 DATED this 8th day of September, 2008.

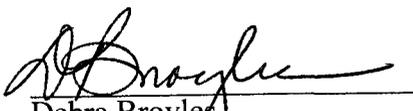
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MARC E. STERN
ADMINISTRATIVE LAW JUDGE

24 Copies of the foregoing mailed/delivered
25 this 8th day of September, 2008 to:

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Secretary to Marc Stern

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