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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

DOCKETED BY

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

IN THE MATTER OF THE APPLICATION OF  
THE CITY OF PHOENIX TO UPGRADE A  
CROSSING OF THE UNION PACIFIC  
RAILROAD AT LOWER BUCKEYE ROAD IN  
THE CITY OF PHOENIX, MARICOPA COUNTY,  
ARIZONA, USDOT NO. 741-028-L.

DOCKET NO. RR-03639A-10-0355

**PROCEDURAL ORDER**  
**(Schedules Hearing)**

**BY THE COMMISSION:**

On August 26, 2010, the City of Phoenix ("City") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at Lower Buckeye Road in the City of Phoenix, Maricopa County, Arizona at USDOT No. 741-028-L ("Application").

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the request of the City of Phoenix shall be considered an application for the Railroad to upgrade an existing crossing pursuant to A.R.S. § 40-337, *et seq.*

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **November 30, 2010, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Hearing Room 1, Phoenix, Arizona.

IT IS FURTHER ORDERED that within five business days of receipt of this Procedural Order, **the CITY OF PHOENIX SHALL PROVIDE THE RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by the application with a copy of the application and this Procedural Order by certified mail.

IT IS FURTHER ORDERED that the Commission's Railroad Safety Section ("Staff") shall

1 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of  
 2 them with Docket Control on or before 4:00 p.m. on **October 26, 2010**.

3 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**  
 4 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on  
 5 **November 5, 2010**.

6 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C.  
 7 R14-3-105, except that all motions to intervene must be filed on or before **November 8, 2010**.

8 IT IS FURTHER ORDERED that **the City of Phoenix** shall provide **public notice** of the  
 9 hearing in this matter, in the following form and style:

10 **IN THE MATTER OF THE APPLICATION OF THE CITY OF PHOENIX**  
 11 **TO UPGRADE A CROSSING OF THE UNION PACIFIC RAILROAD**  
 12 **AT LOWER BUCKEYE ROAD IN THE CITY OF PHOENIX, MARICOPA**  
 13 **COUNTY, ARIZONA, USDOT NO. 741-028-L.**  
 14 **(DOCKET NO. RR-03639A-10-035)**

15 On August 26, 2010, the City of Phoenix ("City") filed with the Arizona Corporation  
 16 Commission ("Commission") an application for approval for the Union Pacific  
 17 Railroad ("Railroad") to upgrade an existing crossing at Lower Buckeye Road in the  
 18 City of Phoenix, Maricopa County, Arizona at USDOT No. 741-028-L

19 The application is available for inspection during regular business hours at the offices  
 20 of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona,  
 21 and on the internet via the Commission website ([www.azcc.gov](http://www.azcc.gov)) using the e-docket  
 22 function.

23 The Commission will hold a hearing on this matter commencing on **November 30,**  
 24 **2010, at 10:00 a.m.**, at the Commission's offices, 1200 West Washington Street,  
 25 Phoenix, Arizona. Public comments will be taken on the first day of the hearing.

26 The law provides for an open public hearing at which, under appropriate  
 27 circumstances, interested parties may intervene. Intervention shall be permitted to  
 28 any person entitled by law to intervene and having a direct and substantial interest in  
 the matter. Persons desiring to intervene must file a written motion to intervene with  
 the Commission, which motion should be sent to Applicant or its counsel and to all  
 parties of record, and which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different than the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of Railroad, a neighboring property owner, a crossing user, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.

1 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
2 that all motions to intervene must be filed on or before November 8, 2010. The  
3 granting of intervention, among other things, entitles a party to present sworn  
evidence at hearing and to cross-examine other witnesses. However, failure to  
intervene will not preclude any customer from appearing at the hearing and making a  
statement on such customer's own behalf.

4 If you have any questions about this application, you may contact the applicant at  
5 **[insert telephone number]**. If you wish to file written comments on the application  
or want further information on intervention, you may write the Consumer Services  
6 Section of the Commission at 1200 West Washington Street, Phoenix, Arizona  
85007, call 602-542-4251 or 1-800-222-7000, or appear at the hearing and make  
7 comment.

8 The Commission does not discriminate on the basis of disability in admission to its  
9 public meetings. Persons with a disability may request a reasonable accommodation  
such as a sign language interpreter, as well as request this document in an alternative  
10 format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number  
602-542-3931, e-mail SABernal@azcc.gov. Requests should be made as early as  
possible to allow time to arrange the accommodation.

11 IT IS FURTHER ORDERED that **the City of Phoenix** shall cause the above notice to be  
12 published at least once in a newspaper of general circulation in the city/county where the crossing is  
13 located, with **publication to be completed no later than October 8, 2010**.

14 IT IS FURTHER ORDERED that notice shall be deemed complete upon the  
15 mailing/publication of same, notwithstanding the failure of an individual or entity to read or receive  
16 the notice.

17 IT IS FURTHER ORDERED that **THE CITY OF PHOENIX SHALL FILE**  
18 **CERTIFICATION OF NOTICE WITH THE COMMISSION'S DOCKET CONTROL AS**  
19 **SOON AS PRACTICABLE** after the mailing/publication of notice ordered herein has been  
20 completed.

21 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
22 Communications) applies to this proceeding as the matter is now set for public hearing

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

26 ...

27 ...

28

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

4 DATED this 7<sup>TH</sup> day of September, 2010.



MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

9  
10 Copies of the foregoing mailed/delivered  
this 7<sup>th</sup> day of September, 2010 to:

11 Freddy Cheung, P.E.  
12 Senior Manager - Industry & Public Projects  
13 UNION PACIFIC RAILROAD COMPANY  
2015 South Willow Avenue  
14 Bloomington, CA 92316

Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

14 Anthony J. Hancock  
15 Terrance L. Sims  
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Attorneys for Union Pacific Railroad Company

Brian Lehman, Chief  
Railroad Safety Section of the Safety Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

18 Thomas Fisher, Utility Coordinator  
19 CITY OF PHOENIX  
200 West Washington Street  
20 Phoenix, AZ 85003-1611

ARIZONA REPORTING SERVICE, INC.  
2200 North Central Street, Suite 502  
Phoenix, Arizona 85004

21 Robert Travis, P.E.  
22 State Railroad Liaison  
ARIZONA DEPARTMENT OF  
TRANSPORTATION  
23 205 South 17<sup>th</sup> Avenue, Room 357  
M/D 618E  
24 Phoenix, Arizona 85007

25 Kelly Roy, Utility Project Coordinator  
26 MARICOPA COUNTY DEPARTMENT  
OF TRANSPORTATION  
27 2901 West Durango Street  
Phoenix, Arizona 85009

By:   
Debra Broyles  
Secretary to Marc Stern