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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

JAN 20 2012

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE UNION PACIFIC
RAILROAD AT LITCHFIELD ROAD IN THE
CITY OF GOODYEAR, MARICOPA COUNTY,
ARIZONA, USDOT NO. 741-784-A.

DOCKET NO. RR-03639A-11-0245

DECISION NO. 72744

OPINION AND ORDER

DATE OF HEARING:

August 29, 2011

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Mr. James Redpath, OFFICE OF THE ATTORNEY
GENERAL, Transportation Section, on behalf of the
Arizona Department of Transportation;

Mr. Terrance L. Sims, BEAUGUREAU, ZUKOWSKI
& HANCOCK, P.C., on behalf of the Union Pacific
Railroad Company; and

Ms. Bridget Humphrey and Mr. Charles Hains, Staff
Attorneys, Legal Division, on behalf of the Safety
Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On June 16, 2011, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at Litchfield Road in the City of Goodyear ("City"), Maricopa County, Arizona at USDOT No. 741-784-A ("Application").

On June 28, 2011, by Procedural Order, a hearing was scheduled on August 29, 2011.

On August 12, 2011, the Staff Memorandum was filed recommending approval of the Application.

On August 26, 2011, ADOT filed certification that notice of the proceeding was provided in

1 accordance with the Commission's Procedural Order.

2 On August 29, 2011, a full public hearing was convened before a duly authorized
3 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. ADOT, the
4 Railroad and the Commission's Safety Division Railroad Safety Section ("Staff") were present with
5 counsel. At the conclusion of the hearing, the matter was taken under advisement pending
6 submission of a Recommended Opinion and Order to the Commission.

7 * * * * *

8 Having considered the entire record herein and being fully advised in the premises, the
9 Commission finds, concludes, and orders that:

10 **FINDINGS OF FACT**

11 1. On June 16, 2011, ADOT filed an Application in which it requested an Opinion and
12 Order from the Commission approving an agreement between ADOT and the Railroad to upgrade an
13 existing at-grade crossing at Litchfield Road located in Goodyear at USDOT No. 741-784-A.¹

14 2. On several occasions during 2006 and 2007, Staff, ADOT and the City conducted
15 meetings with respect to the proposed improvements at the crossing.

16 3. ADOT is seeking Commission approval to upgrade the existing at-grade crossing at
17 Litchfield Road, which is a five lane roadway that runs north-south. There are three lanes
18 southbound and two lanes northbound where the Railroad's tracks intersect with the roadway. The
19 proposed improvements will replace the existing flashing lights, gates and timber crossing with an
20 upgrade consisting of a new cantilever for southbound traffic, flashing LED lights and the installation
21 of a new concrete crossing surface.

22 4. On August 26, 2011, ADOT filed certification that it had provided public notice of the
23 Application and hearing thereon pursuant to the Commission's Procedural Order by publishing notice
24 in the *Arizona Business Gazette* and by mailing, by certified U.S. mail, notice to the City and the
25 Railroad.

26 _____
27 ¹ The proposed upgrade of the Litchfield Road crossing was approved by the Commission in Decision No. 69727 (July
28 30, 2007) as part of the 2007 Annual Array to utilize federal funding pursuant to 23 U.S.C. § 130 ("Section 130") which
is provided by the Federal Highway Administration ("FHWA") to reimburse ADOT for 100 percent of the cost of the
project. Section 130 projects are used to eliminate hazards to pedestrians and highway vehicles at public railroad
crossings which are not primarily for the benefit of the Railroad.

1 5. The hearing was held as scheduled on August 29, 2011.

2 6. According to the Staff Memorandum, the area which surrounds the Litchfield Road
3 crossing consists of land that is zoned for commercial and industrial development.

4 7. Mr. Armando Lopez, a Railroad Coordinator for ADOT, testified in support of the
5 Application.

6 8. Mr. Lopez testified that improvements to the at-grade crossing at Litchfield Road
7 include the installation of new automatic warning devices, along with the replacement of the old
8 crossing surface with a new concrete surface. (Tr. 6: 1-5)

9 9. Mr. Lopez stated that a grade separation study was not conducted because funding is
10 not available at this time for such construction. (Tr. 7: 1-5)

11 10. Mr. Lopez testified that the upgrades with LED flashing lights installed on the gates
12 were standard and similar to other railroad crossings in Arizona and in conformity with the *Manual*
13 *on Uniform Traffic Control Devices*. (Tr. 7: 17-25)

14 11. According to Mr. Lopez, the upgrade will be completed within 12 to 15 months
15 following the effective date of the Commission's Decision. (Tr. 8: 22-25)

16 12. Mr. Lopez testified further that the crossing would be closed for a brief period to allow
17 for the installation of the upgrades and the new crossing surface, but there is a nearby public crossing
18 at Central Avenue in the City which can be used by the traveling public. (Tr. 9: 4-13)

19 13. Mr. Lopez testified a 2008 ADOT study found 8,400 vehicles used the crossing per
20 day and that the level of service was LOS B. (Tr. 10: 6-10)

21 14. According to Mr. Lopez, trains using the Litchfield Road at-grade crossing average
22 approximately 45 miles per hour. (Tr. 10: 21-25)

23 15. Mr. Lopez testified that 94.3 percent of the financing for the improvements will be
24 funded by the FHWA and the additional 5.7 percent will be funded by the City, for a total cost of
25 \$481,277. (Tr. 11: 9-17)

26 16. Mr. Lopez testified further that the Railroad will be responsible to maintain the
27 crossing surface and the automatic signal equipment at the crossing while the City will maintain the
28 roadway approaches up to the crossing. (Tr. 13: 9-15)

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application as described herein is hereby approved.

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

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

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

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

Gay L. Stump
CHAIRMAN

EXCUSED
COMM. STUMP

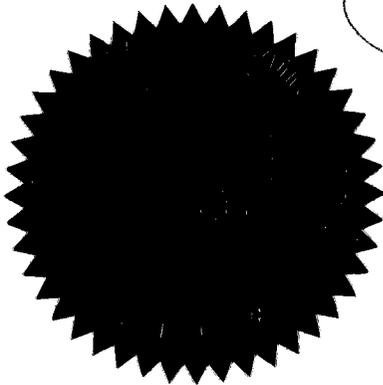
COMMISSIONER

Dandra D. Demed
COMMISSIONER

EXCUSED
COMM. NEWMAN

COMMISSIONER

Barbara Brown
COMMISSIONER



IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, 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 20th day of JANUARY 2012.

E. G. Johnson
ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

MES:db

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