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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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ARIZONA CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

JUN 21 2012

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IN THE MATTER OF THE APPLICATION OF
THE CITY OF PHOENIX TO CLOSE EIGHT
PUBLIC GRADE CROSSINGS ON 11TH
AVENUE BETWEEN APACHE STREET AND
GRANT STREET, IN THE CITY OF PHOENIX,
MARICOPA COUNTY, ARIZONA, AT US
DOT NUMBERS 928161M, 025839L, 928160F,
025837X, 936631D, 025835J WEST, 025835J
EAST AND 025833V.

DOCKET NO. RR-02635B-12-0251

PROCEDURAL ORDER

BY THE COMMISSION:

On June 13, 2012, the City of Phoenix ("City") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Burlington Northern Santa Fe Railway ("BNSF") to close eight public at-grade crossings of the BNSF's tracks on 11th Avenue between Apache Street and Grant Street, in Phoenix, Arizona at USDOT NOS. 928161M, 025839L, 928160F, 025837X, 936631D, 025835J West, 025835J East and 025833V.

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 shall be considered an application to close eight existing public at-grade crossings pursuant to A.R.S. § 40-337, et seq.

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

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **September 27, 2012, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix, Arizona.

IT IS FURTHER ORDERED that within five business days of receipt of this Procedural Order, **THE CITY OF PHEONIX SHALL PROVIDE THE RAILROAD, MARICOPA**

1 **COUNTY ANY OTHER GOVERNMENTAL AGENCY OR INTERESTED PARTY** that may
 2 be affected by the application with a copy of the application and this Procedural Order by certified
 3 mail.

4 IT IS FURTHER ORDERED that Safety Division, Railroad Safety Section (“Staff”) shall
 5 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of
 6 them with Docket Control on or before 4:00 p.m. on **August 16, 2012**.

7 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**
 8 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on **August**
 9 **30, 2012**.

10 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
 11 105, except that all motions to intervene must be filed on or before **August 1, 2012**.

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

14 **PUBLIC NOTICE OF THE HEARING IN THE MATTER OF THE**
 15 **APPLICATION OF THE CITY OF PHOENIX TO CLOSE EIGHT PUBLIC**
 16 **AT-GRADE CROSSINGS OF THE BURLINGTON NORTHERN & SANTA FE**
 17 **RAILWAY ON 11TH AVENUE BETWEEN APACHE STREET AND GRANT**
 18 **STREET, IN THE CITY OF PHOENIX, MARICOPA COUNTY, ARIZONA,**
 19 **AT USDOT NUMBERS 928161M, 025839L, 928160F, 025837X, 936631D,**
 20 **025835J WEST, 025835J EAST AND 025833V.**
 21 **(DOCKET NO. RR-02635B-12-0251)**

22 On June 13, 2012, the City of Phoenix (“City”) filed with the Arizona Corporation
 23 Commission (“Commission”) an application for approval for the Burlington Northern
 24 Santa Fe Railway (“BNSF”) to close eight public at-grade crossings of the BNSF’s
 25 tracks on 11th Avenue between Apache Street and Grant Street, in Phoenix, Arizona
 26 at USDOT NOs. 928161M, 025839L, 928160F, 025837X, 936631D, 025835J West,
 27 025835J East and 025833V.

28 The application is available for inspection during regular business hours at the offices
 of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona,
 and on the internet via the Commission website (www.azcc.gov) using the e-docket
 function.

The Commission will hold a hearing on this matter commencing on **September 27,**
2012, at 10:00 a.m., at the Commission’s offices, 1200 West Washington Street,
 Hearing Room No. 1, Phoenix, Arizona. Public comment will be taken on the first
 day of the hearing.

The law provides for an open public hearing at which, under appropriate
 circumstances, interested parties may intervene. Intervention shall be permitted to
 any person entitled by law to intervene and having a direct and substantial interest in

1 the matter. Persons desiring to intervene must file a written motion to intervene with
 2 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:

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

8 The granting of motions to intervene shall be governed by A.A.C. R14-3-105,
 9 except that all motions to intervene must be filed on or before August 1, 2012. If
 10 representation by counsel is required by Rule 31 of the Rules of the Arizona
 Supreme Court, intervention will be conditioned upon the intervenor obtaining
 11 counsel to represent the intervenor. For information about requesting
 intervention, visit the Arizona Corporation Commission's webpage at
 12 <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of
 intervention, among other things, entitles a party to present sworn evidence at
 13 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.

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

17 The Commission does not discriminate on the basis of disability in admission to its
 public meetings. Persons with a disability may request a reasonable accommodation
 18 such as a sign language interpreter, as well as request this document in an alternative
 format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-
 19 542-3931, E-mail SABernal@azcc.gov. Requests should be made as early as
 possible to allow time to arrange the accommodation.
 20

21 IT IS FURTHER ORDERED that the City of Phoenix shall cause the above notice to be
 22 published at least once in a newspaper of general circulation in the city where the crossing is located,
 23 with **publication to be completed no later than July 16, 2012**.

24 IT IS FURTHER ORDERED that the **City of Phoenix shall post visible signs** within 10 feet
 25 of each side of the approach to each of the eight public at-grade crossings notifying the public of the
 26 proposed closure **no later than July 16, 2012**, in the following form and style:

27 ...

28 ...

NOTICE

1
2 AN APPLICATION HAS BEEN FILED WITH THE ARIZONA CORPORATION
3 COMMISSION TO CLOSE THIS PUBLIC AT-GRADE CROSSING. THE
4 COMMISSION WILL HOLD A HEARING ON THIS MATTER COMMENCING
5 ON **SEPTEMBER 27, 2012, AT 10:00 A.M.**, AT THE COMMISSION'S
6 OFFICES, 1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA.
7 PUBLIC COMMENT WILL BE TAKEN ON THE FIRST DAY OF THE
8 HEARING. PUBLIC CONCERNS CAN BE MADE IN WRITING TO THE
9 RAILROAD SAFETY SECTION, C/O ARIZONA CORPORATION
10 COMMISSION, 1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA
11 86007, OR CALL 602-542-4251 OR 1-800-222-7000 OR APPEAR AT THE
12 HEARING AND MAKE COMMENT.

13 Sign specifications are as follows:

- 14 a. a metal sign with 1-1/2" black letters on white background;
15 b. mounted on 4" x 4" wood post or a sturdy steel post which is at least 6' tall.

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

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

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

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

27 DATED this 31st day of June, 2012.

28

MARC E. STERN
ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed/delivered
2 this 21st day of June, 2012 to:

3 Cynthia S. Campbell
4 Assistant City Attorney
5 OFFICE OF THE CITY ATTORNEY
6 200 West Washington Street, Suite 1300
7 Phoenix, AZ 85303-1611

8 Melvin V. Thomas, Manager Public Projects
9 BURLINGTON NORTHERN SANTA FE
10 RAILWAY COMPANY
11 740 East Carnegie Drive
12 San Bernardino, CA 92408-3571

13 Vicki Bever, Manager
14 Utility & Railroad Engineering
15 ARIZONA DEPARTMENT OF TRANSPORTATION
16 205 South 17th Avenue, M/D 618E
17 Phoenix, AZ 85007-3212

18 Kelly Roy, Utility Project Coordinator
19 MARICOPA COUNTY
20 DEPARTMENT OF TRANSPORTATION
21 2901 West Durango Street
22 Phoenix, Arizona 85009-6357

23 Janice Alward, Chief Counsel
24 Legal Division
25 ARIZONA CORPORATION COMMISSION
26 1200 West Washington Street
27 Phoenix, Arizona 85007

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

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

23 By: 
24 Debra Broyles
25 Secretary to Marc E. Stern
26
27
28