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BEFORE THE ARIZONA CORPORATI

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Arizona Corporation Commission

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COMMISSIONERS

- BOB STUMP - Chairman
- GARY PIERCE
- BRENDA BURNS
- BOB BURNS
- SUSAN BITTER SMITH

AZ CORP COMMISSION DOCKET CONTROL

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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 5TH STREET IN THE CITY OF TEMPE, MARICOPA COUNTY, ARIZONA, USDOT NO. 741-561-J.

DOCKET NO. RR-03639A-13-0211

PROCEDURAL ORDER

BY THE COMMISSION:

On June 27, 2013, 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 5th Street in the City of Tempe ("City"), Maricopa County, Arizona at USDOT No. 741-561-J ("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 Arizona Department of Transportation 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 **September 12, 2013, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, **Second Floor Conference Room**, Phoenix, Arizona.

IT IS FURTHER ORDERED that within ten business days of receipt of this Procedural Order, **the ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by

1 the application with a copy of the application and this Procedural Order by certified mail.

2 IT IS FURTHER ORDERED that the Commission's Railroad Safety Section ("Staff") shall
3 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of
4 them with Docket Control on or before 4:00 p.m. on **August 26, 2013**.

5 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**
6 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on
7 **September 6, 2013**.

8 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
9 105, except that all motions to intervene must be filed on or before **August 16, 2013**.

10 IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall provide
11 **public notice** of the hearing in this matter, in the following form and style:

12 **IN THE MATTER OF THE APPLICATION OF**
13 **THE ARIZONA DEPARTMENT OF TRANSPORTATION TO**
14 **UPGRADE AN EXISTING CROSSING OF THE UNION PACIFIC**
15 **RAILROAD AT 5th STREET IN THE CITY OF TEMPE, MARICOPA**
16 **COUNTY, ARIZONA, USDOT NO. 741-561-J.**
17 **(DOCKET NO. RR-03639A-13-0211)**

18 On June 27, 2013, the Arizona Department of Transportation ("ADOT") filed with
19 the Arizona Corporation Commission ("Commission") an application for approval
20 for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at 5th
21 Street in the City of Tempe ("City"), Maricopa County, Arizona at AAR/DOT No.
22 741-561-J.

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

26 The Commission will hold a hearing on this matter commencing on **September 12,**
27 **2013, at 10:00 a.m.,** at the Commission's offices, 1200 West Washington Street,
28 Second Floor Conference Room, Phoenix, Arizona. Public comments 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
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 intervener and of
any party upon whom service of documents is to be made if different than the
intervener.

- 1 2. A short statement of the proposed intervenor's interest in the proceeding (e.g.,
2 a customer of Railroad, a neighboring property owner, a crossing user, etc.).
- 3 3. A statement certifying that a copy of the motion to intervene has been mailed
4 to the Applicant or its counsel and to all parties of record in the case.

4 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
5 that all motions to intervene must be filed on or before August 16, 2013. The
6 granting of intervention, among other things, entitles a party to present sworn
7 evidence at hearing and to cross-examine other witnesses. However, failure to
8 intervene will not preclude any customer from appearing at the hearing and making a
9 statement on such customer's own behalf.

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

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

21 **IT IS FURTHER ORDERED that the Arizona Department of Transportation shall cause**
22 **the above notice to be published at least once in a newspaper of general circulation in the city/county**
23 **where the crossing is located, with publication to be completed no later than July 26, 2013.**

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

27 **IT IS FURTHER ORDERED that THE ARIZONA DEPARTMENT OF**
28 **TRANSPORTATION SHALL FILE CERTIFICATION OF NOTICE WITH THE**
29 **COMMISSION'S DOCKET CONTROL AS SOON AS PRACTICABLE after the**
30 **mailing/publication of notice ordered herein has been completed.**

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

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

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 1st day of July, 2013.

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8 **MARC E. STERN**
ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 1st day of July, 2013 to:

11 Alex Popovici, Manager
12 Industry & Public Projects
13 UNION PACIFIC RAILROAD COMPANY
14 631 South 7th Street
15 Phoenix, AZ 85034-2203

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

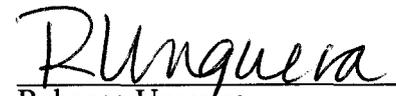
14 Anthony J. Hancock
15 Terrance L. Sims
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& HANCOCK, P.C.
302 East Coronado
Phoenix, AZ 85004
Attorneys for Union Pacific Railroad Company

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Railroad Safety Section of the Safety Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

17 Robert Travis, P.E.
18 State Railroad Liaison
19 ARIZONA DEPARTMENT OF
TRANSPORTATION
20 205 South 17th Avenue, Room 357
M/D 618E
Phoenix, AZ 85007

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

21 City Attorney's Office
22 CITY OF TEMPE
23 21 E. Sixth Street, Suite 201
Tempe, AZ 85281

By: 
Rebecca Unquera
Secretary to Marc Stern

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