

ORIGINAL



0000150502

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

RECEIVED

2013 DEC 19 A 9 38

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC 19 2013

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO UPGRADE AN  
EXISTING CROSSING OF THE UNION  
PACIFIC RAILROAD COMPANY AT  
UNIVERSITY DRIVE IN THE CITY OF  
TEMPE, MARICOPA COUNTY, ARIZONA,  
AAR/DOT NO. 741-560C.

DOCKET NO. RR-03639A-13-0440

PROCEDURAL ORDER

**BY THE COMMISSION:**

On December 13, 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 University Drive in the City of Tempe ("City"), Maricopa County, Arizona at AAR/DOT No. 741-560C. ("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 **March 13, 2014, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, **Hearing Room No. 2**, 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**

1 **RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by  
2 the application with a copy of the application and this Procedural Order by certified mail.

3 IT IS FURTHER ORDERED that the Commission's Railroad Safety Section ("Staff") shall  
4 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of  
5 them with Docket Control on or before 4:00 p.m. on **February 25, 2014**.

6 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**  
7 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on  
8 **March 7, 2014**.

9 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
10 105, except that all motions to intervene must be filed on or before **February 14, 2014**.

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

13  
14 **IN THE MATTER OF THE APPLICATION OF THE ARIZONA**  
15 **DEPARTMENT OF TRANSPORTATION TO UPGRADE AN EXISTING**  
16 **CROSSING OF THE UNION PACIFIC RAILROAD COMPANY AT**  
17 **UNIVERSITY DRIVE IN THE CITY OF TEMPE, MARICOPA COUNTY,**  
18 **ARIZONA, AAR/DOT NO. 741-560C.**  
19 **(DOCKET NO. RR-03639A-13-0440)**

20 On December 13, 2013, the Arizona Department of Transportation ("ADOT") filed  
21 with the Arizona Corporation Commission ("Commission") an application for  
22 approval for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing  
23 at University Drive in the City of Tempe, Maricopa County, Arizona at AAR/DOT  
24 No. 741-560C. ("Application").

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

28 The Commission will hold a hearing on this matter commencing on **March 13,**  
**2014, at 10:00 a.m.**, at the Commission's offices, 1200 West Washington Street,  
**Hearing Room No. 2**, 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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before February 14, 2014. The 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.

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 or want further information on intervention, you may write the Consumer Services 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 comment.

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 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 602-542-3931, e-mail SABernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall cause the above notice to be published at least once in a newspaper of general circulation in the city/county where the crossing is located, with **publication to be completed no later than January 17, 2014**.

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

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

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

IT IS FURTHER ORDERED that all parties must comply with Rule 31 and 38 of the Rules

1 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission  
2 *pro hac vice*.

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

6 DATED this 19<sup>th</sup> day of December, 2013.

7  
8   
9  
10 SCOTT HESLA  
ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed/delivered  
12 this 19<sup>th</sup> day of December, 2013 to:

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

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

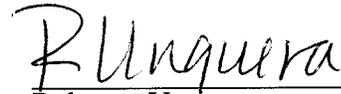
16 Anthony J. Hancock  
Terrance L. Sims  
17 BEAUGUREAU, ZUKOWSKI  
& HANCOCK, P.C.  
18 302 East Coronado  
Phoenix, AZ 85004  
Attorneys for Union Pacific Railroad Company

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

19 Jason Pike  
20 Railroad and Utility Coordinator  
ARIZONA DEPARTMENT OF  
21 TRANSPORTATION  
22 205 South 17<sup>th</sup> Avenue, Room 357  
M/D 618E  
Phoenix, AZ 85007

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

23 City Attorney's Office  
24 CITY OF TEMPE  
25 21 E. Sixth Street, Suite 201  
Tempe, AZ 85281

By:   
Rebecca Unquera  
Secretary to Scott Hesla

26 Kelly Roy, Utility Project Coordinator  
27 MARICÓPA COUNTY DEPARTMENT  
OF TRANSPORTATION  
28 2901 West Durango Street  
Phoenix, AZ 85009