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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

Arizona Corporation Commission

BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
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SUSAN BITTER SMITH

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AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO UPGRADE AN  
EXISTING CROSSING OF THE ARIZONA  
EASTERN RAILWAY COMPANY AT NAVAJO  
ROAD IN BYLAS, ARIZONA, AAR/DOT NO.  
742-309Y.

DOCKET NO. RR-02634A-14-0064

ORIGINAL

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO UPGRADE AN  
EXISTING CROSSING OF THE ARIZONA  
EASTERN RAILWAY COMPANY AT HOME  
ALONE ROAD IN BYLAS, ARIZONA, AAR/DOT  
NO. 742-307K.

DOCKET NO. RR-02634A-14-0065

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO UPGRADE AN  
EXISTING CROSSING OF THE ARIZONA  
EASTERN RAILWAY COMPANY AT  
CENTERPOINT ROAD IN BYLAS, ARIZONA,  
AAR/DOT NO. 742-306D.

DOCKET NO. RR-02634A-14-0066

PROCEDURAL ORDER  
(Schedules Hearing)

BY THE COMMISSION:

On February 27, 2014, Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") applications for approval for the Arizona Eastern Railway Company ("AZER" or "Railroad") to upgrade the following existing crossings located at the Railroad's tracks: at Navajo Road in Bylas, Arizona, at AAR/DOT NO. 742-309Y; at Home Alone Road in Bylas, Arizona, at AAR/DOT NO. 742-307K; and at Centerpoint Entrance in Bylas, Arizona, at AAR/DOT NO. 742-306D ("Application").

On March 11, 2014, the Commission's Safety Division, Railroad Safety Section ("Staff") filed a Motion to Consolidate the above-captioned proceedings ("Motion"). There were no filed objections to the Motion.

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

3 IT IS THEREFORE ORDERED that the above-captioned proceedings shall be consolidated  
4 for purposes of hearing.

5 IT IS FURTHER ORDERED that the requests of the ADOT shall be considered applications  
6 for the AZER to upgrade the existing crossings pursuant to A.R.S. §§ 40-337, *et seq.*

7 IT IS FURTHER ORDERED that the AZER shall be considered as the Respondent in this  
8 proceeding.

9 IT IS FURTHER ORDERED that the **hearing** on the applications shall be held on **June 25,**  
10 **2014, at 10:00 a.m.,** or as soon thereafter as is practical, at the Commission's offices, 1200 West  
11 Washington Street, Hearing Room No. 2, Phoenix, Arizona.

12 IT IS FURTHER ORDERED that within twenty business days of receipt of this Procedural  
13 Order, **THE ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE**  
14 **RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by  
15 the application(s) with a copy of the application(s) and this Procedural Order by certified mail.

16 IT IS FURTHER ORDERED that Staff shall prepare a written **Staff Report and associated**  
17 **exhibits** to be presented at hearing and file copies of them with Docket Control on or before 4:00  
18 p.m. on **June 3, 2014.**

19 IT IS FURTHER ORDERED that any **comments or objections to the Staff Report and**  
20 **associated exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00  
21 p.m. on **June 13, 2014.**

22 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
23 105, except that all motions to intervene must be filed on or before **June 5, 2014.**

24 ...  
25 ...  
26 ...  
27 ...  
28 ...

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

3 **PUBLIC NOTICE OF THE HEARING**  
4 **IN THE MATTER OF THE APPLICATIONS OF THE ARIZONA**  
5 **DEPARTMENT OF TRANSPORTATION TO UPGRADE EXISTING**  
6 **CROSSINGS OF THE ARIZONA EASTERN RAILWAY COMPANY AS**  
7 **FOLLOWS: AT NAVAJO ROAD IN BYLAS, ARIZONA, AAR/DOT NO. 742-**  
8 **309Y; AT HOME ALONE ROAD IN BYLAS, ARIZONA, AAR/DOT NO. 742-**  
9 **307K; AND AT CENTERPOINT ENTRANCE IN BYLAS, ARIZONA,**  
10 **AAR/DOT NO. 742-306D.**  
11 **(DOCKET NO. RR-02634A-14-0064 ET AL.)**

12 On February 27, 2014, Arizona Department of Transportation (“Applicant”) filed  
13 with the Arizona Corporation Commission (“Commission”) applications for approval  
14 for the Arizona Eastern Railway Company (“Railroad”) to upgrade the following  
15 existing crossings located at the Railroad’s tracks: at Navajo Road in Bylas, Arizona,  
16 at AAR/DOT NO. 742-309Y; at Home Alone Road in Bylas, Arizona, at AAR/DOT  
17 NO. 742-307K; and at Centerpoint Entrance in Bylas, Arizona, at AAR/DOT NO.  
18 742-306D.

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

22 The Commission will hold a hearing on this matter commencing on June 25, 2014, at  
23 10:00 a.m., at the Commission’s offices, 1200 West Washington Street, Hearing  
24 Room No. 2, Phoenix, Arizona. Public comments will be taken on the first day of  
25 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 intervener and of any party upon whom service of documents is to be made if different than the intervener.
2. A short statement of the proposed intervener’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 June 5, 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 interested person from appearing at the hearing and making a statement on such person’s own behalf.

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

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

12 IT IS FURTHER ORDERED that the Arizona Department of Transportation shall cause  
13 the above notice to be published at least once in a newspaper of general circulation in the city/county  
14 where the crossing is located, with publication to be completed no later than May 7, 2014.

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

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

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

24 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
25 31, 38, and 42 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

26 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
27 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona  
28 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at  
all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
Administrative Law Judge.

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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 21<sup>st</sup> day of March, 2014.

5  
6   
7 SCOTT M. HESLA  
ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered  
this 21<sup>st</sup> day of March, 2014 to:

9 Terry R. Vanderplas  
10 Vice President  
11 ARIZONA EASTERN RAILWAY COMPANY  
12 P.O. Box 2200  
13 Claypool, Arizona 85532

14 Jason Pike  
15 Railroad and Utility Coordinator  
16 ARIZONA DEPARTMENT OF TRANSPORTATION  
17 205 S. 17<sup>th</sup> Avenue, Room 357 MD 618E  
18 Phoenix, AZ 85007

19 Kenny Angle, County Attorney  
20 GRAHAM COUNTY  
21 800 West Main Street  
22 Safford, Arizona 85546

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

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

COASH & COASH, INC.  
Court Reporting, Video and Videoconferencing  
1802 North 7<sup>th</sup> Street  
Phoenix, AZ 85006

26 By: Rebecca Unquera  
27 Rebecca Unquera  
28 Assistant to Scott M. Hesla