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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE UNION PACIFIC
RAILROAD COMPANY AT BROADWAY ROAD
IN THE CITY OF TEMPE, MARICOPA COUNTY,
ARIZONA, AAR/DOT NO. 741-565L.

DOCKET NO. RR-03639A-14-0078

ORIGINAL

PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On March 4, 2014, the Arizona Department of Transportation (“ADOT”) filed with the Arizona Corporation Commission (“Commission”) an application for approval for the Union Pacific Railroad Company (“Railroad”) to upgrade an existing crossing at Broadway Road in the City of Tempe, Maricopa County, Arizona at AAR/DOT No. 741-565L.

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 **May 29, 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 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 Safety Division, Railroad Safety Section
3 ("Staff") shall prepare a written **Staff Report and associated exhibits** to be presented at hearing and
4 file copies of them with Docket Control on or before 4:00 p.m. on **May 15, 2014**.

5 IT IS FURTHER ORDERED that any **comments or objections to the Staff Report and**
6 **associated exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00
7 p.m. on **May 27, 2014**.

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 **April 30, 2014**.

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 THE ARIZONA**
13 **DEPARTMENT OF TRANSPORTATION TO UPGRADE AN**
14 **EXISTING CROSSING OF THE UNION PACIFIC RAILROAD**
15 **COMPANY AT BROADWAY ROAD IN THE CITY OF TEMPE,**
16 **MARICOPA COUNTY, ARIZONA, USDOT NO. 741-565L.**
17 **(DOCKET NO. RR-03639A-14-0078)**

18 On March 4, 2014, the Arizona Department of Transportation ("Applicant") filed
19 with the Arizona Corporation Commission ("Commission") an application for
20 approval for the Union Pacific Railroad Company to upgrade an existing crossing
21 at Broadway Road in the City of Tempe, Maricopa County, Arizona at AAR/DOT
22 No. 741-565L.

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 May 29, 2014, at
27 10:00 a.m., at the Commission's offices, 1200 West Washington Street, Hearing
28 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
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 April 30, 2014. The granting
6 of intervention, among other things, entitles a party to present sworn evidence at
7 hearing and to cross-examine other witnesses. However, failure to intervene will not
8 preclude any interested party from appearing at the hearing and making a statement
9 on such person'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 the
22 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 April 18, 2014**.

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 Arizona Supreme Court
34 Rules 31, 38, and 42 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac*
35 *vice*.

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

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

10 DATED this 21st day of March, 2014.

11
12 
13 SCOTT M. HESLA
14 ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed/delivered
this 21st day of March, 2014 to:

16 Alex Popovici, Manager
17 Industry & Public Projects
18 UNION PACIFIC RAILROAD COMPANY
631 South 7th Street
Phoenix, AZ 85034-2203

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

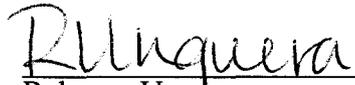
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Railroad Safety Section of the Safety Division
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23 Jason Pike
24 Railroad and Utility Coordinator
ARIZONA DEPARTMENT
OF TRANSPORTATION
25 205 S. 17th Avenue, Room 357 MD 618E
Phoenix, AZ 85007

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

26 City Attorney's Office
27 CITY OF TEMPE
28 21 E. Sixth Street, Suite 201
Tempe, AZ 85281

By: 
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Assistant to Scott M. Hesla