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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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JUN 25 2014

ARIZONA CORPORATION COMMISSION
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DOCKET NO. RR-02635B-14-0158

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE BURLINGTON
NORTHERN AND SANTA FE RAILWAY
COMPANY AT THE INTERSECTION OF SR 303L
AND US 60, MARICOPA COUNTY, ARIZONA,
AT MP 167.77

ORIGINAL

PROCEDURAL ORDER

BY THE COMMISSION:

On May 13, 2014, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Burlington Northern and Santa Fe Railway Company ("Railroad") to upgrade an existing crossing at the intersection of SR 303L and US 60, Maricopa County, Arizona, at milepost 167.77.

On May 28, 2014, a Procedural Order was issued establishing various filing dates and scheduling a hearing for August 25, 2014.

On June 13, 2014, the Commission's Safety Division, Railroad Safety Section ("Staff") filed a Motion to Vacate Scheduled Hearing ("Motion"). In its Motion, Staff asserts that a hearing is not required for this matter because the present application does not concern the installation or modification of automatic safety signals. According to Staff, A.R.S. § 40-337.01 only requires an evidentiary hearing for applications involving the use of automatic safety devices at a crossing. Staff states that the application and Staff Report filed in this matter will provide sufficient information to produce a recommended opinion and order.

On June 23, 2014, ADOT filed a Response to Staff Motion to Vacate Scheduled Hearing indicating that ADOT has no objection to the Motion.

Long standing Commission practice has required evidentiary hearings for all applications concerning railroad public highway crossings. Evidentiary hearings serve an important role in the

1 Commission’s decision-making process and encourage robust participation from interested parties
2 and stakeholders. At this juncture, it would be premature to determine the necessity of an evidentiary
3 hearing because public notice of the application has not been published and the Staff Report has not
4 been filed. As a result, it is unknown whether there will be requests to intervene and whether the
5 application and Staff Report will produce the information necessary to produce a recommended
6 opinion and order. Accordingly, Staff’s Motion should be denied.

7 IT IS THEREFORE ORDERED that Staff’s Motion to Vacate Scheduled Hearing is denied.

8 IT IS FURTHER ORDERED affirming the procedural schedule and hearing date set forth in
9 the May 28, 2014 Procedural Order.

10 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
11 Communications) continues to apply to this proceeding.

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

15 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
16 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
17 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at
18 all hearings and procedural conferences, as well as all Open Meetings for which the matter is
19 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
20 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 25th day of June, 2014.



SCOTT M. HESLA
ADMINISTRATIVE LAW JUDGE

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9 Copies of the foregoing mailed/delivered
this 25th day of June, 2014 to:

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