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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

JUL 30 2014

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

DOCKETED BY
NR

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

DECISION NO. 74611

OPINION AND ORDER

DATE OF HEARING: May 29, 2014
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Scott M. Hesla
APPEARANCES: Mr. James Redpath, Assistant Attorney General,
Transportation Section, on behalf of the Arizona
Department of Transportation;
Mr. W. Reed Campbell, Beaugureau, Hancock, Stoll &
Schwartz, P.C., on behalf of the Union Pacific Railroad
Company; and
Mr. Charles Hains, Staff Attorney, Legal Division on
behalf of the Safety Division of the Arizona Corporation
Commission.

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the
Commission finds, concludes, and orders that:

FINDINGS OF FACT

Procedural History

1. On March 4, 2014, the Arizona Department of Transportation ("ADOT") filed with
the Arizona Corporation Commission ("Commission") an application for approval for the Union

1 Pacific Railroad Company (“Railroad”) to upgrade an existing crossing at Broadway Road in the City
2 of Tempe (“City”), Maricopa County, Arizona at AAR/DOT No. 741-565L (“Application”).

3 2. On March 21, 2014, a Procedural Order was issued establishing various filing dates
4 and scheduling a hearing for May 29, 2014.

5 3. On May 2, 2014, ADOT filed documentation that it had provided public notice of the
6 application and hearing thereon.

7 4. On May 15, 2014, the Commission’s Safety Division, Railroad Safety Section
8 (“Staff”) filed a Staff Memorandum recommending approval of the application.

9 5. On May 29, 2014, a full public hearing was convened, as scheduled. ADOT, the
10 Railroad, and Staff appeared through counsel. At the conclusion of the hearing, the matter was taken
11 under advisement pending submission of a Recommended Opinion and Order to the Commission.

12 **ADOT’s Application**

13 6. Prior to the filing of the Application, representatives of ADOT, the City, the Railroad,
14 and Staff participated in several diagnostic review meetings of the proposed upgrades for the
15 crossing. All parties who were present at these meetings were in agreement that the proposed
16 enhancements would improve safety at the crossing.

17 7. In its Application, ADOT is seeking Commission approval to upgrade the existing at-
18 grade crossing at Broadway Road, a six lane paved roadway, which consists of two westbound lanes,
19 three eastbound lanes, and one two-way center left turn lane. The proposed improvements will
20 replace the existing flashing lights, automatic gates, and cantilevers with two new automatic gates
21 with LED flashing lights on the outside curbs of Broadway Road, two new automatic gates with LED
22 flashing lights which will be located on a new raised median, and one cantilever with LED flashing
23 lights for eastbound traffic. Additionally, constant warning time circuitry will also be installed. The
24 City is installing the raised median, constructing sidewalks, and restriping the roadway in advance of
25 the crossing.

26 8. The proposed upgrade of the Broadway Road crossing was approved by the
27 Commission in Decision No. 70481 (September 3, 2008) as part of the 2008 Annual Array to utilize
28 federal funding pursuant to 23 U.S.C. § 130 (“Section 130”). Section 130 projects are used to

1 eliminate hazards to pedestrians and highway vehicles at public railroad crossings which are not
2 primarily for the benefit of the Railroad.

3 9. Mr. Jason Pike, ADOT's Railroad Coordinator for Section 130 projects, testified in
4 support of the Application.

5 10. Mr. Pike testified that the proposed upgrades to the Broadway Road crossing are
6 consistent with similar crossings located throughout the state and are in the public interest. (Tr. 8:19-
7 25). Mr. Pike further testified that the project will be funded entirely by the Federal Highway
8 Administration ("FHWA") pursuant to Section 130. (Tr. 10:4-6).

9 11. Mr. Alexander Popovici, the Railroad's Project Manager, testified that crossings of
10 this nature are required to have one set of flashing lights per each lane of travel. (Tr. 12:6-8). Mr.
11 Popovici explained that the crossing will comply with this requirement because: the two sets of
12 flashing LED lights affixed to the automatic gates will cover the two lanes of travel in the westbound
13 direction; and the three sets of flashing LED lights affixed to the automatic gates and cantilever will
14 cover the three lanes of travel in the eastbound direction. (Tr. 12:6-20).

15 12. Mr. Chris Watson, Assistant Supervisor of Railroad Safety for the Commission,
16 testified that he had prepared the Staff Memorandum which describes the nature of ADOT's
17 proposed upgrade at the Broadway Road crossing. (Tr. 14:12-13).

18 13. Mr. Watson testified that the improvements being made to the Broadway Road
19 crossing are consistent with similar crossings located throughout Arizona. (Tr. 16:6-9). Testifying
20 further, Mr. Watson stated that approval of the proposed upgrades would be in the public interest.
21 (Tr. 16:10-12).

22 14. According to the Staff Memorandum, construction of a grade separated crossing is not
23 warranted due to its proximity to the Arizona State University campus and the overall high cost to
24 construct a grade separated crossing. In addition, Mr. Watson testified that the crossing did not meet
25 any of the nine criteria utilized by FHWA for consideration of grade separation. (Tr. 16:13-21).

26 15. In its Staff Memorandum, Staff states that it does not recommend closing the crossing.
27 According to Staff, crossing closure would have a negative impact on surrounding businesses and
28 residents.

1 IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific
2 Railroad Company shall maintain the crossing in compliance with A.A.C. R14-5-104.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7 CHAIRMAN

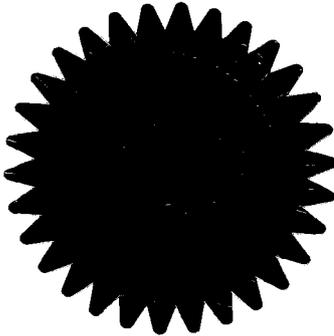
COMMISSIONER

8 *Brenda Burns*
9 COMMISSIONER

EXCUSED
COMM. BURNS

COMMISSIONER

COMMISSIONER



11 IN WITNESS WHEREOF, I, JODI JERICH, Executive
12 Director of the Arizona Corporation Commission, have
13 hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this 30th day of July 2014.

16 *Jodi A. Jerich*
JODI JERICH
EXECUTIVE DIRECTOR

17 DISSENT _____

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19 DISSENT _____
SMH:ru

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

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