

RL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER



BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: AUGUST 31, 1999
DOCKET NO: RR-03639A-99-0400
TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Marc Stern. The recommendation has been filed in the form of an Opinion and Order on:

UNION PACIFIC RAILROAD COMPANY
(AT-GRADE CROSSING)

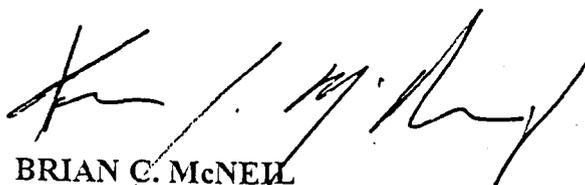
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

SEPTEMBER 9, 1999

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

SEPTEMBER 14, 1999 and SEPTEMBER 15, 1999

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250.



BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 WILLIAM A. MUNDELL
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
7 THE ARIZONA DEPARTMENT OF
8 TRANSPORTATION TO INSTALL CROSSING
SIGNALS AT A CROSSING OF THE UNION
PACIFIC RAILROAD AT PARK AVENUE
CLIFTON, ARIZONA, M.P. NK-1215.85.

DOCKET NO. RR-03639A-99-0400

DECISION NO. _____

OPINION AND ORDER

9 DATE OF HEARING: August 19, 1999

10 PLACE OF HEARING: Phoenix, Arizona

11 PRESIDING OFFICER: Marc E. Stern

12 APPEARANCES: Mr. Peter Breen, Staff Attorney, Legal Division, on
13 behalf of the Utilities Division of the Arizona
Corporation Commission.

14 **BY THE COMMISSION:**

15 On July 7, 1999, the Arizona Department of Transportation ("ADOT") submitted to the
16 Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the
17 approval of an agreement between ADOT and the Union Pacific Railroad ("Railroad") to construct
18 an automatic flashing light signal with gates at Park Avenue, Clifton, Arizona, at milepost
19 NK1215.85 ("Application").

20 On July 16, 1999, by Procedural Order, the Application was set for a hearing and ADOT was
21 ordered to notify any interested party of the Application and the hearing.

22 On August 2, 1999, ADOT filed certification that notice had been provided pursuant to the
23 terms of the Procedural Order.

24 On August 19, 1999, a full public hearing was held before a duly authorized Hearing Officer
25 of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the matter
26 was taken under advisement pending submission of a Recommended Opinion and Order to the
27 Commission.

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

4 **FINDINGS OF FACT**

5 1. On July 7, 1999, ADOT filed an Application in which it requested an Opinion and
6 Order from the Commission with respect to an agreement between ADOT and the Railroad for the
7 installation of an automatic flashing light signal with gates at Park Avenue in Clifton, Arizona, at
8 milepost NK-1215.85.

9 2. On July 28, 1999, ADOT provided notice by registered U.S. mail of the Application
10 and hearing thereon.

11 3. A hearing was held as scheduled on August 19, 1999.

12 4. The Application provides for the Railroad to upgrade the crossing with an automatic
13 flashing light signal with gates and wood planking.

14 5. Staff testified that the cost apportionment for the installation of the crossing upgrade
15 as provided in the Application was proper.

16 6. Staff has recommended that the Application be approved.

17 **CONCLUSIONS OF LAW**

18 1. The Commission has jurisdiction over the parties and over the subject matter of the
19 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
20 40-337.01.

21 2. Notice of the Application was provided in accordance with the law.

22 3. Installation of the crossing upgrade is necessary for the public's convenience and
23 safety.

24 4. The Application should be approved as recommended by Staff.

25 5. After installation of the crossing, the Railroad should maintain the crossing in
26 accordance with A.A.C. R14-5-104.

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1 SERVICE LIST FOR: UNION PACIFIC RAILROAD

2 DOCKET NO. RR-03639A-99-0400

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John Syers
ADOT
Utility & Railroad Engineering Section
205 S. 17th Avenue, Mail Drop 618E
Phoenix, Arizona 85007-3276

Bob N. Prince
UNION PACIFIC RAILROAD COMPANY
101 S. Watson Road
Arlington, Texas 76010

Paul Bullis, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Director, Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007