

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
TONY WEST
COMMISSIONER



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BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: June 9, 1999

DOCKET NO.: RR-03639A-99-0223

TO ALL PARTIES:

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

UNION PACIFIC RAILROAD
(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:

JUNE 18, 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:

JUNE 22, 1999 AND JUNE 23, 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

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BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
TONY WEST
COMMISSIONER

DOCKET NO. RR-03639A-99-0223
DECISION NO. _____

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO INSTALL CROSSING
SIGNALS AT A CROSSING OF THE UNION
PACIFIC RAILROAD AT MINERAL HILL ROAD,
PIMA COUNTY, ARIZONA, M.P. BAN-1002.73-C.

OPINION AND ORDER

DATE OF HEARING: May 20, 1999
PLACE OF HEARING: Phoenix, Arizona
PRESIDING OFFICER: Marc E. Stern
APPEARANCES: Mr. Peter Breen, Staff Attorney, Legal Division, on behalf of
the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On April 27, 1999, the Arizona Department of Transportation ("ADOT") submitted to the Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an agreement between ADOT and the Union Pacific Railroad ("Railroad") to construct an automatic flashing light signal with gates at Mineral Hill Road, Pima County, Arizona, at milepost BAN-1002.73-C. ("Application").

On May 4, 1999, by Procedural Order, the Application was set for a hearing and ADOT was ordered to notify any interested party of the Application and the hearing.

On May 12, 1999, ADOT filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On May 20, 1999, a full public hearing was held before a duly authorized Hearing Officer of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the matter was taken under advisement pending submission of a Recommended Opinion and Order to the Commission.

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

FINDINGS OF FACT

1. On April 27, 1999, ADOT filed an Application in which it requested an Opinion and Order from the Commission with respect to an agreement between ADOT and the Railroad for the installation of an automatic flashing light signal with gates at Mineral Hill Road, Pima County, Arizona, at milepost BAN-1002.73-C.

2. On May 12, 1999, ADOT provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on May 20, 1999.

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

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

6. Staff has recommended that the Application be approved.

CONCLUSIONS OF LAW

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

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

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

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

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

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1 SERVICE LIST FOR: UNION PACIFIC RAILROAD

2 DOCKET NO. RR-03639A-99-0223

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