

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



BRIAN C. McNEIL  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: October 11, 2000  
DOCKET NO.: RR-03639A-00-0673  
TO ALL PARTIES:

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

UNION PACIFIC RAILROAD COMPANY  
(AT-GRADE)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge 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:

OCTOBER 20, 2000

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

OCTOBER 24, 2000 and OCTOBER 25, 2000

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 TOWN OF GILBERT TO UPGRADE TWO  
8 CROSSINGS OF THE UNION PACIFIC  
RAILROAD COMPANY AT WARNER AND VAL  
VISTA ROADS, GILBERT, ARIZONA, M.P.  
928.98 AND M.P. 929.44, RESPECTIVELY.

DOCKET NO. RR-03639-00-0673

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

9 DATE OF HEARING:

September 26, 2000

10 PLACE OF HEARING:

Phoenix, Arizona

11 ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

12 APPEARANCES:

13 Mr. Robert Metli, Staff Attorney, Legal  
14 Division, on behalf of the Utilities Division of  
the Arizona Corporation Commission.

15 **BY THE COMMISSION:**

16 On August 30, 2000, the Town of Gilbert ("Town") submitted to the Arizona Corporation  
17 Commission ("Commission") a request for approval to upgrade two crossings of the Union Pacific  
18 Railroad Company ("Railroad") track at Warner and Val Vista Roads, Gilbert, Arizona at mile posts  
19 928.98 and 929.44, respectively ("Application"). The Town requested approval to construct on  
20 behalf of the Railroad. The Application was docketed on September 5, 2000.

21 On September 12, 2000, by Procedural Order, the Application was set for hearing and the  
22 Town was ordered to notify any interested party of the Application and the hearing.

23 On September 26, 2000, a full public hearing was held before a duly authorized  
24 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of  
25 the hearing, the matter was taken under advisement pending submission of a Recommended Opinion  
26 and Order to the Commission

27 \* \* \* \* \*

28 Having considered the entire record herein and being fully advised in the premises, the

1 Commission finds, concludes, and orders that:

2 **FINDINGS OF FACT**

3 1. On September 5, 2000, the Town filed an Application in which it requested an  
4 Opinion and Order from the Commission with respect to agreements between the Town and the  
5 Railroad for the upgrading of two crossings by widening the roadways from two to six lanes with  
6 crossing islands, cantilevered flashing lights, automatic gates and the installation of concrete crossing  
7 surfaces at Warner and Val Vista Roads, Gilbert, Arizona, at mileposts 928.98 and 929.44,  
8 respectively.

9 2. A hearing was held as scheduled on September 26, 2000.

10 3. Although the Town, prior to the hearing, provided oral notice, it failed to provide  
11 written notice of the Application and hearing thereon, as ordered in the Commission's Procedural  
12 Order. However, on September 26, 2000, the Town filed certification that written notice had been  
13 mailed to all interested parties advising them to contact the Commission as soon as possible if they  
14 had any comments or objections. Subsequently, no objections have been received by the  
15 Commission.

16 4. The Application provides for the Railroad to upgrade the crossings by widening the  
17 roadways from two to six lanes with cantilevered flashing lights and automatic gates.

18 5. Staff testified that the cost for the installation of the crossing upgrades as provided in  
19 the Application is proper and will be fully paid for by the Town.

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

21 **CONCLUSIONS OF LAW**

22 1. The Commission has jurisdiction over the parties and over the subject matter of the  
23 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and  
24 40-337.01.

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

26 3. Installation of the crossing upgrades are necessary for the public's convenience and  
27 safety.

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

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

3 **ORDER**

4 IT IS THEREFORE ORDERED that the Town of Gilbert's Application is hereby approved.

5 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the  
6 crossing upgrades as described in the Application within fifteen months from the effective date of this  
7 Decision.

8 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the  
9 Commission, in writing, within ten days of both the commencement and the completion of the  
10 crossing upgrades, pursuant to A.A.C. R14-5-104.

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

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

14 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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16  
17 CHAIRMAN

COMMISSIONER

COMMISSIONER

18  
19 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
20 Secretary of the Arizona Corporation Commission, have  
21 hereunto set my hand and caused the official seal of the  
22 Commission to be affixed at the Capitol, in the City of Phoenix,  
23 this \_\_\_\_ day of \_\_\_\_\_, 2000.

24 BRIAN C. McNEIL  
EXECUTIVE SECRETARY

25 DISSENT \_\_\_\_\_  
26 MES:dap

1 SERVICE LIST FOR:

UNION PACIFIC RAILROAD

2 DOCKET NO.

RR-03936A-00-0673

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