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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

SUSAN BITTER SMITH – Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

APR 23 2015

DOCKETED BY 

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE UNION PACIFIC
RAILROAD COMPANY AT 15TH AVENUE IN
THE CITY OF PHOENIX, MARICOPA COUNTY,
ARIZONA, AAR/DOT NO. 741-459D.

DOCKET NO. RR-03639A-14-0385

DECISION NO. 75025

OPINION AND ORDER

DATE OF HEARING: February 24, 2015

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Scott M. Hesla

APPEARANCES: Mr. James Redpath, OFFICE OF THE ATTORNEY GENERAL, Assistant Attorney General, on behalf of the Arizona Department of Transportation;

Mr. W. Reed Campbell, BEAUGUREAU, HANCOCK, STOLL & SCHWARTZ, on behalf of the Union Pacific Railroad Company; and

Mr. Brian E. Smith, 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 November 5, 2014, the Arizona Department of Transportation (“ADOT”) filed with the Arizona Corporation Commission (“Commission”) an application for approval for the Union Pacific Railroad Company (“Railroad”) to upgrade an existing crossing at 15th Avenue, north of

1 Lincoln Street, in the City of Phoenix ("City"), Arizona, at AAR/DOT No. 741-459D
2 ("Application").

3 2. On December 9, 2014, a Procedural Order was issued establishing various filing dates
4 and scheduling a hearing for February 24, 2015.

5 3. On February 5, 2015, the Commission's Safety Division, Railroad Safety Section
6 ("Staff") filed a Staff Memorandum recommending approval of the Application.

7 4. On February 10, 2015, ADOT filed documentation that it had provided public notice
8 of the Application and hearing thereon.

9 5. On February 24, 2015, a full public hearing was convened, as scheduled, with ADOT,
10 the Railroad, and Staff appearing through counsel. At the conclusion of the hearing, the matter was
11 taken under advisement pending submission of a Recommended Opinion and Order to the
12 Commission.

13 ADOT's Application

14 6. Prior to the filing of the Application, representatives from ADOT, the City, the
15 Railroad, and Staff participated in several diagnostic review meetings of the proposed improvements
16 to the crossing.¹ All parties who were present at these meetings were in agreement that the proposed
17 improvements would improve safety at the crossing.²

18 7. In its Application, ADOT is seeking Commission approval to upgrade the existing at-
19 grade crossing at 15th Avenue, a two lane paved roadway consisting of one northbound through lane
20 and one southbound through lane.³ The crossing currently consists of four spur line tracks and one
21 main line track, and is equipped with curbside automatic gates, flashing lights, bells, and a curbside
22 cantilever for northbound traffic.⁴

23 8. Mr. Jason Pike, ADOT's Railroad Safety Coordinator, testified in support of the
24 Application. Mr. Pike testified that the proposed improvements to the crossing include: installing
25 two new curbside automatic gates with LED flashing light units; installing a new curbside cantilever
26

27 ¹ Exhibit S-1.

² *Id.*

28 ³ Exhibit A-1.

⁴ *Id.*

1 with LED flashing light units for northbound traffic; removing the northern most spur line track;⁵
 2 repositioning the northern automatic gate closer to the remaining tracks; and installing new concrete
 3 crossing surfaces.⁶ Mr. Pike further testified that the City will install and maintain sidewalks
 4 compliant with the Americans with Disabilities Act (“ADA”) on both sides of the roadway.⁷ Mr.
 5 Pike indicated that the project is estimated to cost \$1,130,000.⁸

6 9. Testifying further, Mr. Pike stated that the crossing has been the subject of numerous
 7 complaints due to the rough nature of the deteriorating asphalt crossing surface.⁹ According to Mr.
 8 Pike, the asphalt crossing surface is raised in certain places making it difficult for vehicles to
 9 smoothly cross the tracks.¹⁰ In addition, Mr. Pike testified that the crossing does not have functioning
 10 sidewalks making it difficult for pedestrians, particularly those pedestrians in wheelchairs, to traverse
 11 across the tracks.¹¹

12 10. The proposed crossing upgrade was approved by the Commission in Decision No.
 13 71309 (October 30, 2009) as part of the 2009 Annual Array to utilize federal funding pursuant to 23
 14 U.S.C. § 130 (“Section 130”).¹² Once a crossing has been designated on an Annual Array, the
 15 Federal Highway Administration (“FHWA”) issues authorizations for the design and construction of
 16 the project and then reimburses ADOT for the cost after conducting a final inspection of the project.¹³
 17 Section 130 projects are used to eliminate hazards to pedestrians and highway vehicles at public
 18 railroad crossings which are not primarily for the benefit of the Railroad.¹⁴

19 11. ADOT estimates that construction on the project is expected to be completed within
 20 15 months.¹⁵

21 _____
 22 ⁵ Mr. Pike explained that the northern most spur line is being removed because the customer no longer uses that track.
 (Tr. at 10:17-22).

23 ⁶ Tr. at 6:20-8:20; Exhibit A-1. The Application initially contemplated upgrading the flashing lights on the existing
 automatic gates and cantilever. However, Mr. Pike testified that new automatic gates and cantilever units equipped with
 24 LED flashing lights will need to be installed because upgrading the lights on the existing equipment is not feasible. (Tr. at
 7:14-8-7).

25 ⁷ Tr. at 7:7-10; Exhibit A-1.

26 ⁸ Exhibit A-1.

27 ⁹ Tr. at 8:21-9:6.

28 ¹⁰ Tr. at 6:20-7:30.

¹¹ Tr. at 8:21-9:6.

¹² Exhibit S-1.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Exhibit A-1.

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application, as discussed herein, is hereby approved.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the crossing upgrade, as discussed herein, within fifteen months of the effective date of this Decision.

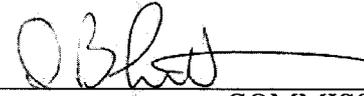
IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the Commission, in writing, within ten days of both the commencement and completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

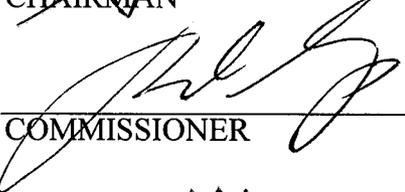
IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific Railroad Company shall maintain the crossing in compliance with A.A.C. R14-5-104.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

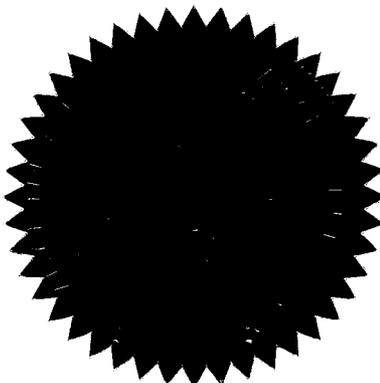

CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 23rd day of April 2015.


JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SMH:ru

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.: RR-03639A-14-0385

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4 James R. Redpath
5 Assistant Attorney General
6 OFFICE OF THE ATTORNEY GENERAL
7 1275 West Washington Street
8 Phoenix, Arizona 85007

9 Jason Pike
10 Railroad and Utility Coordinator
11 ARIZONA DEPARTMENT OF TRANSPORTATION
12 205 South 17th Avenue, Room 357 MD 618E
13 Phoenix, Arizona 85007

14 W. Reed Campbell
15 BEAUGUREAU, HANCOCK, STOLL & SCHWARTZ, P.C.
16 302 East Coronado Road
17 Phoenix, Arizona 85004

18 Alex Popovici, Manager
19 Industry & Public Projects
20 UNION PACIFIC RAILROAD COMPANY
21 631 South 7th Street
22 Phoenix, Arizona 85034

23 Daniel L. Brown
24 City of Phoenix
25 1034 East Madison Street
26 Phoenix, Arizona 85034

27 Janice Alward, Chief Counsel
28 Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Brian Lehman, Chief
Railroad Safety Section of the Safety Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

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