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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS

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

2015 AUG 14 P 2: 37

AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO INSTALL A NEW  
GRADE SEPARATED CROSSING AND FOR  
THE UNION PACIFIC RAILROAD COMPANY  
TO REMOVE AN EXISTING AT-GRADE  
CROSSING AT INTERSTATE 10 AND INA  
ROAD IN THE CITY OF TUCSON, PIMA  
COUNTY, ARIZONA, USDOT NO. 741 101G.

DOCKET NO. RR-03639A-15-0200

Arizona Corporation Commission

DOCKETED

AUG 14 2015

DOCKETED BY	
<b>PROCEDURAL ORDER</b>	<b>TV</b>
<b>(Schedules Hearing)</b>	

**BY THE COMMISSION:**

On June 17, 2015, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") a request for approval for ADOT to install a new grade separated crossing and for the Union Pacific Railroad Company ("Railroad") to remove an existing at-grade crossing at Interstate 10 ("I-10") and INA Road in the City of Tucson ("City"), Pima County, Arizona at USDOT No. 741 101G ("Application").

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the Application of the Arizona Department of Transportation shall be considered a request for it to install a new grade separated crossing and for the Railroad to remove an existing at-grade crossing pursuant to A.R.S. § 40-337, et seq.

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **November 19, 2015, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Hearing Room No. 2, Phoenix, Arizona.

IT IS FURTHER ORDERED that within ten business days of receipt of this Procedural

1 Order, **the ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE**  
2 **RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by  
3 the application with a copy of the application and this Procedural Order by certified mail.

4 IT IS FURTHER ORDERED that the Commission's Railroad Safety Section ("Staff") shall  
5 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of  
6 them with Docket Control on or before 4:00 p.m. on **October 23, 2015**.

7 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**  
8 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on  
9 **November 2, 2015**.

10 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
11 105, except that all motions to intervene must be filed on or before **October 16, 2015**.

12 IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall provide  
13 **public notice** of the hearing in this matter, in the following form and style:

14 **IN THE MATTER OF THE APPLICATION OF THE ARIZONA**  
15 **DEPARTMENT OF TRANSPORTATION TO INSTALL A NEW GRADE**  
16 **SEPARATED CROSSING AND FOR THE UNION PACIFIC RAILROAD**  
17 **COMPANY TO REMOVE AN EXISTING AT-GRADE CROSSING AT**  
18 **INTERSTATE 10 AND INA ROAD IN THE CITY OF TUCSON, PIMA**  
19 **COUNTY, ARIZONA, USDOT NO. 741 101G**  
20 **(DOCKET NO. RR-03639A-15-0200)**

21 On June 17, 2015, the Arizona Department of Transportation ("ADOT") filed with  
22 the Arizona Corporation Commission ("Commission") an application for approval  
23 for ADOT to install a new grade separated crossing and for the Union Pacific  
24 Railroad Company ("Railroad") to remove an existing at-grade crossing at  
25 Interstate 10 and Ina Road in the City of Tucson ("City"), Pima County, Arizona  
26 at USDOT No. 741 101G.

27 The application is available for inspection during regular business hours at the  
28 Commission's offices, 1200 West Washington Street, Phoenix, Arizona, and on the  
internet via the Commission website ([www.azcc.gov](http://www.azcc.gov)) using the e-docket function.

The Commission will hold a hearing on this matter commencing on **November 19,**  
**2015, at 10:00 a.m.,** at the Commission's offices, 1200 West Washington Street,  
Hearing Room No. 2, Phoenix, Arizona. Public comments will be taken on the first  
day of the hearing.

The law provides for an open public hearing at which, under appropriate  
circumstances, interested parties may intervene. Intervention shall be permitted to  
any person entitled by law to intervene and having a direct and substantial interest in  
the matter. Persons desiring to intervene must file a written motion to intervene with  
the Commission, which motion should be sent to Applicant or its counsel and to all

parties of record, and which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervener and of any party upon whom service of documents is to be made if different than the intervener.
2. A short statement of the proposed intervener's interest in the proceeding (e.g., a customer of Railroad, a neighboring property owner, a crossing user, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before **October 16, 2015**. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any customer from appearing at the hearing and making a statement on such customer's own behalf.

If you have any questions about this application, you may contact the applicant at [insert telephone number]. If you wish to file written comments on the application or want further information on intervention, you may write the Consumer Services Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007, call 602-542-4251 or 1-800-222-7000, or appear at the hearing and make comment.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, e-mail SABernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall cause the above notice to be published at least once in a newspaper of general circulation in the city/county where the crossing is located, with **publication to be completed no later than September 25, 2015**.

IT IS FURTHER ORDERED that notice shall be deemed complete upon the mailing/publication of same, notwithstanding the failure of an individual or entity to read or receive the notice.

IT IS FURTHER ORDERED that **THE ARIZONA DEPARTMENT OF TRANSPORTATION SHALL FILE CERTIFICATION OF NOTICE WITH THE COMMISSION'S DOCKET CONTROL AS SOON AS PRACTICABLE** after the mailing/publication of notice ordered herein has been completed.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized Communications) applies to this proceeding as the matter is now set for public hearing

1 IT IS FURTHER ORDERED that all parties must comply with Rule 31, 38, and 42 of the  
2 Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and  
3 admission *pro hac vice*.

4 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
5 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
6 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
7 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
8 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
9 Administrative Law Judge or the Commission.

10 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), each party to  
11 this matter may opt to receive service of all filings in this docket, including all filings by parties and  
12 all Procedural Orders and Recommended Opinions and Orders/Recommended Orders issued by the  
13 Commission's Hearing Division, via email sent to an email address provided by the party rather than  
14 via U.S. Mail. To exercise this option, a party shall:

- 15 1. Ensure that the party has a valid and active email address to which the party has  
16 regular and reliable access ("designated email address");
- 17 2. Complete a Consent to Email Service form, available on the Commission's website  
18 ([www.azcc.gov](http://www.azcc.gov));
- 19 3. File the original and 13 copies of the Consent to Email Service form with the  
20 Commission's Docket Control, also providing service to each party to the service list;
- 21 4. Send an email, containing the party's name and the docket number for this matter, to  
22 [HearingDivisionServicebyEmail@azcc.gov](mailto:HearingDivisionServicebyEmail@azcc.gov) from the designated email address, to  
23 allow the Hearing Division to verify the validity of the designated email address;
- 24 5. Understand and agree that service of a document on the party shall be complete upon  
25 the sending of an email containing the document to the designated email address,  
26 regardless of whether the party receives or reads the email containing the document;  
27 and  
28

1           6.     Understand and agree that the party will no longer receive service of filings in this  
2                     matter through First Class U.S. Mail or any other form of hard-copy delivery, unless  
3                     and until the party withdraws this consent through a filing made in this docket.

4           IT IS FURTHER ORDERED that a party's consent to email service shall not become  
5 effective until a Procedural Order is issued approving the use of email service for the party. The  
6 Procedural Order shall be issued only after the party has completed steps 1 through 4 above, and the  
7 Hearing Division has verified receipt of an email from the party's designated email address.

8           IT IS FURTHER ORDERED that a party's election to receive service of all filings in this  
9 matter via email does not change the requirement that all filings with the Commission's Docket  
10 Control must be made in hard copy and must include an original and 13 copies.

11          IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,  
12 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
13 ruling at hearing.

14          DATED this 14<sup>TH</sup> day of August, 2015.

  
MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

18 Copies of the foregoing mailed/delivered  
19 this 14<sup>th</sup> day of August, 2015 to:

20 Alex Popovici, Manager  
21 Industry & Public Projects  
22 UNION PACIFIC RAILROAD COMPANY  
23 631 South 7<sup>th</sup> Street  
24 Phoenix, AZ 85034-2203

25 W. Reed Campbell  
26 BEAUGUREAU, ZUKOWSKI & HANCOCK, P.C.  
27 302 East Coronado  
28 Phoenix, AZ 85004  
Attorneys for Union Pacific Railroad Company

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Assistant Attorney General  
OFFICE OF THE ATTORNEY GENERAL  
1275 West Washington Street  
Phoenix, Arizona 85007

1 Sayeed M. Hani  
2 Railroad and Utility Coordinator  
3 ARIZONA DEPARTMENT  
4 OF TRANSPORTATION  
5 205 S. 17<sup>th</sup> Avenue, Room 357 MD 618E  
6 Phoenix, AZ 85007

7 City Attorney's Office  
8 CITY OF TUCSON  
9 255 W. Alameda Street  
10 Tucson, AZ 85701

11 Janice Alward, Chief Counsel  
12 Legal Division  
13 ARIZONA CORPORATION COMMISSION  
14 1200 West Washington Street  
15 Phoenix, AZ 85007

16 Brian Lehman, Chief  
17 Railroad Safety Section of the Safety Division  
18 ARIZONA CORPORATION COMMISSION  
19 1200 West Washington Street  
20 Phoenix, AZ 85007

21 COASH & COASH  
22 COURT REPORTING, VIDEO AND  
23 VIDEOCONFERENCING  
24 1802 North 7<sup>th</sup> Street  
25 Phoenix, AZ 85006

26 By: Rebecca Unquera  
27 Rebecca Unquera  
28 Assistant to Marc Stern