

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOUG LITTLE – Interim Chairman
BOB STUMP
BOB BURNS
TOM FORESE
VACANT

Arizona Corporation Commission

DOCKETED

JAN 25 2016

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AZ CORP COMMISSION

DOCKET CONTROL

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DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF THE ARIZONA DEPARTMENT OF TRANSPORTATION TO UPGRADE AN EXISTING AT-GRADE CROSSING OF THE UNION PACIFIC RAILROAD AT ALMA SCHOOL ROAD IN THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, USDOT NO. 741 650B.

DOCKET NO. RR-03639A-16-0007

PROCEDURAL ORDER (Schedules Hearing)

BY THE COMMISSION:

On January 13, 2016, the Arizona Department of Transportation (“ADOT”) filed with the Arizona Corporation Commission (“Commission”) a request for approval for ADOT to upgrade an existing at-grade crossing of the Union Pacific Railroad (“Railroad”) at Alma School Road in the City of Mesa (“Mesa”) Maricopa County, Arizona, at USDOT No. 741 650B (“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 the Railroad to upgrade an existing 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 April 7, 2016, at 10:00 a.m., or as soon thereafter as is practical, at the Commission’s offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix, Arizona.

IT IS FURTHER ORDERED that within ten business days of receipt of this Procedural Order, the ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY that may be affected by

1 the application with a copy of the application and this Procedural Order by certified mail.

2 IT IS FURTHER ORDERED that the Commission's Railroad Safety Section ("Staff") shall
3 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of
4 them with Docket Control on or before 4:00 p.m. on **March 17, 2016**.

5 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**
6 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on **March**
7 **28, 2016**.

8 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-105,
9 except that all motions to intervene must be filed on or before **March 18, 2016**.

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

12 **IN THE MATTER OF THE APPLICATION OF THE ARIZONA**
13 **DEPARTMENT OF TRANSPORTATION TO UPGRADE AN EXISTING**
14 **AT-GRADE CROSSING OF THE UNION PACIFIC RAILROAD AT**
15 **ALMA SCHOOL ROAD IN THE CITY OF MESA, MARICOPA COUNTY,**
16 **ARIZONA, USDOT NO. 741 650B.**
17 **(DOCKET NO. RR-03639A-16-0007)**

18 On January 13, 2016, the Arizona Department of Transportation ("ADOT") filed
19 with the Arizona Corporation Commission ("Commission") an application for
20 approval for ADOT to upgrade an existing at-grade crossing of the Union Pacific
21 Railroad ("Railroad") at Alma School Road in the City of Mesa ("Mesa"), Maricopa
22 County, Arizona at USDOT No. 741 650B.

23 The application is available for inspection during regular business hours at the
24 Commission's offices, 1200 West Washington Street, Phoenix, Arizona, and on the
25 internet via the Commission website (www.azcc.gov) using the e-docket function.

26 The Commission will hold a hearing on this matter commencing on **April 7, 2016, at**
27 **10:00 a.m.**, at the Commission's offices, 1200 West Washington Street, Hearing
28 Room No. 1, 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.

- 1 2. A short statement of the proposed intervenor's interest in the proceeding (e.g.,
a customer of Railroad, a neighboring property owner, a crossing user, etc.).
- 2 3. A statement certifying that a copy of the motion to intervene has been mailed
3 to the Applicant or its counsel and to all parties of record in the case.

4 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
5 that all motions to intervene must be filed on or before March 18, 2016. The granting
6 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
7 preclude any customer from appearing at the hearing and making a statement on such
8 customer's own behalf.

9 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
10 want further information on intervention, you may write the Consumer Services Section
11 of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007, call 602-
12 542-4251 or 1-800-222-7000, or appear at the hearing and make comment.

13 The Commission does not discriminate on the basis of disability in admission to its
14 public meetings. Persons with a disability may request a reasonable accommodation
15 such as a sign language interpreter, as well as request this document in an alternative
16 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
17 possible to allow time to arrange the accommodation.

18 IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall cause the
19 above notice to be published at least once in a newspaper of general circulation in the city/county where
20 the crossing is located, with **publication to be completed no later than March 3, 2016**.

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

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

28 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.

IT IS FURTHER ORDERED that all parties must comply with Rule 31, 38, 39, and 42 of
the Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and
admission *pro hac vice*.

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

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

- 12 1. Ensure that the party has a valid and active email address to which the party has regular
13 and reliable access ("designated email address");
- 14 2. Complete a Consent to Email Service using the form available on the Commission's
15 website (www.azcc.gov) or a substantially similar format;
- 16 3. File the original and 13 copies of the Consent to Email Service with the Commission's
17 Docket Control, also providing service to each party to the service list;
- 18 4. Send an email, containing the party's name and the docket number for this matter, to
19 HearingDivisionServicebyEmail@azcc.gov from the designated email address, to allow
20 the Hearing Division to verify the validity of the designated email address;
- 21 5. Understand and agree that service of a document on the party shall be complete upon
22 the sending of an email containing the document to the designated email address,
23 regardless of whether the party receives or reads the email containing the document;
24 and
- 25 6. Understand and agree that the party will no longer receive service of filings in this
26 matter through First Class U.S. Mail or any other form of hard-copy delivery, unless
27 and until the party withdraws this consent through a filing made in this docket.
28

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

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

8 IT IS FURTHER ORDERED that a party's election to receive service of all filings in this matter
9 via email does not change the requirement that all filings with the Commission's Docket Control must
10 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 25th day of January, 2016.


16 MARC E. STERN
17 ADMINISTRATIVE LAW JUDGE

18 Copies of the foregoing mailed/delivered
19 this 25th day of January, 2016 to:

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

25 W. Reed Campbell
26 BEAUGUREAU, ZUKOWSKI & HANCOCK, P.C.
27 302 East Coronado
28 Phoenix, AZ 85004
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4 OF TRANSPORTATION
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6 Phoenix, AZ 85007

7 City Attorney's Office
8 CITY OF MESA
9 P.O. Box 1466
10 Mesa, AZ 85211

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
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27 Rebecca Unquera
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