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BEFORE THE ARIZONA CORPORATION COMMISSION

2 COMMISSIONERS

3 DOUG LITTLE – Chairman
4 BOB STUMP
4 BOB BURNS
5 TOM FORESE
5 ANDY TOBIN

Arizona Corporation Commission

DOCKETED

MAY 17 2016

2016 MAY 17 P 3: 54

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY *[Signature]*

7 IN THE MATTER OF THE APPLICATION OF
8 THE ARIZONA DEPARTMENT OF
8 TRANSPORTATION TO UPGRADE AN
9 EXISTING CROSSING OF THE UNION PACIFIC
9 RAILROAD COMPANY AT AVONDALE
10 BOULEVARD IN AVONDALE, ARIZONA,
10 USDOT NO. 741-799P.

DOCKET NO. RR-03639A-14-0315

PROCEDURAL ORDER

11 **BY THE COMMISSION:**

12 On August 27, 2014, the Arizona Department of Transportation (“ADOT”) filed with the
13 Arizona Corporation Commission (“Commission”) an application for approval for the Union Pacific
14 Railroad Company (“Railroad”) to upgrade an existing crossing at Avondale Boulevard in the City of
15 Avondale (“City”), Maricopa County, Arizona at USDOT No. 741-799P.

16 On September 12, 2014, a Procedural Order was issued establishing various filing deadlines
17 and scheduling a hearing for December 3, 2014.

18 On October 23, 2014, ADOT filed documentation that it had provided public notice of the
19 application and hearing thereon.

20 On November 20, 2014, the Commission’s Safety Division, Railroad Safety Section Staff
21 (“Staff”) filed a Memorandum recommending approval of the application.

22 On December 3, 2014, a full public hearing was convened as scheduled. ADOT, the
23 Railroad, and Staff appeared through counsel.

24 On January 22, 2014, the Commission issued Decision No. 74905 which approved the
25 application and ordered, among other things, the Railroad to complete the crossing upgrades within
26 fifteen months of the effective date of that Decision. Based on the effective date of Decision No.
27 74905, the deadline for completing the crossing upgrades was April 21, 2016.

28 On April 1, 2016, the Railroad filed a Request for Additional Time to Complete Crossing

1 Improvements at Avondale Boulevard (“Motion”) requesting that the deadline for completing the
2 crossing upgrades be extended from April 21, 2016, to October 21, 2016. In its Motion, the Railroad
3 states that construction at the crossing has been delayed due to various reasons, including contractor
4 work schedules, materials procurement efforts, and the availability of the Railroad’s crossing
5 construction gangs. In addition, the Railroad states that utility installations adjacent to the crossing
6 took longer than was originally anticipated.

7 On April 26, 2016, Staff filed a Response to Motion for Extension of Time to Construct
8 Railroad Crossing Improvements stating that Staff has no objection to the requested extension of
9 time.

10 On April 28, 2016, the City filed an Objection to Union Pacific’s Request for Additional Time
11 to Complete Crossing Improvements at Avondale Boulevard arguing that a six month extension of
12 time will cause an undue burden to the City. The City states that it is in the process of constructing
13 additional complementary crossing improvements that cannot be completed until certain components
14 of the Railroad’s crossing improvements are finalized. According to the City, its complementary
15 improvements must be completed by June 13, 2016, in order for the City to stay on schedule and
16 avoid incurring additional expenses. The City requests that any extension of time granted to the
17 Railroad explicitly provide that the Railroad must proceed with construction in such a way as to
18 allow the City to complete its complimentary crossing improvements by June 13, 2016.

19 On May 12, 2016, a Procedural Order was issued scheduling a procedural conference to
20 commence on May 18, 2016, for the purpose of discussing the Railroad’s Motion and the City’s
21 objection thereto.

22 On May 17, 2016, the Railroad and the City jointly filed a Stipulated Motion to Vacate
23 Hearing requesting that the procedural conference scheduled for May 18, 2016, be vacated in order to
24 allow the parties additional time to negotiate an agreeable construction schedule at the crossing. The
25 parties state that they will notify the Commission once an agreement has been reached.

26 The request to vacate the procedural conference is appropriate under the circumstances and
27 should be granted.

28 IT IS THEREFORE ORDERED that the **procedural conference** scheduled to commence on

1 **May 18, 2016, is hereby vacated.**

2 IT IS FURTHER ORDERED that the **Railroad** shall **file notice** in this docket, as soon as is
3 practical, stating whether or not the Railroad and the City have agreed on an appropriate construction
4 schedule at the crossing.

5 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
6 Communications) continues to apply to this proceeding.

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

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

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

19 DATED this 17th day of May, 2016.

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22 _____
SCOTT M. HESLA

23 ADMINISTRATIVE LAW JUDGE

24 Copies of the foregoing mailed/delivered
25 this 17th day of May, 2016 to:

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