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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

JUN 27 2016

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COMMISSIONERS

DOUG LITTLE – Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

IN THE MATTER OF THE CITY OF MESA TO
UPGRADE AN EXISTING CROSSING OF THE
UNION PACIFIC RAILROAD BY INSTALLING A
FOUR QUADRANT GATE SYSTEM AT DOBSON
ROAD IN THE CITY OF MESA, MARICOPA
COUNTY, ARIZONA, USDOT NO. 741 649G.

DOCKET NO. RR-03639A-16-0005

DECISION NO. 75605

OPINION AND ORDER

DATE OF HEARING: March 24, 2016

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Marc E. Stern

APPEARANCES: Ms. Kelly Y. Schwab, Legal Department, on behalf of the City of Mesa, Arizona;

Mr. W. Reed Campbell, Beaugureau, Hancock, Stoll & Swartz, P.C., on behalf of the Union Pacific Railroad; and

Mr. Charles Hains and Mr. Robert W. Geake, Legal Division, on behalf of Safety Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On January 11, 2016, the City of Mesa (“Mesa”) filed with the Arizona Corporation Commission (“Commission”) an application requesting approval for the Union Pacific Railroad Company (“Railroad”) to upgrade an existing crossing with the installation of a four quadrant gate system at Dobson Road in the City of Mesa, Maricopa County, Arizona at USDOT No. 741 649G (“Application”).

On January 21, 2016, by Procedural Order, a hearing was scheduled for March 24, 2016.

On March 2, 2016, Mesa filed documentation that it had provided public notice in accordance with the Commission’s Procedural Order.

On March 24, 2016, a full public hearing was convened in front of a duly authorized

1 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. Mesa, the Railroad
2 and the Commission’s Safety Division, Railroad Safety Section (“Staff”) were present with counsel.
3 At the conclusion of the hearing, the matter was taken under advisement pending submission of a
4 Recommended Opinion and Order to the Commission.

5 * * * * *

6 Having considered the entire record herein and being fully advised in the premises, the
7 Commission finds, concludes, and orders that:

8 **FINDINGS OF FACT**

9 1. On January 11, 2016, Mesa filed an Application requesting an Opinion and Order from
10 the Commission approving an agreement between Mesa and the Railroad to upgrade an existing at-
11 grade crossing with the installation of a four quadrant gate system at Dobson Road in the City of Mesa,
12 Maricopa County, Arizona at USDOT NO. 741 649G.

13 2. Prior to the filing of the Application, representatives of Mesa, the Railroad and Staff
14 participated in a diagnostic review of the proposed improvements at the crossing. The parties who were
15 present all agreed that the proposed enhancements would improve safety at the crossing.

16 3. Mesa is seeking Commission approval to upgrade the existing at-grade crossing at
17 Dobson Road, a six lane roadway, which consists of three northbound lanes and three southbound
18 lanes. The Railroad’s right of way runs east to west at Dobson Road.

19 4. Mesa’s installation of a four quadrant gate system at the Dobson Road at-grade crossing
20 will assist Mesa to qualify for a “Quiet Zone” classification for a three mile stretch of the Railroad’s
21 tracks in Mesa. The crossing currently has automatic gates and flashing lights and bells on the
22 approaches to the crossing in both directions. The proposed improvements will add new automatic
23 gates with LED flashing lights and bells on the departure side of each crossing to deter vehicles from
24 driving in the opposite direction and going around the approach gates when they are down. After the
25 improvements are made, the Railroad will maintain the warning devices and the crossing surface on
26 Dobson Road.

1 5. On March 2, 2016, Mesa filed documentation that it had provided public notice of the
2 Application and hearing thereon, pursuant to the Commission's Procedural Order, by publishing notice
3 in the *East Valley Tribune*.

4 6. The hearing was held as scheduled on March 24, 2016.

5 7. According to the Staff Memorandum, the areas adjacent to the Dobson Road at-grade
6 crossing consist primarily of land which is zoned for light industrial development and general
7 commercial development.

8 8. Mr. Joseph Schroeder, Mesa's supervising engineer, testified in support of the
9 Application.

10 9. According to Mr. Schroeder, on December 17, 2014, Mesa notified FRA that it intended
11 to establish a "Quiet Zone" in Mesa to restrict the Railroad's horn use 24 hours a day, seven days a
12 week. (Ex. M-1)

13 10. Mr. Schroeder testified that the Dobson Road at-grade crossing was included in the area
14 that was to be part of the Quiet Zone. (Tr.7:22-24)

15 11. Mr. Schroeder stated that the Dobson Road at-grade crossing is approximately a quarter
16 mile south of Main Street in Mesa and is one of its main arterial streets. (Tr.8:1-5)

17 12. Mesa was originally granted an easement in November 1975 for the Dobson Road
18 crossing of the Railroad's right of way. (Ex.S-4)

19 13. On December 30, 2015, Mesa and the Railroad entered into an agreement wherein it is
20 provided that Mesa will make improvements to the Dobson Road at-grade crossing. (Ex. M-6)

21 14. Mr. Schroeder stated that, with the installation of exit gates, safety will be improved at
22 the crossing to preclude vehicles from being driven around the existing approach gates. (Tr.11:1-6)

23 15. According to Mr. Schroeder, the improvements will be installed by the Railroad and
24 paid for by the City at a cost of in excess of \$561,000. (Tr.11:7-12)

25 16. Mr. Schroeder testified further that there have been no objections to the proposed
26 upgrades to the Dobson Road at-grade crossing. (Tr.12:18-20)

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28

1 17. Mr. Schroeder stated that the driving force behind the City's desire for a Quiet Zone is
2 that residents who reside in the area of the Railroad's tracks desire a "cessation of train horns."
3 (Tr.14:13-19)

4 18. The planned Quiet Zone will extend for approximately three miles.

5 19. Mr. Schroeder testified that the quadrant gates will control all traffic in the road way
6 where the crossing is located and the primary purpose of the improvements is to preclude inadvertent
7 crossing or deliberate crossing where the roadway crosses the Railroad's tracks. (Tr.16:6-14)

8 20. The Mesa Transportation Department has determined that a Quiet Zone with the
9 proposed improvements will provide the safety necessary for the crossing without the construction of
10 a grade separated crossing. (Tr.17:2-9)

11 21. Mr. Schroeder stated that with the proposed improvements to the Dobson Road at-grade
12 crossing, the public interest would be served by improving safety and assisting in implementing the
13 desired Quiet Zone. (Tr.17:10-15)

14 22. Upon the completion of the four quadrant gate improvements, the gates will block both
15 the approaches to the crossing and the exits from the crossing, and will block all vehicular traffic.
16 (Tr.19:3-13)

17 23. Mr. Schroeder stated that Mesa's Transportation Department has determined that grade
18 separation is not feasible or required now or in the foreseeable future. According to Mr. Schroeder,
19 grade separation would be extremely costly and would negatively impact residents and businesses who
20 would have their access severely curtailed with the construction of a grade separated crossing of
21 Dobson Road. (Tr.20:6-16)

22 24. Mr. Chris Watson, the Commission's Grade Crossing Inspector, and the Assistant
23 Supervisor for Staff, testified that he had prepared the Staff Memorandum which describes the nature
24 of the City's proposed improvements to the Dobson Road at-grade crossing. (Tr.23)

25 25. Mr. Watson testified that the four quadrant gate system being proposed by Mesa would
26 be the first such system to be constructed in Arizona. (Tr.25:1-7)

27 26. According to Mr. Watson, the installation of a four quadrant gate system automatically
28 qualifies the Dobson Road crossing for participation in a Quiet Zone. (Tr.26:17-21)

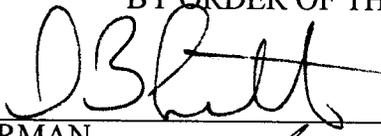
1 upgrade as described in the Application within 15 months of the effective date of this Decision.

2 IT IS FURTHER ORDERED that the Union Pacific Railroad shall notify the Commission, in
3 writing, within 10 days of both the commencement and completion of the crossing upgrade, pursuant
4 to A.A.C. R14-5-104.

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

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

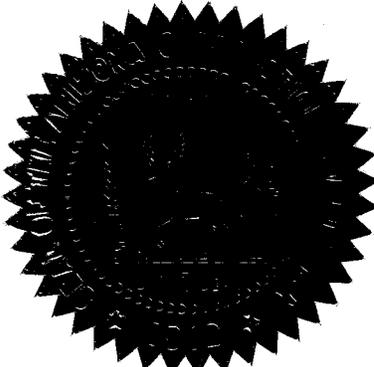
8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

9  

10 CHAIRMAN _____ COMMISSIONER _____

11   

12 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____



14 IN WITNESS WHEREOF, I, JODI JERICH, Executive Director
15 of the Arizona Corporation Commission, have hereunto set my
16 hand and caused the official seal of the Commission to be affixed
17 at the Capitol, in the City of Phoenix, this 27th day
18 of June 2016.

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19 JODI JERICH
20 EXECUTIVE DIRECTOR

21 DISSENT _____

22 DISSENT _____
23 MS:aw

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RR-03639A-16-0005

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