

OPEN MEETING ITEM



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COMMISSIONERS
DOUG LITTLE - Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN



ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL
2016 JUL 21 A 9:38

DATE: JULY 21, 2016
DOCKET NO.: RR-03639A-14-0315

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Scott M. Hesla. The recommendation has been filed in the form of an Order on:

UNION PACIFIC RAILROAD COMPANY
(ORDER EXTENDING TIME DEADLINE IN DECISION NO. 74905)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

AUGUST 1, 2016

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

AUGUST 9 AND 10, 2016

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

JUL 20 2016

JODI A. JERICH
EXECUTIVE DIRECTOR

DOCKETED BY

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347

[WWW.AZCC.GOV](http://www.azcc.gov)

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SBernal@azcc.gov.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

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

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

DOCKET NO. RR-03639A-14-0315

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE IN DECISION NO. 74905

10 Open Meeting
11 August 9 and 10, 2016
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 * * * * *

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

16 **FINDINGS OF FACT**

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

21 2. On January 22, 2015, the Commission issued Decision No. 74905 which approved the
22 application and ordered, among other things, the Railroad to complete the crossing upgrades within
23 fifteen months of the effective date of that Decision.

24 3. Based on the effective date of Decision No. 74905, the deadline for completing the
25 crossing upgrades was April 21, 2016.

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

6 5. On April 26, 2016, the Commission's Safety Division, Railroad Safety Section
7 ("Staff") filed a Response to Motion for Extension of Time to Construct Railroad Crossing
8 Improvements stating that Staff has no objection to the requested extension of time.

9 6. On April 28, 2016, the City filed an Objection to Union Pacific's Request for
10 Additional Time to Complete Crossing Improvements at Avondale Boulevard arguing that a six
11 month extension of time will cause an undue burden to the City. According to the City, it is in the
12 process of constructing complementary improvements at the crossing that cannot be completed until
13 certain components of the Railroad's crossing upgrades are finalized.

14 7. On May 12, 2016, a Procedural Order was issued scheduling a procedural conference
15 to commence on May 18, 2016, for the purpose of discussing the Railroad's Motion and the City's
16 objection thereto.

17 8. On May 17, 2016, the Railroad and the City filed a Stipulated Motion to Vacate
18 Hearing requesting that the procedural conference scheduled for May 18, 2016, be vacated in order to
19 allow the parties additional time to negotiate an agreeable construction schedule at the crossing.

20 9. On May 17, 2016, a Procedural Order was issued vacating the May 18, 2016,
21 procedural conference.

22 10. July 19, 2016, the Railroad and the City filed a Stipulated Notice Regarding
23 Construction Schedule at Avondale Boulevard stating that the Railroad has completed the portion of
24 the project that impacts the City's planned complementary improvements. As a result, the City no
25 longer objects to the Railroad's extension request.

26 11. There being no objection, and good cause appearing, the Railroad's request for an
27 extension of time to complete the crossing upgrades is hereby granted.

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CONCLUSIONS OF LAW

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1. The Commission has jurisdiction over the Railroad and over the subject matter of the Motion pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337, and 40-337.01.

2. The requested extension of time to comply with the requirements of Decision No. 74905, as discussed herein, is reasonable and in the public interest.

ORDER

IT IS THEREFORE ORDERED that the deadline for the Union Pacific Railroad Company to complete the crossing upgrades, as required by Decision No. 74905, is extended until October 21, 2016.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN LITTLE

COMMISSIONER STUMP

COMMISSIONER FORESE

COMMISSIONER TOBIN

COMMISSIONER BURNS

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 _____ day of _____ 2016.

JODI A. JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SMH:rt

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.: RR-03639A-14-0315

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