

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

Arizona Corporation Commission

DOCKETED

AUG 26 2016

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IN THE MATTER OF THE APPLICATION OF THE ARIZONA DEPARTMENT OF TRANSPORTATION TO UPGRADE AN EXISTING AT-GRADE CROSSING OF THE COPPER BASIN RAILROAD AT STATE ROUTE 177 AT APPROXIMATELY MILE POST 152.2, NEAR KELVIN, PINAL COUNTY, ARIZONA, USDOT NO. 874-879B.

DOCKET NO. RR-02636A-16-0286

PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On August 19, 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 Copper Basin Railroad (“Railroad”) at State Route 177 at approximately mile post 152.2, near Kelvin (“Kelvin”), Pinal County, Arizona, at USDOT No. 874-879B.

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

Consent to Email Service

The Commission is appreciative of parties’ requests to receive service by email.

The Commission has implemented a procedure whereby all filings made by a Commissioner, the Commission’s Executive Director, or a Commission Division will automatically be served via email on parties who have consented to email service. The email will contain a link to access the filing online.

Parties who do not consent to email service will not be provided documents filed by a Commissioner, the Commission’s Executive Director, or a Commission Division via an email. In addition, they may not be able to receive some documents, such as Amendments to Open Meeting

1 **Agenda items.**

2 IT IS THEREFORE ORDERED that the Application of the Arizona Department of
3 Transportation shall be considered a request for the Railroad to upgrade an existing crossing pursuant
4 to A.R.S. § 40-337, et seq.

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

7 IT IS THEREFORE ORDERED that the **hearing in this matter shall commence on October**
8 **19, 2016, at 10:00 a.m.**, at the Commission’s offices, 1200 West Washington Street, Hearing Room
9 No. 1, Phoenix, Arizona 85007.

10 IT IS FURTHER ORDERED that within ten business days of receipt of this Procedural Order,
11 **the ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE**
12 **RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by
13 the application with a copy of the application and this Procedural Order by certified mail.

14 IT IS FURTHER ORDERED that the Commission’s Railroad Safety Section (“Staff”) shall
15 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of
16 them with Docket Control on or before 4:00 p.m. on **October 4, 2016.**

17 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**
18 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on
19 **October 14, 2016.**

20 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-105,
21 except that all motions to intervene must be filed on or before **October 7, 2016.**

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

24 **IN THE MATTER OF THE APPLICATION OF THE ARIZONA**
25 **DEPARTMENT OF TRANSPORTATION TO UPGRADE AN EXISTING AT-**
26 **GRADE CROSSING OF THE COPPER BASIN RAILROAD AT STATE**
27 **ROUTE 177 AT APPROXIMATELY MILE POST 152.2, NEAR KELVIN,**
28 **PINAL COUNTY, ARIZONA, USDOT NO. 874-879B.**
(DOCKET NO. RR-02636A-16-0286)

1 **Summary**

2 On August 19, 2016, the Arizona Department of Transportation (“ADOT”) filed with
3 the Arizona Corporation Commission (“Commission”) a request for approval for ADOT
4 to upgrade an existing at-grade crossing of the Copper Basin Railroad (“Railroad”) on
5 State Route 177 at approximately mile post 152.2, near Kelvin (“Kelvin”), Pinal County
6 Arizona, at USDOT No. 874-879B.

7 **How You Can View or Obtain a Copy of the Application**

8 Copies of the Application are available from ADOT [INSERT HOW AND WHERE
9 AVAILABLE]; at the Commission’s Docket Control Center at 1200 West Washington
10 Street, Phoenix, Arizona, during regular business hours; and on the Commission website
11 (www.azcc.gov) using the e-Docket function.

12 **Arizona Corporation Commission Public Hearing Information**

13 The Commission will hold a hearing on this matter beginning **October 19, 2016, at**
14 **10:00 a.m.**, at the Commission’s offices, Hearing Room No. 1, 1200 West Washington
15 Street, Phoenix, Arizona. Public comments will be taken on the first day of the hearing.

16 Written public comments may be submitted by mailing a letter referencing **Docket No.**
17 **RR-02636A-16-0286** to Arizona Corporation Commission, Consumer Services
18 Section, 1200 West Washington, Phoenix, AZ 85007, or by submitting comments on
19 the Commission’s website (www.azcc.gov) using the “Submit a Public Comment for a
20 Utility” function. If you require assistance, you may contact the Consumer Services
21 Section at 602-542-4251 or 1-800-222-7000.

22 **If you do not intervene in this proceeding, you will receive no further notice of the**
23 **proceedings in this docket. However, all documents filed in this docket are**
24 **available online** (usually within 24 hours after docketing) at the Commission’s website
25 (www.azcc.gov) using the e-Docket function. You may choose to subscribe to an RSS
26 feed for this case using the e-Docket function.

27 **About Intervention**

28 The law provides for an open public hearing at which, under appropriate circumstances,
interested persons may intervene. An interested person may be granted intervention if
the outcome of the case will directly and substantially impact the person, and the
person’s intervention will not unduly broaden the issues in the case. Intervention,
among other things, entitles a party to present sworn evidence at hearing and to cross-
examine other parties’ witnesses. **Intervention is not required if you want to appear**
at the hearing and provide public comment on the Application, or if you want to
file written comments in the record of the case.

To request intervention, you must file an **original and 13 hard copies** of a written
request to intervene with Docket Control, 1200 West Washington, Phoenix, AZ 85007,
no later than October 7, 2016. You also **must** serve a copy of the request to intervene
on each party of record on the same day that you file the request to intervene with the
Commission. **Information about what intervention means, including an**
explanation of the rights and responsibilities of an intervenor, is available on the
Commission’s website (www.azcc.gov) using the “Intervention in Utility Cases”
link. The link also includes sample intervention requests.

1 If you choose to request intervention, your request must contain the following:

- 2 1. Your name, address, and telephone number, and the name, address, and
3 telephone number of any person upon whom service of documents is to be made,
4 if not yourself;
- 5 2. A reference to **Docket No. RR-02636A-16-0286**;
- 6 3. A short statement explaining:
 - 7 a. Your interest in the proceeding (e.g., a customer of the Railroad, a
8 neighboring property owner, a crossing user, etc),
 - 9 b. How you will be directly and substantially affected by the outcome of
10 the case, and
 - 11 c. Why your intervention will not unduly broaden the issues in the case;
- 12 4. A statement certifying that you have served a copy of the request to intervene on
13 the Company or its attorney and all other parties of record in the case; and
- 14 5. If you are not represented by an attorney who is an active member of the Arizona
15 State Bar, and you are not representing yourself as an individual, sufficient
16 information and any appropriate documentation to demonstrate compliance with
17 Arizona Supreme Court Rules 31, 38, 39, and 42, as applicable.

18 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
19 that all motions to intervene must be filed on or before October 7, 2016.

20 **ADA/Equal Access Information**

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

27 IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall cause the
28 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 20, 2016.**

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 notice shall be deemed complete upon mailing and
publication of same, notwithstanding the failure of an individual customer to read or receive the notice.

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

1 Law Judge or the Commission.

2 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
3 31, 38, 39, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

4 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
5 Communications) applies to this proceeding and shall remain in effect until the Commission's Decision
6 in this matter is final and non-appealable.

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 the email service 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 filing on the party shall be complete upon the
22 first of the following to occur: (1) the sending, to the designated email address, of an
23 email containing an electronic copy of the filing or a link to access the filing online; or
24 (2) for a filing made by a Commissioner, the Commission's Executive Director, or a
25 Commission Division, the making of the filing with a service certification including
26 coding indicating that an automatic service email for the filing shall be sent to each party
27 whose consent to email service has been approved;

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- 6. Understand and agree that the party may provide additional email addresses on the Consent to Email Service for individuals to whom the party desires to have service emails sent as a courtesy, but that these courtesy email addresses are not the designated email address and will not be verified; and
- 7. Understand and agree that the party will no longer receive service of filings in this matter through First Class U.S. Mail or any other form of hard-copy delivery, unless and until the party withdraws this consent through a filing made in this docket.

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

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

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

DATED this 26th day of August, 2016.



 MARCE E. STERN
 ADMINISTRATIVE LAW JUDGE

1 On this 26th day of August, 2016, the foregoing document was filed with Docket Control as a
2 Procedural Order – Schedules Hearing, and copies of the foregoing were mailed on behalf of the
3 Hearing Division to the following who have not consented to email service. On this date or as soon as
4 possible thereafter, the Commission’s eDocket program will automatically email a link to the foregoing
5 to the following who have consented to email service.

6 Michelle Burton
7 Assistant Attorney General
8 OFFICE OF THE ATTORNEY GENERAL
9 1275 West Washington Street
10 Phoenix, Arizona 85007

11 Jason Pike
12 Railroad and Utility Coordinator
13 ARIZONA DEPARTMENT
14 OF TRANSPORTATION
15 205 S. 17th Avenue, Room 357 MD 618E
16 Phoenix, AZ 85007

17 Janice Alward, Chief Counsel
18 Legal Division
19 ARIZONA CORPORATION COMMISSION
20 1200 West Washington Street
21 Phoenix, AZ 85007

22 Brian Lehman, Chief
23 Railroad Safety Section of the Safety Division
24 ARIZONA CORPORATION COMMISSION
25 1200 West Washington Street
26 Phoenix, AZ 85007

27 COASH & COASH
28 COURT REPORTING, VIDEO AND
VIDEOCONFERENCING
1802 North 7th Street
Phoenix, AZ 85006

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Rebecca Tallman
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