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ARIZONA CORPORATION
COMMISSION



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September 8, 2016

Re: Docket No. RR-00000E-16-0152

Dear Colleagues and Interested Parties:

In response to my prior letter to this docket dated August 24, 2016 concerning various railroad issues, the Arizona Republic published an article¹ on August 26, 2016, where the concept of "crossing consolidation" of railroad crossings was addressed. The article provided a hyperlink² to the Union Pacific Railroad website, which articulated its "policy" on crossing consolidation. It states, "Union Pacific has a practice of requesting that multiple public crossings be consolidated before agreeing to the establishment of a new crossing" and that proposals "for establishing a new public crossing should identify three or more crossing closures for each new crossing opened." For railroad companies to make this request is entirely out of line and grossly misconstrues the railroad companies' authority to demand such a requirement.

The railroad companies point to the position of the Federal Railroad Administration (FRA) for their policy. However, the FRA has simply put forward ideas on the subject to help states if they so choose. Most importantly, the FRA explicitly states that the discretion is entirely left to state government. In Arizona, the *exclusive* authority for power over railway crossings resides with the Arizona Corporation Commission.³ In fact, the FRA published a report concerning legal authority of the different states in this matter.⁴ The chapter on crossing consolidation refers specifically to Arizona saying, "The Arizona Corporation Commission has the exclusive authority to alter or abolish highway-rail grade crossings within the state."⁵

For railroad companies to misconstrue the FRA's position in order to bully Arizona's communities is unacceptable. It is dishonest and wrong to act as though they can force communities to shut down crossings when that decision should be left to the Arizona Corporation Commission. Arizona has a bright and prosperous future. It is absurd to think that as our population continues to grow that crossings must always be shut down by three or four times in order to make a single change.

¹ <http://www.azcentral.com/story/money/business/consumers/2016/08/26/arizona-regulator-wants-higher-fines-railroad-safety-violations/89308060/>

² https://www.up.com/real_estate/roadxing/industry/new_conversion/index.htm

³ A.R.S. § 40-337

⁴ <https://www.fra.dot.gov/eLib/Details/L02938>

⁵ Ibid. at 1-3

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Railroad companies' abuse of Arizona on its way to the port of Los Angeles will not be tolerated. Railroad companies should not only change their position immediately, but should apologize to Arizona's communities. If Arizonans believe there is a need for any changes regarding railroad crossings or their safety, railroad companies should in no way be prohibiting communities from seeking approval from the Arizona Corporation Commission.

A handwritten signature in cursive script that reads "Tom Forese". The signature is written in black ink and is positioned above the printed name and title.

Tom Forese
Commissioner

CERTIFICATION OF SERVICE

On this 9th day of September, 2016, the foregoing document was filed with Docket Control as Correspondence from Commissioner Tom Forese and copies of the foregoing were mailed on behalf of the Commissioner to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link of the foregoing document to the following who have consented to email service.

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By: K. Aceto
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Executive Aide to Commissioner Tom Forese