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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

TOM FORESE – Chairman
BOB BURNS
DOUG LITTLE
ANDY TOBIN
BOYD W. DUNN

AZ 00177219
DOCKET NO.
2017 FEB 9 AM 9 23

Arizona Corporation Commission

DOCKETED

FEB 9 2017

DOCKETED BY

IN THE MATTER OF THE ARIZONA DEPARTMENT OF TRANSPORTATION TO CONSTRUCT A NEW GRADE SEPARATED CROSSING AND FOR THE UNION PACIFIC RAILROAD COMPANY TO REMOVE AN EXISTING AT-GRADE CROSSING AT STATE ROUTE 347 IN THE CITY OF MARICOPA, PINAL COUNTY, ARIZONA, USDOT NO. 741 343C.

DOCKET NO. RR-03639A-17-0020

PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On January 25, 2017, the Arizona Department of Transportation (“ADOT”) filed with the Arizona Corporation Commission (“Commission”) a request for approval for ADOT to install a new grade separated crossing and for the Union Pacific Railroad Company (“Railroad”) to remove an existing at-grade crossing at State Route 347 (“SR347”) in the City of Maricopa (“City”), Pinal County, Arizona at USDOT No. 741 343C (“Application”).

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 install a new grade separated crossing
4 and for the Railroad to remove an existing at-grade crossing pursuant 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 FURTHER ORDERED that the **hearing in this matter shall commence on April 12,**
8 **2017, at 10:00 a.m.,** at the Commission's offices, 1200 West Washington Street, Hearing Room No.
9 2, 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 **March 24, 2017.**

17 IT IS FURTHER ORDERED that any **comments or objections to the Staff Report and**
18 **associated exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00
19 p.m. on **April 4, 2017.**

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 **March 22, 2017.**

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 ...

25 ...

26 ...

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**IN THE MATTER OF THE APPLICATION OF THE
ARIZONA DEPARTMENT OF TRANSPORTATION TO INSTALL A NEW
GRADE SEPARATED CROSSING AND FOR THE UNION PACIFIC
RAILROAD COMPANY TO REMOVE AN EXISTING AT-GRADE
CROSSING AT STATE ROUTE 347 IN THE CITY OF MARICOPA, PINAL
COUNTY, ARIZONA, USDOT NO. 741 343C.
(DOCKET NO. RR-03639A-17-0020)**

Summary

On January 25, 2017, the Arizona Department of Transportation (“ADOT”) filed with the Arizona Corporation Commission (“Commission”) a request for approval for ADOT to install a new grade separated crossing and for the Union Pacific Railroad Company (“Railroad”) to remove an existing at-grade crossing at State Route 347 (“SR347”) in the City of Maricopa (“City”), Pinal County, Arizona at USDOT No., 741 343C

How You Can View or Obtain a Copy of the Application

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

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on this matter beginning **April 12, 2017, at 10:00 a.m.**, at the Commission’s offices, Hearing Room No.2, 1200 West Washington Street, Phoenix, Arizona. Public comments will be taken on the first day of the hearing.

Written public comments may be submitted by mailing a letter referencing **Docket No. RR-03639A-17-0020** to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by submitting comments on the Commission’s website (www.azcc.gov) using the “Submit a Public Comment for a Utility” function. If you require assistance, you may contact the Consumer Services Section at 602-542-4251 or 1-800-222-7000.

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

About Intervention

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 March 22, 2017**. 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**

1 **Commission's website (www.azcc.gov) using the "Intervention in Utility Cases" link.** The link also includes sample intervention requests.

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

- 3 1. Your name, address, and telephone number, and the name, address, and telephone number of any person upon whom service of documents is to be made, if not yourself;
- 4 2. A reference to **Docket No. RR-03639A-17-0020**;
- 5 3. A short statement explaining:
 - 6 a. Your interest in the proceeding (e.g., a customer of the Railroad, a neighboring property owner, a crossing user, etc.),
 - 7 b. How you will be directly and substantially affected by the outcome of the case, and
 - 8 c. Why your intervention will not unduly broaden the issues in the case;
- 9 4. A statement certifying that you have served a copy of the request to intervene on the Railroad or its attorney and all other parties of record in the case; and
- 10 5. If you are not represented by an attorney who is an active member of the Arizona State Bar, and you are not representing yourself as an individual, sufficient information and any appropriate documentation to demonstrate compliance with Arizona Supreme Court Rules 31, 38, 39, and 42, as applicable.

11 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that **all motions to intervene must be filed on or before March 22, 2017.**

12 **ADA/Equal Access Information**

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

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17 IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall cause the
18 above notice to be published at least once in a newspaper of general circulation in the city/county where
19 the crossing is located, with **publication to be completed no later than March 1, 2017.**

20 IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall file
21 **certification of notice with the Commission's Docket Control as soon as practicable** after the
22 mailing/publication of notice ordered herein has been completed.

23 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and
24 publication of same, notwithstanding the failure of an individual customer to read or receive the notice.

25 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
26 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
27 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
28 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for

1 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
2 Law Judge or the Commission.

3 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
4 31, 38, 39, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

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

8 IT IS FURTHER ORDERED that, as permitted under A.A.C. R14-3-107(B), each party to this
9 matter may opt to receive service of all filings in this docket, including all filings by parties and all
10 Procedural Orders and Recommended Opinions and Orders/Recommended Orders issued by the
11 Commission's Hearing Division, via email sent to an email address provided by the party rather than
12 via U.S. Mail. **To exercise the email service option, a party shall:**

- 13 1. Ensure that the party has a valid and active email address to which the party has regular
14 and reliable access ("designated email address");
- 15 2. Complete a Consent to Email Service using the form available on the Commission's
16 website (www.azcc.gov) or a substantially similar format;
- 17 3. File the original and 13 copies of the Consent to Email Service with the Commission's
18 Docket Control, also providing service to each party to the service list;
- 19 4. Send an email, containing the party's name and the docket number for this matter, to
20 HearingDivisionServicebyEmail@azcc.gov from the designated email address, to allow
21 the Hearing Division to verify the validity of the designated email address;
- 22 5. Understand and agree that service of a filing on the party shall be complete upon the
23 first of the following to occur: (1) the sending, to the designated email address, of an
24 email containing an electronic copy of the filing or a link to access the filing online; or
25 (2) for a filing made by a Commissioner, the Commission's Executive Director, or a
26 Commission Division, the making of the filing with a service certification including
27 coding indicating that an automatic service email for the filing shall be sent to each party
28 whose consent to email service has been approved;

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

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

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

15 IT IS FURTHER ORDERED that each party or prospective party shall **refer to the Procedural**
16 **Order Regarding Consent to Email Service** issued in this matter on February 6, 2017 for additional
17 information regarding the process to consent to service by email. Information regarding Consent to
18 Email Service is also available on the Commission's website (www.azcc.gov) by clicking on "Email
19 Service Consent."

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

23 DATED this 9th day of February, 2017.

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25 
26 MARC E. STERN
27 ADMINISTRATIVE LAW JUDGE
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1 On this 9th day of February, 2017, 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
possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing
to the following who have consented to email service.

4 Alex Popovici, Manager
5 Industry & Public Projects
6 UNION PACIFIC RAILROAD COMPANY
7 631 South 7th Street
8 Phoenix, AZ 85034-2203

9 W. Reed Campbell
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12 Phoenix, AZ 85004
13 Attorneys for Union Pacific Railroad Company

14 Michelle Burton
15 Assistant Attorney General
16 OFFICE OF THE ATTORNEY GENERAL
17 1275 West Washington Street
18 Phoenix, Arizona 85007

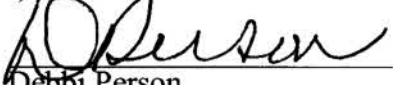
19 Sayeed M. Hani
20 Railroad and Utility Coordinator
21 ARIZONA DEPARTMENT OF TRANSPORTATION
22 205 South 17th Avenue, Room 357
23 M/D 618E
24 Phoenix, AZ 85007

25 Gregory Rose
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27 39700 W. Civic Center Plaza
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Consented to Service By Email

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By: 
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