

Power REIT  
Form 10-Q  
August 10, 2017

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 10-Q**

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT  
OF 1934

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT  
OF 1934

For the quarterly period ended June 30, 2017

000-54560

(Commission File Number)

**POWER REIT**

(Exact name of registrant as specified in its charter)

**Maryland**  
(State of Organization)

**45-3116572**  
(I.R.S. Employer Identification No.)

**301 Winding Road, Old Bethpage, NY 11804**  
(Address of principal executive offices) (Zip Code)

**(212) 750-0371**

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(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer   
Non-accelerated filer  Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

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Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

1,827,339 common shares, \$0.001 par value, outstanding at August 10, 2017.

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**PART I. FINANCIAL INFORMATION****Item 1. Financial Statements.****POWER REIT AND SUBSIDIARIES****CONSOLIDATED BALANCE SHEETS**

	June 30, 2017 (Unaudited)	December 31, 2016
<b>ASSETS</b>		
Land	\$6,788,067	\$6,788,067
Net investment in capital lease - railroad	9,150,000	9,150,000
Total real estate assets	15,938,067	15,938,067
Cash and cash equivalents	1,318,899	717,104
Prepaid expenses	66,793	31,371
Intangible assets, net of accumulated amortization	4,182,308	4,300,879
Other assets	325,676	227,510
<b>TOTAL ASSETS</b>	<b>\$21,831,743</b>	<b>\$21,214,931</b>
<b>LIABILITIES AND EQUITY</b>		
Deferred revenue	\$462,312	\$48,188
Accounts payable	30,218	84,757
Accrued interest	90,831	94,356
Current portion of long-term debt	380,717	344,114
Long-term debt	9,741,922	9,868,402
<b>TOTAL LIABILITIES</b>	<b>10,706,000</b>	<b>10,439,817</b>
Series A 7.75% Cumulative Redeemable Perpetual Preferred Stock Par Value \$25.00 (175,000 shares authorized; 146,000 issued and outstanding as of June 30, 2017 and December 31, 2016)	3,492,149	3,492,149
Commitments and Contingencies	-	-
Equity:		
Common Shares, \$0.001 par value (100,000,000 shares authorized; 1,827,339 and 1,784,939 shares issued and outstanding at June 30, 2017 and December 31, 2016)	1,827	1,785
Additional paid-in capital	11,298,750	11,197,629
Accumulated deficit	(3,666,983 )	(3,916,449 )

<i>Total Equity</i>	7,633,594	7,282,965
TOTAL LIABILITIES AND EQUITY	\$21,831,743	\$21,214,931

The accompanying notes are an integral part of these unaudited consolidated financial statements.

**POWER REIT AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF OPERATIONS****(Unaudited)**

	Three Months Ended		Six Months Ended June	
	June 30,	2016	30,	2016
	2017		2017	2016
<b>REVENUE</b>				
Lease income from capital lease – railroad, net	\$228,750	\$228,750	\$457,500	\$457,500
Rental income	262,528	262,851	525,055	525,702
Misc. income	45	10,395	78	10,468
<b>TOTAL REVENUE</b>	<b>491,323</b>	<b>501,996</b>	<b>982,633</b>	<b>993,670</b>
<b>EXPENSES</b>				
Amortization of intangible assets	59,285	59,286	118,571	118,571
General and administrative	55,584	35,899	110,432	72,434
Stock-based compensation	47,362	52,712	101,163	88,229
Property tax	5,705	2,782	11,611	8,164
Litigation expenses (see note 5)	3,347	298,504	4,077	346,859
Interest expense	122,856	89,444	247,377	230,829
<b>TOTAL EXPENSES</b>	<b>294,139</b>	<b>538,627</b>	<b>593,231</b>	<b>865,086</b>
<b>NET INCOME (LOSS)</b>	<b>197,184</b>	<b>(36,631 )</b>	<b>389,402</b>	<b>128,584</b>
Preferred Stock Dividends	69,968	69,968	139,936	139,936
<b>NET INCOME (LOSS) ATTRIBUTABLE TO COMMON SHARES</b>	<b>\$ 127,216</b>	<b>\$(106,599 )</b>	<b>\$249,466</b>	<b>\$(11,352 )</b>
Income (Loss) Per Common Share:				
Basic and diluted	\$0.07	\$(0.06 )	\$0.14	\$(0.01 )
Weighted Average Number of Shares Outstanding:				
Basic and diluted	1,799,072	1,768,697	1,792,005	1,755,692
Cash dividend per Series A Preferred Share	\$0.48	\$0.48	\$0.97	\$0.97

The accompanying notes are an integral part of these unaudited consolidated financial statements.

**POWER REIT AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF CASH FLOWS****(Unaudited)**

	Six Months Ended June 30	
	2017	2016
Operating activities		
Net Income	\$389,402	\$128,584
Adjustments to reconcile net income to net cash provided by operating activities:		
Amortization of intangible assets	118,571	118,571
Amortization of debt costs	12,593	12,590
Stock-based compensation	101,163	88,229
Changes in operating assets and liabilities		
(Increase) decrease in other receivables	(4,143 )	208
(Increase) in other assets	(16,397 )	-
(Increase) decrease in prepaid expenses	(35,422 )	(61,418 )
Increase (decrease) in accounts payable	(54,539 )	(57,501 )
Increase (decrease) in accrued interest	(3,525 )	(2,707 )
Increase in prepaid rent	414,124	409,528
Increase in deferred revenue	(77,626 )	(80,815 )
Net cash provided by operating activities	844,201	555,269
Financing Activities		
Principal payment on long-term debt	(102,470 )	(88,670 )
Cash dividends paid on preferred stock	(139,936 )	(139,936 )
Net cash used in financing activities	(242,406 )	(228,606 )
Net increase in cash and cash equivalents	601,795	326,663
Cash and cash equivalents, beginning of period	717,104	435,870
Cash and cash equivalents, end of period	\$1,318,899	\$762,533
Supplemental disclosure of cash flow information:		
Interest paid	\$374,782	\$233,536

The accompanying notes are an integral part of these unaudited consolidated financial statements.





## **POWER REIT AND SUBSIDIARIES**

### **Notes to Unaudited Consolidated Financial Statements**

#### **1. GENERAL INFORMATION**

The accompanying unaudited consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) for interim financial information, and with the rules and regulations of the Securities and Exchange Commission (“SEC”) regarding interim financial reporting. Accordingly, these interim financial statements do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of the Company, as defined below, these unaudited consolidated financial statements include all adjustments necessary to present fairly the information set forth herein. All such adjustments are of a normal recurring nature. Results for interim periods are not necessarily indicative of results to be expected for a full year.

These unaudited consolidated financial statements should be read in conjunction with our audited consolidated financial statements and notes included in our latest Annual Report on Form 10-K filed with the SEC on March 30, 2017.

Power REIT (the “Registrant” or the “Trust”, and together with its consolidated subsidiaries, “we”, “us”, the “Company” or “Power REIT”, unless the context requires otherwise) is a Maryland-domiciled real estate investment trust (a “REIT”) that holds, develops, acquires and manages real estate assets related to transportation and energy infrastructure in the United States. Within the transportation and energy infrastructure sectors, Power REIT is focused on making new acquisitions of real estate that are or will be leased to renewable energy generation projects, such as utility-scale solar farms and wind farms, which have low or minimal technology risk.

The Trust is structured as a holding company and owns its assets through four wholly-owned, special purpose subsidiaries that have been formed in order to hold real estate assets, obtain financing and generate lease revenue. As of June 30, 2017, the Trust’s assets consisted of approximately 112 miles of railroad infrastructure and related real estate which is owned by its subsidiary Pittsburgh & West Virginia Railroad (“P&WV”) and approximately 601 acres of fee simple land leased to a number of solar power generating projects with an aggregate generating capacity of approximately 108 Megawatts (“MW”). Power REIT is actively seeking to expand its portfolio of real estate related to renewable energy generation projects and is pursuing investment opportunities that qualify for REIT ownership within solar, wind, hydroelectric, geothermal, transmission and other infrastructure projects.

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During the six months ended June 30, 2017, the Trust paid a quarterly dividend of approximately \$140,000 (\$0.48375 per share) on Power REIT's 7.75% Series A Cumulative Redeemable Perpetual Preferred Stock.

The Trust was formed as part of a reorganization and reverse triangular merger of P&WV that closed on December 2, 2011. P&WV survived the reorganization as a wholly-owned subsidiary of the Trust.

The Trust has elected to be treated for tax purposes as a REIT, which means that it is exempt from U.S. federal income tax if a sufficient portion of its annual income is distributed to its shareholders, and if certain other requirements are met. In order for the Trust to maintain its REIT qualification, at least 90% of its ordinary taxable annual income must be distributed to shareholders.

## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

### Basis of Presentation

These unaudited consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP").

## **POWER REIT AND SUBSIDIARIES**

### **Notes to Unaudited Consolidated Financial Statements**

#### Recent Accounting Pronouncements

In March 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No 2016-09 “Compensation - Stock compensation” (Topic 718). The new guidance is intended to simplify some provisions in stock compensation accounting, including the accounting for income taxes, forfeitures, and statutory tax withholding requirements, as well as classification in the statement of cash flows. This standard is effective for fiscal years and interim periods beginning after December 15, 2016 and the adoption of this standard during the six months ended June 30, 2017 did not have a material impact on our consolidated financial statements.

In May 2014, the FASB issued ASU 2014-09, Revenue from Contracts with Customers (Topic 606), which supersedes existing revenue recognition guidance. The new guidance in ASU 2014-09 is based on the principle that revenue is recognized to depict the transfer of goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. ASU 2014-09 also requires additional disclosure about the nature, amount, timing and uncertainty of revenue and cash flows arising from customer contracts, including significant judgments and changes in judgments and assets recognized from costs incurred to obtain or fulfill a contract. In August 2015, the FASB issued ASU 2015-14, Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date, to provide entities with an additional year to implement ASU 2014-09. As a result, the guidance in ASU 2014-09 is effective for annual reporting periods beginning after December 15, 2017, and interim reporting periods within those years, using one of two retrospective application methods. We expect to adopt this standard when effective, and the impact on our financial statements is not currently estimable.

In February 2016, the FASB issued ASU No 2016-02 “Leases” (Topic 842). The standard requires companies that lease valuable assets like aircraft, real estate, and heavy equipment to recognize on their balance sheets the assets and liabilities generated by contracts longer than a year. The standard also requires companies to disclose in the footnotes to their financial statements information about the amount, timing, and uncertainty for the payments they make for the lease agreements. This standard is effective for fiscal years and interim periods beginning after December 15, 2018. Early adoption is permitted. We expect to adopt this standard when effective, and the impact on our financial statements is not currently estimable.

In January 2016, the FASB issued ASU No 2016-01, “Recognition and Measurement of Financial Assets and Financial Liabilities”, Financial Instruments - Overall (Subtopic 825-10). The new guidance is intended to improve the recognition and measurement of financial instruments. This guidance requires that financial assets and financial liabilities must be separately presented by measurement category and form of financial asset on the balance sheet or

the accompanying notes to the financial statements. This guidance is effective for fiscal years and interim periods beginning after December 15, 2017. The standard includes a requirement that businesses must report changes in the fair value of their own liabilities in other comprehensive income (loss) instead of earnings, and this is the only provision of the update for which the FASB is permitting early adoption. We expect to adopt this guidance when effective, and do not expect this guidance to have a significant impact on our financial statements.

#### Principles of Consolidation

The accompanying consolidated financial statements include Power REIT and its wholly-owned subsidiaries. All intercompany balances have been eliminated in consolidation.

## **POWER REIT AND SUBSIDIARIES**

### **Notes to Unaudited Consolidated Financial Statements**

#### Fair Value

Fair value represents the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The Trust measures its financial assets and liabilities in three levels, based on the markets in which the assets and liabilities are traded and the reliability of the assumptions used to determine fair value.

Level 1 – valuations for assets and liabilities traded in active exchange markets, or interest in open-end mutual funds that allow a company to sell its ownership interest back at net asset value on a daily basis. Valuations are obtained from readily available pricing sources for market transactions involving identical assets, liabilities or funds.

Level 2 – valuations for assets and liabilities traded in less active dealer, or broker markets, such as quoted prices for similar assets or liabilities or quoted prices in markets that are not active. Level 2 includes U.S. Treasury, U.S. government and agency debt securities, and certain corporate obligations. Valuations are usually obtained from third party pricing services for identical or comparable assets or liabilities.

Level 3 – valuations for assets and liabilities that are derived from other valuation methodologies, such as option pricing models, discounted cash flow models and similar techniques, and not based on market exchange, dealer, or broker traded transactions. Level 3 valuations incorporate certain assumptions and projections in determining the fair value assigned to such assets or liabilities

In determining fair value, the Trust utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible as well as considering counterparty credit risk.

The carrying amounts of Power REIT's financial instruments, including cash and cash equivalents, and accounts payable approximate fair value because of their relatively short maturity. Long-term debt approximates fair value since the related rates of interest approximate current market rates. The Company does not have any financial instruments that are required to be measured and recorded at fair value on a recurring basis.

### **3. LONG-TERM DEBT**

On November 6, 2015, PWRS completed a financing secured by the real property owned by PWRS (the “PWRS Bonds”). The PWRS Bonds are secured by land owned by PWRS and have a total obligation of \$10,150,000. The PWRS Bonds carry a fixed interest rate of 4.34% and mature in 2034. The balance of the PWRS Bonds as of June 30, 2017 and December 31, 2016 is approximately \$9,395,000 (net of approximately \$381,000 of capitalized debt costs which are being amortized over the life of the financing) and \$9,466,000 (net of approximately \$393,000 of capitalized debt costs which are being amortized over the life of the financing) respectively.

On July 5, 2013, PWSS borrowed \$750,000 from a regional bank (the “PWSS Term Loan”). The PWSS Term Loan carries a fixed interest rate of 5.0%, a term of 10-years and amortizes based on a twenty-year principal amortization schedule. In addition to being secured by PWSS’ real estate assets, the term loan is secured by a parent guarantee from the Trust. The balance of the PWSS Term Loan as of June 30, 2017 and December 31, 2016 is approximately \$638,000 (net of approximately \$16,000 of capitalized debt costs which are being amortized over the life of the financing) and \$650,000 (net of approximately \$18,000 of capitalized debt costs which are being amortized over the life of the financing), respectively.

On December 31, 2012, as part of the Salisbury land acquisition, PWSS assumed existing municipal financing (“Municipal Debt”). The Municipal Debt has approximately 16 years remaining. The Municipal Debt has a simple interest rate of 5.0% that is paid annually, with the next payment due February 1, 2018. The balance of the Municipal Debt as of June 30, 2017 and December 31, 2016 is approximately \$90,000 and \$96,000 respectively.

**POWER REIT AND SUBSIDIARIES****Notes to Unaudited Consolidated Financial Statements****4. EQUITY AND LONG-TERM COMPENSATION**Summary of Stock Based Compensation Activity – Options

The summary of stock based compensation activity for the six months ended June 30, 2017, with respect to the Trust's stock options, was as follows:

	Number of Options	Weighted Average Exercise Price	Aggregate Intrinsic Value
Balance as of December 31, 2016	106,000	7.96	-
Plan Awards	-	-	-
Options Exercised	-	-	-
Balance as of June 30, 2017	106,000	7.96	-
Options vested at June 30, 2017	106,000	7.96	-

The weighted average remaining term of the options is approximately 5.1 years.

Summary of Plan Activity – Restricted Stock

The summary of Plan activity for the six months ended June 30, 2017, with respect to the Trust's restricted stock, was as follows:

Number of Shares of	Weighted Average
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	Restricted Stock	Grant Date Fair Value
Balance as of December 31, 2016	38,633	5.31
Plan Awards	42,400	6.89
Restricted Stock Vested	(16,100 )	5.88
Balance as of June 30, 2017	64,933	6.31

Stock-based Compensation

During the six months of 2017, the Trust recorded approximately \$101,000 of non-cash expense related to restricted stock and options granted compared to approximately \$88,000 for the first six months of 2016. As of June 30, 2017 there was approximately \$396,000 of total unrecognized share-based compensation expense, which expense will be recognized through the first quarter of 2020, equating to a weighted average amortization period of approximately 1.5 years from the issuance date. The Trust does not currently have a policy regarding the repurchase of shares on the open market related to equity awards and does not currently intend to acquire shares on the open market.

## **POWER REIT AND SUBSIDIARIES**

### **Notes to Unaudited Consolidated Financial Statements**

#### Preferred Stock Dividends

During the first six months of 2017, the Trust paid a total of approximately \$140,000 of dividends to holders of Power REIT's Series A Preferred Stock.

## **5. LEGAL PROCEEDINGS**

As previously disclosed in its public filings with the SEC, the Trust and its wholly-owned subsidiary P&WV are in litigation with NSC and NSC's sub-lessee, Wheeling & Lake Erie Railroad ("WLE" and, together with NSC, the "Litigants") concerning matters arising under the Railroad Lease. The case was pending in Federal trial court in Pittsburgh (the "Court"). The Litigants initiated the litigation against the Trust and P&WV in December 2011, seeking, among other things, a declaratory judgment that NSC was not in default under the Railroad Lease.

P&WV, as lessor, has asserted counterclaims, seeking determinations that NSC is in default under the Railroad Lease for, among other things, failing to reimburse P&WV for certain legal fees incurred by P&WV, failing to permit P&WV to inspect NSC's books and records as called for under the terms of the Railroad Lease and failing to pay other amounts that P&WV believes are due and owing. P&WV also seeks declarations from the Court (a) that NSC's obligation to repay the indebtedness owed under the Railroad Lease is not indefinite in duration, and (b) that the indebtedness owed to P&WV is due on demand with interest. If P&WV is successful with certain of its counterclaims, it can terminate the Railroad Lease and demand from NSC payment of the indebtedness.

The indebtedness is the cumulative result of amounts received by NSC from its dispositions of P&WV property, additional rental amounts due and other sums that NSC owes to P&WV but which NSC has elected, under its interpretation of the Railroad Lease, to pay by increasing its indebtedness to P&WV rather than by providing P&WV with cash. According to records maintained by NSC pursuant to the Railroad Lease and provided by NSC to P&WV, as of December 31, 2012 the indebtedness owed to P&WV was approximately \$16,600,000. NSC has not provided a more recent update of the indebtedness amount. P&WV believes that the indebtedness amount is understated. The indebtedness has not been included in P&WV's balance sheets prepared under GAAP, because of the dispute as to when it is due. Similarly, certain additional rental amounts that NSC disputes are due on a current basis, and which have historically been treated as indebtedness, have not been included in P&WV's income statements or balance sheets prepared under GAAP; however, these additional rent amounts have historically been recorded as taxable income on

P&WV's tax returns.

The Litigants have alleged that the Trust is a successor in interest in respect of the Railroad Lease. If that allegation were to be decided against us in a fact-finding stage of the litigation, it could lead to liability and expenses. The Trust believes that it is not a successor in interest in respect of the Railroad Lease and is not constrained by any of the Railroad Lease restrictions.

The parties have made certain supplements to their respective claims and counterclaims. In August 2013, P&WV filed a second supplement to its counterclaims following the Litigants' disclosure of previously undisclosed dispositions of P&WV property. P&WV believes that additional amounts are owed to it as a result of these dispositions and, accordingly, asserted new counterclaims, including claims of fraud and conversion. Based on the information available at the time P&WV supplemented its claims, P&WV has estimated that the additional amounts owed to it exceed \$8 million, not including potential interest and damages. P&WV also supplemented its counterclaim for additional rental amounts due in order to include the reimbursement of its legal expenses related to the litigation. In response to P&WV's second supplement to its counterclaims, in January 2014 the Litigants amended their pleadings to add additional claims against both P&WV and the Trust. The Litigants' new claims seek additional declarations from the Court that the Litigants have not defaulted on or violated the terms of the Railroad Lease.

## **POWER REIT AND SUBSIDIARIES**

### **Notes to Unaudited Consolidated Financial Statements**

On September 13, 2013, the Trust filed a motion for summary judgment seeking dismissal of all of the claims against it primarily based on the fact that the Trust is not a party to the Lease. On January 15, 2014, the Court heard oral arguments from the parties on the Trust's motion. On October 16, 2013, the Litigants filed a motion seeking leave to supplement their claims to include: (i) nominal damages, (ii) enjoinder of Power REIT from taking actions in breach of the Lease Agreement, (iii) the withdrawal of NSC's consent to the additional share by PWV; and (iv) the undoing of the reverse triangular merger. On June 19, 2014, the court denied the Trust's motion but also denied Plaintiff's motion seeking leave to supplement their claims with the exception of granting the motion to seek nominal damages.

The fact and expert discovery phases of the litigation have been completed. On September 8, 2014, P&WV filed a Motion for Summary Judgment and on October 22, 2014, the Litigants filed an opposition to such motion and on November 5, 2014, P&WV filed a Reply to NSC and WLE's opposition to such motion. On September 8, 2014, the Litigants filed a Motion for Summary Judgment and on October 22, 2014, P&WV filed an opposition to such motion and on November 5, 2014, the Litigants filed a reply to P&WV's opposition to such motion. On December 16, 2014, the court held oral argument on both of the motions for Summary Judgment.

On April 22, 2015, the court denied P&WV's motion for summary judgment and granted the Litigants' summary judgment motion thereby dismissing all of P&WV's claims. During the week of August 3, 2015, a trial was conducted on the two remaining claims of the Litigants against P&WV and Power REIT. On December 29, 2015, the Court issued a ruling with respect to the remaining claims that were the subject of the trial. In the ruling, the Court found in favor of Power REIT on all claims brought against it by NSC and WLE. In addition, the Court also found in favor of P&WV with respect to claims brought against P&WV by WLE. However, the Court did find in favor of NSC against P&WV for certain of its claims (fraud and breach of contract) and awarded nominal damages of \$1.00. In connection with NSC's demand for punitive damages, the Court ruled that NSC was not entitled to punitive damages.

On January 26, 2016, Power REIT and P&WV filed a Notice of Appeal to appeal the matter to the United States Court of Appeals for the Third Circuit. On April 28, 2016, Power REIT and P&WV filed its appellate brief. On June 27, 2016, NSC and WLE filed their reply brief. On August 10, 2016, Power REIT and P&WV filed a reply brief at which point the appeal was fully briefed. Power REIT and P&WV have retained the firm of Kecker & Van Nest LLP as lead counsel related to the appeal.

P&WV has provided key court filings in the litigation on its website ([www.pwreit.com](http://www.pwreit.com)) under a tab called "P&WV Litigation Update" which is under the "Investor Relations" tab. The provided documents and accompanying supporting documents are not comprehensive or complete and the full case docket is available from the Public Access to Court

Records (PACER) website. Power REIT encourages interested parties to review all the public filings available on PACER and to review the risks and disclosures in Power REIT's Annual Report filed on Form 10-k and other documents filed from time to time with the Securities and Exchange Commission (SEC).

During the six months ended June 30, 2017 and 2016, P&WV incurred litigation related expenses of approximately \$4,000 and \$347,000, respectively. As of June 30, 2017, P&WV had incurred a total of approximately \$3.55 million of cumulative expenses related to the litigation. P&WV believes that the costs associated with the litigation are reimbursable by NSC under the Railroad Lease as additional rent, but NSC has refused to pay such amounts. At this point, in order to collect such amounts, P&WV would need to prevail on the appeal. There can be no assurance that P&WV will prevail in collecting its litigation expenses from NSC; accordingly, the expenses of the litigation are accrued and expensed as incurred.

## **POWER REIT AND SUBSIDIARIES**

### **Notes to Unaudited Consolidated Financial Statements**

As of the date of this filing, NSC has continued to make its quarterly base rental payments (\$228,750 per quarter) despite the pendency of the litigation. However, there can be no assurance that NSC will continue to make its base rental payments.

### **6. RELATED PARTY TRANSACTIONS**

The Trust and its subsidiaries have hired Morrison Cohen, LLP (“Morrison Cohen”) as their legal counsel with respect to general corporate matters and the litigation with NSC. The spouse of the Trust’s Chairman, CEO, Secretary and Treasurer is a partner at Morrison Cohen. During the six months ended June 30, 2017, Power REIT (on a consolidated basis) did not pay any legal fees and costs to Morrison Cohen in connection with various legal matters, including the litigation with NSC.

A wholly-owned subsidiary of HBP provides the Trust and its subsidiaries with office space at no cost. Effective September 2016, the Board of Directors approved reimbursing an affiliate of HBP \$1,000 per month for administrative and accounting support based on a conclusion that it would pay more for such support from a third party. A total of \$6,000 was paid pursuant to this arrangement during the six months ended June 30, 2017.

Under the Trust’s Declaration of Trust, the Trust may enter into transactions in which trustees, officers or employees have a financial interest, provided however, that in the case of a material financial interest, the transaction is disclosed to the Board of Trustees or the transaction shall be fair and reasonable. After consideration of the terms and conditions of the retention of Morrison Cohen described herein, the independent trustees approved the hiring of Morrison Cohen as counsel, determining such arrangement to be fair and reasonable and in the interest of the Trust.

### **7. SUBSEQUENT EVENTS**

On August 2, 2017, the Registrant declared a quarterly dividend of \$0.48375 per share on Power REIT’s 7.75% Series A Cumulative Redeemable Perpetual Preferred Stock payable on September 15, 2017 to shareholders of record on August 18, 2017.



**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

This Quarterly Report on Form 10-Q includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended.

Forward-looking statements are those that predict or describe future events or trends and that do not relate solely to historical matters. You can generally identify forward-looking statements as statements containing the words "believe," "expect," "will," "anticipate," "intend," "estimate," "project," "plan," "assume" or other similar expressions, or negatives of the expressions, although not all forward-looking statements contain these identifying words. All statements contained in this report regarding our future strategy, future operations, projected financial position, estimated future revenues, projected costs, future prospects, the future of our industries and results that might be obtained by pursuing management's current or future plans and objectives are forward-looking statements.

You should not place undue reliance on any forward-looking statements because the matters they describe are subject to known and unknown risks, uncertainties and other unpredictable factors, many of which are beyond our control. Our forward-looking statements are based on the information currently available to us and speak only as of the date of the filing of this report. New risks and uncertainties arise from time to time, and it is impossible for us to predict these matters or how they may affect us. Over time, our actual results, performance, financial condition or achievements may differ from the anticipated results, performance, financial condition or achievements that are expressed or implied by our forward-looking statements, and such differences may be significant and materially adverse to our security holders. Our forward-looking statements contained herein speak only as of the date hereof, and we make no commitment to update or publicly release any revisions to forward-looking statements in order to reflect new information or subsequent events, circumstances or changes in expectations.



## MANAGEMENT'S DISCUSSION AND ANALYSIS

Power REIT is a Maryland-domiciled REIT that holds, develops, acquires and manages real estate assets related to transportation and energy infrastructure in the United States. Within the transportation and energy infrastructure sectors, Power REIT is focused on making new acquisitions of real estate that are or will be leased to renewable energy generation projects, such as utility-scale solar farms and wind farms, which have low or minimal technology risk.

Power REIT is structured as a holding company and owns its assets through four wholly-owned, special purpose subsidiaries that have been formed in order to hold real estate assets, obtain financing and generate lease revenue. Power REIT was formed as part of a reorganization and reverse triangular merger of P&WV that closed on December 2, 2011. P&WV survived the reorganization as a wholly-owned subsidiary of the Registrant. The Company's investment strategy, which is focused on transportation and energy infrastructure-related real estate, builds upon its subsidiary P&WV's historical ownership of railroad real estate assets, which are currently triple-net leased to NSC.

As of June 30, 2017, the Trust's assets consisted of approximately 112 miles of railroad infrastructure and related real estate leased to a railway company which is owned by its subsidiary Pittsburgh & West Virginia Railroad ("P&WV") and approximately 601 acres of fee simple land leased to a number of solar power generating projects with an aggregate generating capacity of approximately 108 MW. Power REIT is actively seeking to expand its portfolio of real estate related to renewable energy generation projects and is pursuing investment opportunities that qualify for REIT ownership within solar, wind, hydroelectric, geothermal, transmission and other infrastructure projects.

Revenue during the six months of 2017 and 2016 was approximately \$982,633 and \$993,670, respectively. Net income attributable to Common Shares the six months of 2017 was approximately \$250,000, whereas net loss attributable to Common Shares of approximately \$11,300, was reported during the six months of 2016. The difference between our 2017 and 2016 results were principally attributable to the following: an approximately \$343,000 decrease in litigation expenses related to the NSC litigation; an approximately \$16,500 increase in Interest Expense; and, an approximately \$38,000 increase in general and administrative expense.

The Trust's cash outlays, other than acquisitions and dividend payments, are for general and administrative ("G&A") expenses, which consist principally of legal and other professional fees, consultant fees, trustees' fees, NYSE MKT listing fees, shareholder service company fees and auditing costs. During the four years ended 2016, the Trust (on a consolidated basis) incurred substantial litigation expenses related to its ongoing litigation related to P&WV (See Note 5).

To meet its working capital and longer-term capital needs, Power REIT relies on cash provided by its operating activities, proceeds received from the issuance of equity securities and proceeds received from borrowings, which are typically secured by liens on acquired assets.

## FUNDS FROM OPERATIONS – NON GAAP FINANCIAL MEASURES

We assess and measure our overall operating results based upon an industry performance measure referred to as Core Funds from Operations (“Core FFO”) which management believes is a useful indicator of our operating performance. This report contains supplemental financial measures that are not calculated pursuant to U.S. generally accepted accounting principles (“GAAP”), including the measure identified by us as Core FFO. Following is a definition of this measure, an explanation as to why we present it and, at the end of this section, a reconciliation of Core FFO to the most directly comparable GAAP financial measure.

Core FFO: Management believes that Core FFO is a useful supplemental measure of the Company’s operating performance. Management believes that alternative measures of performance, such as net income computed under GAAP, or Funds From Operations computed in accordance with the definition used by the National Association of Real Estate Investment Trusts (“NAREIT”), include certain financial items that are not indicative of the results provided by the Company’s asset portfolio and inappropriately affect the comparability of the Company’s period-over-period performance. These items include non-recurring expenses, such as those incurred in connection with litigation, one-time upfront acquisition expenses that are not capitalized under ASC-805 and certain non-cash expenses, including stock-based compensation expense amortization and certain up front financing costs. Therefore, management uses Core FFO and defines it as net income excluding such items. Management believes that, for the foregoing reasons, these adjustments to net income are appropriate. The Company believes that Core FFO is a useful supplemental measure for the investing community to employ, including when comparing the Company to other REITs that disclose similarly adjusted FFO figures, and when analyzing changes in the Company’s performance over time. Readers are cautioned that other REITs may use different adjustments to their GAAP financial measures than we do, and that as a result, the Company’s Core FFO may not be comparable to the FFO measures used by other REITs or to other non-GAAP or GAAP financial measures used by REITs or other companies.

### CORE FUNDS FROM OPERATIONS (FFO)

(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
Core FFO Available to Common Shares	\$243,505	\$310,198	\$485,869	\$554,897
Core FFO per common share	0.14	0.18	0.27	0.32
Weighted Average shares outstanding (basic)	1,799,072	1,768,697	1,792,005	1,755,692

**RECONCILIATION OF NON-GAAP FINANCIAL MEASURES**

(Unaudited)

	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2017	2016	2017	2016
Net income (loss) Attributable to Common Shares	\$ 127,216	\$(106,599)	\$ 249,466	\$(11,352 )
Litigation expense	3,347	298,504	4,077	346,859
Stock-based compensation	47,362	52,712	101,163	88,229
Interest Expense - Amortization of Debt Costs	6,295	6,295	12,593	12,590
Amortization of Intangible Asset	59,285	59,286	118,571	118,571
Core FFO Available to Common Shares	\$ 243,505	\$ 310,198	\$ 485,869	\$ 554,897

### **Item 3. Quantitative and Qualitative Disclosures about Market Risk**

As a smaller reporting company, the Trust is not required to provide the information required by this Item.

### **Item 4. Controls and Procedures**

#### Evaluation of Disclosure Controls and Procedures

Management is responsible for establishing and maintaining adequate disclosure controls and procedures (as defined in Rules 13a- 15(f) of the Exchange Act) to provide reasonable assurance regarding the reliability of our financial reporting and preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles. A control system, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. Because of the inherent limitations in all control systems, internal controls over financial reporting may not prevent or detect misstatements. The design and operation of a control system must also reflect that there are resource constraints and management is necessarily required to apply its judgment in evaluating the cost-benefit relationship of possible controls.

Our management assessed the effectiveness of the design and operation of our disclosure controls and procedures. Based on our evaluation, we believe that our disclosure controls and procedures as of June 30, 2017 were effective.

#### Changes in Internal Control over Financial Reporting:

During the fiscal quarter ended June 30, 2017, there were no changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## **PART II. OTHER INFORMATION**

### **Item 1. Legal Proceedings.**

As previously disclosed in its public filings with the SEC, the Trust and its wholly-owned subsidiary P&WV are in litigation with NSC and NSC's sub-lessee, Wheeling & Lake Erie Railroad ("WLE" and, together with NSC, the "Litigants") concerning matters arising under the Railroad Lease. The case was pending in Federal trial court in Pittsburgh (the "Court"). The Litigants initiated the litigation against the Trust and P&WV in December 2011, seeking, among other things, a declaratory judgment that NSC was not in default under the Railroad Lease.

P&WV, as lessor, has asserted counterclaims, seeking determinations that NSC is in default under the Railroad Lease for, among other things, failing to reimburse P&WV for certain legal fees incurred by P&WV, failing to permit P&WV to inspect NSC's books and records as called for under the terms of the Railroad Lease and failing to pay other amounts that P&WV believes are due and owing. P&WV also seeks declarations from the Court (a) that NSC's obligation to repay the indebtedness owed under the Railroad Lease is not indefinite in duration, and (b) that the indebtedness owed to P&WV is due on demand with interest. If P&WV is successful with certain of its counterclaims, it can terminate the Railroad Lease and demand from NSC payment of the indebtedness.

The indebtedness is the cumulative result of amounts received by NSC from its dispositions of P&WV property, additional rental amounts due and other sums that NSC owes to P&WV but which NSC has elected, under its interpretation of the Railroad Lease, to pay by increasing its indebtedness to P&WV rather than by providing P&WV with cash. According to records maintained by NSC pursuant to the Railroad Lease and provided by NSC to P&WV, as of December 31, 2012 the indebtedness owed to P&WV was approximately \$16,600,000. NSC has not provided a more recent update of the indebtedness amount. P&WV believes that the indebtedness amount is understated. The indebtedness has not been included in P&WV's balance sheets prepared under GAAP, because of the dispute as to when it is due. Similarly, certain additional rental amounts that NSC disputes are due on a current basis, and which have historically been treated as indebtedness, have not been included in P&WV's income statements or balance sheets prepared under GAAP; however, these additional rent amounts have historically been recorded as taxable income on P&WV's tax returns.

The Litigants have alleged that the Trust is a successor in interest in respect of the Railroad Lease. If that allegation were to be decided against us in a fact-finding stage of the litigation, it could lead to liability and expenses. The Trust believes that it is not a successor in interest in respect of the Railroad Lease and is not constrained by any of the Railroad Lease restrictions.

The parties have made certain supplements to their respective claims and counterclaims. In August 2013, P&WV filed a second supplement to its counterclaims following the Litigants' disclosure of previously undisclosed dispositions of P&WV property. P&WV believes that additional amounts are owed to it as a result of these dispositions and, accordingly, asserted new counterclaims, including claims of fraud and conversion. Based on the information available at the time P&WV supplemented its claims, P&WV has estimated that the additional amounts owed to it exceed \$8 million, not including potential interest and damages. P&WV also supplemented its counterclaim for additional rental amounts due in order to include the reimbursement of its legal expenses related to the litigation. In response to P&WV's second supplement to its counterclaims, in January 2014 the Litigants amended their pleadings to add additional claims against both P&WV and the Trust. The Litigants' new claims seek additional declarations from the Court that the Litigants have not defaulted on or violated the terms of the Railroad Lease.

On September 13, 2013, the Trust filed a motion for summary judgment seeking dismissal of all of the claims against it primarily based on the fact that the Trust is not a party to the Lease. On January 15, 2014, the Court heard oral arguments from the parties on the Trust's motion. On October 16, 2013, the Litigants filed a motion seeking leave to supplement their claims to include: (i) nominal damages, (ii) enjoinder of Power REIT from taking actions in breach of the Lease Agreement, (iii) the withdrawal of NSC's consent to the additional share by PWV; and (iv) the undoing of the reverse triangular merger. On June 19, 2014, the court denied the Trust's motion but also denied Plaintiff's motion seeking leave to supplement their claims with the exception of granting the motion to seek nominal damages.

The fact and expert discovery phases of the litigation have been completed. On September 8, 2014, P&WV filed a Motion for Summary Judgment and on October 22, 2014, the Litigants filed an opposition to such motion and on November 5, 2014, P&WV filed a Reply to NSC and WLE's opposition to such motion. On September 8, 2014, the Litigants filed a Motion for Summary Judgment and on October 22, 2014, P&WV filed an opposition to such motion and on November 5, 2014, the Litigants filed a reply to P&WV's opposition to such motion. On December 16, 2014, the court held oral argument on both of the motions for Summary Judgment.

On April 22, 2015, the court denied P&WV's motion for summary judgment and granted the Litigants' summary judgment motion thereby dismissing all of P&WV's claims. During the week of August 3, 2015, a trial was conducted on the two remaining claims of the Litigants against P&WV and Power REIT. On December 29, 2015, the Court issued a ruling with respect to the remaining claims that were the subject of the trial. In the ruling, the Court found in favor of Power REIT on all claims brought against it by NSC and WLE. In addition, the Court also found in favor of P&WV with respect to claims brought against P&WV by WLE. However, the Court did find in favor of NSC against P&WV for certain of its claims (fraud and breach of contract) and awarded nominal damages of \$1.00. In connection with NSC's demand for punitive damages, the Court ruled that NSC was not entitled to punitive damages.

On January 26, 2016, Power REIT and P&WV filed a Notice of Appeal to appeal the matter to the United States Court of Appeals for the Third Circuit. On April 28, 2016, Power REIT and P&WV filed its appellate brief. On June 27, 2016, NSC and WLE filed their reply brief. On August 10, 2016, Power REIT and P&WV filed a reply brief at which point the appeal was fully briefed. Power REIT and P&WV have retained the firm of Kecker & Van Nest LLP as lead counsel related to the appeal.

P&WV has provided key court filings in the litigation on its website ([www.pwreit.com](http://www.pwreit.com)) under a tab called "P&WV Litigation Update" which is under the "Investor Relations" tab. The provided documents and accompanying supporting documents are not comprehensive or complete and the full case docket is available from the Public Access to Court Records (PACER) website. Power REIT encourages interested parties to review all the public filings available on PACER and to review the risks and disclosures in Power REIT's Annual Report filed on Form 10-k and other documents filed from time to time with the Securities and Exchange Commission (SEC).

During the six months ended June 30, 2017 and 2016, P&WV incurred litigation related expenses of approximately \$4,000 and \$347,000, respectively. As of June 30, 2017, P&WV had incurred a total of approximately \$3.55 million of cumulative expenses related to the litigation. P&WV believes that the costs associated with the litigation are reimbursable by NSC under the Railroad Lease as additional rent, but NSC has refused to pay such amounts. At this point, in order to collect such amounts, P&WV would need to prevail on the appeal. There can be no assurance that P&WV will prevail in collecting its litigation expenses from NSC; accordingly, the expenses of the litigation are accrued and expensed as incurred.



As of the date of this filing, NSC has continued to make its quarterly base rental payments (\$228,750 per quarter) despite the pendency of the litigation. However, there can be no assurance that NSC will continue to make its base rental payments.

**Item 1A. Risk Factors.**

The Trust's results of operations and financial condition are subject to numerous risks and uncertainties as described in its Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 30, 2017, which risk factors are incorporated herein by reference. You should carefully consider these risk factors in conjunction with the other information contained in this report. Should any of these risks materialize, the Trust's business, financial condition and future prospects could be negatively impacted.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.**

None.

**Item 3. Defaults Upon Senior Securities.**

Not Applicable.

**Item 4. Mine Safety Disclosures.**

Not Applicable.

**Item 5. Other Information.**

Not Applicable.

**Item 6. Exhibits.**

Exhibit  
Number

Exhibit  
31.1      Section 302 Certification for David H. Lesser

Exhibit  
32.1      Section 906 Certification for David H. Lesser

Exhibit  
101      Interactive data files pursuant to Rule 405 of Regulation S-T, for the quarter ended June 30, 2017: (i) Consolidated Statements of Operations, (ii) Consolidated Balance Sheets, (iii) Consolidated Statements of



**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

**POWER REIT**

*/s/ David H. Lesser*

David H. Lesser

Chairman of the Board &

Chief Executive Officer, Secretary and Treasurer

Date: August 10, 2017

