

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE ANNUAL REPORTS  
FOR THE FISCAL ASSESSMENT OF ALL  
REGULATED ENTITIES.

CASE NO. 16-01-AU-RPT

## ENTRY ON REHEARING

Entered in the Journal on April 5, 2017

### I. SUMMARY

{¶ 1} The Commission grants the application for rehearing of Republic N&T Railroad, Inc. regarding the calculation of its fiscal annual assessment for 2016.

### II. APPLICABLE LAW

{¶ 2} R.C. 4905.10 requires each railroad and public utility to pay an annual assessment based upon its intrastate gross earnings for maintaining the operations of this Commission, and R.C. 4911.18 requires each public utility to pay an annual assessment toward the operating fund of the Ohio Consumers' Counsel (OCC).<sup>1</sup> In order to calculate such assessment, R.C. 4905.14 requires each public utility to file an annual report with the Commission. R.C. 4905.10(A) sets a minimum assessment of \$100 per company, regardless of their intrastate gross revenues in the reporting year.

{¶ 3} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters

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<sup>1</sup> R.C. 4905.03(A) defines public utility companies to include telephone companies, electric light companies (except regional transmission organizations), heating or cooling companies, natural gas distribution companies, pipeline companies, and water-works and sewage disposal system companies. Railroad, bridge, and water transportation companies are included in the annual reporting requirement under R.C. 4907.02 and 4907.20. All certified retail electric and natural gas suppliers and aggregators are also subject to this reporting requirement under R.C. 4928.06 and 4929.23; while R.C. 4905.10(D) provides that, for the purpose of annual assessment, "public utility" includes electric and gas suppliers and aggregators subject to certification under R.C. 4928.08 and 4929.20, respectively. R.C. 4911.01(A)(4) excludes railroads from the OCC's assessment base.

determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.

### III. PROCEDURAL HISTORY

{¶ 4} On March 8, 2017, the Commission issued its Second Finding and Order (Second Order) directing that each listed company pay the listed fiscal annual assessment for Fall 2016 by April 7, 2017. The Order also directed that a civil forfeiture of \$1,000 be assessed against any company with an unpaid assessment after April 7, 2017, and that any unpaid assessments and forfeiture amounts be certified to the Attorney General for collection no sooner than April 8, 2017.

{¶ 5} On March 21, 2017, Republic N&T Railroad, Inc. (Republic) filed an application for rehearing of the Second Order requesting that Staff recalculate Republic's fiscal annual assessment for 2016 to reflect Republic's lower intrastate gross revenues shown on its amended 2015 Annual Report submitted on March 16, 2017. Republic also requests that the Order's April 7, 2017 deadline be stayed with respect to Republic until such time as the Commission issues a decision on Republic's application for rehearing.

### IV. DISCUSSION

{¶ 6} The Commission finds that Republic has shown sufficient cause to grant its application for rehearing. Staff is directed to recalculate Republic's fiscal annual assessment for 2016 to reflect its amended 2015 Annual Report, and to send Republic a corrected invoice within ten days of the issuance of this Entry on Rehearing. Republic is directed to pay the corrected invoice within 30 days of receipt.

{¶ 7} As the Commission has ruled on Republic's application for rehearing prior to the assessment due date, Republic's request for a stay of the Second Order's April 7, 2017 payment deadline is moot.

**V. ORDER**

{¶ 8} It is, therefore,

{¶ 9} ORDERED, That Republic's application for rehearing be granted. It is, further,

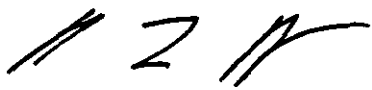
{¶ 10} ORDERED, That Staff send Republic a corrected invoice within ten days of the issuance of this Entry on Rehearing. It is, further,

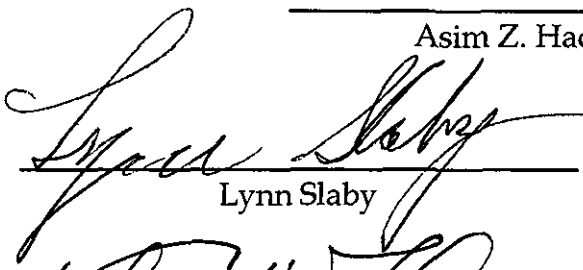
{¶ 11} ORDERED, That Republic pay its 2016 fiscal assessment within 30 days of receipt of the corrected invoice. It is, further,

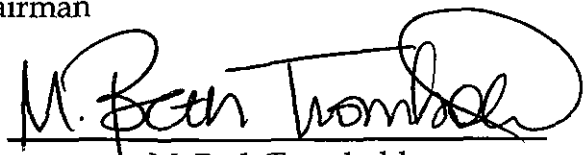
{¶ 12} ORDERED, That Republic's request for stay is moot. It is, further,

{¶ 13} ORDERED, That notice of this Entry on Rehearing be served upon Republic.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Asim Z. Haque, Chairman

  
Lynn Slaby

  
M. Beth Trombold

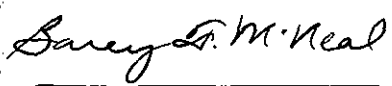
  
Thomas W. Johnson

  
Lawrence K. Friedeman

RMB/dah

Entered in the Journal

**APR 05 2017**

  
Barcy F. McNeal  
Secretary