

Power REIT  
Form S-4/A  
November 16, 2011

Registration No. 333-177802

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

Amendment No. 1  
to  
FORM S-4  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

PITTSBURGH & WEST  
VIRGINIA RAILROAD

POWER REIT

(Exact Name of Registrant as Specified in its Charter)

(Exact Name of Registrant as Specified in its Charter)

Pennsylvania  
(State or other jurisdiction of  
incorporation or organization)

Maryland  
(State or other jurisdiction of  
incorporation or organization)

6798  
(Primary Standard Industrial  
Classification Code Number)

6798  
(Primary Standard Industrial  
Classification Code Number)

25-6002536  
(I.R.S. Employer  
Identification No.)

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

55 Edison Avenue  
West Babylon, NY 11704  
(212) 750-0373  
(Address, Including Zip Code, and Telephone  
Number, Including Area Code, of Registrant's  
Principal Executive Offices)

David H. Lesser  
CEO & Chairman of the Board  
Power REIT  
Pittsburgh & West Virginia Railroad  
55 Edison Avenue  
West Babylon, NY 11704 (212) 750-0373  
(Name, Address, and Telephone Number, Including Area Code, of Agent for Service)

Copy to:  
Kevin Acklin, Esq.

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Leech Tishman Fuscaldo & Lampl LLC  
525 William Penn Place; 30th Floor  
Pittsburgh, PA 15219  
412-261-1600

Approximate date of commencement of proposed sale to the public: As soon as practical after this Registration Statement becomes effective and the consummation of the Reincorporation Merger described herein.

If the only securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box: "

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

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. (Check one):

Large accelerated filer	..	Accelerated filer	..
Non-accelerated filer (Do not check if a smaller reporting company)	..	Smaller reporting company	x

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer)	..
Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)	..

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not a solicitation of an offer to buy or sell these securities in any jurisdiction where the offer or sale is not permitted.

Subject to completion, dated November 16, 2011

POWER REIT  
PITTSBURGH & WEST VIRGINIA RAILROAD

1,623,250 Common Shares of Beneficial Interest to Be  
Issued Upon Consummation of the Reincorporation Merger

PITTSBURGH & WEST VIRGINIA RAILROAD, a Pennsylvania business trust (“PW”), is seeking to create shareholder value by expanding its business plan and investment strategy to invest in infrastructure assets consistent with maintaining its real-estate investment trust (“REIT”) status. Currently, the Company is pursuing opportunities in the energy and transportation sectors. The Board of Trustees believes the Company’s broadened investment strategy should enable the Company to utilize its public REIT status and capitalize on the significant opportunities that exist in the infrastructure industry. The Company’s business plan and infrastructure investment strategy is expected to build on its historical ownership of the real estate assets of Pittsburgh & West Virginia Railroad, which are currently triple-net leased to Norfolk Southern Corporation.

In order to execute its investment strategy, the Board of Trustees of PW believes that it is in PW’s best interests to conform to REIT industry conventions by reincorporating PW as a Maryland REIT trust and establishing an umbrella partnership subsidiary (“UPREIT”) to provide additional transaction and structuring flexibility. Furthermore, the Board of Trustees believes the name “Power REIT” is more reflective of the broadened business plan and focus of the Company.

The Board of Trustees of PW and the Board of Trustees of POWER REIT, a Maryland REIT trust and wholly-owned subsidiary of PW (“Power REIT”, and together with “PW” and each of their direct and indirect subsidiaries, the “Company”), have each approved the reincorporation of PW from the Commonwealth of Pennsylvania to the State of Maryland, which will be accomplished through the merger (the “Reincorporation Merger”) of PW with POWER REIT PA, LLC, a Pennsylvania limited liability company and wholly-owned subsidiary of Power REIT (“Power REIT PA”). The Reincorporation Merger will be completed pursuant to an Agreement and Plan of Merger (the “Merger Agreement”) substantially in the form attached as an Exhibit to this prospectus. Upon the effectiveness of the Reincorporation Merger, holders of PW common shares will receive one newly issued common share, \$0.001 par value per share, of Power REIT for each common share of PW they own, without any action of shareholders required, and PW will survive the Reincorporation Merger with Power REIT PA as the surviving entity and will become a wholly-owned subsidiary of Power REIT.

Following the consummation of the Reincorporation Merger, Power REIT intends to reorganize itself into an umbrella partnership REIT structure (the “UPREIT Reorganization”) by contributing the equity shares of PW to Power REIT, LP, a to be formed Delaware limited partnership (the “Operating Partnership”). The Operating Partnership will be controlled by Power REIT as the sole general partner of the Operating Partnership. Upon the completion of the UPREIT Reorganization, Power REIT will initially own all of the equity interests of the Operating Partnership, and PW will continue as a wholly-owned subsidiary of the Operating Partnership.

Each of Power REIT and Power REIT PA was formed specifically for the purposes of consummating the Reincorporation Merger, and neither entity has conducted any business nor has any material assets or liabilities. After

the consummation of the Reincorporation Merger, Power REIT intends to continue to be treated for tax purposes as a REIT. The number of issued and outstanding shares of Power REIT immediately following the Reincorporation Merger will be equal to the number of issued and outstanding shares of PW immediately prior to the Reincorporation Merger. In addition, it is expected that upon completion of the Reincorporation Merger, the shares of Power REIT will be listed for trading on the NYSE Amex under the symbol "PW."

The purpose of the Reincorporation Merger is to reincorporate the Company in Maryland and to conform to the corporate form we believe to be typical for most REITs. The Board of Trustees believes that Maryland has more comprehensive laws governing REITs and courts with greater expertise than Pennsylvania in addressing REITs and REIT related issues. Thus, we believe Maryland has developed a greater body of relevant case law which may provide the Trustees, management, lenders and transaction counterparties with greater certainty and predictability in management and affairs of the Company. As a result, the Board of Trustees believes that reincorporating PW as a Maryland REIT trust and being governed by Maryland law, like many publicly traded REITs in its peer group, is in the best interest of the Company.

The purpose of the UPREIT Reorganization is to allow Power REIT to acquire and hold its properties through the Operating Partnership, which may provide Power REIT with greater pricing and flexibility in acquisition and financing transactions such as by making available certain tax advantages to sellers of assets, lenders and investors. The UPREIT structure is widely used by REITs and provides significant benefits through increased flexibility in structuring transactions that are consistent with maintaining REIT status. We believe all of these benefits will improve market acceptance of Power REIT as an acquirer of assets and are expected to create shareholder value as the Company pursues its business plan. As a result, the Board of Trustees believes that completing the UPREIT Reorganization is in the best interest of the Company.

It is possible that factors outside the control of the Company could result in the Reincorporation Merger being completed at a later time, or not at all, or that the Trustees may, in their sole discretion and without notice to you, cancel, delay or modify the Reincorporation Merger and/or UPREIT Reorganization at any time for any reason.

We are not asking you for a proxy and you are requested not to send us a proxy. No shareholder action is required to effect the Reincorporation Merger or the UPREIT Reorganization. See “Reincorporation Merger - No Appraisal or Dissenters’ Rights” on page 3 of this prospectus.

**INVESTING IN OUR COMMON SHARES INVOLVES SIGNIFICANT RISKS. SEE “RISK FACTORS” BEGINNING ON PAGE 5 OF THIS PROSPECTUS.**

Neither the Securities and Exchange Commission nor any state securities regulators has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Our securities are not being offered in any jurisdiction where the offer is not permitted under applicable local laws.

The date of this prospectus is November 16, 2011.

#### ADDITIONAL INFORMATION

This prospectus incorporates by reference important business and financial information about the Company from other documents that are not included in or delivered with this prospectus. This information is available to you through the SEC’s website at [www.sec.gov](http://www.sec.gov) or from us, without charge, upon your request. You can obtain the documents incorporated by reference into this prospectus by requesting them in writing or by telephone from the Company at the following address and telephone number:

Power REIT  
Pittsburgh & West Virginia Railroad  
55 Edison Avenue  
West Babylon, NY 11704  
(212) 750-0373

For more information, see “Where You Can Find More Information.”

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## ABOUT THIS PROSPECTUS

You should rely only on the information contained in this prospectus or any free writing prospectus we may authorize to be delivered to you. We have not, and have not authorized anyone else, to provide you with different or additional information. We are not making an offer of securities in any state or other jurisdiction where the offer is not permitted. You should not assume that the information contained in this prospectus is accurate as of any date other than the date on the front of this prospectus regardless of its time of delivery, and you should not consider any information in this prospectus or in the documents incorporated by reference herein to be investment, legal or tax advice. We encourage you to consult your own counsel, accountant and other advisors for legal, tax, business, financial and related advice regarding an investment in our securities.

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As used in this prospectus, "Company," "we," "our" and "us" refer to Power REIT and Pittsburgh & West Virginia Railroad, and their direct and indirect subsidiaries, unless stated otherwise or the context requires otherwise.



## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

Throughout this prospectus and the documents incorporated by reference in this prospectus we make “forward-looking statements,” as that term is defined in Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Forward-looking statements include the words “may,” “would,” “could,” “likely,” “should,” “estimate,” “intend,” “plan,” “continue,” “believe,” “expect” or similar words as well as statements relating to our acquisition, development and expansion plans, objectives or expectations, our liquidity projections and similar topics. These forward-looking statements generally relate to our plans, objectives, prospects and expectations for future operations and results and are based upon what we consider to be reasonable future estimates. Although we believe that our plans, objectives, prospects and expectations reflected in, or suggested by, such forward-looking statements are reasonable at the present time, we may not achieve them or we may modify them from time to time. Furthermore, there is no assurance that any positive trends suggested or referred to in such statements will continue. These forward-looking statements are not guarantees of future performance, and a variety of factors could cause our actual results to differ materially from the anticipated or expected results expressed in these forward-looking statements. Many of these factors are beyond our ability to control or predict, and readers are cautioned not to put undue reliance on those forward-looking statements. You should read this prospectus thoroughly with the understanding that actual future results may be materially different from what we expect. In particular, you should read the “Risk Factors” section of this prospectus for information regarding risk factors that could affect our results.

The following list, which is not intended to be an all-encompassing list of risks and uncertainties affecting us, summarizes several factors that could cause our actual results to differ materially from those anticipated or expected in these forward-looking statements:

- general economic conditions in market areas where we conduct business;
- business conditions in the railroad and transportation industry or other infrastructure industries in which we might invest;
  - the regulatory environment;
  - fluctuations in interest rates;
  - costs related to pursuing broader business strategies;
  - the ability of the Company to maintain its REIT status;
- the performance of existing investments or new investments that the Company may make; and
  - other material items.

We undertake no obligation to update publicly forward-looking statements, whether as a result of new information, future events or otherwise, except as may be required by law. You are advised, however, to consult the “Risk Factors” section of this prospectus, in which we provide cautionary discussion of risks, uncertainties and assumptions relevant to our business. These are factors that, individually or in the aggregate, management believes could cause our actual results to differ materially from expected and historical results. We note these factors for investors as permitted by the Private Securities Litigation Reform Act of 1995. You should understand that it is not possible to predict or identify all such factors. Consequently, you should not consider such disclosures to be a complete discussion of all potential risks or uncertainties.





## PROSPECTUS SUMMARY

The following summary provides an overview of certain information about the Company, the Reincorporation Merger and the UPREIT Reorganization and may not contain all the information that is important to you. This summary is qualified in its entirety by, and should be read together with, the information contained in other parts of this prospectus and the documents we incorporate by reference. You should read this entire prospectus and the documents that we incorporate by reference carefully before making a decision about whether to invest in our securities.

### Information about the Company

#### Power REIT

Power REIT was formed as a Maryland REIT trust on August 26, 2011 specifically for the purposes of consummating the Reincorporation Merger. Power REIT has not conducted any business nor holds any material assets or liabilities, other than the equity shares of Power REIT PA. After the consummation of the Reincorporation Merger, Power REIT intends to be treated for tax purposes as a REIT. As such, the trust itself will be exempt from federal and state income tax, to the extent that its income is distributed to shareholders. However, dividends paid by Power REIT are ordinary taxable income to its shareholders. In order to maintain qualified status, at least 90% of ordinary taxable income must be distributed.

#### Power REIT PA

Power REIT PA, a Pennsylvania limited liability company, is a wholly-owned subsidiary of Power REIT that was formed on August 29, 2011 for the purpose of effecting the Reincorporation Merger. After the consummation of the Reincorporation Merger, Power REIT PA will cease to exist, and PW will survive the merger with Power REIT PA and become a wholly-owned subsidiary of Power REIT.

#### Pittsburgh & West Virginia Railroad

PW was organized in Pennsylvania in 1967, as a business trust, for the purpose of acquiring the business and property of a small leased railroad. The railroad was leased in 1964 to Norfolk and Western Railway Company, now known as Norfolk Southern Corporation ("NSC"), by PW's predecessor company for 99 years in exchange for fixed annual rent payments, with the right of unlimited renewal by NSC for additional 99 year periods under the same terms and conditions, including the same annual rent payments. Wheeling & Lake Erie Railway Company ("WLE") subleases from NSC the right of way and real estate owned by PW. The sublease is substantially similar by virtue of NSC's assignment and WLE's assumption of the rights and obligations of the original lease between PW and NSC. We collectively refer to NSC and WLE as "Railroad Lessee."

PW's current business consists solely of the ownership of the properties subject to the lease, and of collection of rent thereon. The rent received is \$915,000 per year, in cash, which amount is fixed and unvarying for the life of the lease, including any renewal periods. In addition, the lease provides that certain non-cash items be recorded as rental income each year. These entries are equal in amount to the sum of (1) PW's federal income tax deductions for depreciation, retirements, and amortization of debt discount expenses, and (2) all other expenses of PW, except those expenses incurred for the benefit of its shareholders. For financial reporting purposes, only the cash income is reported, because the non-cash items, although recorded under the terms of the lease, have no financial value because of the indeterminate settlement date.

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PW has elected to be treated for tax purposes as a REIT. As such, the trust itself is exempt from federal income tax, to the extent that its income is distributed to shareholders. However, dividends paid by PW are ordinary taxable income to its shareholders. In order to maintain qualified status, at least 90% of ordinary taxable income must be distributed. Upon completion of the Reincorporation Merger with Power REIT PA, PW will be the surviving entity and will become a wholly-owned subsidiary of Power REIT.

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PW currently has no employees. Accounting services and other general administrative services are provided through a contract with an affiliate of our Secretary and Treasurer. After the Reincorporation Merger, the Secretary and Treasurer of PW will continue to provide accounting and other general administrative services to Power REIT. The Company intends to expand its business operations and may hire employees, advisors and/or consultants after the Reincorporation Merger.

PW's shares are listed, and upon the consummation of the Reincorporation Merger, we expect that Power REIT's shares will be listed, for trading on the NYSE Amex under the symbol of "PW."

#### Risk Factors

Before investing in shares of the Company, you should carefully consider all of the information contained in or as incorporated by reference into this prospectus, as well as the specific factors under the heading "Risk Factors."

#### Reincorporation Merger

Our Board of Trustees has approved the change of the Company's state of incorporation from Pennsylvania to Maryland, which will be accomplished through the merger of PW with Power REIT PA (the "Reincorporation Merger"). Upon the effectiveness of the Reincorporation Merger, holders of PW common shares will receive one newly issued common share of Power REIT for each common share of PW they own, without any action of shareholders required, and PW will survive the Reincorporation Merger with Power REIT PA as the surviving entity and will become a wholly-owned subsidiary of Power REIT. The Company believes that after the Reincorporation Merger, we will continue to be organized and will continue to operate in such a manner as to qualify for taxation as a REIT under the Internal Revenue Code of 1986, as amended (the "Code"). For more information about the Reincorporation Merger, see "Questions and Answers Relating to the Transactions."

As a result of the Reincorporation Merger, the Maryland statute governing real estate investment trusts formed under the laws of Maryland (the "Maryland REIT Law") will govern the affairs of the Company. Pennsylvania law would no longer apply to the Company, but will continue to govern the affairs of PW as a Pennsylvania business trust. Immediately following the Reincorporation Merger:

- Our name will change from "Pittsburgh & West Virginia Railroad" to "Power REIT".

Our headquarters will continue to be located in West Babylon, New York. We will not necessarily establish any offices or operations in Maryland as a result of the Reincorporation Merger.

Our business and management will not change substantially and will continue as they were immediately before the Reincorporation Merger, and the PW trustees elected at the PW 2011 annual meeting will serve as Trustees of Power REIT until the Power REIT 2012 annual meeting.

Our fiscal year, assets, liabilities and dividend policies will be substantially the same as immediately before the Reincorporation Merger.

Each outstanding common share of beneficial interest of PW will convert into one common share of beneficial interest of Power REIT, without any action of shareholders required.

Our Board of Trustees believes the Reincorporation Merger is in the best interest of the Company because Maryland has more comprehensive laws governing REITs and courts with greater expertise than Pennsylvania in addressing REITs and REIT related issues. Thus, we believe Maryland has developed a greater body of relevant case law which

may provide the Trustees and management greater certainty and predictability in management and affairs of the Company.

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## Merger Agreement

PW and Power REIT have agreed to consummate the Reincorporation Merger under the terms of an Agreement and Plan of Merger dated as of [•], 2011 (the “Merger Agreement”), by and among PW, Power REIT and Power REIT PA. The Board of Trustees of each of PW and Power REIT has approved the merger of PW and Power REIT PA pursuant to the terms and conditions of the Merger Agreement and subject to all regulatory approvals required.

## Form of the Merger

Pursuant to the Merger Agreement, Power REIT PA will be merged with and into PW, with PW continuing as the surviving entity and becoming a wholly-owned subsidiary of Power REIT. The Reincorporation Merger will not result in any immediate change to the Company’s business, policies, assets or liabilities of the Company. Following the merger, the principal executive offices of Power REIT will have the same address and telephone number as those of PW. Broadridge Corporate Issuer Solutions, Inc., which was appointed as PW’s transfer agent on November 1, 2011 in anticipation of the Reincorporation Merger, will continue to serve as Power REIT’s transfer agent upon the completion of the Reincorporation Merger.

## Effective Time

The Reincorporation Merger will take effect (the “Effective Time”) upon the filing of the Certificate of Merger with the Secretary of State of the Commonwealth of Pennsylvania. At the Effective Time, the separate existence of Power REIT PA will cease, PW will be the surviving entity and PW will become a wholly-owned subsidiary of Power REIT, and the shareholders of PW will become shareholders of Power REIT.

## Merger Consideration

At the Effective Time, holders of PW common shares will receive one newly issued common share of Power REIT for each common share of PW they own at the Effective Time, without any action required by PW’s shareholders. The number of issued and outstanding shares of Power REIT immediately following the Effective Time will be equal to the number of issued and outstanding shares of PW immediately prior to the Effective Time. We expect that the common shares of Power REIT issued in connection with the Reincorporation Merger will be listed and traded on the NYSE Amex under the symbol “PW.”

## Shareholder Rights

Holders of Power REIT common shares will be entitled to receive dividends when, as and if declared by our Board of Trustees, out of funds legally available for distribution. If Power REIT were to liquidate, dissolve or wind up its affairs, holders of Power REIT common shares will be entitled to share equally and ratably in any assets available for distribution to them, after payment or provision for payment of Power REIT’s debts and other liabilities and the preferential amounts owing with respect to any of its outstanding preferred shares. Holders of Power REIT common shares will have no preemptive rights, which means they have no right to acquire any additional common or preferred shares or any other security that Power REIT may issue at a later date.

The holders of Power REIT common shares will be entitled to cast one vote for each share on all matters presented to our holders for a vote.

## No Appraisal or Dissenters’ Rights

Under Pennsylvania law and PW's Declaration of Trust and Regulations, the holders of PW common shares are not entitled to appraisal or dissenters' rights in connection with the Reincorporation Merger. We are not asking for your vote or soliciting that you send us a proxy in connection with the Reincorporation Merger.

#### Regulatory Approvals

We are not aware of any federal, state or local regulatory requirements that must be complied with or approvals that must be obtained prior to completion of the Reincorporation Merger pursuant to the Merger Agreement and the transactions contemplated thereby, other than compliance with applicable federal and state securities laws, the filing of a certificate of merger as required under Pennsylvania law.

### Accounting Treatment

The Reincorporation Merger will be accounted for as a reverse merger whereby, for accounting purposes, PW would be considered the acquirer of Power REIT PA and the surviving company would be treated as the successor to the historical operations of PW. Accordingly, the historical financial statements of PW, which PW previously reported to the SEC on Forms 10-K and 10-Q, among other forms, as of and for all periods through the date of this Registration Statement, would be treated as the financial statements of the surviving corporation. Further, upon completion of the Reincorporation Merger, the surviving company will be a wholly-owned subsidiary of Power REIT and Power REIT will apply generally accepted accounting principles (GAAP) in consolidating its wholly-owned subsidiary. See “Summary Unaudited Pro Forma Consolidated Financial Information.”

### Management

Immediately following the Effective Time, the Board of Trustees and officers of Power REIT will be composed of the current Board of Trustees and officers of PW, and will continue to serve in accordance with the same terms as they would otherwise have served as Trustees or officers of PW.

### Expected Timing of the Reincorporation Merger

We currently expect to complete the Reincorporation Merger immediately following the effectiveness of our Registration Statement subject to receipt of any required regulatory approvals. It is possible that factors outside the control of the Company could result in the Reincorporation Merger being completed at a later time, or not at all, or that the Trustees may, in their sole discretion and without notice to you, cancel, delay or modify the Reincorporation Merger at any time for any reason.

### UPREIT Reorganization

Following the consummation of the Reorganization Merger, the Company expects to reorganize itself into an umbrella partnership REIT structure (the “UPREIT Reorganization”). We expect that the UPREIT Reorganization will be accomplished through the contribution by Power REIT of its holdings of equity shares of PW to Power REIT, LP a to be formed Delaware limited partnership (the “Operating Partnership”). In exchange for the contribution of the shares of PW to the Operating Partnership, Power REIT will receive limited partnership interests in the Operating Partnership, and PW will thus become a wholly-owned subsidiary of the Operating Partnership.

The Operating Partnership will be controlled by Power REIT as the sole general partner of the Operating Partnership. After the UPREIT Reorganization, the Company will conduct substantially all of its business through the Operating Partnership and own substantially all of its assets through the Operating Partnership, whether directly or indirectly through subsidiaries of the Operating Partnership, such as PW. Power REIT will manage the affairs of the Operating Partnership by directing the affairs of the Operating Partnership as its sole general partner. For more information about the UPREIT Reorganization, see “Questions and Answers Relating to the Transactions.”

### Expected Timing of the UPREIT Reorganization

We currently expect to complete the UPREIT Reorganization following the consummation of our Reincorporation Merger subject to receipt of any required regulatory approvals. It is possible that factors outside the control of the Company could result in the UPREIT Reorganization being completed at a later time, or not at all, or that the Trustees may, in their sole discretion and without notice to you, cancel, delay or modify the UPREIT Reorganization at any time for any reason.





## Federal Income Tax Consequences

The Reincorporation Merger and UPREIT Reorganization (together, the “Transactions”) are intended to be tax free transactions under the Code. Accordingly, no gain or loss will be recognized by the holders of shares of PW as a result of the Transactions, and no gain or loss will be recognized by PW or Power REIT. Each holder of the former shares of PW will have the same tax basis in the shares of Power REIT immediately after the Effective Time as such holder had in the shares of PW immediately prior to the Effective Time. The holding period with respect to the shares of Power REIT will include the period during which such holder held the corresponding PW shares, provided such shares were held by such holder as a capital asset immediately prior to the Effective Time. The Company has not obtained a ruling from the Internal Revenue Service with respect to the tax consequences of the Transactions. See “Material U.S. Federal Income Tax Consequences.”

The foregoing is only a summary of certain federal income tax consequences. You should consult your own tax advisor regarding the federal tax consequences of the Transactions as well as any potential consequences under the laws of any other jurisdiction.

## RISK FACTORS

An investment in the Company’s common shares involves risks. Anyone who is making an investment decision regarding the Company’s securities should carefully consider the following risk factors, together with all of the other information included in, or incorporated by reference into, this prospectus before making that decision. Some of these factors relate principally to the Company’s business and business plans. The risks and uncertainties described below are not the only ones facing us. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also have a material adverse effect on our business and operations. If any of the matters included in the following risks were to occur, the Company’s business, financial condition, results of operations, cash flows or prospects could be materially adversely affected. In such case, you may lose all or part of your investment.

### Risks Relating to the Transactions

Maryland law may be less favorable than Pennsylvania law in certain circumstances, including possible anti-takeover effects under Maryland law.

Certain provisions of Maryland law and Power REIT’s Declaration of Trust and Bylaws permit our Board of Trustees, without shareholder approval and regardless of what is provided in our declaration of trust or bylaws, to implement takeover defenses that we may not yet have and to take, or refrain from taking, certain other actions without those decisions being subject to any heightened standard of conduct or standard of review as such decisions may be subject under Pennsylvania law and PW’s Declaration of Trust and Regulations. The business combination provisions of Maryland law (if our Board of Trustees decides to make them applicable to us), the control share acquisition provisions of Maryland law (if the applicable provisions in our Bylaws are rescinded), the limitations on removal of Trustees, the restrictions on the acquisition of our shares of beneficial interest, the power to issue additional shares and the advance notice provisions of our Bylaws could have the effect of delaying, deterring or preventing a transaction or a change in the control that might involve a premium price for holders of the common shares or might otherwise be in their best interest.

There may be other circumstances, where Maryland is less favorable than Pennsylvania law with respect to shareholder rights or the operations of the Company. Although the Company believes Maryland has a well established body of REIT case law, such case law may be adverse to the interests of the Company in certain circumstances.

You have no dissenters' or appraisal rights in connection with the Transactions.

Under Pennsylvania law and PW's Declaration of Trust and Regulations, you will not be entitled to dissenters' or appraisal rights of appraisal in connection with the Transactions. Accordingly, if the Transactions are completed, you will not be entitled to ask for an alternative valuation of your PW common shares. We are not asking for your vote or soliciting that you send us a proxy in connection with the Transactions.

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The UPREIT structure will make Power REIT a holding company with most of its assets held by the Operating Partnership and its ability to make dividends dependent on Operating Partnership distributions.

Because Power REIT expects to form an Operating Partnership and generally conduct its operations and hold its assets through the Operating Partnership, Power REIT's ability to service its debt obligations and its ability to pay dividends on its common shares will be strictly dependent upon the earnings and cash flows of the Operating Partnership and the ability of the Operating Partnership to make intercompany distributions to Power REIT. Under the Delaware Revised Uniform Limited Partnership Act, the Operating Partnership is prohibited from making any distribution to Power REIT to the extent that at the time of the distribution, after giving effect to the distribution, the total liabilities of the Operating Partnership (other than some non-recourse liabilities and some liabilities to the partners) would exceed the fair market value of the assets of the Operating Partnership.

Although, it is currently expected that the Company will reorganize itself into an UPREIT structure following the Reincorporation Merger, there can be no assurance as to the timing of the UPREIT Reorganization or that the UPREIT Reorganization will occur at all. Delays or non-consummation of the UPREIT Reorganization may impact the Company's business plans, future results and market perception.

Adoption of the UPREIT structure could inhibit Power REIT from selling properties or retiring debt that would otherwise be in the best interest of Power REIT.

To ensure that the sellers of properties are able to contribute properties to the Operating Partnership on a tax-deferred basis, the seller of such properties may require Power REIT to agree to maintain a certain level of minimum debt at the Operating Partnership level and refrain from selling such properties for a period of time. Adoption of the UPREIT structure, therefore, could inhibit Power REIT from selling properties or retiring debt that would otherwise be in the best interest of Power REIT.

The interest of Power REIT may be diluted upon the issuance of additional units of the Operating Partnership.

Upon the issuance of units of the Operating Partnership, the interest of Power REIT (and therefore that of Power REIT's shareholders) in assets of the partnership would be diluted. This dilutive effect would remain if units were redeemed (as would be expected) for cash (which may be funded through newly issued Power REIT shares) or for Power REIT shares, even though Power REIT's interest in the Operating Partnership would increase if units were redeemed for stock or cash. The dilutive effect from property acquisitions in exchange for units of the Operating Partnership would be comparable to that from sales of shares of Power REIT shares to fund acquisitions.

In certain circumstances the interests of Power REIT may conflict with the interests of the other limited partners of the Operating Partnership.

Power REIT as the sole general partner of the Operating Partnership would owe a fiduciary obligation to the limited partners upon the admission of additional limited partners to the Operating Partnership. In most cases, the interests of the limited partners would coincide with the interests of Power REIT and its shareholders because (a) Power REIT would own a substantial amount of the limited partnership interests in the Operating Partnership and (b) the limited partners will generally receive shares of Power REIT's common stock or cash proceeds tied to the share price of Power REIT common stock upon redemption of their Operating Partnership units. Under certain circumstances, however, the rights and interests of the limited partners might adversely conflict with those of Power REIT's shareholders. For example, the sale of certain properties by Power REIT or the sale or merger of Power REIT could cause adverse tax consequences to particular limited partners and therefore, the Operating Partnership, may be contractually prohibited from the sale of those properties.

Conflicts of interest may arise between holders of Power REIT common stock and holders of partnership interests in Power REIT's Operating Partnership.

Power REIT's trustees and officers have duties to Power REIT and to Power REIT shareholders under Maryland law in connection with their management of Power REIT. At the same time, Power REIT will have fiduciary duties under Delaware law to the Operating Partnership and to the limited partners in connection with the management of the Operating Partnership. Power REIT's duties as general partner of the Operating Partnership and its partners may come into conflict with the duties of Power REIT's trustees and officers to Power REIT and Power REIT shareholders.