DECISION MEMORANDUM

- TO: COMMISSIONER ANDERSON COMMISSIONER HAMMOND COMMISSIONER LODGE COMMISSION SECRETARY COMMISSION STAFF LEGAL
- FROM: MICHAEL DUVAL DEPUTY ATTORNEY GENERAL
- **DATE:** MARCH 19, 2024

SUBJECT: IN THE MATTER OF ST. MARIES RIVER RAILROAD COMPANY FAILURE TO PAY ITS 2023 ASSESSMENT FEES AND PROMPLY COMPLY WITH COMPLY WITH STATUTORY MANDATES; CASE NO. SMR-R-24-01.

St. Maries River Railroad Company ("Company") is a short line railroad providing freight service between Plummer and Bovill, Idaho. The Company is a "railroad corporation" and a "common carrier" as defined by *Idaho Code* §§ 61-111 and 61-113. As such, the Company is a public utility subject to the jurisdiction of the Commission. *Idaho Code* § 61-129. This matter comes before the Commission due to the Company's failure to pay its regulatory fees for 2023, as required by *Idaho Code* §§ 61-1001 through 61-1005. According to Commission Staff ("Staff"), delays in the Company paying its statutory assessment fees have become an unacceptable norm. *See* Exhibit A attached to Affidavit Nancy Ashcraft, **Exhibit 1**. Commission Staff requests that the Commission order the Company to appear at a show cause hearing and explain its conduct regarding these delays. Staff also requests that the Commission order the Company to pay its 2023 assessment fees.

On December 5, 2023, Staff sent a letter via Certified Mail that stated that the Company owed a 2023 Assessment Amount of \$6,117.91 plus \$156.04 of accrued interest as of that date.. The letter also noted that the Company had "a history of failing to pay its yearly assessment on time" and provided instructions regarding the potential payment of installments. *See* Exhibit A attached to Affidavit of Nancy Ashcraft, **Exhibit 1**. Staff has not received any payment from the Company.

STAFF RECOMMENDATION

Staff recommends that the Commission issue a Notice of Hearing and Order to Show Cause why the Company should not be required by the Commission to:

- 1. Immediately pay its past due Assessment or semi-annual installment, plus all accrued interest;
- Pay up to a \$2,000.00 penalty per day for its continuing failure to abide by Commission mandates including the payment of its 2023 Assessment or semiannual installment and all accrued interest. *See Idaho Code* §§ 61-706 & 61-707; and
- 3. Appear before the Commission at a Show Cause Hearing in April, at a date and time to be set by the Commission in its order, to explain its history of late payment.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Hearing and Order to Show Cause why the Company should not be required by the Commission to:

- 1. Immediately pay its past due Assessment or semi-annual installment, plus all accrued interest;
- Pay up to a \$2,000.00 penalty per day for its continuing failure to abide by Commission mandates including the payment of its 2023 Assessment or semiannual installment and all accrued interest. *See Idaho Code* §§ 61-706 & 61-707; and
- 3. Appear before the Commission at a Show Cause Hearing Scheduled in April, at a date and time to be set by the Commission in its order, to explain its history of late payment?

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Michael Duval Deputy Attorney General

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DECISION MEMORANDUM

EXHIBIT 1 Nancy Ashcraft Affidavit (Attached)

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSIONEIVED

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2024 MAR 15 PM 2:28

IN THE MATTER OF ST. MARIES RIVER RAILROAD COMPANY'S FAILURE TO PAY SPECIAL REGULATORY FEE PURSUANT TO *IDAHO CODE* §§ 61-1001 THROUGH 61-1005

SS.

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CASE NO. SMR-R-24-01 AND PUBLIC TELETIES COMMISSION AFFIDAVIT OF NANCY ASHCRAFT

STATE OF IDAHO)

County of Ada

I, Nancy Ashcraft, being first duly sworn under oath, depose and state as follows:

- 1. My name is Nancy Ashcraft. I am over 21 years of age, of sound mind, and I have personal knowledge of the facts stated herein.
- 2. The information contained herein is true and correct to the best of my knowledge and belief.
- 3. I am a Financial Specialist, Senior at the Idaho Public Utilities Commission ("Commission"). I started working in this position in 2016. I am responsible for the billing and collection of annual fees assessed on public utilities and railroads as described in *Idaho Code* §§ 61-1001 through 61-1005.
- 4. In my position I am aware that St. Maries River Railroad Company ("Company") has a history of being slow or unresponsive in the payment of its annual assessment fees ("Assessment"). For example, the Company has not paid its 2023 Assessment despite requests by Staff for it to do so.
- 5. In May and November 2023, the Company failed or refused to pay its annual regulatory fees.
- 6. As of December of 2023, the Company was assessed \$156.04 in interest on the outstanding balance of its Assessment of \$6,117.91 at the rate of six percent (6%).
- 7. Staff sent the Company a Demand Letter via certified mail outlining the amounts owed by the Company. The Demand Letter also provided the Company with notice of the potential for the Commission to take legal action against it—including the Commission

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ordering the Company to Show Cause for its failures to comply with Commission mandates. This Demand Letter was delivered to the Company on December 13, 2023. A true and correct copy of the Demand Letter is attached hereto and incorporated by reference herein as **Exhibit A**.

8. Despite such action by Staff, the Company has failed to pay its Assessment, and the applicable interest owed to the Commission remains unpaid and past due.

Dated this 15 day of March 2024.

Nancy Ashcraft Financial Specialist, Senior Idaho Public Utilities Commission

SUBSCRIBED AND SWORN to before me this 15^M day of March 2024.



WAR. HAWKE

Notary Public for Idaho Residing at: Ada County, Idaho Commission expires: March 15, 2025



Idaho Public Utilities Commission

P.O. Box 83720, Boise, ID 83720-0074

Brad Little, Governor

Eric Anderson, President John R. Hammond, Jr., Commissioner Edward Lodge, Commissioner

VIA CERTIFIED MAIL

December 5, 2023

Michael Williams, President St. Maries River Railroad Company 10100 N Ambassador Dr., Ste 105 Kansas City, MO 64153

Re: Unpaid Annual Assessment Fees - Notice of Possible Order to Show Cause and Legal Action

Dear Mr. Williams,

This correspondence is sent to you regarding St. Maries River Railroad's (the "Company") failure to pay its 2023 annual assessment ("Assessment"), in the amount of \$6,117.91 plus the accrued interest in the amount of \$156.04. The Company has a history of failing to pay its yearly assessment on time. A copy of the latest Statement showing the amount of the unpaid 2023 Assessment and accrued interest is enclosed. *Idaho Code* § 61-1005 provides that such assessment may be paid to the commission in equal semi-annual installments on the 15th day of May and November each year.

DEMAND IS HEREBY MADE that the Company immediately pay the outstanding balance due by hand delivering payment to:

Idaho Public Utilities Commission 11331 W. Chinden Blvd., Bldg. 8, Suite 201-A Boise, Idaho 83714

or by U.S. Mail at:

P.O. Box 83720 Boise, Idaho 83720-0074 Attn: Nancy Ashcraft.

Exhibit "A"

If the Commission does not receive the Company's **full payment by December 20, 2023**, the Commission will initiate formal proceedings to compel that payment. Such proceedings may include an administrative proceeding in which the Company is required to appear before the Commission in Boise, Idaho to show cause why the Commission should not order the Company to:

- Immediately pay its unpaid 2023 Assessment plus any accrued interest; and,
- Pay up to a \$2,000.00 penalty per day for the Company's continuing failure to pay the 2023 Assessment and all accrued interest. See Idaho Code §§ 61-706 & 61-707.

Additionally, the Commission may seek a court order to collect the 2023 Assessment and all accrued interest, plus any penalties it may assess. See Idaho Code §§ 61-1005 & 61-712. In both administrative and court proceedings, the Commission would ask the tribunal to order the Company to pay the Commission's attorney's fees and costs to prosecute the case. See Idaho Code §§ 12-117, -120, -121 and Idaho Rule of Civil Procedure 54.

Thank you for your prompt attention to this matter.

Sincerely,

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Maria Barratt-Riley Executive Director

Enclosures

cc: Nancy Ashcraft



St. Maries River Railroad Company 10100 N Ambassador Dr., Ste. 105

Kansas City, MO 64153

Idaho Public Utilities Commission

Brad Little, Governor

Eric Anderson, President John R. Hammond, Jr., Commissioner Edward Lodge, Commissioner

Statement

Date	
12/5/2023	

Account #

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SMR-R

Date	Т	Ar	nount Balance				
12/31/2020	Balance forward					0.00	
04/19/2021	INV #2021-019.			7,930.47		7,930.47	
	2023 Railroad As						
05/13/2021	Tax: State Sales T PMT #5278, REC21	•		-7,930.47		0.00	
04/21/2022	INV #2022-019.	038		6,890.18		6,890.18	
04/21/2022	2023 Railroad As	sessment \$6 800 18		0,090.10		0,090.10	
	Tax: State Sales T						
07/05/2022	PMT #5442. REC23	0		-6,890.18		0.00	
07/05/2022	INV #INT-22-061.			28.32		28.32	
	Interest Charge \$2	28.32					
	Tax: State Sales T						
04/18/2023	INV #2023-019.	-		6,117.91		6,146.23	
	2023 Railroad As	sessment \$6,117.91					
	Tax: State Sales T	ax @ 6.0% = 0.00					
12/05/2023	INV #INT-23-003.			127.72		6,273.95	
	Interest Charge \$1						
	Tax: State Sales Tax @ 6.0% = 0.00						
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CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST	61-90 DAYS PAST	OVER 90	DAYS	Amount Due	
CORRENT	1-30 DATS FAST DUE	DUE	DUE	PAST DUE		Amount Due	
105 50	0.00	0.00	0.00			¢< 272.05	
127.72	0.00	0.00	0.00	6,146.2	2.5	\$6,273.95	

Please contact Nancy Ashcraft at (208) 334-0325 or by email at nancy.ashcraft@puc.idaho.gov if you have any questions or need additional information.