

AMERICAN POWER GROUP Corp
Form 10-Q/A
June 29, 2015

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Form 10-Q/A

(Mark One)

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

For the quarterly period ended December 31, 2014

or

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

For the transition period from _____ to _____

Commission File Number: 1-13776

American Power Group Corporation
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

71-0724248
(I.R.S. Employer
Identification No.)

7 Kimball Lane, Lynnfield MA
(Address of principal executive offices)
(781) 224-2411
(Registrant's telephone number, including area code)

01940
(Zip Code)

(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 (section 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
 Non-accelerated Filer (do not check if a smaller reporting company)

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

As of February 13, 2015 there were 51,133,556 shares of the registrant's Common Stock outstanding.

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EXPLANATORY NOTE

We are filing this Amendment No. 1 on Form 10-Q/A to amend and restate in their entirety the following items of our Quarterly Report on Form 10-Q for the quarter ended December 31, 2014 as originally filed with the Securities and Exchange Commission on February 17, 2015 (the "Original Form 10-Q"): (i) Item 1 of Part I "Financial Information," (ii) Item 2 of Part I, "Management's Discussion and Analysis of Financial Condition and Results of Operations," (iii) Item 4 of Part I, "Controls and Procedures," and (iv) Item 6 of Part II, "Exhibits", and we have also updated the signature page, the certifications of our Chief Executive Officer and Chief Financial Officer in Exhibits 31.1, 31.2, 32.1 and 32.2, and our financial statements formatted in Extensible Business Reporting Language (XBRL) in Exhibits 101. No other sections were affected, but for the convenience of the reader, this report on Form 10-Q/A restates in its entirety, as amended, our Original Form 10-Q. This report on Form 10-Q/A is presented as of the filing date of the Original Form 10-Q and does not reflect events occurring after that date, or modify or update disclosures in any way other than as required to reflect the explanation and restatement described below. Concurrently with the filing of this Form 10-Q/A, we are also filing Amendment No. 1 on Form 10-K/A to our Annual Report on Form 10-K for the year ended September 30, 2014, as originally filed with the SEC on December 22, 2014 (the "Original Form 10-K"), to provide similar updates.

In conjunction with the private placement of our 10% Convertible Preferred Stock in April 2012 and November 2014 we issued warrants which contained anti-dilution adjustment provisions that protect the holders from the dilutive effects of subsequent issuances of our Common Stock at prices below the warrants' exercise prices. These provisions, however unlikely to be triggered, could result in downward adjustments of the exercise prices of the warrants and, therefore, increases in the number of shares of our Common Stock issuable upon their exercise. In October 2012, the Financial Accounting Standards Board issued ASU 2012-04, Technical Corrections and Improvements ("ASU 2012-04"), which contained technical corrections to guidance on which we had previously relied in forming our initial conclusions regarding the accounting for warrants containing these anti-dilution protections. Based upon our extensive review of ASU 2012-04, we have now concluded that these warrants did not meet the criteria for classification as equity, as previously recorded, and must be recorded as a liability, with the value of the warrants recorded at fair value on the transition/effective date, and subsequent changes in fair value recorded in earnings on a quarterly basis. Based on transition guidance provided, we determined our effective/transition date for implementation of ASU 2012-04 to be October 1, 2013.

As a result of the foregoing, we have determined that our previously reported results for the three months ended December 31, 2014 should no longer be relied upon and need to be updated to reflect the retroactive correction of this accounting error and correctly reflect the accounting for the value of the warrants containing anti-dilution protections pursuant to the guidance provided by ASU 2012-04. The condensed consolidated balance sheets, the condensed consolidated statements of operations, the condensed consolidated statement of changes in stockholders (deficit) equity and the condensed consolidated statements of cash flows for the three months ended December 31, 2014 included in this Form 10-Q/A, have been restated to include the effects of the correction of this accounting error. In addition, we have made necessary conforming changes in "Management's Discussion and Analysis of Financial Condition and Results of Operations" resulting from the correction of this error. Our condensed consolidated financial statements (including audit reports), other financial information and related disclosures included in the Original Form 10-K and the Original Form 10-Q, as well as press releases, investor presentations or other communications issued prior to the date hereof that relate to the periods covered by the Original Form 10-K and Original Form 10-Q should not be relied upon and are superseded in their entirety by this Form 10-Q/A and the Form 10-K/A being filed concurrently herewith.

American Power Group Corporation

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American Power Group Corporation
Condensed Consolidated Balance Sheets

	December 31, 2014 (Unaudited)	September 30, 2014
ASSETS		
Current assets:		
Cash and cash equivalents	\$2,227,228	\$126,420
Certificates of deposit, restricted	300,000	300,000
Accounts receivable, trade, less allowance for doubtful accounts of \$3,276 and \$0 as of December 31, 2014 and September 30, 2014, respectively	643,728	1,713,639
Inventory	797,361	794,211
Prepaid expenses	160,144	145,604
Other current assets	58,058	30,971
Total current assets	4,186,519	3,110,845
Property, plant and equipment, net	760,008	831,782
Other assets:		
Seller's note, related party	797,387	797,387
Long term contracts, net	229,167	241,667
Purchased technology, net	229,167	241,667
Software development costs, net	3,140,123	3,118,798
Other	190,055	179,001
Total other assets	4,585,899	4,578,520
	\$9,532,426	\$8,521,147
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	\$974,609	\$1,011,644
Accrued expenses	783,436	904,298
Notes payable to Bank, current	332,723	246,550
Notes payable, related parties	50,000	198,500
Obligations due under lease settlement, current	68,518	68,518
Total current liabilities	2,209,286	2,429,510
Notes payable, line of credit, non-current	380,000	—
Notes payable to Bank, non-current	2,459,301	2,364,431
Notes payable, related parties, non-current	—	200,000
Warrant liability	2,704,626	6,497,001
Obligations due under lease settlement, non-current	505,540	505,540
Total liabilities	8,258,753	11,996,482
Stockholders' equity (deficit):		
Preferred stock, \$1.00 par value, 998,654 shares authorized, 0 shares issued and outstanding	—	—
10% Convertible Preferred stock, \$1.00 par value, 1,146 shares authorized, 941 shares and 941 shares issued and outstanding at December 31, 2014 and September 30, 2014	941	941
Series B 10% Convertible Preferred stock, \$1.00 par value, 200 shares authorized, 200 shares and 0 shares issued and outstanding at December 31, 2014 and September 30, 2014	200	—
	511,337	507,351

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Common stock, \$.01 par value, 150 million shares authorized, 51,133,556 shares
and 50,735,050 shares issued and outstanding at December 31, 2014 and September
30, 2014

Additional paid-in capital	60,028,577	58,248,103
Accumulated deficit	(59,267,382)	(62,231,730)
Total stockholders' equity (deficit)	1,273,673	(3,475,335)
	\$9,532,426	\$8,521,147

See accompanying notes to unaudited condensed interim consolidated financial statements.

American Power Group Corporation
Condensed Consolidated Statements of Operations
(Unaudited)

Three Months Ended December 31,