

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 March 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 May 14, 2014 there were 50,371,460 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 March 31, 2014 as originally filed with the Securities and Exchange Commission on May 15, 2014 (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, we issued warrants containing 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 and six months ended March 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 and six months ended March 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

	March 31, 2014 (Unaudited)	September 30, 2013
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 880,429	\$ 1,684,169
Certificates of deposit, restricted	300,000	300,000
Accounts receivable, trade, less allowance for doubtful accounts of \$68,389 and \$120,393 as of March 31, 2014 and September 30, 2013, respectively	1,653,107	1,612,280
Inventory	921,027	908,059
Prepaid expenses	66,241	150,816
Other current assets	42,741	48,472
Assets related to discontinued operations	—	66,922
Total current assets	3,863,545	4,770,718
Property, plant and equipment, net	875,017	929,821
Other assets:		
Seller's note, related party	797,387	797,387
Long term contracts, net	266,667	291,667
Purchased technology, net	266,667	291,667
Software development costs, net	3,198,335	3,180,804
Other	154,613	134,469
Total other assets	4,683,669	4,695,994
	\$9,422,231	\$ 10,396,533
LIABILITIES AND STOCKHOLDERS' (DEFICIT) EQUITY		
Current liabilities:		
Accounts payable	\$ 723,105	\$ 1,086,347
Accrued expenses	839,898	914,023
Billings in excess of cost	—	7,533
Notes payable, current	99,366	106,972
Notes payable, related parties	473,500	473,500
Obligations due under lease settlement, current	68,518	68,518
Total current liabilities	2,204,387	2,656,893
Notes payable, non-current	1,995,319	1,490,160
Warrant liability	18,225,661	—
Obligations due under lease settlement, non-current	505,540	505,540
Total liabilities	22,930,907	4,652,593
Stockholders' (deficit) equity:		
Preferred stock, \$1.00 par value, 998,854 shares authorized, 0 shares issued and outstanding	—	—
10% Convertible Preferred stock, \$1.00 par value, 1,146 shares authorized, 941 shares and 942 shares issued and outstanding at March 31, 2014 and September 30, 2013	941	942
Common stock, \$.01 par value, 150 million shares authorized, 50,279,280 shares and 48,375,316 issued and outstanding at March 31, 2014 and September 30, 2013	502,793	483,753

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Additional paid-in capital	57,960,592	66,570,909
Accumulated deficit	(71,973,002) (61,311,664)
Total stockholders' (deficit) equity	(13,508,676) 5,743,940
	\$9,422,231	\$10,396,533

See accompanying notes to unaudited condensed interim consolidated financial statements.

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

	Three Months Ended March 31,		Six Months Ended March 31,		
	2014	2013	2014	2013	
Net sales	\$ 1,258,489	\$ 1,852,162	\$ 3,101,010	\$ 2,727,115	
Cost of sales	911,518	1,135,806	1,852,427	1,710,210	
Gross profit	346,971	716,356	1,248,583	1,016,905	\$ 39
					Income (loss) from continuing operations attributable to Alcoa as adjusted is a non-GAAP financial measure. Management believes that this measure is meaningful to investors because management reviews the operating results of Alcoa excluding the impacts of restructuring and other charges, discrete tax items, and special items. There can be no assurances that additional restructuring and other charges, discrete tax items, and special items will not occur in future periods. To compensate for this limitation,

management believes that it is appropriate to consider both Income (loss) from continuing operations attributable to Alcoa determined under GAAP as well as Income (loss) from continuing operations attributable to Alcoa as adjusted.

* Discrete tax items include the following: for the quarter ended March 31, 2009, a benefit for a change in a Canadian national tax law permitting tax returns to be filed in U.S. dollars; and, for the quarter ended December 31, 2008, a charge for non-cash tax on repatriated earnings.

** Special items include the following: for the quarter ended September 30, 2009, a gain on an acquisition in Suriname; for the quarter ended March

31, 2009, a gain on the Elkem/SAPA swap (\$133) and a loss on the sale of Shining Prospect (\$118); and, for the quarter ended December 31, 2008, charges for environmental reserve (\$26), obsolete inventory (\$16), and accounts receivable reserve (\$11), and a refund of an indemnification payment (\$24).

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