

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 June 30, 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

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 August 13, 2014 there were 50,544,573 shares of the registrant's Common Stock outstanding.

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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 June 30, 2014 as originally filed with the Securities and Exchange Commission on August 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 nine months ended June 30, 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 nine months ended June 30, 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

	June 30, 2014 (Unaudited)	September 30, 2013
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$1,237,854	\$1,684,169
Certificates of deposit, restricted	300,000	300,000
Accounts receivable, trade, less allowance for doubtful accounts of \$80,589 and \$120,393 as of June 30, 2014 and September 30, 2013, respectively	1,672,840	1,612,280
Inventory	770,355	908,059
Prepaid expenses	170,989	150,816
Other current assets	40,185	48,472
Assets related to discontinued operations	—	66,922
Total current assets	4,192,223	4,770,718
Property, plant and equipment, net	784,248	929,821
Other assets:		
Seller's note, related party	797,387	797,387
Long term contracts, net	254,167	291,667
Purchased technology, net	254,167	291,667
Software development costs, net	3,135,333	3,180,804
Other	165,547	134,469
Total other assets	4,606,601	4,695,994
	\$9,583,072	\$10,396,533
<b>LIABILITIES AND STOCKHOLDERS' (DEFICIT) EQUITY</b>		
Current liabilities:		
Accounts payable	\$974,502	\$1,086,347
Accrued expenses	1,029,718	914,023
Billings in excess of cost	—	7,533
Notes payable, current	2,610,291	106,972
Notes payable, related parties	443,500	473,500
Obligations due under lease settlement, current	68,518	68,518
Total current liabilities	5,126,529	2,656,893
Notes payable, non-current	43,914	1,490,160
Warrant liability	9,628,858	—
Obligations due under lease settlement, non-current	505,540	505,540
Total liabilities	15,304,841	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 June 30, 2014 and September 30, 2013		942
Common stock, \$.01 par value, 150 million shares authorized, 50,515,805 shares and 48,375,316 shares issued and outstanding at June 30, 2014 and September 30, 2013	505,159	483,753

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Additional paid-in capital	58,111,181	66,570,909	
Accumulated deficit	(64,339,050	) (61,311,664	)
Total stockholders' (deficit) equity	(5,721,769	) 5,743,940	
	\$9,583,072	\$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 June 30,		Nine Months Ended June 30,	
	2014	2013	2014	2013
Net sales	\$1,782,269	\$2,151,454	\$4,883,279	\$4,878,568
Cost of sales	1,267,322	1,141,250	3,119,749	2,851,461
Gross profit	514,947	1,010,204	1,763,530	2,027,107
Operating expenses:				
Selling, general and administrative	1,133,522	1,086,918	3,057,613	3,235,543
Operating loss from continuing operations	(618,575 )	(76,714 )	(1,294,083 )	(1,208,436 )
Non operating income (expense)				
Interest and financing costs	(48,444 )	(39,462 )	(139,448 )	(126,831 )
Interest income	11,026	11,579	33,321	35,094
Revaluation of warrants	8,559,943	—	(801,809 )	—
Other, net	(27,669 )	(35,136 )	(102,552 )	(89,856 )
Non operating income (expense), net	8,494,856	(63,019 )	(1,010,488 )	(181,593 )
Net income (loss)	7,876,281	(139,733 )	(2,304,571 )	(1,390,029 )
10% Convertible Preferred dividends	(242,329 )	(244,464 )	(722,815 )	(644,560 )
Net income (loss) available to Common stockholders	\$7,633,952	\$(384,197 )	\$(3,027,386 )	\$(2,034,589 )
Income (loss) from continuing operations per share	\$0.16	\$—	\$(0.05 )	\$(0.03 )
Net income (loss) per Common share - 10% Preferred dividend	(0.01 )	(0.01 )	(0.02 )	(0.01 )
Net income (loss) attributable to Common stockholders per share	\$0.15	\$(0.01 )	\$(0.07 )	\$(0.04 )
Net income (loss) per common share attributable to Common stockholders:				
Basic	\$0.15	\$(0.01 )	\$(0.07 )	\$(0.04 )
Diluted	\$0.10	\$(0.01 )	\$(0.07 )	\$(0.04 )
Weighted average shares outstanding:				
Basic	50,364,666	46,869,240	49,268,170	46,269,996
Diluted	75,330,693	46,869,240	49,268,170	46,269,996

See accompanying notes to unaudited condensed interim consolidated financial statements.

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American Power Group Corporation  
Condensed Consolidated Statement of Changes in Stockholders' (Deficit) Equity  
For the Nine Months Ended June 30, 2014  
(Unaudited)

	Preferred Stock		Common Stock		Additional	Accumulated	
	Shares	Amount	Shares	Amount	Paid In Capital	Deficit	Total
Balance, October 1, 2013	942	\$942	48,375,316	\$483,753	\$66,570,909	\$(61,311,664)	\$5,743,940
Cumulative effect of a change in accounting principle - adoption of ASU 2012-04	—	—	—	—	(10,652,540 )	—	(10,652,540 )
Compensation expense associated with stock options	—	—	—	—	60,117	—	60,117
Common stock issued upon option and warrant exercise	—	—	1,773,364	17,734	37,233	—	54,967
Common stock issued upon Preferred stock conversion	(1 )	(1 )	8,870	89	(88 )	—	—
Additional fees related to issuance of 10% Convertible Preferred Stock	—	—	—	—	(27,665 )	—	(27,665 )
Fair value of warrant liability reclassified as additional paid in capital	—	—	—	—	1,825,491	—	1,825,491
Common stock issued for 10% Convertible Preferred stock dividend	—	—	358,255	3,583	297,724	(301,307 )	—
10% Convertible Preferred stock dividend paid in cash	—	—	—	—	—	(421,508 )	(421,508 )
Net loss for the nine months ended June 30, 2014	—	—	—	—	—	(2,304,571 )	(2,304,571 )
Balance, June 30, 2014	941	\$941	50,515,805	\$505,159	\$58,111,181	\$(64,339,050)	\$(5,721,769)