LIME ENERGY CO.
Form 10-Q
November 12, 2015
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

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

For the quarterly period ended September 30, 2015

o 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 001-16265

LIME ENERGY CO.

(Exact name of registrant as specified in its charter)

Delaware	**36-4197337**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

3 Convery Blvd., Suite 600, Woodbridge, New Jersey 07095

(Address of principal executive offices, including zip code)

(732) 791-5380

(Registrant s telephone number, including area code)

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 x No o

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 (§ 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 x No o

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 o Accelerated Filer o Non-Accelerated Filer o Smaller reporting company x

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x

9,564,148 shares of the registrant s common stock, $.0001 par value per share, were outstanding as of November 12, 2015.

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Cautionary Note Regarding Forward-Looking Statements

Our disclosure and analysis in this report, including Management s Discussion and Analysis of Financial Condition and Results of Operations, contains forward-looking statements within the meaning of the safe harbor provisions of the U.S. Private Securities Litigation Reform Act of 1995. Statements that are not purely historical may be forward-looking. You can identify these forward-looking statements by the use of words such as anticipate, believe, estimate, expect, hope, intend, may, project, plan, goal, target, should, and similar expressio in the negative.

Forward-looking statements are subject to various risks and uncertainties. Accordingly, there are or will be important factors that could cause actual results to differ materially from those indicated in these statements including, but not limited to, those described in our Annual Report on Form 10-K filed with the Securities and Exchange Commission (the SEC) under Part I, Item 1A Risk Factors. The following are some of the factors that could affect our financial performance or could cause actual results to differ materially from estimates contained in or underlying the forward-looking statements:

- our business model has changed significantly since our inception in response to a constantly changing and evolving market, which may make it difficult to evaluate our business and prospects, and may expose us to increased risks and uncertainties;
- we have incurred significant operating losses since our inception and may not achieve or sustain profitability in the future;
- we may not be able to raise additional capital to fund future operating losses;
- the SEC is investigating us and the results of that investigation could have a material adverse effect on our business, results of operations and financial condition;
- our customers and investors may lose confidence in us because of our restatement;
- it is difficult for us to estimate our future quarterly results;
- we operate in a highly competitive industry and if we are unable to compete successfully, our revenue and profitability will be adversely affected;
- we recently acquired EnerPath International Holding Company, and we may not realize the expected benefits of the acquisition should we encounter integration difficulties or other challenges;
- we depend upon a limited number of utility contracts to generate substantially all of our revenues; and
- failure of our subcontractors to properly and effectively perform their services in a timely manner could cause delays in the delivery of our energy efficiency solutions.

All forward-looking statements in this report should be considered in the context of the risks and other factors described above and as detailed from time to time in the Company s SEC filings. Any forward-looking statements speak only as of the date the statement is made and, except as otherwise required by federal securities laws, we do not undertake any obligation to publicly update, review or revise any forward-looking statements, whether as a result of new information, future events, changed circumstances or any other reason. It is not possible to identify all of the risks, uncertainties and other factors that may affect future results. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this report may not occur and actual results could differ materially from those anticipated or implied in the forward-looking statements. Accordingly, users of this report are cautioned not to place undue reliance on the forward-looking statements.

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PART I - FINANCIAL INFORMATION

Item 1. **FINANCIAL STATEMENTS (UNAUDITED)**

Lime Energy Co.

Condensed Consolidated Balance Sheets

(in thousands)

	September 30, 2015 (unaudited)	December 31, 2014
Assets		
Current Assets		
Cash and cash equivalents	$ 6,756	$ 5,473
Restricted cash	1,300	500
Accounts receivable, less allowance for doubtful accounts of $1,516 and $1,794, respectively	22,010	11,820
Inventories	2,242	176
Costs and estimated earnings in excess of billings on uncompleted contracts	9,053	7,407
Prepaid expenses and other	1,581	619
Current assets of discontinued operations	301	613
Total Current Assets	43,243	26,608
Net Property and Equipment	1,856	1,470
Long-Term Receivables	1,273	710
Intangible Assets, net	5,154	
Deferred Financing Costs, net	156	22
Goodwill	8,173	6,009
Total Assets	$ 59,855	$ 34,819

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Lime Energy Co.

Condensed Consolidated Balance Sheets

(in thousands, except share data)

	September 30, 2015 (unaudited)	December 31, 2014
Liabilities and Stockholders Equity		
Current Liabilities		
Accounts payable	$ 22,588	$ 13,341
Accrued expenses	3,846	1,245
Billings in excess of costs and estimated earnings on uncompleted contracts	1,402	705
Customer deposits	642	512
Other current liabilities	11	11
Current portion of long-term liabilities	16	
Current liabilities of discontinued operations	135	806
Total Current Liabilities	28,640	16,620
Long-Term Debt - Related Party	7,380	
Derivative Liability - Related Party	6,489	
Total Liabilities	42,509	16,620
Commitments and Contingencies		
Contingently redeemable Series C Preferred stock, $0.01 par value: 10,000 shares authorized, issued and outstanding (includes accrued dividends)	10,367	9,633
Stockholders Equity		
Common stock, $.0001 par value; 50,000,000 shares authorized 9,564,148 and 9,460,090 issued and outstanding as of September 30, 2015 and December 31, 2014, respectively	1	1
Additional paid-in capital	209,558	208,916
Accumulated deficit	(202,580)	(200,351)
Total Stockholders Equity	6,979	8,566
Total Liabilities and Stockholders Equity	**$** 59,855	**$** 34,819

See accompanying notes to condensed consolidated financial statements

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Lime Energy Co.

Condensed Consolidated Statements of Operations

(in thousands, except per share data, unaudited)

	Three Months Ended September 30, 2015	Three Months Ended September 30, 2014	Nine Months Ended September 30, 2015	Nine Months Ended September 30, 2014
Revenue	$ 32,160	$ 15,585	$ 82,409	$ 41,456
Cost of sales	21,125	10,735	55,003	28,462
Gross Profit	11,035	4,850	27,406	12,994
Selling, general and administrative	9,352	4,887	24,571	14,463
Acquisition costs	529		1,467	
Amortization of intangibles	285		594	
Operating income (loss)	869	(37)	774	(1,469)
Other Income (Expense)				
Interest income	43	27	114	66
Interest expense - Related Party $301 and $784 thousand for the three and nine months ended September 30, 2015, respectively.	(322)	(35)	(825)	(35)
Extinguishment of debt - Related Party			(1,420)	
Gain (loss) from change in derivative liability - Related Party	1,272		(814)	
Total other income (expense)	993	(8)	(2,945)	31
Income (Loss) from continuing operations before income taxes	1,862	(45)	(2,171)	(1,438)
Income tax (expense) benefit	(3)		1,165	
Income (Loss) from continuing operations	1,859	(45)	(1,006)	(1,438)
Discontinued Operations:				
(Loss) Income from operation of discontinued business	(46)	136	(267)	187
Net Income (loss)	1,813	91	(1,273)	(1,251)
Preferred stock dividends	(336)	(521)	(956)	(2,474)
Net income (loss) available to common stockholders	$ 1,477	$ (430)	$ (2,229)	$ (3,725)
Basic earnings (loss) per common share from				
Continuing operations	$ 0.15	$ (0.15)	$ (0.20)	$ (1.05)
Discontinued operations	(0.00)	0.04	(0.03)	0.05
Basic earnings (loss) per common share	$ 0.15	$ (0.11)	$ (0.23)	$ (1.00)

Weighted-average common shares outstanding - Basic		9,564		3,760		9,539		3,738
Diluted earnings (loss) per common share from								
Continuing operations	$	0.05	$	(0.15)	$	(0.20)	$	(1.05)
Discontinued operations		0.00		0.04		(0.03)		0.05
Diluted earnings (loss) per common share	$	0.05	$	(0.11)	$	(0.23)	$	(1.00)
Weighted-average common shares outstanding - Diluted		17,697		3,760		9,539		3,738

See accompanying notes to condensed consolidated financial statements

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Lime Energy Co.

Condensed Consolidated Statement of Stockholders Equity

(in thousands, unaudited)

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Accumulated Deficit	Total Stockholders Equity
Balance, December 31, 2014	**9,460**	**$ 1**	**$ 208,916**	**$ (200,351)**	**$ 8,566**
Dividends on Series C Preferred Stock				(956)	(956)
Shares issued for benefit plans	12				
Share based compensation	92		642		642
Net loss				(1,273)	(1,273)
Balance, September 30, 2015	**9,564**	**$ 1**	**$ 209,558**	**$ (202,580)**	**$ 6,979**

See accompanying notes to condensed consolidated financial statements.

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Lime Energy Co.

Condensed Consolidated Statements of Cash Flows

(in thousands, unaudited)

Nine Months Ended September 30,	**2015**	**2014**
Cash Flows From Operating Activities		
Net Loss	$ (1,273)	$ (1,251)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Provision for bad debt	426	688
Share-based compensation	642	237
Depreciation and amortization	1,230	546
Amortization of deferred financing costs	39	
Change in derivative liability - Related Party	814	
Loss on extinguishment of debt - Related Party	1,420	
Deferred income tax benefit	(1,246)	
Interest on Sub Notes added to principal - Related Party	28	
Amortization of original issue discount - Related Party	98	
Establishment of restricted funds to release Letter of Credit	(1,300)	
Release of restricted funds	500	
Changes in assets and liabilities:		
Accounts receivable	(4,706)	(2,021)
Inventories	239	
Costs and estimated earnings in excess of billings on uncompleted contracts	(1,646)	(2,080)
Prepaid expenses and other	(767)	(265)
Assets of discontinued operations	312	1,710
Accounts payable	5,266	1,826
Accrued expenses	1,843	(1,648)
Billings in excess of costs and estimated earnings on uncompleted contracts	639	(1,306)
Customer deposits and other current liabilities	64	(2,518)
Liabilities of discontinued operations	(671)	(2,111)
Net cash provided by (used in) operating activities	1,951	(8,193)
Cash Flows From Investing Activities		
Acquistion of EnerPath	(11,000)	
Purchases of property and equipment	(777)	(443)
Capitalization of Product Software	(153)	
Net cash used in investing activities	(11,930)	(443)
Cash Flows From Financing Activities		
Proceeds from issuance of convertible notes - Related Party	11,750	1,000
Proceeds from the issuance of preferred stock		2,000
Costs related to preferred stock issuances		(11)
Payments on vehicle financing	(8)	
Deferred financing costs	(480)	
Net cash provided by financing activities	11,262	2,989

Net Increase (Decrease) in Cash and Cash Equivalents		1,283		(5,647)
Cash and Cash Equivalents, at beginning of period		5,473		6,940
Cash and Cash Equivalents, at end of period	**$**	6,756	**$**	1,293

	Nine Months Ended September 30, 2015			2014
Supplemental Disclosure of Cash Flow Information:				
Preferred dividends satisfied through issuance of preferred stock:	$		$	943
Cash paid during the period for interest: Continuing operations	$	651	$	3
Warrants issued for deferred financing fees:	$	31	$	

See accompanying notes to condensed consolidated financial statements

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Notes to Unaudited Condensed Consolidated Financial Statements

Note 1 Basis of Presentation

The accompanying unaudited condensed consolidated financial statements (the Financial Statements) of Lime Energy Co. (Lime Energy and, together with its subsidiaries, the Company , we , us or our) have been prepared in accordance with Rule 10-01 of Regulation S-X promulgated b the Securities and Exchange Commission (the SEC) and, therefore, do not include all information and footnotes necessary for a fair presentation of financial position, results of operations and cash flows in conformity with accounting principles generally accepted in the United States of America (GAAP). In our opinion, however, the Financial Statements contain all adjustments, consisting only of normal recurring adjustments, necessary to present fairly our financial position, results of operations and cash flows as of and for the interim periods.

The results of operations for the three- and nine-month periods ended September 30, 2015 and 2014 are not necessarily indicative of the results to be expected for the full year.

As more fully described in Note 6 Subordinated Convertible Term Notes below, on March 24, 2015 (the Note Issuance Date), the Company issued to Bison Capital Partners IV, L.P. (Bison) a subordinated convertible note due March 24, 2020 in the principal amount of approximately $11.7 million (the Note). As set forth in the Note, beginning with the quarter ending March 31, 2016, the Company must meet certain rolling twelve-month Adjusted EBITDA targets, as defined in the Note, or otherwise be in breach of its covenants under the Note. Any breach of covenant would create an event of default, which could cause acceleration of the Note s maturity. The Adjusted EBITDA target for the twelve months ending March 31, 2016 is $6.3 million. Achievement of this target will depend on many factors including the amount, timing, and profitability of future revenues and the integration efforts related to the recent acquisition of EnerPath International Holding Company (EnerPath), among other things. In the event the Company does not meet the covenant and the Note holders accelerate payment of the Note and interest, the Company will likely be required to refinance the Note with other debt or equity or sell assets. There can be no assurance that the Company will be able to do so on favorable terms or at all.

The December 31, 2014 balance sheet data was derived from audited financial statements, but does not include all disclosures required by GAAP. For further information, refer to the audited financial statements and the related footnotes included in the Company s Annual Report on Form 10-K for the year ended December 31, 2014.

Starting on March 24, 2015, the date of the acquisition of EnerPath, the results of EnerPath s operations have been consolidated with our results. For a more complete discussion of the EnerPath acquisition, refer to Note 5 Acquisition of EnerPath below.

Note 2 - Share-Based Compensation

The Compensation Committee of the Board of Directors of the Company (the Board) grants stock options and restricted stock under the Company s 2008 Long Term Incentive Plan (as amended, the 2008 Plan). Prior to an amendment to the 2008 Plan that became effective on October 15, 2015, the 2008 Plan provided that up to 407,143 shares of our common stock could be delivered under the plan to certain of our employees, consultants, and non-employee directors. As amended, the 2008 Plan provides for the issuance of up to 1,585,718 shares of our common stock. In addition, the 2008 Plan provides for an automatic annual

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increase in the number of shares of our common stock reserved under the plan in an amount equal to 35,715 shares.

As of September 30, 2015, there were 1,366,029 shares of our common stock reserved for issuance under the 2008 Plan. During the first nine months of 2015, we granted options to purchase 1,217,680 shares under the 2008 Plan, and options to purchase 1,250,920 shares were outstanding under the 2008 Plan as of September 30, 2015.

All options granted under the 2008 Plan were granted at a price equal to or greater than the market price of the Company s stock on the date of grant. Substantially all outstanding stock options under the 2008 Plan vest ratably over three years and expire 10 years from the date of grant. In addition to grants made under the 2008 Plan, the Company gave employees the right to purchase shares at a discount to the market price under the Company s employee stock purchase plans. Our employee stock purchase plans allow employees of the Company to purchase the Company s common stock at a discount using payroll deductions and entitles employees in the United States to receive favorable tax treatment provided by the Internal Revenue Code of 1986, as amended.

During the first quarter of 2015, our Board adopted, and subsequently our shareholders approved, the Lime Energy Co. 2014 Employee Stock Purchase Plan (the 2014 ESPP). The 2014 ESPP provided for successive two six-month offering periods commencing on July 1, 2014 and January 1, 2015, respectively. During the second quarter of 2015, our Board adopted, and subsequently our shareholders approved, the Lime Energy Co. 2015 Employee Stock Purchase Plan (the 2015 ESPP), which became effective on June 18, 2015. The 2015 ESPP provides for the issuance of up to 100,000 shares of common stock in successive two six-month offering periods commencing on July 1, 2015 and January 1, 2016, respectively. As of September 30, 2015, approximately 267 persons were eligible to participate in the 2015 ESPP.

In addition to the 2008 Plan, the 2014 ESPP, and the 2015 ESPP, the Board grants restricted stock to non-employee directors under the Company s 2010 Non-Employee Directors Stock Plan (the Directors Plan). Restricted stock granted to date under the Directors Plan for Board service vest 50% upon grant and 50% on the first to occur of the first anniversary of the grant date, if the director is then still serving on the Board, or the director s death, disability, or retirement. Restricted stock granted under the Directors Plan for committee service vest 50% upon grant and 50% on the first to occur of the first anniversary of the grant date, if the director is then still serving on the committee, or the director s death, disability, or retirement. During the first nine months of 2015, we granted 92,413 shares of restricted stock under the Directors Plan. As of September 30, 2015, there were 284,364 shares of our common stock available for issuance under the Directors Plan.

The Company accounts for employee share-based awards in accordance with Accounting Standards Codification (ASC) 718, which requires companies to measure the cost of employee service received in exchange for a share-based award based on the fair value of the award at the date of grant, with expense recognized over the requisite service period (generally equal to the vesting period of the grant).

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The following table summarizes the Company s total share-based compensation expense (in thousands):

	Three Months Ended September 30, 2015	Three Months Ended September 30, 2014	Nine Months Ended September 30, 2015	Nine Months Ended September 30, 2014
Stock options	$ 118	$ (20)	$ 280	$ (7)
Restricted stock	61	66	313	232
Employee Stock Purchase Plan	18		49	12
	$ 197	$ 46	$ 642	$ 237

The compensation expense to be recognized in future periods with respect to the Company s employee options and restricted stock is as follows (in thousands):

As of September 30, 2015	Unrecognized Compensation Expense	Weighted Average Remaining Life (in Months)
Stock options	$ 1,167	11.6
Restricted stock	$ 85	4.6

Note 3 Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2014-09, Revenue From Contracts With Customers. ASU 2014-09 supersedes nearly all existing revenue recognition under U.S. GAAP. The core principle of ASU 2014-09 is to recognize revenues when promised goods or services are transferred to customers in an amount that reflects the consideration the Company expects to be entitled to for those goods or services using a defined five-step process. More judgment and estimates may be required to achieve this principle than under existing U.S. GAAP. ASU 2014-09 is effective for annual periods beginning after December 15, 2017, including interim periods therein, using either of the following transition methods: (i) a full retrospective approach reflecting the application of the standard in each prior reporting period with the option to elect certain practical expedients or (ii) a retrospective approach with the cumulative effect upon initial adoption recognized at the date of adoption which includes additional footnote disclosures. The Company is currently evaluating the impact of the adoption of ASU 2014-09 on the Company s consolidated financial statements and has not yet determined the method of adoption.

In August 2014, the FASB amended the FASB ASC and amended Subtopic 205-40, *Presentation of Financial Statements Going Concern.* This amendment prescribes that an entity s management should evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the entity s ability to continue as a going concern within one year after the date that the financial statements are issued. The amendments will become effective for the Company s annual and interim reporting periods beginning January 1, 2017. The Company is evaluating the impact of this amendment on

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its consolidated financial statements; however, the Company does not expect that the adoption of this standard will have a material impact on the Company s consolidated financial statements.

In April 2015, the FASB issued ASU 2015-03, Simplifying the Presentation of Debt Issuance Costs. ASU 2015-03 requires that debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct deduction from the carrying amount of that debt liability, consistent with debt discounts. The FASB issued the ASU to simplify the presentation of debt issuance costs, and to align with other existing FASB guidance. ASU 2015-03 is effective for annual periods beginning after December 15, 2015, and interim periods within those annual periods. The adoption of this standard is not expected to have a significant impact on the Company s consolidated financial statements.

Note 4 Earnings Per Share

The Company computes income or loss per share under ASC 260 Earnings Per Share, which requires presentation of two amounts: basic and diluted loss per common share. Basic loss per common share is computed by dividing income or loss available to common stockholders by the number of weighted average common shares outstanding, and includes all common stock issued. Diluted earnings include all common stock equivalents. The Company has included outstanding options or warrants, convertible preferred shares, and convertible debt as common stock equivalents in the computation of diluted earnings per share for the three months ended September 30, 2015. The Company has not included these items for the other periods presented as the effect would be anti-dilutive.

The following table sets forth the basic and diluted earnings (loss) per common share:

	Three Months Ended September 30, 2015	Three Months Ended September 30, 2014	Nine Months Ended September 30, 2015	Nine Months Ended September 30, 2014
Earnings (Loss) Per Share - Basic				
Income (loss) from continuing operations	$ 1,859	$ (45)	$ (1,006)	$ (1,438)
Less: Preferred stock dividends	(336)	(521)	(956)	(2,474)
Income available to common stockholders	1,523	(566)	(1,962)	(3,912)
(Loss) Income from operation of discontinued operations	(46)	136	(267)	187
Net income (loss) available to common stockholders	$ 1,477	$ (430)	$ (2,229)	$ (3,725)
Weighted average common shares outstanding - Basic	9,564	3,760	9,539	3,738
Basic earnings (loss) per common share	$ 0.15	$ (0.11)	$ (0.23)	$ (1.00)
Earnings (Loss) Per Share - Diluted				
Net income (loss) available to common stockholders	$ 1,477	$ (430)	$ (2,229)	$ (3,725)
Less: Gain from change in derivative liability	(1,272)			
Add: Preferred stock dividends	336			
Add: Interest on convertible term notes	322			
	$ 863	$ (430)	$ (2,229)	$ (3,725)

Net income (loss) applicable to dilutive common stock								
Weighted average common shares outstanding - Basic Effect of dilutive securities		9,564		3,760		9,539		3,738
Dilutive stock awards		248						
Dilutive preferred share conversions		4,167						
Dilutive debt conversions		3,718						
Weighted average common shares outstanding - Diluted		17,697		3,760		9,539		3,738
Diluted earnings (loss) per common share	$	0.05	$	(0.11)	$	(0.23)	$	(1.00)

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Note 5 Acquisition of EnerPath

On March 24, 2015, the Company acquired EnerPath, a California-based provider of software solutions and program administration for utility energy efficiency programs. The consideration paid in connection with the EnerPath acquisition was approximately $11 million in cash with $1.0 million held in escrow, subject to adjustment as set forth in the Agreement and Plan of Merger by and among the Company, EIHC Merger Sub, Inc., a wholly-owned subsidiary of the Company, EnerPath, and the EnerPath stockholders. The purchase price adjustment indemnification escrow of $250 thousand was released on June 25, 2015, together with the $75 thousand escrow that had been set aside to cover expenses of the stockholders representative. An amount equal to approximately $629 thousand remains in escrow to cover any post-closing indemnification.

The approximate fair values of the assets acquired and liabilities assumed related to the acquisition are based on preliminary estimates and assumptions. These preliminary estimates and assumptions could change significantly during the purchase price measurement period as we finalize the valuations of the assets acquired and liabilities assumed. Such changes could result in material variances between the Company s future financial fair values recorded and expenses associated with these items, including variances in the estimated purchase price.

The following table summarizes the preliminary adjusted fair values of the assets acquired and liabilities assumed at the date of the closing of the acquisition (in thousands).

Current assets	$	8,932
Property and equipment		153
Other assets		41
Intangible assets - finite life		5,595
Goodwill		2,164
Total assets acquired		16,885
Current Liabilities assumed		(4,639)
Deferred income tax liability		(1,246)
Net assets acquired	$	11,000

The preliminary estimate of intangible assets acquired from EnerPath, the acquired intangible asset categories, fair value and average amortization periods are as follows (in thousands):

		Fair Value	Average Amortization Method/Period		Estimated Annual Amortization Expense
Customer relationships	$	1,505	Cash flow/7 years	$	215
Enerworks System Software		3,265	4 years		816
Trade name		825	3 years		275
	$	5,595		$	1,306

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The following unaudited pro forma information represents the Company s results of operations as if the acquisition had occurred on January 1, 2014 (in thousands, except per share data):

Nine-months ended September 30,		**2015**		**2014**
Revenue	$	92,821	$	71,855
Loss from continuing operations	$	(240)	$	(3,614)
(Loss) Income from operation of discontinued business		(267)		187
Net loss	$	(507)	$	(3,427)
Preferred stock dividends		(956)		(2,474)
Net loss available to common stockholders	$	(1,463)	$	(5,901)
Basic and Diluted (loss) earnings Per Common Share From				
Continuing operations	$	(0.12)	$	(1.63)
Discontinued operations		(0.03)		0.05
Basic and Diluted Loss Per Common Share	$	(0.15)	$	(1.58)
Weighted Average Common Shares Outstanding		9,539		3,738

The pro forma results have been prepared for informational purposes only and include adjustments to amortize acquired intangible assets with finite life, eliminate acquisition-related expenses, and reflect additional interest expense on debt used to fund the acquisition. These pro forma results do not purport to be indicative of the results of operations that would have occurred had the purchase been made as of the beginning of the periods presented or of the results of operations that may occur in the future.

Acquisition costs on the Unaudited Condensed Consolidated Statements of Operations are comprised of acquisition expenses, including legal, accounting, and banking expenses.

Note 6 Subordinated Convertible Term Notes

2015 Convertible Debt Financing to Fund the EnerPath Acquisition Related Party

To finance the purchase price for the acquisition of EnerPath (described in Note 5 Acquisition of EnerPath above), the Company entered into a Note Purchase Agreement, dated March 24, 2015 (the Note Purchase Agreement) with Bison, pursuant to which the Company issued the Note. The proceeds from the sale of the Note were used to finance the EnerPath acquisition and to pay $0.9 million of fees and expenses incurred in connection therewith, including fees and expenses incurred in connection with the Note Purchase Agreement, which were capitalized and included as a discount to long-term debt. As of the date

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the Note was issued, Bison owned 10,000 shares of the Company s Series C Convertible Preferred Stock (the Series C Preferred Stock), which was, as of that date, convertible into approximately 30% of the Company s common stock, making Bison the Company s single largest stockholder. Two members of the Company s Board, Andreas Hildebrand and Peter Macdonald, are partners of an affiliate of Bison. Mr. Hildebrand and Mr. Macdonald recused themselves from the Board s consideration of the Note issuance. The Note is guaranteed by each subsidiary of the Company, including EnerPath and each of EnerPath s subsidiaries, and is secured by a lien on all of the assets of the Company and each of its subsidiaries. The Company may not elect to prepay the Note.

Based upon the initial conversion price of the Note ($3.16), all or any portion of the principal amount of the Note, plus, subject to the terms of the Note, any accrued but unpaid interest, but not more than the principal amount of the Note, may, at the election of the Note holder, be converted into 3,718,354 shares of common stock after March 24, 2018 or the occurrence of a change of control of the Company, whichever occurs first. The conversion price is subject to anti-dilution adjustments in connection with stock splits and similar occurrences and certain other events set forth in the Note, including future issuances of common stock or common stock equivalents at effective prices lower than the then-current conversion price. Due to the terms of the anti-dilution provision, the Company separated this conversion feature from the debt instrument and accounts for it as a derivative liability that must be carried at its estimated fair value with changes in fair value reflected in the Company s Consolidated Statements of Operations. Upon issuance, the initial estimate of fair value was established as both a derivative liability and as a discount on the Note. That discount, absent the Note amendment described below, would have been amortized to interest expense over the term of the Note. The Company determined the estimated fair value of the derivative liability to be $5.6 million and $6.4 million as of the Note issuance date and September 30, 2015, respectively.

The fair value of the derivative liability was determined using a binomial option pricing model with the following assumptions: a risk-free rate of 1.36%; expected volatility of 77%; a maturity date of March 24, 2020; probability factors regarding the Company s ability to meet the EBITDA covenants in the Note; and a 0% probability that a future financing transaction would reduce the conversion price.

The Note was amended on March 31, 2015 (the Note Amendment), primarily to change certain interest and financial covenant terms. Under the Note Amendment, the Company may, at its option, pay in cash semi-annually interest on the outstanding principal amount at a rate of 10.5% per annum; or allow interest to accrue and be added to the principal amount at a rate of 12.5%. Upon the occurrence of an event of default under the terms of the Note, the interest rate increases by 2.0% per annum until the Note is redeemed or the event of default is cured. The Company elected to pay in cash the semi-annual interest payment due in September 2015 of $617 thousand.

The Company is subject to certain financial, affirmative and negative covenants, including a minimum EBITDA covenant beginning as of March 31, 2016, as set forth in the Note. Pursuant to the Note Amendment, if certain trailing EBITDA targets are not met as of June 30, 2015, September 30, 2015 or December 31, 2015, an additional $1.0 million of interest for each such quarter in which such EBITDA target is not met, becomes due at the earlier of maturity, redemption or acceleration. As of September 30, 2015, the Company was in compliance with all applicable covenants under the amended Note. The Note, as amended, also limits the original principal amount of the Note that Bison may convert to common stock under the conversion provisions of the Note.

Pursuant to prevailing accounting guidance, the Note Amendment, for accounting purposes, was treated as an extinguishment of the original Note and the issuance of a new note, with the conversion derivative left intact and unchanged. Upon extinguishment, the net carrying amount of the extinguished Note (including

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its principal amount and related discounts and deferred financing costs) of $5.8 million was written off and the fair value of the amended Note was established, resulting in a net charge to earnings in the statement of operations of $1.4 million. The fair value of the amended Note was determined by reference to its probability weighted average expected cash flows discounted at an estimated market interest rate for a hypothetical similar non-convertible note issued by the Company. The March 31, 2015 carrying value of $7.3 million will incur interest charges at an effective interest rate required to result in the ultimate amount of cash flows needed to service the Note. As of March 31, 2015, that effective interest rate was estimated at 25.4% but may change depending on actual cash requirements to service the Note pursuant to the various interest payment alternatives described above.

2014 Notes

On August 4, 2014, the Company entered into a Subscription Agreement (the Subscription Agreement) with a group of investors including Mr. Richard Kiphart (collectively with the other investors, the Note Holders). Pursuant to the terms of the Subscription Agreement, the Note Holders lent the Company $1.0 million under Subordinated Secured Convertible Pay-In-Kind Notes (the 2014 Notes). The 2014 Notes had a term of ten years and accrued interest at the rate of 12.5% per year, payable semi-annually in cash or additional 2014 Notes, at the Company s election.

The Note Holders were entitled to convert the 2014 Notes at any time, at their election, into shares of the Company s common stock at a conversion price calculated as provided in the 2014 Notes.

On December 23, 2014, in connection with the issuance of Series C Preferred Stock discussed in Note 9 Sale of Series C Preferred Stock below, the 2014 Notes were converted into 213,500 shares of common stock.

Note 7 Conversion of Subordinated Debt and Sale of Series A Preferred Stock

On September 23, 2013, the Company entered into a Preferred Stock and Warrant Purchase Agreement (the Series A Purchase Agreement) with a group of investors including two of our directors, Mr. Christopher Capps and Mr. Richard Kiphart (collectively with the other investors, the Investors), pursuant to which the Investors purchased 926,223 shares of the Company s Series A Preferred Stock (the Series A Preferred Stock) at a price of $10.00 per share of Series A Preferred Stock. The purchase price was paid with (a) $2.5 million in cash and (b) the exchange of approximately $6.8 million (principal amount and accrued interest) of the Company s Subordinated Secured Convertible Pay-In-Kind Notes (the Notes), representing all of the outstanding Notes at the time.

The shares of Series A Preferred Stock were entitled to an accruing dividend of 12.5% per annum of their original issue price (subject to adjustment for stock splits, combinations and similar recapitalizations), payable semi-annually in arrears.

The shares of Series A Preferred Stock were convertible at the election of the holder of such shares, into shares of the Company s common stock, and the Company could redeem all or a portion of the Series A Preferred Stock at its option subject to certain legal restrictions.

On December 23, 2014, in connection with the issuance of Series C Preferred Stock (discussed in Note 9 Sale of Series C Preferred Stock), all outstanding shares of Series A Preferred Stock were converted to

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3,084,261 shares of common stock, and the Series A Warrants that had been issued in connection with the entry into the Series A Purchase Agreement were cancelled.

Note 8 Sale of Series B Preferred Stock

On December 30, 2013, the Company entered into a Preferred Stock and Warrant Purchase Agreement (the Series B Purchase Agreement) with Mr. Kiphart and a group of other investors (collectively, the Series B Investors), pursuant to which the Series B Investors purchased 400,000 shares of the Company s Series B Preferred Stock (the Series B Preferred Stock) at a price of $10.00 per share of Series B Preferred Stock.

On January 29, 2014, the Company entered into a Series B Purchase Agreement with Greener Capital Partners Fund II, L.P. (Greener Capital), pursuant to which Greener Capital purchased an aggregate of 200,000 shares of the Company s Series B Preferred Stock at a price of $10.00 per share of Series B Preferred Stock. This transaction closed on February 4, 2014.

The shares of the Series B Preferred Stock were entitled to an accruing dividend of 12.5% per annum of their original issue price (subject to adjustment for stock splits, combinations and similar recapitalizations), payable semi-annually in arrears.

The shares of Series B Preferred Stock were convertible, at any time following the approval of such conversion by the Company s stockholders, and the Company could at any time elect to redeem all or a portion of the Series B Preferred Stock unless prohibited by provisions of the Delaware General Corporation Law governing distributions to stockholders.

On December 23, 2014, in connection with the issuance of Series C Preferred Stock (discussed in Note 9 Sale of Series C Preferred Stock), all shares of Series B Preferred Stock were converted to 2,383,437 shares of the Company s common stock, and the Series B Warrants that had been issued in connection with the entry into the Series B Purchase Agreement were cancelled.

Note 9 Sale of Series C Preferred Stock

On December 23, 2014, the Company entered into a Preferred Stock Purchase Agreement with Bison, pursuant to which Bison purchased 10,000 shares of the Company s Series C Preferred Stock at a price of $1,000 per share of Series C Preferred Stock.

The shares of Series C Preferred Stock are entitled to an accruing dividend of 12.5% per annum of their base amount (subject to adjustments for stock splits, combinations and similar recapitalizations), payable every six months. The base amount is adjusted on each dividend payment date for the unpaid dividends accrued. The Company accrued dividends of $336 thousand and $956 thousand during the three and nine months ended September 30, 2015, respectively.

The shares of Series C Preferred Stock may be converted, at any time, at the option of the holder, into shares of the Company s common stock at a conversion price which was initially equal to $2.40 per share (the Series C Conversion Price). The Series C Conversion Price shall be proportionately adjusted for stock splits, combinations and similar recapitalizations, and shall be adjusted for future issuances of common stock. Upon conversion, all accrued, undeclared and unpaid dividends on the shares of Series C Preferred Stock so converted shall be cancelled.

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At any time after the fourth anniversary of the closing date, the Company shall have the right to redeem all, but not less than all, of the shares of Series C Preferred Stock for an amount equal to the original issue price of the shares plus all accrued but unpaid dividends, with such redemption to occur 30 days after the Company s giving notice thereof to the holder(s) of the shares of Series C Preferred Stock. During such 30-day period, the holders of the Series C Preferred Stock may convert the Series C Preferred Stock to common stock in lieu of receiving the redemption payment. At any time after the fourth anniversary of the closing date, a holder of Series C Preferred Stock shall have the right to require the Company to redeem all or a portion of its Series C Preferred Stock for an amount equal to the original issue price of the shares plus all accrued but unpaid dividends. In the event the Company fails to make the required redemption payment by the date fixed for such payment, the dividend rate will increase to 15% per annum and increase by an additional 1% per annum each quarter until paid.

In connection with the issuance of the Series C Preferred Stock, the Company, Bison, Mr. Kiphart and The John Thomas Hurvis Revocable Trust entered into a Shareholder and Investor Rights Agreement dated as of December 23, 2014 (the Shareholder Agreement). Pursuant to the terms of the Shareholder Agreement, in the event the Company proposes to issue new securities (subject to certain exceptions), the Company must allow Bison to purchase a proportion of the new securities equal to the number of shares of common stock beneficially owned by Bison divided by the total number of shares of common stock then outstanding, on a fully-diluted basis.

The Shareholder Agreement also provides Bison with operational consent rights and director appointment rights that apply so long as Bison holds at least five percent of the total voting power of the Company. The stockholders of the Company party to the Shareholder Agreement have agreed to vote in favor of Bison s director appointees. The Shareholder Agreement entitles Bison to appoint one director to the Company s Compensation Committee and any new board committee that is established, other than the Audit Committee or the Governance and Nominating Committee. It also entitles Bison to receive certain financial information. Bison may not, subject to certain exceptions in the Shareholder Agreement, acquire additional shares of common stock or seek to influence the management of the Company without the Company s consent. Such restrictions will no longer apply upon certain changes of control of the Company.

If, on the fifth anniversary of the closing date or any succeeding anniversary of such date, ten percent of the average daily trading volume of common stock is less than the number of shares of common stock beneficially owned by Bison divided by 240, then Bison may require the Company to initiate a sale process. Subject to the terms of the Shareholder Agreement, the stockholders of the Company party to the Shareholder Agreement have agreed to vote in favor of and otherwise support such a sale. If such a sale is not consummated within nine months, Bison shall have the right to require the Company to purchase, subject to the terms of the Shareholder Agreement, all or any portion of its Series C Preferred Stock or common stock into which such Series C Preferred Stock has converted, for a per share price generally equal to the average closing price of the Company s common stock for the 60 trading days immediately preceding giving notice of exercise of such right.

The Company incurred costs of approximately $617 thousand to issue the Series C Preferred Stock. These costs were recorded net of the proceeds of the Series C Preferred Stock. The Series C Preferred Stock is classified outside of permanent equity as the rights of redemption and the ability to initiate a sale are not solely within the control of the Company.

The Company intends to use the cash proceeds from the sale of the Series C Preferred Stock for general corporate purposes.

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On March 24, 2015, the Company amended and restated the Shareholder Agreement (as amended and restated, the Amended and Restated Shareholder Agreement) and that certain Registration Rights Agreement dated December 23, 2014 by and among the Company, Bison and certain other stockholders of the Company (as amended and restated, the Amended and Restated Registration Rights Agreement). Pursuant to the terms of the Amended and Restated Shareholder Agreement, in the event the Company proposes to issue new securities (subject to certain exceptions), the Company must allow Bison to purchase a proportion of the new securities equal to the number of shares of common stock beneficially owned by Bison (including the shares of common stock into which the Note could convert) divided by the total number of shares of common stock outstanding on a fully-diluted basis. The operational consent rights and director appointment rights held by Bison under the Shareholder Agreement remain in the Amended and Restated Shareholder Agreement; provided, however, that, in the event Bison is no longer entitled to designate at least one director under the terms of the Series C Preferred Stock, Bison will be entitled under the Amended and Restated Shareholder Agreement to designate that number of directors that is consistent with its ownership of common stock (including shares of common stock that are convertible from the Series C Preferred Stock and the Note, assuming the Note was immediately convertible) if it holds at least five percent of the common stock (computed in the same fashion).

Pursuant to the Amended and Restated Registration Rights Agreement, Bison is entitled to certain registration rights in connection with the common stock into which its shares of Series C Preferred Stock and the Note may convert, including the right to demand the registration of such shares at any time after December 23, 2015 and rights to include such shares in other registration statements filed by the Company. Additionally, Mr. Kiphart and the John Thomas Hurvis Revocable Trust are entitled to include certain of their shares of common stock in a registration statement filed by the Company. The Company has agreed to indemnify the other parties to the Amended and Restated Registration Rights Agreement in connection with any claims related to their sale of securities under a registration statement, subject to certain exceptions.

Note 10 Letter of Credit Agreement

On August 1, 2014, the Company entered into a Letter of Credit Agreement with Mr. Kiphart (the LOC Agreement), which replaced a previous letter of credit agreement that the Company had entered into with Mr. Kiphart on December 7, 2012. Pursuant to the LOC Agreement, Mr. Kiphart agreed to cause, at the Company s request, the issuance of one or more letters of credit (collectively, the Kiphart Letter of Credit) for the benefit of a surety, up to an aggregate amount of $1.3 million. The Kiphart Letter of Credit was used to guarantee certain obligations of the Company in connection with its performance under a contract between the Company and a utility customer. Mr. Kiphart s obligation to cause the issuance of, or leave in place, the Kiphart Letter of Credit was to terminate on December 31, 2019. The Company agreed to indemnify Mr. Kiphart for any liability in connection with any payment or disbursement made under the Kiphart Letter of Credit. The Company also agreed to pay for or reimburse any fees and out-of-pocket expenses incurred by Mr. Kiphart in connection with the Kiphart Letter of Credit. All amounts due to Mr. Kiphart under the LOC Agreement are payable by the Company within ten business days of the Company s receipt of a written demand thereof from Mr. Kiphart.

In addition, the Company agreed to pay Mr. Kiphart simple interest on the aggregate amount of the Kiphart Letter of Credit at a rate of six percent per annum. The Company accrued interest of $0 and $34 thousand during the three and nine months ended September 30, 2015, respectively.

As consideration for Mr. Kiphart s obligations under the LOC Agreement, the Company issued to Mr. Kiphart warrants to purchase 50,000 shares of the Company s common stock. The value of the warrants, which was determined to be $100 thousand, was capitalized as deferred financing costs. In connection with

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the issuance of Series C Preferred Stock discussed in Note 9 Sale of Series C Preferred Stock, the warrants were forfeited and deferred financing costs of $100 thousand were recorded to interest expense.

In May 2015, the Company replaced the Kiphart Letter of Credit with restricted funds of the Company.

Note 11 Preferred Stock Dividends

The components of dividend expense are as follows:

	Three Months Ended September 30,	Nine Months Ended September 30,