INERGY L P
Form 10-K/A
January 07, 2004

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K/A

AMENDMENT NO. 1

(Mark One)

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

For the fiscal year ended September 30, 2003

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: 000-32453

INERGY, L.P.

(Exact name of registrant as specified in its charter)

Delaware	**43-1918951**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

Two Brush Creek Boulevard, Suite 200, Kansas City, Missouri 64112

(Address of principal executive offices) (Zip Code)

(816) 842-8181

(Registrant s telephone number)

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:

Title of Each Class	Name of Each Exchange on Which Registered
None	N/A

SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT:

Common Units representing limited partnership interests

(Title of Class)

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 ¨

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ¨

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act). Yes x No ¨

The aggregate market value of the 4,215,506 Common Units of the registrant held by non-affiliates computed by reference to the $46.99 closing price of such Common Units on December 1, 2003, was approximately $198.1 million. The aggregate market value of the 4,197,549 Common Units of the registrant held by non-affiliates computed by reference to the $32.07 closing price of such Common Units on March 31, 2003, the last business day of the registrant s most recently completed second fiscal quarter, was approximately $134.6 million. As of December 1, 2003, the registrant had 5,522,411 Common Units outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the following documents are incorporated by reference into the indicated parts of this report: None.

INTRODUCTORY NOTE

Inergy, L.P. is filing this Amendment No. 1 on Form 10-K/A to include additional information relating to Inergy s United Propane acquisition and Robert Pascal, one of the directors of Inergy s managing general partner, set forth below that was inadvertently omitted from Item 13 of Inergy s Annual Report on Form 10-K for the fiscal year ended September 30, 2003, which was originally filed on December 23, 2003 (the Original Filing). Only the first subsection of Item 13 of the Original Filing is amended by this Amendment No. 1. This Amendment No. 1 does not reflect events occurring after the date of the Original Filing.

Item 13. Certain Relationships and Related Transactions.

United Propane Acquisition and Related Transactions

On July 31, 2003, we acquired substantially all of the propane assets of United Propane, Inc. In exchange for these assets, we issued 889,906 common units and 254,259 senior subordinated units to United Propane, paid approximately $2.7 million in cash to United Propane for inventory, accounts receivable, and other current assets, and assumed approximately $5.0 million of United Propane s liabilities. We filed a registration statement related to these 889,906 common units on August 29, 2003 and it was declared effective by the SEC on September 12, 2003.

Pursuant to a Unitholder Agreement with us, United Propane agreed that for a three-year period it would vote 508,518 of the common units it holds in favor of and in accordance with the recommendation of the majority of our managing general partner s board. United Propane also agreed, during this three-year period, to give us a right of first refusal with respect to those same common units.

In connection with our acquisition of assets from United Propane, we entered into ten leases of real property formerly used by United Propane in its business. We entered into five of these leases with United Propane, three of these leases with Pascal Enterprises, Inc. and two of these leases with Robert A. Pascal. Each of these leases provides for an initial five-year term, and is renewable by us for up to two additional terms of five years each. During the initial term of these leases we are required to make monthly rental payments totaling $59,167, of which $17,167 is payable to United Propane, $16,800 is payable to Pascal Enterprises, and $25,200 is payable to Mr. Pascal. Rental payments are subject to a 5% increase for any renewal term under a lease.

Robert A. Pascal is the sole shareholder of both United Propane and Pascal Enterprises, and is on our managing general partner s board of directors.

Distributions and Payments to the Managing General Partner and the Non-managing General Partner

Distributions and payments are made by us to our managing general partner and its affiliates in connection with the ongoing operation of Inergy, L.P. These distributions and payments were determined by and among affiliated entities and are not the result of arm s length negotiations.

Cash distributions will generally be made 98% to the unitholders, including affiliates of the managing general partner as holders of Common Units and Senior and Junior Subordinated Units, and 2% to the non-managing general partner. In addition, if distributions exceed the target levels in excess of the minimum quarterly distribution, Inergy Holdings will be entitled to receive increasing percentages of the distributions, up to 48% of the distributions above the highest target level.

Assuming we have sufficient available cash to pay the full minimum quarterly distribution on all of our outstanding units for four quarters, our non-managing general partner and its affiliates would receive a distribution of approximately $473,268 on the 2% general partner interest and a distribution of approximately $4,356,778 on their Common, Senior Subordinated and Junior Subordinated Units.

Our managing general partner and its affiliates will not receive any management fee or other compensation for the management of our company. Our managing general partner and its affiliates will be reimbursed, however, for direct and indirect expenses incurred on our behalf. For the fiscal year ended September 30, 2003, the expense reimbursement to our managing general partner and its affiliates was approximately $2.1 million.

If our managing general partner withdraws in violation of the partnership agreement or is removed for cause, a successor general partner has the option to buy the general partner interests and incentive distribution rights from our non-managing general partner for a cash price equal to fair market value. If our managing general partner withdraws or is removed under any other circumstances, our non-managing general partner has the option to require the successor general partner to buy its general partner interests and incentive distribution rights for a cash price equal to fair market value.

If either of these options is not exercised, the general partner interests and incentive distribution rights will automatically convert into Common Units equal to the fair market value of those interests. In addition, we will be required to pay the departing general partner for expense reimbursements.

Upon our liquidation, the partners, including our non-managing general partner, will be entitled to receive liquidating distributions according to their particular capital account balances.

Rights of our Managing General Partner and our Non-managing General Partner

Inergy Holdings owns an aggregate 20% interest in us inclusive of ownership of all of our non-managing general partner and our managing general partner. Our managing general partner manages our operations and activities.

Contribution Agreement

Inergy, L.P., the managing general partner, the non-managing general partner and some other parties have entered into a contribution agreement that effected the vesting of assets in, and the assumption of liabilities by, the subsidiaries, and the application of the proceeds of our initial public offering. This agreement was not the result of arm s length negotiations, and we cannot assure you that it, or that any of the transactions which it provides for, will be effected on terms at least as favorable to the parties to this agreement as they could have been obtained from unaffiliated third parties. All of the transaction expenses incurred in connection with these transactions, including the expenses associated with vesting assets into our subsidiaries, were paid from the proceeds of our initial public offering.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

INERGY, L.P.

By Inergy GP, LLC
(its managing general partner)

By: /s/ JOHN J. SHERMAN

John J. Sherman, President

Dated: January 7, 2004

EXHIBIT INDEX

31.1	Certification by Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification by Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002