ORION ENERGY SYSTEMS, INC.
Form 10-Q/A
August 02, 2011

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-Q/A
(Amendment No.1)

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

For the Quarterly Period Ended June 30, 2010

OR

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

Commission file number 001-33887
Orion Energy Systems, Inc.
(Exact name of Registrant as specified in its charter)

Wisconsin	**39-1847269**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification number)**
2210 Woodland Drive, Manitowoc, Wisconsin	**54220**
(Address of principal executive offices)	**(Zip code)**

Registrant s telephone number, including area code: (920) 892-9340

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 þ 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) during the preceding 12 months (or for shorter period that the registrant was required to submit and post such files). Yes o 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 definition of accelerated filer, large accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer o	Accelerated filer þ	Non-accelerated filer o (Do not check if a smaller reporting company)	Smaller reporting company o

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

There were 22,608,691 shares of the Registrant s common stock outstanding on August 5, 2010.

Table of Contents

EXPLANATORY NOTE

As used herein, unless otherwise expressly stated or the context otherwise requires, all references to Orion, we, us, our, Company and similar references are to Orion Energy Systems, Inc. and its consolidated subsidiaries.

As previously disclosed, in this Quarterly Report on Form 10-Q/A, we have restated our previously issued unaudited consolidated financial statements and related disclosures for the quarter ended June 30, 2010 to reclassify our transactions under our Orion Throughput Agreements, or OTAs, as sales-type leases instead of as operating leases.

Our prior method of accounting for OTA transactions as operating leases deferred revenue recognition over the full term of the OTA contracts, only recognizing revenue on a monthly basis as customer payments became due, while the upfront sales, general and administrative expenses related to these OTA contracts were recognized immediately. On June 9, 2011, we concluded that generally accepted accounting principles, or GAAP, required us to reclassify our transactions under our OTAs as sales-type leases instead of as operating leases. We voluntarily submitted our determination of the proper accounting treatment for the OTAs for confirmation with the Office of the Chief Accountant of the Securities and Exchange Commission, which did not object to our conclusion.

This Quarterly Report on Form 10-Q/A for the quarterly period ended June 30, 2010, initially filed with the SEC on August 9, 2010 (Original Filing), is being filed to reflect the financial statement restatement. Generally, for the quarterly period ended June 30, 2010, this change in accounting treatment and financial statement restatements has resulted in:

- No impact to our cash, cash equivalents, short-term investments; or overall cash flow;

- Increase in our revenue of $2.3 million (17%), a decrease in our net loss of $0.5 million (50%) and a reduction in our loss per share of $0.03 (60%); and

- Increases in our current assets of $3.4 million (5%), an increase in our total assets of $1.0 million (1%), a reduction in our total liabilities of $0.3 million (2%) and a reduction in our retained deficit of $1.2 million (31%).

For a more detailed description of this financial statement restatement, see Note B, Restatement to Financial Statements to our consolidated financial statements and the section entitled Restatement of Previously Issued Consolidated Financial Statements in Management s Discussion and Analysis of Financial Condition and Results of Operations contained in this Form 10-Q/A.

This Form 10-Q/A only amends and restates Items 1, 2, and 4 of Part I of the Original Filing, in each case, solely as a result of, and to reflect, the restatement, and no other information in the Original Filing is amended hereby. The foregoing items have not been updated to reflect other events occurring after the Original Filing or to modify or update those disclosures affected by subsequent events. In addition, pursuant to the rules of the SEC, Item 6 of Part II of the Original Filing has been amended to contain currently-dated certifications from our Chief Executive Officer and Chief Financial Officer, as required by Section 302 and 906 of the Sarbanes-Oxley Act of 2002. The certifications of our Chief Executive Officer and Chief Financial Officer are attached to this Form 10-Q/A as Exhibits 31.1, 31.2, 32.1, and 32.2, respectively.

Except for the foregoing amended information, this Form 10-Q/A continues to describe conditions as of the date of the Original Filing, and we have not updated the disclosures contained herein to reflect events that occurred at a later date. Throughout this Quarterly Report on Form 10-Q/A, all amounts presented from prior periods and prior period comparisons that have been revised are labeled As Restated and reflect the balances and amounts on a restated basis.

Orion Energy Systems, Inc.
Quarterly Report On Form 10-Q/A
For The Quarter Ended June 30, 2010
Table Of Contents

Table of Contents

PART I FINANCIAL INFORMATION
Item 1: Financial Statements

ORION ENERGY SYSTEMS, INC. AND SUBSIDIARIES
UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share amounts)

	March 31, 2010 (As Restated)	June 30, 2010 (As Restated)
Assets		
Cash and cash equivalents	$ 23,364	$ 16,196
Short-term investments	1,000	1,007
Accounts receivable, net of allowances of $382 and $335	15,991	12,895
Inventories, net	25,991	30,027
Deferred tax assets	1,244	1,758
Prepaid expenses and other current assets	4,112	5,123
Total current assets	71,702	67,006
Property and equipment, net	28,193	28,048
Patents and licenses, net	1,590	1,595
Deferred tax assets	974	1,236
Long-term accounts receivable	2,092	3,360
Other long-term assets	27	1,268
Total assets	$ 104,578	$ 102,513
Liabilities and Shareholders Equity		
Accounts payable	$ 7,761	$ 6,452
Accrued expenses and other	4,128	3,597
Current maturities of long-term debt	562	583
Total current liabilities	12,451	10,632
Long-term debt, less current maturities	3,156	3,002
Deferred revenue, long-term	186	227
Other long-term liabilities	398	400
Total liabilities	16,191	14,261
Commitments and contingencies (See Note G)		
Shareholders equity:		
Preferred stock, $0.01 par value: Shares authorized: 30,000,000 shares at March 31, 2010 and June 30, 2010; no shares issued and outstanding at March 31, 2010 and June 30, 2010		
Common stock, no par value: Shares authorized: 200,000,000 at March 31, 2010 and June 30, 2010; shares issued: 29,911,203 and 30,080,634 at March 31, 2010 and June 30, 2010; shares outstanding: 22,442,380 and 22,595,903 at March 31, 2010 and June 30, 2010		
Additional paid-in capital	122,515	122,969
	(32,011)	(32,062)

Treasury stock: 7,468,823 and 7,484,731 common shares at March 31, 2010 and June 30, 2010				
Retained deficit		(2,117)		(2,655)
Total shareholders equity		88,387		88,252
Total liabilities and shareholders equity	$	104,578	$	102,513

The accompanying notes are an integral part of these consolidated statements.

Table of Contents

ORION ENERGY SYSTEMS, INC. AND SUBSIDIARIES
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except share and per share amounts)

	Three Months Ended June 30, 2009 (As Restated)	Three Months Ended June 30, 2010 (As Restated)
Product revenue	$ 11,924	$ 15,758
Service revenue	1,951	1,219
Total revenue	13,875	16,977
Cost of product revenue	8,748	10,307
Cost of service revenue	1,255	917
Total cost of revenue	10,003	11,224
Gross profit	3,872	5,753
Operating expenses:		
General and administrative	3,163	2,945
Sales and marketing	3,152	3,590
Research and development	419	610
Total operating expenses	6,734	7,145
Loss from operations	(2,862)	(1, 392)
Other income (expense):		
Interest expense	(54)	(70)
Dividend and interest income	236	93
Total other income (expense)	182	23
Loss before income tax	(2,680)	(1,369)
Income tax benefit	(600)	(833)
Net loss	$ (2,080)	$ (536)
Basic net loss per share attributable to common shareholders	$ (0.10)	$ (0.02)
Weighted-average common shares outstanding	21,588,364	22,523,107
Diluted net loss per share attributable to common shareholders	$ (0.10)	$ (0.02)
Weighted-average common shares and share equivalents outstanding	21,588,364	22,523,107

The accompanying notes are an integral part of these consolidated statements.

Table of Contents

ORION ENERGY SYSTEMS, INC. AND SUBSIDIARIES
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Three Months Ended June 30, 2009 (As Restated)	Three Months Ended June 30, 2010 (As Restated)
Operating activities		
Net loss	$ (2,080)	$ (536)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	679	762
Stock-based compensation expense	320	248
Deferred income tax benefit	(1,203)	(776)
Change in allowance for notes and accounts receivable	22	(47)
Other	5	19
Changes in operating assets and liabilities:		
Accounts receivable	(248)	3,143
Inventories	(758)	(4,036)
Prepaid expenses and other assets and liabilities	(209)	(3,215)
Accounts payable	(3,432)	(1,309)
Accrued expenses	(265)	(533)
Net cash used in operating activities	(7,169)	(6,280)
Investing activities		
Purchase of property and equipment	(1,452)	(582)
Purchase of property and equipment held under operating leases		(4)
Purchase of short-term investments	(669)	(7)
Additions to patents and licenses	(12)	(35)
Long term investments		(206)
Net cash used in investing activities	(2,133)	(834)
Financing activities		
Payment of long-term debt	(215)	(133)
Repurchase of common stock into treasury	(150)	
Deferred financing costs		(57)
Proceeds from issuance of common stock	365	136
Net cash provided by (used in) financing activities		(54)
Net decrease in cash and cash equivalents	(9,302)	(7,168)
Cash and cash equivalents at beginning of period	36,163	23,364
Cash and cash equivalents at end of period	$ 26,861	$ 16,196
Supplemental cash flow information:		
Cash paid for interest	$ 73	$ 63
Cash paid for income taxes	30	28
Supplemental disclosure of non-cash investing and financing activities:		

Shares surrendered into treasury for stock option exercise	$	$ 51

The accompanying notes are an integral part of these consolidated statements.

Table of Contents

ORION ENERGY SYSTEMS, INC. AND SUBSIDIARIES
UNAUDITED NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

NOTE A DESCRIPTION OF BUSINESS

Organization

The Company includes Orion Energy Systems, Inc., a Wisconsin corporation, and all consolidated subsidiaries. The Company is a developer, manufacturer and seller of lighting and energy management systems and a seller and integrator of renewable energy technologies to commercial and industrial businesses, predominantly in North America. The corporate offices and manufacturing operations are located in Manitowoc, Wisconsin and an operations facility is located in Plymouth, Wisconsin.

NOTE B RESTATEMENT OF FINANCIAL STATEMENTS

The Company accounts for the correction of an error in previously issued financial statements in accordance with the provisions of ASC Topic 250, Accounting Changes and Error Corrections. In accordance with the disclosure provisions of ASC 250, when financial statements are restated to correct an error, an entity is required to disclose that its previously issued financial statements have been restated along with a description of the nature of the error, the effect of the correction on each financial statement line item and any per share amount affected for each prior period presented, and the cumulative effect on retained earnings or other appropriate component of equity or net assets in the statement of financial position, as of the beginning of the earliest period presented.

As previously disclosed in a Current Report on Form 8-K, on June 14, 2011, the Company s management, with concurrence from the Audit & Finance Committee of the Company s Board of Directors, concluded that the financial statements contained in the Form 10-Q for the quarterly period ended June 30, 2010 should no longer be relied upon and must be restated to properly record revenue from its OTAs as sales-type lease contracts.

In accordance with ASC Topic 840, Leases, the Company s prior method of accounting for OTA transactions as operating leases deferred revenue recognition over the full term of the OTA contracts, only recognizing revenue on a monthly basis as customer payments became due, while the upfront sales, general and administrative expenses related to these OTA contracts were recognized immediately. On June 9, 2011, the Company concluded that generally accepted accounting principles, or GAAP, required the Company to reclassify its transactions under its OTAs as sales-type leases instead of as operating leases. Accounting for OTA contracts as sales-type leases under GAAP requires the Company to record revenue at the net present value of the future payments at the time customer acceptance of its installed and operating energy management system is complete, rather than deferring revenue recognition over the full term of the OTA contracts.

Throughout this Form 10-Q/A, all amounts presented from prior periods and prior period comparisons that have been revised are labeled As Restated and reflect the balances and amounts on a restated basis.

The specific line-item effect of the restatement on the Company s previously issued unaudited condensed consolidated financial statements as of and for the three months ended June 30, 2010 as filed on Form 10-Q on August 9, 2010 are as follows (in thousands, except share and per share data):

	Consolidated Balance Sheets as of June 30, 2010		
	As Previously reported	Adjustments	As Restated
Assets:			
Accounts receivable	$ 11,653	$ 1,242	$ 12,895
Deferred tax assets, current	170	1,588	1,758
Prepaid expenses and other current assets	4,561	562	5,123
Total current assets	63,614	3,392	67,006
Property, plant and equipment	31,923	(3,875)	28,048
Deferred tax assets, long-term	3,152	(1,916)	1,236
Accounts receivable, long-term		3,360	3,360

Total assets	101,552	961	102,513
Liabilities and Shareholders Equity:			
Accrued Expenses	3,449	148	3,597
Deferred revenue, long-term	648	(421)	227
Shareholders equity:			
Retained deficit	(3,889)	1,234	(2,655)

Table of Contents

	Consolidated Statements of Operations Three months ended June 30, 2010		
	As Previously reported	Adjustments	As Restated
Product revenue	$ 13,469	$ 2,289	$ 15,758
Cost of product revenue	8,525	1,782	10,307
Dividend and interest income	10	83	93
Income tax benefit	(904)	71	(833)
Net loss	(1,055)	519	(536))
Net loss per share attributable to common shareholders - basic and diluted	$ (0.05)	$ 0.03	$ (0.02)
Weighted average common shares outstanding basic and diluted	22,523,107		22,523,107

	Consolidated Statements of Cash Flows Three months ended June 30, 2010		
	As Previously Reported	Adjustments	As Restated
Net loss	$ (1,055)	$ 519	$ (536)
Depreciation and amortization	908	(146)	762
Deferred income tax benefit	(756)	(20)	(776)
Accounts receivable	3,011	132	3,143
Prepaid expenses and other assets and liabilities	(1,153)	(2,062)	(3,215)
Accrued expenses	(395)	(138)	(533)
Net cash used in operating activities	(4,565)	(1,715)	(6,280)
Purchase of property and equipment	(580)	(2)	(582)
Purchase or property and equipment under operating leases	(1,721)	1,717	(4)
Net cash used in investing activities	(2,549)	1,715	(834)

NOTE C SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of consolidation

The condensed consolidated financial statements include the accounts of Orion Energy Systems, Inc. and its wholly-owned subsidiaries. All significant intercompany transactions and balances have been eliminated in consolidation.

Reclassifications

Certain items have been reclassified from the fiscal year 2010 classifications to conform to the fiscal year 2011 presentation. The reclassification had no effect on net cash provided by operating activities, total assets, net income or earnings per share.

Basis of presentation

The accompanying unaudited condensed consolidated financial statements of the Company have been prepared in accordance with accounting principles generally accepted in the United States (GAAP) for interim financial information and with the rules and regulations of the Securities Exchange Commission. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments, consisting of normal recurring adjustments, considered necessary for a fair presentation have been included. Interim results are not necessarily indicative of results that may be expected for the year ending March 31, 2011 or other interim periods.

The condensed consolidated balance sheet at March 31, 2010 has been derived from the audited consolidated financial statements at that date but does not include all of the information required by GAAP for complete financial statements.

The accompanying unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and footnotes thereto included in the Company s Annual Report on Form 10-K for the fiscal year ended March 31, 2010 filed with the Securities and Exchange Commission on June 14, 2010 as supplemented by the Company s Annual Report on Form 10-K for the fiscal year ended March 31, 2011 filed with the SEC on July 22, 2011 (see, in particular, footnote B therein).

Use of estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during that reporting period. Areas that require the use of significant management estimates include revenue recognition, inventory obsolescence and bad debt reserves, accruals for warranty expenses, income taxes and certain equity transactions. Accordingly, actual results could differ from those estimates.

Reclassification

Certain reclassifications have been made in the prior periods financial statements to conform to current period presentation.

Short-term investments available for sale

The amortized cost and fair value of marketable securities, with gross unrealized gains and losses, as of March 31, 2010 and June 30, 2010 were as follows (in thousands):

	March 31, 2010					
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value	Cash and Cash Equivalents	Short Term Investments
Money market funds	$ 22,297	$	$	$ 22,297	$ 22,297	$
Bank certificate of deposit	1,000			1,000		1,000
Total	$ 23,297	$	$	$ 23,297	$ 22,297	$ 1,000

	June 30, 2010					
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value	Cash and Cash Equivalents	Short Term Investments
Money market funds	$ 553	$	$	$ 553	$ 553	$
Bank certificate of deposit	1,007			1,007		1,007

Total	$ 1,560	$	$	$ 1,560	$ 553	$ 1,007

As of March 31, 2010 and June 30, 2010, the Company s financial assets described in the table above were measured at fair value on a recurring basis employing quoted prices in active markets for identical assets (level 1 inputs).

Fair value of financial instruments

The carrying amounts of the Company s financial instruments, which include cash and cash equivalents, short-term investments, accounts receivable and accounts payable, approximate their respective fair values due to the relatively short-term nature of these instruments. Based upon interest rates currently available to the Company for debt with similar terms, the carrying value of the Company s long-term debt is also approximately equal to its fair value.

Accounts receivable

The majority of the Company s accounts receivable are due from companies in the commercial, industrial and agricultural industries, and wholesalers. Credit is extended based on an evaluation of a customer s financial condition. Generally, collateral is not required for end users; however, the payment of certain trade accounts receivable from wholesalers is secured by irrevocable standby letters of credit. Accounts receivable are generally due within 30-60 days. Accounts receivable are stated at the amount the Company expects to collect from outstanding balances. The Company provides for probable uncollectible amounts through a charge to earnings and a credit to an allowance for doubtful accounts based on its assessment of the current status of individual accounts. Balances that are still outstanding after the Company has used reasonable collection efforts are written off through a charge to the allowance for doubtful accounts and a credit to accounts receivable.

Included in accounts receivable are amounts due from a third party finance company to which the Company has sold, without recourse, the future cash flows from Orion Throughput Agreements, or OTA, lease arrangements entered into with customers. Such receivables are recorded at the present value of the future cash flows discounted at 7.25%. As of June 30, 2010, the following amounts were due from the third party finance company in future periods (in thousands):

Fiscal 2011	$	178
Fiscal 2012		338
Fiscal 2013		338
Fiscal 2014		270
Fiscal 2015		135
Total gross receivable		1,259
Less: amount representing interest		(190)
Net contracts receivable	$	1,069

Inventories

Inventories consist of raw materials and components, such as ballasts, metal sheet and coil stock and molded parts; work in process inventories, such as frames and reflectors; and finished goods, including completed fixtures or systems and accessories, such as lamps, meters and power supplies. All inventories are stated at the lower of cost or market value with cost determined using the first-in, first-out (FIFO) method. The Company reduces the carrying value of its inventories for differences between the cost and estimated net realizable value, taking into consideration usage in the preceding 12 months, expected demand, and other information indicating obsolescence. The Company records as a charge to cost of product revenue the amount required to reduce the carrying value of inventory to net realizable value. As of March 31, 2010 and June 30, 2010, the Company had inventory obsolescence reserves of $756,000 and $755,000.

Costs associated with the procurement and warehousing of inventories, such as inbound freight charges and purchasing and receiving costs, are also included in cost of product revenue.

Inventories were comprised of the following (in thousands):

	March 31, 2010	June 30, 2010
Raw materials and components	$ 11,107	$ 10,525
Work in process	669	834
Finished goods	14,215	18,668
	$ 25,991	$ 30,027

Property and Equipment

Property and equipment consisted of the following (in thousands):

	March 31, 2010	June 30, 2010