

ABLE ENERGY INC
Form 10-Q/A
March 13, 2008

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: December 31, 2006

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: 001-15035

ABLE ENERGY, INC.

(An exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

22-3520840
(I.R.S. employer
identification No.)

198 Green Pond Road
Rockaway, NJ
(Address of principal executive offices)

07866
(Zip code)

Registrant's telephone number, including area code: (973) 625-1012

Not Applicable

(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 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 is a large accelerated filer, an accelerated filer, or a non-accelerated filer:

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Large accelerated filer Accelerated filer Non-accelerated filer

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 March 6, 2008, 14,808,090 shares of common stock, \$.001 Par value per share, of Able Energy, Inc. were issued and outstanding.

EXPLANATORY NOTE

Able Energy, Inc. ("the Company") is filing this Amendment No. 1 (the "Amendment") to its Quarterly Report on Form 10-Q/A for the quarter ended December 31, 2006 (the "Report"), which Report was previously filed on July 31, 2007, because the Company's former independent registered public accounting firm, Marcum & Kliegman LLP, withdrew its review of the Report subsequent to their dismissal by the Company on August 13, 2007. The financial statements listed under Part I Financial Information Item 1 have been reviewed in accordance with SAS #100 by Lazar Levine & Felix LLP, the Company's new independent registered public accounting firm, who commenced its engagement on September 21, 2007. In the Amendment, there were no major changes made to the body or disclosures in the Report as a result of Lazar Levine & Felix's review, except for an amortization cost increases of \$715,000 and \$175,000 for the six and three month periods ended December 31, 2006, respectively, reflected throughout the financial statements and applicable note disclosures as a result of not obtaining the financing, Note 2 (Going Concern, Liquidity and Capital Resources and Management's Plans) where the Company updated balances through the date of the filing and extension dates and compliance filings and Note 22 (Subsequent Events) to the financial statements regarding subsequent events that occurred since July 31, 2007, in which the Company discloses (i) changes in officers, (ii) additional loans under and refinancing of various loan and agreements of the Company (including financing agreements of All American Plazas, Inc. (now known as All American Properties, Inc.) ("AAP") that were assumed by a subsidiary of the Company in the acquisition of assets of AAP which closed as of May 30, 2007), (iii) updates of litigation matters (including the commencement of arbitration proceedings by the Company and AAP against Manns Haggarskjold of North America, Ltd. to recover fees paid to Manns to obtain financing for the Company and AAP, the settlement of an action against Summit Ventures, Inc., a second subpoena issued to the Company by the SEC for the production of documents and a summons and complaint served on the Company and others which inter alia seeks class action status filed by the shareholders of CCI Group, Inc.), (iv) entry into a consulting agreement with a related party, (v) the dismissal of Marcum & Kliegman as the Company's independent registered public accounting firm and the engagement of Lazar Levine & Felix as the Company's new independent registered public accounting firm, (vi) the law suit the Company filed against Marcum & Kliegman for breach of contract, gross negligence and defamation and (vii) various other narrative changes throughout form 10-Q/A.

ABLE ENERGY, INC. AND SUBSIDIARIES
FORM 10-Q/A

December 31, 2006

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PART I. FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements

ABLE ENERGY, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS

	DECEMBER 31, 2006 (Unaudited) (Restated) (Note 12)	JUNE 30, 2006
ASSETS		
Current Assets:		
Cash	\$ 1,265,998	\$ 2,144,729
Accounts receivable, net of allowance for doubtful accounts of \$516,315 and \$462,086, at December 31, 2006 and June 30, 2006, respectively	3,352,811	3,414,894
Due from broker	509,198	-
Inventories	2,123,433	675,987
Notes receivable - current portion	228,047	400,579
Receivable from a related party	297,059	-
Prepaid expenses and other current assets	487,365	528,788
Total Current Assets	8,263,911	7,164,977
Property and equipment, net	4,742,692	4,414,051
Notes receivable - less current portion	725,000	725,000
Intangible assets, net	974,931	326,658
Deferred financing costs, net	281,172	150,264
Prepaid acquisition costs	225,000	225,000
Security deposits	79,918	84,918
Total Assets	\$ 15,292,624	\$ 13,090,868
LIABILITIES AND STOCKHOLDERS' (DEFICIENCY) EQUITY		
Current Liabilities:		
Line of credit	\$ 999,804	\$ 1,231,640
Notes payable, current portion	146,450	76,181
Capital leases payable, current portion	311,476	314,145
Convertible debentures and notes payable, net of unamortized debt discounts of \$2,600,171 and \$70,368 as of December 31, 2006 and June 30, 2006, respectively	532,326	62,132
Accounts payable and accrued expenses	3,505,081	2,298,937
Fuel derivative contracts	383,065	-
Customer payments	5,409,244	3,336,833
Unearned revenue	231,769	277,426
Total Current Liabilities	11,519,215	7,597,294
Notes payable, less current portion	3,447,687	3,176,175

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Capital leases payable, less current portion	577,426	645,313
Total Long - Term Liabilities	4,025,113	3,821,488
Total Liabilities	15,544,328	11,418,782
COMMITMENTS AND CONTINGENCIES		
Stockholders' (Deficiency) Equity:		
Preferred stock; par value \$.001, authorized 10,000,000 shares; issued - none	-	-
Common stock; \$.001 par value; 75,000,000 and 10,000,000 shares authorized; at December 31, 2006 and June 30, 2006, respectively 3,141,423 and 3,128,923 shares issued and outstanding at December 31, 2006 and June 30, 2006, respectively	3,141	3,129
Additional paid - in capital	17,991,054	14,812,723
Accumulated deficit	(14,856,233)	(11,038,961)
Accumulated other comprehensive loss	(383,065)	-
Notes and loans receivable - related parties	(3,006,601)	(2,104,805)
Total Stockholders' (Deficiency) Equity	(251,704)	1,672,086
Total Liabilities and Stockholders' (Deficiency) Equity	\$ 15,292,624	\$ 13,090,868

See accompanying notes to these condensed consolidated financial statements.

ABLE ENERGY, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)

	For the Three Months Ended		For the Six Months Ended	
	December 31,		December 31,	
	2006	2005	2006	2005
	(Restated)	(Restated)	(Restated)	(Restated)
	(Note 12)	(Note 5)	(Note 12)	(Note 5)
Net Sales	\$ 19,266,016	\$ 22,455,462	\$ 32,101,569	\$ 35,588,527
Cost of Sales (exclusive of depreciation and amortization shown separately below)	17,542,824	20,059,210	29,184,442	32,068,784
Gross Profit	1,723,192	2,396,252	2,917,127	3,519,743
Operating Expenses:				
Selling, general and administrative	2,579,347	2,354,125	4,868,130	4,214,114
Depreciation and amortization	153,954	161,435	325,291	433,591
Total Operating Expenses	2,733,301	2,515,560	5,193,421	4,647,705
Loss from Operations	(1,010,109)	(119,308)	(2,276,294)	(1,127,962)
Other Income (Expense):				
Interest and other income	156,282	28,910	305,104	57,121
Interest income - related parties	70,153	13,295	142,031	31,070
Interest expense	(211,276)	(197,987)	(388,029)	(350,378)
Interest expense - related parties	-	-	-	(35,333)
Note conversion expense	-	(125,000)	-	(125,000)
Amortization of deferred financing costs	(202,762)	(207,136)	(763,890)	(240,701)
Amortization of debt discounts on convertible debentures and note payable	(274,285)	(1,207,004)	(470,194)	(1,485,537)
Registration rights penalty	(165,400)	-	(366,000)	-
Total Other Expenses, Net	(627,288)	(1,694,922)	(1,540,978)	(2,148,758)
Net Loss	\$ (1,637,397)	\$ (1,814,230)	\$ (3,817,272)	\$ (3,276,720)
Basic and diluted loss per common share	\$ (0.52)	\$ (0.71)	\$ (1.22)	\$ (1.30)
Weighted average number of common shares outstanding - basic and diluted	3,141,423	2,570,065	3,137,577	2,511,823

See accompanying notes to these condensed consolidated financial statements.

ABLE ENERGY, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENT OF CHANGES IN STOCKHOLDERS' EQUITY (DEFICIENCY)
For The Six Months Ended December 31, 2006
(Restated) (Unaudited) (Note 12)

	Common Stock		Additional	Accumulated	Other	Accumulated	Notes and	Total	
	Shares	Amount	Paid - in Capital	Deficit	Comprehens	Loss	Loans Receivable Related Parties	Stockholders' Equity (Deficiency)	Comprehens
					Loss				Loss
Balance June 30, 2006	3,128,923	\$ 3,129	\$ 14,812,723	\$ (11,038,961)	\$ -	\$ (2,104,805)		\$ 1,672,086	\$ -
Common stock issued in connection with option exercise	12,500	12	54,488	-	-	-	-	54,500	-
Discounts on convertible debentures and note payable	-	-	3,000,000	-	-	-	-	3,000,000	-
Amortization of deferred compensation	-	-	123,843	-	-	-	-	123,843	-
Notes receivable from related parties for reimbursement of certain fees	-	-	-	-	-	(590,000)		(590,000)	-
Issuance of notes receivable and related accrued interest receivable upon advance to stockholders	-	-	-	-	-	(311,796)		(311,796)	-
Net loss (Restated)	-	-	-	(3,817,272) (a)	-	-		(3,817,272)	(3,817,272)
Comprehensive loss - unrealized loss on fuel derivative	-	-	-	-	(383,065)	-		(383,065)	(383,065)

contracts

Balance

December 31,
3006

3,141,423	\$ 3,141	\$ 17,991,054	\$ (14,856,233)	\$ (383,065)	\$ (3,006,601)	\$ (251,704)	\$ (4,200,337)
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Note:

(a) Net loss as

originally

reported

\$ (3,102,272)

Adjustment for restated

amortization of deferred

financing costs

(715,000)

Net loss

(Restated)

\$ (3,817,272)

See accompanying notes to these condensed consolidated financial statements.

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ABLE ENERGY, INC.
AND SUBSIDIARIES
CONDENSED
CONSOLIDATED
STATEMENTS OF
CASH FLOWS
(Unaudited)

	For the Six Months Ended December 31,	
	2006	2005
	(Restated)	(Restated)
	(Note 12)	(Note 5)
Cash flows from operating activities:		
Net loss	\$ (3,817,272)	\$ (3,276,720)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:		
Depreciation and amortization	325,291	433,591
Provision for bad debts	54,226	195,141
Amortization of debt discounts on convertible debentures and note payable	470,194	1,485,537
Amortization of deferred financing costs	763,890	240,701
Interest income on note receivable and loan - related parties	(121,798)	-
Stock - based compensation	123,843	2,423
Gain on sale of property and equipment	(12,593)	(5,000)
Note conversion expense	-	125,000
(Increase) decrease in operating assets:		
Accounts receivable	(13,225)	(1,379,514)
Due from broker	(509,198)	-
Inventories	(1,419,446)	(1,450,913)
Receivables from a related party	(297,059)	-
Prepaid expenses and other current assets	41,423	(16,327)
Security deposits	5,000	(5,000)
Increase (decrease) in operating liabilities:		
Accounts payable and accrued expenses	1,206,144	1,685,527
Customer payments	1,834,872	2,254,311
Unearned revenue	(45,657)	33,924
Net cash (used in) provided by operating activities	(1,411,365)	322,681
Cash flows from investing activities:		
Purchases of property and equipment	(472,909)	(279,605)
Cash acquired in Purchase of Horsham Franchise, net of \$128,000 cash paid	109,539	-
Advances to related parties	(1,494,998)	(1,897,500)
Intangible assets	-	(9,599)
Prepaid acquisition costs	-	(611,940)
Collection of notes receivable	(96,946)	27,825
Cash received on sale of property and equipment	13,886	14,599
Net cash used in investing activities	(1,941,428)	(2,756,220)

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Cash flows from financing activities:		
Net (repayments) borrowings under line of credit	(231,836)	436,757
Repayment of notes payable	(3,835)	(35,087)
Repayment of capital leases payable	(164,969)	(141,708)
Proceeds from exercise of options	54,500	1,068,000
Deferred financing costs	(179,798)	(217,174)
Proceeds from sale of convertible debentures and note payable	3,000,000	2,500,000
Net cash provided by financing activities	2,474,062	3,610,788
Net (decrease) increase in cash	(878,731)	1,177,249
Cash - Beginning of Period	2,144,729	1,754,318
Cash - End of Period	\$ 1,265,998	\$ 2,931,567
Supplemental disclosure of cash flow information:		
Cash paid during the period for interest	\$ 372,348	\$ 273,249
Supplemental non - cash investing and financing activity:		
Purchase of Horsham franchise:		
Assets acquired and liabilities assumed:		
Cash	\$ 237,539	\$ -
Inventories	28,000	-
Property and equipment	39,000	-