LEAP WIRELESS INTERNATIONAL INC
Form 10-Q
November 07, 2008
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2008

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: 0-29752

Leap Wireless International, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**33-0811062**

(State or other jurisdiction of	**(I.R.S. Employer**
incorporation or organization)	**Identification No.)**
10307 Pacific Center Court, San Diego, CA	**92121**
(Address of principal executive offices)	**(Zip Code)**

(858) 882-6000

(Registrant s telephone number, including area code)

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 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 ¨

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

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

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes þ No ¨

The number of shares of registrant s common stock outstanding on October 31, 2008 was 69,422,166.

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LEAP WIRELESS INTERNATIONAL, INC.

QUARTERLY REPORT ON FORM 10-Q

For the Quarter Ended September 30, 2008

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PART I

FINANCIAL INFORMATION

Item 1. Financial Statements.

LEAP WIRELESS INTERNATIONAL, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS

(In thousands, except share amounts)

	September 30, 2008 (Unaudited)	December 31, 2007
Assets		
Cash and cash equivalents	$ 541,804	$ 433,337
Short-term investments	284,511	179,233
Restricted cash, cash equivalents and short-term investments	4,870	15,550
Inventories	106,684	65,208
Other current assets	65,989	38,099
Total current assets	1,003,858	731,427
Property and equipment, net	1,661,540	1,316,657
Wireless licenses	1,836,622	1,866,353
Assets held for sale	45,569	
Goodwill	429,968	425,782
Other intangible assets, net	31,378	46,102
Other assets	81,331	46,677
Total assets	$ 5,090,266	$ 4,432,998
Liabilities and Stockholders Equity		
Accounts payable and accrued liabilities	$ 303,936	$ 225,735
Current maturities of long-term debt	12,500	10,500
Other current liabilities	178,163	114,808
Total current liabilities	494,599	351,043
Long-term debt	2,569,587	2,033,902
Deferred tax liabilities	210,949	182,835
Other long-term liabilities	93,777	90,172
Total liabilities	3,368,912	2,657,952
Minority interests	54,632	50,724
Commitments and contingencies (Note 8)		
Stockholders equity:		
Preferred stock authorized 10,000,000 shares; $.0001 par value, no shares issued and outstanding		
Common stock authorized 160,000,000 shares; $.0001 par value, 69,400,816 and 68,674,435 shares issued and outstanding at September 30, 2008 and December 31, 2007, respectively	7	7
Additional paid-in capital	1,840,986	1,808,689
Accumulated deficit	(168,700)	(75,699)

Accumulated other comprehensive loss	(5,571)	(8,675)
Total stockholders equity	1,666,722	1,724,322
Total liabilities and stockholders equity	$ 5,090,266	$ 4,432,998

See accompanying notes to condensed consolidated financial statements.

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LEAP WIRELESS INTERNATIONAL, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited and in thousands, except per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2008	2007	2008	2007
Revenues:				
Service revenues	$ 434,523	$ 354,495	$ 1,250,595	$ 1,023,439
Equipment revenues	62,174	55,161	189,344	177,556
Total revenues	496,697	409,656	1,439,939	1,200,995
Operating expenses:				
Cost of service (exclusive of items shown separately below)	(129,708)	(100,907)	(359,735)	(281,906)
Cost of equipment	(113,057)	(97,218)	(332,405)	(310,701)
Selling and marketing	(77,407)	(54,265)	(209,783)	(150,045)
General and administrative	(87,522)	(68,686)	(240,662)	(200,327)
Depreciation and amortization	(86,033)	(77,781)	(254,839)	(218,996)
Impairment of assets	(177)	(1,368)	(177)	(1,368)
Total operating expenses	(493,904)	(400,225)	(1,397,601)	(1,163,343)
Gain (loss) on sale or disposal of assets	(402)	(38)	559	902
Operating income	2,391	9,393	42,897	38,554
Minority interests in consolidated subsidiaries	(1,266)	182	(3,954)	2,434
Equity in net income (loss) of investee	230	(807)	(1,127)	(807)
Interest income	4,072	10,148	11,439	22,567
Interest expense	(45,352)	(33,336)	(109,110)	(86,922)
Other income (expense), net	1,161	(4,207)	(3,182)	(4,844)
Loss before income taxes	(38,764)	(18,627)	(63,037)	(29,018)
Income tax expense	(10,024)	(24,662)	(29,964)	(28,857)
Net loss	$ (48,788)	$ (43,289)	$ (93,001)	$ (57,875)
Loss per share:				
Basic	$ (0.72)	$ (0.64)	$ (1.37)	$ (0.86)
Diluted	$ (0.72)	$ (0.64)	$ (1.37)	$ (0.86)
Shares used in per share calculations:				
Basic	68,071	67,194	67,999	67,064
Diluted	68,071	67,194	67,999	67,064

See accompanying notes to condensed consolidated financial statements.

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LEAP WIRELESS INTERNATIONAL, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited and in thousands)

	Nine Months Ended September 30, 2008	Nine Months Ended September 30, 2007
Operating activities:		
Net cash provided by operating activities	$ 271,269	$ 195,841
Investing activities:		
Acquisition of business, net of cash acquired	(31,201)	
Purchases of property and equipment	(528,333)	(345,195)
Change in prepayments for purchases of property and equipment	(4,867)	12,010
Purchases of and deposits for wireless licenses and spectrum clearing costs	(74,698)	(4,418)
Return of deposit for wireless licenses	70,000	
Proceeds from sale of wireless licenses and operating assets		9,500
Purchases of investments	(446,590)	(518,916)
Sales and maturities of investments	341,239	287,066
Purchase of minority interest		(4,706)
Purchase of membership units	(1,033)	(17,921)
Changes in restricted cash, cash equivalents and short-term investments, net	(1,980)	317
Net cash used in investing activities	(677,463)	(582,263)
Financing activities:		
Proceeds from long-term debt	535,750	370,480
Principal payments on capital lease obligations	(12,900)	
Repayment of long-term debt	(7,750)	(6,750)
Payment of debt issuance costs	(7,507)	(5,257)
Minority interest contributions		4,014
Proceeds from issuance of common stock, net	7,068	7,847
Net cash provided by financing activities	514,661	370,334
Net increase (decrease) in cash and cash equivalents	108,467	(16,088)
Cash and cash equivalents at beginning of period	433,337	372,812
Cash and cash equivalents at end of period	$ 541,804	$ 356,724
Supplementary disclosure of cash flow information:		
Cash paid for interest	$ 107,924	$ 89,992
Cash paid for income taxes	$ 1,916	$ 365

See accompanying notes to condensed consolidated financial statements.

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LEAP WIRELESS INTERNATIONAL, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

Note 1. The Company

Leap Wireless International, Inc. (Leap), a Delaware corporation, together with its subsidiaries, is a wireless communications carrier that offers digital wireless service in the United States of America under the Cricket® brand. Cricket service offers customers unlimited wireless service for a flat monthly rate without requiring a fixed-term contract or a credit check. Leap conducts operations through its subsidiaries and has no independent operations or sources of income other than through dividends, if any, from its subsidiaries. Cricket service is offered by Cricket Communications, Inc. (Cricket), a wholly owned subsidiary of Leap, and is also offered in Oregon by LCW Wireless Operations, LLC (LCW Operations), a wholly owned subsidiary of LCW Wireless, LLC (LCW Wireless) and a designated entity under Federal Communications Commission (FCC) regulations. Cricket owns an indirect 73.3% non-controlling interest in LCW Operations through a 73.3% non-controlling interest in LCW Wireless. Cricket also owns an 82.5% non-controlling interest in Denali Spectrum, LLC (Denali), which purchased a wireless license in the FCC s auction for Advanced Wireless Services (AWS) licenses (Auction #66), covering the upper mid-west portion of the United States, as a designated entity through its wholly owned subsidiary, Denali Spectrum License, LLC (Denali License). Leap, Cricket and their subsidiaries, including LCW Wireless and Denali, are collectively referred to herein as the Company.

The Company operates in a single operating segment as a wireless communications carrier that offers digital wireless service in the United States of America.

Note 2. Basis of Presentation and Significant Accounting Policies

Basis of Presentation

The accompanying interim condensed consolidated financial statements have been prepared without audit, in accordance with the instructions to Form 10-Q and therefore do not include all information and footnotes required by accounting principles generally accepted in the United States of America for a complete set of financial statements. In the opinion of management, the unaudited financial information for the interim periods presented reflects all adjustments necessary for a fair statement of the Company s results for the periods presented, with such adjustments consisting only of normal recurring adjustments. Accounting principles generally accepted in the United States of America require management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities and the reported amounts of revenues and expenses. By their nature, estimates are subject to an inherent degree of uncertainty. Actual results could differ from management s estimates and operating results for interim periods are not necessarily indicative of operating results for an entire fiscal year.

The condensed consolidated financial statements include the accounts of Leap and its wholly owned subsidiaries as well as the accounts of LCW Wireless and Denali and their wholly owned subsidiaries. The Company consolidates its interests in LCW Wireless and Denali in accordance with Financial Accounting Standards Board (FASB) Interpretation No. (FIN) 46(R), Consolidation of Variable Interest Entities, because these entities are variable interest entities and the Company will absorb a majority of their expected losses. All significant intercompany accounts and transactions have been eliminated in the condensed consolidated financial statements.

Revenues

Cricket s business revenues principally arise from the sale of wireless services, handsets and accessories. Wireless services are generally provided on a month-to-month basis. In general, new and reactivating customers are required to pay for their service in advance and customers who activated their service prior to May 2006 pay in arrears. The Company does not require any of its customers to sign fixed-term service commitments or submit to a credit check. These terms generally appeal to less affluent customers who are considered more likely to terminate service for inability to pay than wireless customers in general. Consequently, the Company has concluded that collectibility of its revenues is not reasonably assured until payment has been received. Accordingly, service revenues are recognized only after services have been rendered and payment has been received.

When the Company activates a new customer, it frequently sells that customer a handset and the first month of service in a bundled transaction. Under the provisions of Emerging Issues Task Force (EITF) Issue No. 00-21, Revenue Arrangements with Multiple Deliverables, (EITF 00-21) the sale of a handset along with a month of wireless service constitutes a multiple element arrangement. Under EITF 00-21, once a company has determined the fair value of the elements in the sales transaction, the total consideration received from the customer must be allocated among those elements on a relative fair value basis. Applying EITF 00-21 to these transactions results in the Company recognizing the total consideration received, less one month of wireless service revenue (at the customer s stated rate plan), as equipment revenue.

Equipment revenues and related costs from the sale of handsets are recognized when service is activated by customers. Revenues and related costs from the sale of accessories are recognized at the point of sale. The costs of handsets and accessories sold are recorded in cost of equipment. In addition to handsets that the Company sells directly to its customers at Cricket-owned stores, the Company also sells handsets to third-party dealers. These dealers then sell the handsets to the ultimate Cricket customer, and that customer also receives the first month of service in a bundled transaction (identical to the sale made at a Cricket-owned store). Sales of handsets to third-party dealers are recognized as equipment revenues only when service is activated by customers, since the level of price reductions ultimately available to such dealers is not reliably estimable until the handsets are sold by such dealers to customers. Thus, handsets sold to third-party dealers are recorded as consigned inventory and deferred equipment revenue until they are sold to, and service is activated by, customers.

Through a third-party provider, the Company s customers may elect to participate in an extended handset warranty/insurance program. The Company recognizes revenue on replacement handsets sold to its customers under the program when the customer purchases a replacement handset.

Sales incentives offered without charge to customers and volume-based incentives paid to the Company s third-party dealers are recognized as a reduction of revenue and as a liability when the related service or equipment revenue is recognized. Customers have limited rights to return handsets and accessories based on time and/or usage, and customer returns of handsets and accessories have historically been negligible.

Amounts billed by the Company in advance of customers wireless service periods are not reflected in accounts receivable or deferred revenue since collectibility of such amounts is not reasonably assured. Deferred revenue consists primarily of cash received from customers in advance of their service period and deferred equipment revenue related to handsets and accessories sold to third-party dealers.

Costs and Expenses

The Company s costs and expenses include:

Cost of Service. The major components of cost of service are: charges from other communications companies for long distance, roaming and content download services provided to the Company s customers; charges from other communications companies for their transport and termination of calls originated by the Company s customers and destined for customers of other networks; and expenses for tower and network facility rent, engineering operations, field technicians and utility and maintenance charges, and salary and overhead charges associated with these functions.

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Cost of Equipment. Cost of equipment primarily includes the cost of handsets and accessories purchased from third-party vendors and resold to the Company s customers in connection with its services, as well as the lower of cost or market write-downs associated with excess or damaged handsets and accessories.

Selling and Marketing. Selling and marketing expenses primarily include advertising expenses, promotional and public relations costs associated with acquiring new customers, store operating costs (such as retail associates salaries and rent), and salary and overhead charges associated with selling and marketing functions.

General and Administrative. General and administrative expenses primarily include call center and other customer care program costs and salary, overhead and outside consulting costs associated with the Company s customer care, billing, information technology, finance, human resources, accounting, legal and executive functions.

Cash and Cash Equivalents

The Company considers all highly liquid investments with a maturity at the time of purchase of three months or less to be cash equivalents. The Company invests its cash with major financial institutions in money market funds, short-term U.S. Treasury securities and other securities such as prime-rated short-term commercial paper. The Company has not experienced any significant losses on its cash and cash equivalents.

Short-Term Investments

Short-term investments generally consist of highly liquid, fixed-income investments with an original maturity at the time of purchase of greater than three months. Such investments consist of commercial paper, asset-backed commercial paper and obligations of the U.S. government.

Investments are classified as available-for-sale and stated at fair value. The net unrealized gains or losses on available-for-sale securities are reported as a component of comprehensive income (loss). The specific identification method is used to compute the realized gains and losses on investments. Investments are periodically reviewed for impairment. If the carrying value of an investment exceeds its fair value and the decline in value is determined to be other-than-temporary, an impairment loss is recognized for the difference. See Note 5 for a discussion regarding the Company s impairment losses recognized on its short-term investments.

Fair Value of Financial Instruments

In January 2008, with respect to valuing its financial assets and liabilities, the Company adopted the provisions of Statement of Financial Accounting Standards (SFAS) No. 157, Fair Value Measurements (SFAS 157), which defines fair value for accounting purposes, establishes a framework for measuring fair value and expands disclosure requirements regarding fair value measurements. Fair value is defined as an exit price, which is the price that would be received upon sale of an asset or paid upon transfer of a liability in an orderly transaction between market participants at the measurement date. The degree of judgment utilized in measuring the fair value of assets and liabilities generally correlates to the level of pricing observability. Financial assets and liabilities with readily available, actively quoted prices or for which fair value can be measured from actively quoted prices in active markets generally have more pricing observability and require less judgment in measuring fair value. Conversely, financial assets and liabilities that are rarely traded or not quoted have less pricing observability and are generally measured at fair value using valuation models that require more judgment. These valuation techniques involve some level of management estimation and judgment, the degree of which is dependent on the price transparency of the asset, liability or market and the nature of the asset or liability. The Company has categorized its financial assets and liabilities measured at fair value into a three-level hierarchy in accordance with SFAS 157. See Note 5 for a further discussion regarding the Company s measurement of financial assets and liabilities at fair value.

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Property and Equipment

Property and equipment are initially recorded at cost. Additions and improvements are capitalized, while expenditures that do not enhance the asset or extend its useful life are charged to operating expenses as incurred. Depreciation is applied using the straight-line method over the estimated useful lives of the assets once the assets are placed in service.

The following table summarizes the depreciable lives for property and equipment (in years):

	Depreciable Life
Network equipment:	
Switches	10
Switch power equipment	15
Cell site equipment and site improvements	7
Towers	15
Antennae	5
Computer hardware and software	3-5
Furniture, fixtures, retail and office equipment	3-7

The Company s network construction expenditures are recorded as construction-in-progress until the network or other asset is placed in service, at which time the asset is transferred to the appropriate property or equipment category. The Company capitalizes salaries and related costs of engineering and technical operations employees as components of construction-in-progress during the construction period to the extent time and expense are contributed to the construction effort. The Company also capitalizes certain telecommunications and other related costs as construction-in-progress during the construction period to the extent they are incremental and directly related to the network under construction. In addition, interest is capitalized on the carrying values of both wireless licenses and equipment during the construction period and is depreciated over an estimated useful life of ten years. During the three and nine months ended September 30, 2008, the Company capitalized interest of $12.5 million and $38.6 million, respectively, to property and equipment. During the three and nine months ended September 30, 2007, the Company capitalized interest of $11.5 million and $33.3 million, respectively, to property and equipment.

Property and equipment to be disposed of by sale is not depreciated and is carried at the lower of carrying value or fair value less costs to sell. As of September 30, 2008 and December 31, 2007, there was no property or equipment classified as assets held for sale.

Wireless Licenses

The Company and LCW Wireless operate broadband Personal Communications Services (PCS) and AWS networks under PCS and AWS wireless licenses granted by the FCC that are specific to a particular geographic area on spectrum that has been allocated by the FCC for such services. In addition, through its participation in Auction #66 in December 2006, Denali License acquired an AWS wireless license. Wireless licenses are initially recorded at cost and are not amortized. Although FCC licenses are issued with a stated term (ten years in the case of PCS licenses and fifteen years in the case of AWS licenses), wireless licenses are considered to be indefinite-lived intangible assets because the Company expects its subsidiaries and joint ventures to provide wireless service using the relevant licenses for the foreseeable future, PCS and AWS licenses are routinely renewed for a nominal fee and management has determined that no legal, regulatory, contractual, competitive, economic or other factors currently exist that limit the useful life of the Company s or its consolidated joint ventures PCS and AWS licenses. On a quarterly basis, the Company evaluates the remaining useful life of its indefinite-lived wireless licenses to determine whether events and circumstances, such as any legal, regulatory, contractual, competitive, economic or other factors, continue to support an indefinite useful life. If a wireless license is subsequently determined to have a finite useful life, the Company tests the wireless license for impairment in accordance with SFAS No. 142, Goodwill and Other Intangible Assets, (SFAS 142) and the wireless license would then be amortized prospectively over its estimated remaining useful life. In addition to its quarterly evaluation of the indefinite useful lives of its wireless licenses, the Company also tests its wireless licenses for impairment in accordance with SFAS 142 on an annual basis. As of September 30, 2008 and December 31, 2007, the carrying value of the Company s and its consolidated joint ventures wireless licenses was $1.8 billion and $1.9 billion, respectively. Wireless licenses to be disposed of by sale are carried at the lower of carrying value or fair value less costs to sell. As of September 30, 2008, wireless licenses with a carrying value of $45.6 million were classified as assets held for sale, as more fully described in Note 7. As of December 31, 2007, there were no wireless licenses classified as assets held for sale.

Portions of the AWS spectrum that the Company and Denali License purchased in Auction #66 are currently used by U.S. federal government and/or incumbent commercial licensees. FCC rules require winning bidders to avoid interfering with these existing users or to clear the incumbent users from the spectrum through specified relocation procedures. The Company s and Denali License s spectrum clearing costs are capitalized to wireless licenses as incurred. During the three and nine months ended September 30, 2008, the Company and Denali License incurred approximately $2.0 million and $4.7 million, respectively, in spectrum clearing costs. During the three and nine months ended September 30, 2007, the Company and Denali License incurred approximately $1.7 million and $2.2 million, respectively, in spectrum clearing costs.

Derivative Instruments and Hedging Activities

The Company has entered into interest rate swap agreements with respect to $355 million of its debt. These interest rate swap agreements effectively fix the London Interbank Offered Rate (LIBOR) interest rate on $150 million of indebtedness at 8.3% and $105 million of indebtedness at 7.3% through June 2009 and $100 million of indebtedness at 8.0% through September 2010. The swap agreements were in a liability position as of September 30, 2008 and December 31, 2007 and had a fair value of $6.1 million and $7.2 million, respectively. The Company enters into these derivative contracts to manage its exposure to interest rate changes by achieving a desired proportion of fixed rate versus variable rate debt. In an interest rate swap, the Company agrees to exchange with a counterparty the difference between a variable interest rate and either a fixed or another variable interest rate, multiplied by a notional principal amount. The Company does not use derivative instruments for trading or other speculative purposes.

The Company records all derivatives in other assets or other liabilities on its condensed consolidated balance sheets at their fair values. If the derivative is designated as a cash flow hedge and the hedging relationship qualifies for hedge accounting, the effective portion of the change in fair value of the derivative is recorded in other comprehensive income (loss) and is recorded as interest expense when the hedged debt affects interest expense. The ineffective portion of the change in fair value of the derivative qualifying for hedge accounting and changes in the fair values of derivative instruments not qualifying for hedge accounting are recognized in interest expense in the period of the change.

At inception of the hedge and quarterly thereafter, the Company performs a quantitative and qualitative assessment to determine whether changes in the fair values or cash flows of the derivatives are deemed highly effective in offsetting changes in the fair values or cash flows of the hedged items. If at any time subsequent to the inception of the hedge, the correlation assessment indicates that the derivative is no longer highly effective as a hedge, the Company discontinues hedge accounting and recognizes all subsequent derivative gains and losses in results of operations.

As a result of the amendment to the Company s senior secured credit agreement (Credit Agreement) in June 2008, which among other things introduced a LIBOR floor of 3.0% per annum, as more fully described in Note 6, the Company de-designated its existing interest rate swap agreements as cash flow hedges and discontinued its hedge accounting for these interest rate swaps during the second quarter of 2008. The loss accumulated in other comprehensive income (loss) on the date the Company discontinued its hedge accounting is amortized to interest expense, using the swaplet method, over the remaining term of the respective interest rate swap agreements. In addition, changes in the fair value of these interest rate swaps are recorded as a component of interest expense. During the three and nine months ended September 30, 2008, the Company recognized interest expense of $2.0 million and $1.3 million, respectively, related to these items.

Impairment of Indefinite-Lived Intangible Assets

The Company assesses potential impairments to its indefinite-lived intangible assets, including wireless licenses and goodwill, on an annual basis or when there is evidence that events or changes in circumstances indicate that an impairment condition may exist. The annual impairment test is conducted during the third quarter of each year.

The Company s wireless licenses in its operating markets are combined into a single unit of account for purposes of testing impairment because management believes that utilizing these wireless licenses as a group represents the highest and best use of the assets, and the value of the wireless licenses would not be significantly impacted by a sale of one or a portion of the wireless licenses, among other factors. The Company s non-operating licenses are tested for impairment on an individual basis. An impairment loss is recognized when the fair value of a wireless license is less than its carrying value and is measured as the amount by which the license s carrying value exceeds its fair value. Estimates of the fair value of the Company s wireless licenses are based primarily on available market prices, including successful bid prices in FCC auctions and selling prices observed in wireless license transactions. Any required impairment losses are recorded as a reduction in the carrying value of the wireless license and charged to results of operations. As a result of the annual impairment test of wireless licenses, the Company recorded an impairment charge of $0.2 million during the three and nine months ended September 30, 2008 and an impairment charge of $1.0 million during the three and nine months ended September 30, 2007 to reduce the carrying values of certain non-operating wireless licenses to their estimated fair values. No impairment charges were recorded for the Company s licenses in its operating markets as the fair value of these licenses, as a group, exceeded the carrying value.

The goodwill impairment test involves a two-step process. First, the book value of the Company s net assets, which are combined into a single reporting unit for purposes of the impairment test of goodwill, is compared to the fair value of the Company s net assets. The fair value of the Company s net assets is primarily based on its market capitalization. If the fair value is determined to be less than book value, a second step is performed to measure the amount of the impairment, if any. As of September 30, 2008, the Company completed the first step of the goodwill impairment test and did not identify any indicia of impairment.

The accounting estimates for the Company s wireless licenses and goodwill require management to make significant assumptions about fair value. Management s assumptions regarding fair value require significant judgment about economic factors, industry factors and technology considerations, as well as about the Company s business prospects. Changes in these judgments may have a significant effect on the estimated fair values of the Company s indefinite-lived intangible assets.

Investments in Other Entities

The Company uses the equity method to account for investments in common stock of corporations in which it has a voting interest of between 20% and 50% or in which the Company otherwise has the ability to exercise significant influence, and in limited liability companies that maintain specific ownership accounts in which it has more than a minor but not greater than a 50% ownership interest. Under the equity method, the investment is originally recorded at cost and is adjusted to recognize the Company s share of net earnings or losses of the investee. During the three months ended September 30, 2008, the Company s share of its equity method investee earnings was $0.2 million. During the nine months ended September 30, 2008, the Company s share of its equity method investee losses was $1.1 million. At each of the three and nine months ended September 30, 2007, the Company s share of its equity method investee losses was $0.8 million.

The Company regularly monitors and evaluates the realizable value of its investments. When assessing an investment for an other-than-temporary decline in value, the Company considers such factors as, among other things, the performance of the investee in relation to its business plan, the investee s revenue and cost trends, liquidity and cash position, market acceptance of the investee s products or services, any significant news that has been released regarding the investee and the outlook for the overall industry in which the investee operates. If events and circumstances indicate that a decline in the value of these assets has occurred and is other-than-temporary, the Company records a reduction to the carrying value of its investment and a corresponding charge to the consolidated statements of operations.

Concentrations

The Company generally relies on one key vendor for billing services, one key vendor for handset logistics, one key vendor for its mobile broadband device, one key vendor for a majority of its voice and data communications transport services and a limited number of vendors for payment processing services. Loss or disruption of these services could adversely affect the Company s business.

The Company does not have a national network, and it must pay fees to other carriers who provide the Company with roaming services. Currently, the Company has roaming agreements with several other carriers which allow its customers to roam on such carriers networks. If it were unable to cost-effectively provide roaming services to customers, the Company s competitive position, financial condition, results of operations and business could be materially adversely affected.

Share-Based Compensation

The Company accounts for share-based awards exchanged for employee services in accordance with SFAS No. 123(R), Share-Based Payment (SFAS 123(R)). Under SFAS 123(R), share-based compensation expense is measured at the grant date, based on the estimated fair value of the award, and is recognized as expense, net of estimated forfeitures, over the employee s requisite service period.

Total share-based compensation expense related to all of the Company s share-based awards for the three and nine months ended September 30, 2008 and 2007 was allocated to the condensed consolidated statements of operations as follows (in thousands, except per share data):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2008	2007	2008	2007
Cost of service	$ 628	$ 535	$ 2,145	$ 1,680
Selling and marketing expenses	871	843	3,406	2,404
General and administrative expenses	6,967	5,696	19,951	17,628
Share-based compensation expense	$ 8,466	$ 7,074	$ 25,502	$ 21,712
Share-based compensation expense per share:				
Basic	$ 0.12	$ 0.11	$ 0.38	$ 0.32
Diluted	$ 0.12	$ 0.11	$ 0.38	$ 0.32

Income Taxes

The computation of the Company s annual effective tax rate includes a forecast of the Company s estimated ordinary income (loss), which is its annual income (loss) from continuing operations before tax, excluding unusual or infrequently occurring (discrete) items. Significant management judgment is required in projecting the Company s ordinary income (loss). The Company s projected ordinary income tax expense for the full year 2008, which excludes the effect of discrete items, consists primarily of the deferred tax effect of the amortization of wireless licenses and goodwill for income tax purposes. Because the Company s projected 2008 income tax expense is a relatively fixed amount, a small change in the ordinary income (loss) projection can produce a significant variance in the effective tax rate, and therefore it is difficult to make a reliable estimate of the annual effective tax rate. As a result and in accordance with paragraph 82 of FIN 18, Accounting for Income Taxes in Interim Periods an interpretation of APB Opinion No. 28 (FIN 18), the Company has computed its provision for income taxes for the three and nine months ended September 30, 2008 and 2007 by applying the actual effective tax rate to the year-to-date income.

The Company calculates income taxes in each of the jurisdictions in which it operates. This process involves calculating the actual current tax expense and any deferred income tax expense resulting from temporary differences arising from differing treatments of items for tax and accounting purposes. These temporary differences result in deferred tax assets and liabilities. Deferred tax assets are also established for the expected future tax benefits to be derived from net operating loss carryforwards, capital loss carryforwards and income tax credits.

The Company must then periodically assess the likelihood that its deferred tax assets will be recovered from future taxable income, which assessment requires significant judgment. To the extent the Company believes it is more likely than not that its deferred tax assets will not be recovered, it must establish a valuation allowance. As part of this periodic assessment for the three and nine months ended September 30, 2008, the Company weighed the positive and negative factors with respect to this determination and, at this time, does not believe there is sufficient positive evidence and sustained operating earnings to support a conclusion that it is more likely than not that all or a portion of its deferred tax assets will be realized, except with respect to the realization of a $2.5 million Texas Margins Tax credit. The Company will continue to closely monitor the positive and negative factors to determine whether its valuation allowance should be released. Deferred tax liabilities associated with wireless licenses, tax goodwill and investments in certain joint ventures cannot be considered a source of taxable income to support the realization of deferred tax assets because these deferred tax liabilities will not reverse until some indefinite future period.

At such time as the Company determines that it is more likely than not that all or a portion of the deferred tax assets are realizable, the valuation allowance will be reduced. Pursuant to American Institute of Certified Public Accountants Statement of Position No. 90-7, Financial Reporting by Entities in Reorganization under the Bankruptcy Code (SOP 90-7), up to $218.5 million in future decreases in the valuation allowance established in fresh-start reporting will be accounted for as a reduction of goodwill rather than as a reduction of income tax expense if the valuation allowance decrease occurs prior to January 1, 2009, the effective date for the Company s adoption of SFAS No. 141 (revised 2007), Business Combinations (SFAS 141(R)). SFAS 141(R) provides that any reduction in the valuation allowance established in fresh-start reporting be accounted for as a reduction to income tax expense.

In January 2007, the Company adopted the provisions of FIN 48, Accounting for Uncertainty in Income Taxes an interpretation of FASB Statement No. 109 (FIN 48). At the date of adoption, during 2007 and during the three and nine months ended September 30, 2008, the Company s unrecognized income tax benefits and uncertain tax positions were not material. Interest and penalties related to uncertain tax positions are recognized by the Company as a component of income tax expense but were immaterial on the date of adoption, during 2007 and during the three and nine months ended September 30, 2008. All of the Company s tax years from 1998 to 2007 remain open to examination by federal and state taxing authorities.

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Comprehensive Loss

Comprehensive loss consisted of the following (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2008	**2007**	**2008**	**2007**
Net loss	$ (48,788)	$ (43,289)	$ (93,001)	$ (57,875)
Other comprehensive loss:				
Net unrealized holding gains (losses) on investments, net of tax	(123)	27	683	15
Unrealized losses on interest rate swaps		(4,809)	(1,470)	(5,873)
Comprehensive loss	$ (48,911)	$ (48,071)	$ (93,788)	$ (63,733)

Components of accumulated other comprehensive loss consist of the following (in thousands):

	September 30, 2008	December 31, 2007
Net unrealized holding losses on investments, net of tax	$ (774)	$ (1,457)
Unrealized losses on interest rate swaps, net of swaplet amortization of $3,891 and $0 at September 30, 2008 and December 31, 2007, respectively	(4,797)	(7,218)
Accumulated other comprehensive loss	$ (5,571)	$ (8,675)

Recent Accounting Pronouncements

In December 2007, the FASB issued SFAS 141(R), which expands the definition of a business and a business combination, requires the fair value of the purchase price of an acquisition (including the issuance of equity securities) to be determined on the acquisition date and requires that all assets, liabilities, contingent consideration, contingencies and in-process research and development costs of an acquired business be recorded at fair value at the acquisition date. In addition, SFAS 141(R) requires that acquisition costs generally be expensed as incurred, requires that restructuring costs generally be expensed in periods subsequent to the acquisition date and requires certain changes in accounting for deferred tax asset valuation allowances and acquired income tax uncertainties after the measurement period to impact income tax expense. The Company will be required to adopt SFAS 141(R) on January 1, 2009. The Company is currently evaluating what impact SFAS 141(R) will have on its consolidated financial statements; however, since the Company has significant deferred tax assets recorded through fresh-start reporting for which full valuation allowances were recorded as of its emergence from bankruptcy, this standard could materially affect the Company s results of operations if changes in the valuation allowances occur once it adopts the standard.

In December 2007, the FASB issued SFAS No. 160, Noncontrolling Interests in Consolidated Financial Statements, an Amendment of ARB No. 51 (SFAS 160), which changes the accounting and reporting for minority interests such that minority interests will be recharacterized as noncontrolling interests and will be required to be reported as a component of equity. In addition, SFAS 160 requires that purchases or sales of equity interests that do not result in a change in control be accounted for as equity transactions and, upon a loss of control, requires the interest sold, as well as any interest retained, be recorded at fair value with any gain or loss recognized in earnings. The Company will be required to adopt SFAS 160 on January 1, 2009. The Company is currently evaluating what impact SFAS 160 will have on its consolidated financial statements.

In March 2008, the FASB issued SFAS No. 161, Disclosures about Derivative Instruments and Hedging Activities (SFAS 161), which is intended to help investors better understand how derivative instruments and hedging activities affect an entity s financial position, financial performance and cash flows through enhanced disclosure requirements. The enhanced disclosures include, for example, a tabular summary of the fair values of

derivative instruments and their gains and losses, disclosure of derivative features that are credit-risk-related to provide more information regarding an entity s liquidity and cross-referencing within footnotes to make it easier to locate important information about derivative instruments. The Company will be required to adopt SFAS 161 on January 1, 2009. The Company is currently evaluating what impact SFAS 161 will have on its consolidated financial statements.

In May 2008, the FASB issued SFAS No. 162, The Hierarchy of Generally Accepted Accounting Principles (SFAS 162), which identifies the sources of accounting principles and the framework for selecting principles used in the preparation of financial statements of nongovernmental entities that are presented in conformity with generally accepted accounting principles in the United States (GAAP). SFAS 162 emphasizes that an organization s management and not its auditors has the responsibility to follow GAAP and categorizes sources of accounting principles that are generally accepted in descending order of authority. The Company will be required to adopt SFAS 162 within 60 days after the Securities and Exchange Commission s (SEC) approval of the Public Company Accounting Oversight Board amendments to AU Section 411, The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles. SFAS 162 will not have an impact on the Company s consolidated financial statements.

Note 3. Supplementary Balance Sheet Information (in thousands):

	September 30, 2008	December 31, 2007
Other current assets:		
Accounts receivable, net(1)	$ 38,168	$ 21,158
Prepaid expenses	27,275	16,076
Other	546	865
	$ 65,989	$ 38,099
Property and equipment, net(2):		
Network equipment	$ 1,793,917	$ 1,421,648
Computer equipment and other	229,074	184,224
Construction-in-progress	476,946	341,742
	2,499,937	1,947,614
Accumulated depreciation	(838,397)	(630,957)
	$ 1,661,540	$ 1,316,657
Accounts payable and accrued liabilities:		
Trade accounts payable	$ 173,842	$ 109,781
Accrued payroll and related benefits	49,163	41,048
Other accrued liabilities	80,931	74,906
	$ 303,936	$ 225,735
Other current liabilities:		
Deferred service revenue(3)	$ 54,359	$ 45,387
Deferred equipment revenue(4)	16,979	14,615
Accrued sales, telecommunications, property and other taxes payable	36,415	20,903
Accrued interest	54,251	18,508
Other	16,159	15,395
	$ 178,163	$ 114,808

(1) Accounts receivable consists primarily of amounts billed to third-party dealers for handsets and accessories and, as of September 30, 2008, included approximately $11.3 million of amounts reimbursable to the Company in connection with certain spectrum clearing activities.

(2) As of September 30, 2008 and December 31, 2007, approximately $52.9 million and $49.5 million, respectively, of gross assets were held by the Company under capital lease arrangements. Accumulated amortization relating to these assets totaled $16.1 million and $5.6 million as of September 30, 2008 and December 31, 2007, respectively.

(3) Deferred service revenue consists primarily of cash received from customers in advance of their service period.

(4) Deferred equipment revenue relates to handsets and accessories sold to third-party dealers.

Note 4. Basic and Diluted Earnings (Loss) Per Share

Basic earnings (loss) per share is computed by dividing net income (loss) by the weighted-average number of common shares outstanding during the period. Diluted earnings per share is computed by dividing net income by the sum of the weighted-average number of common shares outstanding during the period and the weighted-average number of dilutive common share equivalents outstanding during the period, using the treasury stock method and the if-converted method, where applicable. Dilutive common share equivalents are comprised of stock options, restricted stock awards, employee stock purchase rights, warrants and convertible senior notes.

The Company incurred losses for the three and nine months ended September 30, 2008 and for the three and nine months ended September 30, 2007; therefore, 8.8 million common share equivalents were excluded in computing diluted earnings (loss) per share for each of the three and nine months ended September 30, 2008, and 4.7 million common share equivalents were excluded in computing diluted earnings (loss) per share for each of the three and nine months ended September 30, 2007.

Note 5. Fair Value of Financial Instruments

The Company has categorized its financial assets and liabilities measured at fair value into a three-level hierarchy in accordance with SFAS 157. Financial assets and liabilities measured at fair value using quoted prices in active markets for identical assets or liabilities are generally categorized as Level 1 assets and liabilities; financial assets and liabilities measured at fair value using observable market-based inputs or unobservable inputs that are corroborated by market data for similar assets or liabilities are generally categorized as Level 2 assets and liabilities; and financial assets and liabilities measured at fair value using unobservable inputs that cannot be corroborated by market data are generally categorized as Level 3 assets and liabilities. The lowest level input that is significant to the fair value measurement of a financial asset or liability is used to categorize that asset or liability, as determined in the judgment of management. Financial assets and liabilities presented at fair value in the Company s condensed consolidated balance sheets are generally categorized as follows:

Level 1 Quoted prices in active markets for identical assets or liabilities. The Company did not have Level 1 assets or liabilities as of September 30, 2008.

Level 2 Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets that are not active or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities. The Company s Level 2 assets and liabilities as of September 30, 2008 included its cash equivalents, its short-term investments in obligations of the U.S. government, a majority of its short-term investments in commercial paper and its interest rate swaps.

Level 3 Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. Such assets and liabilities may have values determined using pricing models, discounted cash flow methodologies, or similar techniques, and include instruments for which the determination of fair value requires significant management judgment or estimation. The Company s Level 3 asset as of September 30, 2008 comprised its short-term investment in asset-backed commercial paper.

The following table sets forth by level within the fair value hierarchy the Company s financial assets and liabilities that were recorded at fair value as of September 30, 2008. As required by SFAS 157, financial assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. Thus, financial assets and liabilities categorized as Level 3 may be measured at fair value using inputs that are observable (Levels 1 and 2) and unobservable (Level 3). Management s assessment of the significance of a particular input to the fair value measurement requires judgment and may affect the valuation of financial assets and liabilities and their placement within the fair value hierarchy levels.

	At Fair Value as of September 30, 2008			
	Level 1	Level 2	Level 3	Total
	(In thousands)			
Assets:				
Cash equivalents	$	$ 267,081	$	$ 267,081
Short-term investments		279,411	5,100	284,511
Total	$	$ 546,492	$ 5,100	$ 551,592
Liabilities:				
Interest rate swaps	$	$ 6,114	$	$ 6,114
Total	$	$ 6,114	$	$ 6,114

The following table provides a summary of the changes in the fair value of the Company s Level 3 assets (in thousands).

Beginning balance, December 31, 2007	$ 16,200
Total losses (realized/unrealized):	
Included in earnings	$ (3,763)
Included in other comprehensive loss	
Purchases, issuances and settlements	(7,337)
Transfers in (out) of Level 3	
Ending balance, September 30, 2008	$ 5,100

The realized losses included in earnings in the table above are presented in other income (expense), net in the condensed consolidated statements of operations and relate to both an investment still held by the Company and an investment no longer held by the Company as of September 30, 2008.

Cash Equivalents and Short-Term Investments

The fair value of the Company s cash equivalents, short-term investments in obligations of the U.S. government and a majority of its short-term investments in commercial paper is determined using observable market-based inputs for similar assets, which primarily include yield curves and time to maturity factors. Such investments are therefore considered to be Level 2 items. The fair value of the Company s investment in asset-backed commercial paper is determined using primarily unobservable inputs that cannot be corroborated by market data, which primarily include ABX and monoline indices and a valuation model that considers a liquidity factor that is subjective in nature, and therefore such investment is considered to be a Level 3 item.

Through its non-controlled consolidated subsidiary Denali, the Company holds an investment in asset-backed commercial paper for which the fair value was determined using the Level 3 inputs described above. This investment was purchased as a highly rated investment grade security. This security, which is collateralized, in part, by residential mortgages, has declined in value since December 31, 2007. As a result of declines in this remaining investment in asset-backed commercial paper and declines in an investment liquidated in the third quarter of 2008, during the nine months ended September 30, 2008, the Company recognized an other-than-temporary impairment loss of approximately $3.8 million. Future volatility and uncertainty in the financial markets could result in additional losses.

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Interest Rate Swaps

As more fully described in Note 2, the Company s interest rate swaps effectively fix the LIBOR interest rate (subject to the LIBOR floor of 3.0% per annum, as more fully described in Note 6) on a portion of its floating rate debt. The fair value of the Company s interest rate swaps is primarily determined using LIBOR spreads, which are significant observable inputs that can be corroborated, and therefore such swaps are considered to be Level 2 items. SFAS 157 states that the fair value measurement of a liability must reflect the nonperformance risk of the entity. Therefore, the impact of the Company s creditworthiness has been considered in the fair value measurement of the interest rate swaps.

Long-Term Debt

The Company continues to report its long-term debt obligations at amortized cost; however, for disclosure purposes, the Company is required to measure the fair value of outstanding debt on a recurring basis. The fair value of the Company s outstanding long-term debt is determined using quoted prices in active markets and was $2,375.2 million as of September 30, 2008. The carrying values of LCW Operations term loans approximate their fair values due to the floating rates of interest on such loans.

Note 6. Long-Term Debt

Long-term debt as of September 30, 2008 and December 31, 2007 was comprised of the following (in thousands):

	September 30, 2008	December 31, 2007
Term loans under senior secured credit facilities	$ 918,750	$ 926,500
Unamortized deferred lender fees	(4,795)	(1,898)
Senior notes	1,400,000	1,100,000