

Westinghouse Solar, Inc.
Form 10-Q
August 02, 2011

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 10-Q

Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the quarterly period ended June 30, 2011

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 001-33695

Westinghouse Solar, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

90-0181035
(I.R.S. Employer Identification No.)

1475 S. Bascom Ave. Suite 101, Campbell, CA
(Address of principal executive offices)

95008
(Zip Code)

(408) 402-9400
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes 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 Accelerated filer
Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

Edgar Filing: Westinghouse Solar, Inc. - Form 10-Q

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 July 29, 2011, 12,300,826 shares of the issuer's common stock, par value \$0.001 per share, were outstanding (including non-vested restricted shares).

Table of Contents

TABLE OF CONTENTS

PART I - FINANCIAL INFORMATION

Item 1. Financial Statements.

<u>Condensed Consolidated Balance Sheets</u>	2
--	---

<u>Condensed Consolidated Statements of Operations</u>	3
--	---

<u>Condensed Consolidated Statements of Changes in Redeemable Convertible Preferred Stock and Stockholders' Equity</u>	4
--	---

<u>Condensed Consolidated Statements of Cash Flows</u>	5
--	---

<u>Notes to Condensed Consolidated Financial Statements</u>	7
---	---

<u>Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.</u>	22
---	----

<u>Item 3. Quantitative and Qualitative Disclosures About Market Risk.</u>	32
--	----

<u>Item 4. Controls and Procedures.</u>	32
---	----

PART II - OTHER INFORMATION

<u>Item 1. Legal Proceedings.</u>	33
-----------------------------------	----

<u>Item 1A. Risk Factors.</u>	34
-------------------------------	----

<u>Item 6. Exhibits.</u>	41
--------------------------	----

<u>SIGNATURES</u>	42
-------------------	----

<u>Exhibit Index</u>	43
----------------------	----

<u>EX-31.1 Section 302 Certification of CEO</u>	
---	--

<u>EX-31.2 Section 302 Certification of CFO</u>	
---	--

<u>EX-32.1 Section 906 Certification of CEO</u>	
---	--

<u>EX-32.2 Section 906 Certification of CFO</u>	
---	--

Table of Contents

PART I - FINANCIAL INFORMATION

Item 1. Financial Statements.

Westinghouse Solar, Inc.
Condensed Consolidated Balance Sheets

	June 30, 2011 (unaudited)	December 31, 2010
Assets		
Current assets:		
Cash and cash equivalents	\$2,288,362	\$ 596,046
Restricted cash	—	540,250
Accounts receivable, net	1,238,279	912,588
Other receivables	7,528	15,864
Inventory, net	2,952,352	4,222,800
Prepaid expenses and other current assets, net	789,091	786,653
Assets of discontinued operations	51,841	618,204
Assets held for sale – discontinued operations	80,294	290,051
Total current assets	7,407,747	7,982,456
Property and equipment, net	236,096	334,864
Other assets, net	525,019	426,492
Long term assets of discontinued operations	221,724	21,724
Total assets	\$8,390,586	\$ 8,765,536
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	\$2,180,679	\$ 1,483,180
Accrued liabilities	526,626	607,823
Accrued warranty	77,958	51,860
Common stock warrant liability	1,779,224	285,673
Credit facility	—	540,250
Capital lease obligations – current portion	3,559	—
Note payable – current portion	41,391	136,816
Liabilities of discontinued operations	1,387,087	1,623,927
Total current liabilities	5,996,524	4,729,529
Capital lease obligations, less current portion	6,010	—
Long-term liabilities of discontinued operations	38,440	87,088
Total liabilities	6,040,974	4,816,617
Commitments, contingencies and subsequent events (Notes 17 and 18)		
Convertible redeemable preferred stock, \$0.001 par value, 1,000,000 shares authorized; 3,590 and 0 shares issued and outstanding on June 30, 2011 and December 31, 2010, respectively	1,202,920	—
Stockholders' equity:		
Common stock, \$0.001 par value; 100,000,000 shares authorized; 11,797,644 and 11,442,438 shares issued and outstanding at June 30, 2011 and December 31, 2010,	11,797	11,442

respectively (Note 1)

Additional paid-in capital	68,521,874	68,683,205
Accumulated deficit	(67,386,979)	(64,745,728)
Total stockholders' equity	1,146,692	3,948,919
Total liabilities, convertible redeemable preferred stock and stockholders' equity	\$8,390,586	\$ 8,765,536

The accompanying notes are an integral part of these condensed consolidated financial statements

Table of Contents

Westinghouse Solar, Inc.
Condensed Consolidated Statements of Operations
(Unaudited)

	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2011	2010	2011	2010
Net revenue	\$2,757,729	\$2,225,052	\$4,752,091	\$2,954,427
Cost of goods sold	2,563,842	1,883,077	4,280,405	2,497,273
Gross profit	193,887	341,975	471,686	457,154
Operating expenses				
Sales and marketing	700,103	272,914	1,046,431	437,763
General and administrative	1,464,269	2,151,557	3,143,214	4,710,644
Total operating expenses	2,164,372	2,424,471	4,189,645	5,148,407
Loss from operations	(1,970,485)	(2,082,496)	(3,717,959)	(4,691,253)
Other income (expense)				
Interest income (expense), net	(35,148)	(3,987)	(57,849)	5,135
Adjustment to the fair value of common stock warrants	668,041	911,379	1,130,989	1,794,902
Total other income (expense)	632,893	907,392	1,073,140	1,800,037
Loss before provision for income taxes and discontinued operations	(1,337,592)	(1,175,104)	(2,644,819)	(2,891,216)
Provision for income taxes	—	—	—	—
Net loss from continuing operations (Note 3)	(1,337,592)	(1,175,104)	(2,644,819)	(2,891,216)
Income (loss) from discontinued operations, net of tax	9,830	(1,278,318)	3,568	(1,997,642)
Net loss	(1,327,762)	(2,453,422)	(2,641,251)	(4,888,858)
Preferred deemed dividend	—	—	(975,460)	—
Net loss attributable to common stockholders	\$(1,327,762)	\$(2,453,422)	\$(3,616,711)	\$(4,888,858)
Net loss from continuing operations per common and common equivalent share (basic and diluted)	\$(0.11)	\$(0.12)	\$(0.23)	\$(0.30)
Net loss from discontinued operations per common and common equivalent share (basic and diluted)	\$0.00	\$(0.13)	\$0.00	\$(0.22)
Net loss per common and common equivalent share (basic and diluted)	\$(0.11)	\$(0.25)	\$(0.31)	\$(0.52)
Weighted average shares used in computing loss per common share: (basic and diluted)	11,387,874	9,549,988	11,374,872	9,290,348

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

Table of Contents

Westinghouse Solar, Inc.
Condensed Consolidated Statements of Changes in Convertible Redeemable Preferred Stock and Stockholders' Equity
(Unaudited)

	Convertible Redeemable Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Stockholders' Equity
	Number of Shares	Amount	Number of Shares	Amount			
Balance at January 1, 2011	—	\$—	11,442,438	\$11,442	\$68,683,205	\$(64,745,728)	\$3,948,919
Issuance of Series B redeemable convertible preferred stock and common stock warrants	4,000	364,841	—	—	89,010	—	89,010
Conversion of convertible redeemable preferred stock to common stock	(410)	(137,381)	205,000	205	137,176	—	137,381
Preferred deemed dividend	—	975,460	—	—	(975,460)	—	(975,460)
Grants of restricted stock, net of forfeitures and repurchases for employee taxes	—	—	150,206	150	(18,374)	—	(18,244)
Stock-based compensation expense	—	—	—	—	606,317	—	606,317
Net loss	—	—	—	—	—	(2,641,251)	(2,641,251)
Balance at June 30, 2011	3,590	\$1,202,920	11,797,644	\$11,797	\$68,521,874	\$(67,386,979)	\$1,146,692

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

Table of Contents

Westinghouse Solar, Inc.
Condensed Consolidated Statements of Cash Flows
(Unaudited)

	Six Months Ended June	
	30,	
	2011	2010
Cash flows from operating activities		
Net loss	\$(2,641,251)	\$(4,888,858)
Adjustments to reconcile net loss to net cash used in by operations:		
Depreciation	108,691	64,622
Amortization of customer list, customer contracts and patents	2,927	2,004
Bad debt expense	10,000	—
Unrealized gain on fair value adjustment of common stock warrants	(1,130,989)	(1,794,902)
Non-cash stock-based compensation expense	606,317	967,208
Loss on assets held for sale	10,840	—
Changes in assets and liabilities:		
Accounts receivable	(335,691)	(376,416)
Other receivables	8,336	11,465
Inventory	1,270,448	(303,867)
Prepaid expenses and other current assets	(2,438)	(352,844)
Assets of discontinued operations – short term	566,363	1,545,310
Assets held for sale	20,738	(131,443)
Other assets	(101,454)	(253,198)
Assets of discontinued operations – long-term	(200,000)	(7,668)
Accounts payable	697,499	213,078
Accrued liabilities and accrued warranty	(55,099)	459,867
Liabilities of discontinued operations	(279,825)	287,150
Net cash used in operating activities	(1,444,588)	(4,558,492)
Cash flows from investing activities		
Acquisition of property and equipment	(28,564)	(25,290)
Acquisition of property and equipment from discontinued operations	—	(68,645)
Proceeds from disposal of property and equipment	18,800	—
Proceeds from disposal of property and equipment from discontinued operations	189,019	21,500
Net cash provided by (used in) investing activities	179,255	(72,435)
Cash flows from financing activities		
Repayment of long-term debt from discontinued operations	—	(130,077)
Repayment of notes payable	(95,425)	—
Repayment on line of credit, net	(540,250)	—
Repayments on capital lease obligations	(1,431)	—
Repayments on capital lease obligations from discontinued operations	(5,662)	(11,647)
Restricted cash	540,250	—
Proceeds from stock offering	3,600,000	2,499,999
Proceeds from securities purchase agreement	—	593,876
Proceeds from exercise of warrants	—	921,985
Payment of placement agent and registration fees and other direct costs	(521,609)	(113,414)
Employee taxes paid for vesting of restricted stock	(18,224)	(8,864)
Net cash provided by financing activities	2,957,649	3,751,858

Edgar Filing: Westinghouse Solar, Inc. - Form 10-Q

Net increase (decrease) in cash and cash equivalents	1,692,316	(879,069)
Cash and cash equivalents		
Beginning of period	596,046	5,804,458
End of period	\$2,288,362	\$4,925,389

5

Table of Contents

Supplemental cash flows disclosures:

Cash paid during the period for interest	\$11,092	\$17,520
Supplemental disclosure of non-cash financing activity:		
Fair value of warrants issued in stock offering	\$2,713,550	\$—
Conversion of common stock warrant liability upon exercise of warrants	\$—	\$211,594
Common stock warrant liability issued in connection with agency placement fee	\$89,010	\$—
Preferred deemed dividend	\$975,460	\$—
Property and equipment acquired through capital lease	\$11,000	\$—
Property and equipment acquired through capital lease – discontinued operations	\$—	\$6,000

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

Table of Contents

Westinghouse Solar, Inc.
Notes to Condensed Consolidated Financial Statements
June 30, 2011
(Unaudited)

1. Basis of Presentation and Description of Business

Basis of Presentation — Interim Financial Information

The accompanying condensed consolidated financial statements are unaudited and have been prepared in accordance with generally accepted accounting principles for interim financial information. They should be read in conjunction with the financial statements and related notes to the financial statements of Westinghouse Solar, Inc. (“we”, “us”, “our” or the “Company”), formerly Akeena Solar, Inc., for the years ended December 31, 2010 and 2009 appearing in our Form 10-K. The June 30, 2011 unaudited interim consolidated financial statements included in this Quarterly Report on Form 10-Q have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission (“SEC”). Certain information and note disclosures normally included in annual financial statements filed with our Annual Report on Form 10-K have been condensed or omitted as permitted by those rules and regulations. In the opinion of management, all adjustments, consisting of normal recurring accruals, necessary for a fair statement of the results of operations for the interim periods presented have been reflected herein. The results of operations for interim periods are not necessarily indicative of the results to be expected for the entire year.

Reclassifications

Discontinued Operations

In September 2010, we announced we were exiting the installation business and reclassifying the installation business segment as discontinued operations. (See Note 3. Discontinued Operations). As a result, certain line items in our condensed consolidated balance sheets, consolidated statements of operations and our consolidated statements of cash flows have been reclassified to conform to the current presentation.

Reverse Stock Split

On April 6, 2011, we filed a Certificate of Amendment to our Certificate of Incorporation with the Secretary of State of the State of Delaware to effect a reverse split of our common stock at a ratio of 1-for-4. The reverse stock split was effective at the close of business on April 13, 2011. All historical share and per share amounts have been adjusted to reflect the reverse stock split. Our par value was not changed by the reverse stock split.

Description of Business

The Company was incorporated as Akeena Solar, Inc. in February 2001 in the State of California and elected at that time to be taxed as an S Corporation. During June 2006, we reincorporated in the State of Delaware and became a C Corporation. On August 11, 2006, we entered into a reverse merger transaction (the “Merger”) with Fairview Energy Corporation, Inc. (“Fairview”). Pursuant to the merger agreement, the stockholders of Akeena Solar received one share of Fairview common stock for each issued and outstanding share of Akeena Solar common stock. Our common shares were also adjusted from \$0.01 par value to \$0.001 par value at the time of the Merger. Subsequent to the closing of the Merger, the former stockholders of Akeena Solar held a majority of Fairview’s outstanding common stock. Since the stockholders of Akeena Solar owned a majority of the outstanding shares of Fairview common stock immediately following the Merger, and the management and board of Akeena Solar became the management and board of Fairview immediately following the Merger, the Merger was accounted for as a reverse merger transaction and Akeena Solar

was deemed to be the acquirer. The assets, liabilities and the historical operations prior to the Merger are those of Akeena Solar. Subsequent to the Merger, the consolidated financial statements include the assets, liabilities and the historical operations of Akeena Solar and Fairview from the closing date of the Merger.

We are a designer and manufacturer of solar power systems and solar panels with integrated microinverters (which we call AC solar panels). We design, market and sell these solar power systems to solar installers, trade workers and do-it-yourself customers through distribution partnerships, our dealer network and retail outlets. Our products are designed for use in solar power systems for residential and commercial rooftop customers. Prior to September 2010, we were also in the solar power installation business. We launched the distribution of our solar power systems in the second quarter of 2009.

Table of Contents

On May 17, 2010, we entered into an exclusive worldwide agreement to manufacture, distribute and market our solar panels under the Westinghouse name. On July 22, 2010, we announced that we will operate under the name "Westinghouse Solar" and, effective July 23, 2010 at the opening of the market, our stock began trading under the stock symbol "WEST" on the NASDAQ Capital Market.

On September 10, 2010, we announced that we were expanding our sales of our solar power systems directly to dealers in California and that we were exiting the solar panel installation business. As a result, beginning with the third quarter of 2010, our installation business has been reclassified in our financial statements as discontinued operations. The exit from the installation business was essentially completed by the end of the fourth quarter of 2010. (See Note 3. Discontinued Operations).

At the Annual Meeting of Stockholders held on March 31, 2011, our stockholders approved an amendment to our Certificate of Incorporation to, among other things, formally change the name of the company from "Akeena Solar, Inc." to "Westinghouse Solar, Inc.". The name change became effective on April 6, 2011.

Our Corporate headquarters is located at 1475 S. Bascom Ave., Campbell, CA 95008. Our telephone number is (408) 402-9400. Additional information about Westinghouse Solar is available on our website at <http://www.westinghousesolar.com>. The information on our web site is not incorporated herein by reference.

2. Significant Accounting Policies

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Revenue Recognition

Revenue from sales of products is recognized when: (1) persuasive evidence of an arrangement exists, (2) delivery has occurred or services have been rendered, (3) the sale price is fixed or determinable, and (4) collection of the related receivable is reasonably assured. We recognize revenue when the solar power systems are shipped to the customer.

Cash and Cash Equivalents

We consider all highly liquid investments with maturities of three months or less, when purchased, to be cash equivalents. We maintain cash and cash equivalents which consist principally of demand deposits with high credit quality financial institutions. At certain times, such amounts exceed FDIC insurance limits. We have not experienced any losses on these investments.

Accounts Receivable

Accounts receivable consist of trade receivables. We regularly evaluate the collectability of our accounts receivable. An allowance for doubtful accounts is maintained for estimated credit losses, and such losses have historically been minimal and within our expectations. We consider a number of factors when estimating credit losses, including the aging of a customer's account, creditworthiness of specific customers, historical trends and other information.

Discontinued operations

Discontinued operations are presented and accounted for in accordance with Accounting Standards Codification (ASC) 360, "Impairment or Disposal of Long-Lived Assets", (ASC 360). When a qualifying component of the Company is disposed of or has been classified as held for sale, the operating results of that component are removed from continuing operations for all periods presented and displayed as discontinued operations if: (a) elimination of the component's operations and cash flows from the Company's ongoing operations has occurred (or will occur) and (b) significant continuing involvement by the Company in the component's operations does not exist after the disposal transaction.

On September 7, 2010, we announced that we were exiting the solar panel installation business. The exit from the installation business was essentially completed by the end of 2010. The exit from the installation business was therefore classified as discontinued operations for all periods presented under the requirements of ASC 360.

Table of Contents

Manufacturer and Installation Warranties

The manufacturer directly warrants the solar panels and inverters for a range from 15 to 25 years. We warrant the balance of system components of our products against defects in material and workmanship for five years. We assist our customers in the event of a claim under the manufacturer warranty to replace a defective solar panel or inverter. The warranty liability for the material and the workmanship of the balance of system components of approximately \$78,000 at June 30, 2011 and \$52,000 at December 31, 2010, is included within “Accrued warranty” in the accompanying condensed consolidated balance sheets.

The liability for our manufacturing warranty consists of the following:

	June 30, 2011 (Unaudited)	December 31, 2010
Beginning accrued warranty balance (January 1)	\$ 51,860	\$8,404
Reduction for labor payments and claims made under the warranty	—	—
Accruals related to warranties issued during the period	26,098	43,456
Ending accrued warranty balance	\$ 77,958	\$51,860

We previously recorded a provision for warranty liability related to our discontinued installation operations. We provided for a 5-year or a 10-year warranty on the installation of a system and all equipment and incidental supplies other than solar panels and inverters that are covered under the manufacturer warranty. The liability for the installation warranty of approximately \$1.2 million at June 30, 2011 and December 31, 2010 is included within “Liabilities of Discontinued Operations” in the accompanying condensed consolidated balance sheets. Defective solar panels or inverters are covered under the manufacturer warranty. In the event that a panel or inverter needs to be replaced, we will replace the defective item within the manufacturer’s warranty period (between 5-25 years).

Patent Costs

We capitalize external legal costs and filing fees associated with obtaining or defending our patents. Upon issuance of new patents or successful defense of existing patents, we amortize these costs using the straight line method over the shorter of the legal life of the patent or its economic life. We believe the remaining useful life we assign to these patents, approximately 13.5 years as of June 30, 2011, are reasonable. We periodically review our patents to determine whether any such cost have been impaired and are no longer being used. To the extent we are no longer using certain patents, the associated costs will be written off at that time.

Common Stock Warrant Liabilities

In March 2009 and February 2011 we issued warrants to purchase shares of our common stock in connection with certain capital financing transactions. The terms of the warrant agreements related to these two offerings include a cash-out provision which may be triggered at the option of the warrant holders if the Company “goes private,” is acquired for all cash or upon the occurrence of certain other fundamental transactions involving the Company. In addition, the terms of the warrant agreement related to the February 2011 offering include a provision that may require us to reduce the exercise price of the warrants to purchase shares of our common stock upon the occurrence of certain lower-priced future offerings of our equity securities. Under the Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic 480, Distinguishing Liabilities from Equity (“ASC 480”), financial instruments that may require the issuer to settle the obligation by transferring assets or to reduce the exercise price of its warrants to purchase shares of its common stock are classified as a liability. Therefore, we have classified the warrants as liabilities and will record mark-to-market adjustments to reflect the fair value at each period-end.

Recent Accounting Pronouncements

In October 2009, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2009-13, Revenue Recognition (Topic 605): Multiple-Deliverable Revenue Arrangements - a consensus of the FASB Emerging Issues Task Force (ASU 2009-13). ASU 2009-13 addresses the accounting for sales arrangements that include multiple products or services by revising the criteria for when deliverables may be accounted for separately rather than as a combined unit. Specifically, this guidance establishes a selling price hierarchy for determining the selling price of a deliverable, which is necessary to separately account for each product or service. This hierarchy provides more options for establishing selling price than did the previous guidance. ASU 2009-13 is required to be applied prospectively to new or materially modified revenue arrangements in fiscal years beginning on or after June 15, 2010. We adopted this standard beginning January 1, 2011, and the adoption did not have a material impact on our financial position, results of operations or cash flows.

Table of Contents

In January 2010, the FASB issued ASU No. 2010-06, Fair Value Measurements and Disclosures (Topic 820): Improving Disclosures about Fair Value Measurements (ASU 2010-06). We adopted ASU 2010-06 effective January 1, 2010, except for the disclosures about purchases, sales, issuances, and settlements in the roll forward of activity in Level 3 fair value measurements which are deferred until fiscal years beginning after December 15, 2010. We adopted this standard beginning January 1, 2011, and the adoption did not have a material impact on our financial position, results of operations or cash flows.

In December 2010, the FASB issued ASU No. 2010-28, Intangibles - Goodwill and Other (Topic 350): When to Perform Step 2 of the Goodwill Impairment Test for Reporting Units with Zero or Negative Carrying Amounts (ASU 2010-28). ASU 2010-28 modifies Step 1 of the goodwill impairment test so that for those reporting units with zero or negative carrying amounts, an entity is required to perform Step 2 of the goodwill impairment test if it is more likely than not based on an assessment of qualitative indicators that a goodwill impairment exists. In determining whether it is more likely than not that goodwill impairment exists, an entity should consider whether there are any adverse qualitative factors indicating that an impairment may exist. ASU 2010-28 is effective for fiscal years, and interim periods within those years, beginning after December 15, 2010. We adopted this standard beginning January 1, 2011, and the adoption did not have a material impact on our financial position, results of operations or cash flows.

In December 2010, the FASB issued ASU No. 2010-29, which updates the guidance in ASC Topic 805, Business Combinations (ASU 2010-29). The objective of ASU 2010-29 is to address diversity in practice about the interpretation of the pro forma revenue and earnings disclosure requirements for business combinations. The amendments in ASU 2010-29 specify that if a public entity presents comparative financial statements, the entity should disclose revenue and earnings of the combined entity as though the business combination(s) that occurred during the current year had occurred as of the beginning of the comparable prior annual reporting period only. The amendments also expand the supplemental pro forma disclosures to include a description of the nature and amount of material, nonrecurring pro forma adjustments directly attributable to the business combination included in the reported pro forma revenue and earnings. The amendments affect any public entity as defined by ASC 805 that enters into business combinations that are material on an individual or aggregate basis. This guidance will become effective for us for any acquisitions occurring on or after the beginning of our 2012 fiscal year. We do not expect the adoption of this guidance to have a material impact on our financial position, results of operations or cash flows.

3. Discontinued Operations

On September 7, 2010, we announced that we were exiting the solar panel installation business and we were expanding our distribution business to include sales of our Westinghouse Solar Power Systems directly to dealers in California. The exit from the installation business was essentially completed by the end of 2010. As a result of the decision to exit the California installation business, we recorded a restructuring charge totaling approximately \$2.6 million for the quarter ended September 30, 2010, the majority of which consisted of non-cash charges. This restructuring charge was comprised primarily of (i) one-time severance costs of \$809,000 related to headcount reductions, which was paid in shares of our common stock, (ii) inventory write downs of \$698,000, (iii) lease accelerations and the write off of leasehold improvements of \$307,000, (iv) goodwill impairment of \$299,000, (v) vehicle, furniture and fixtures and computer equipment write downs of \$290,000 and (vi) other prepaid costs write-downs of \$239,000.

Table of Contents

The assets and liabilities of discontinued operations are presented separately under the captions “Assets of discontinued operations,” “Liabilities of discontinued operations” and “Long-term liabilities of discontinued operations,” respectively, in the accompanying condensed consolidated balance sheets at June 30, 2011 and December 31, 2010, and consist of the following:

	June 30, 2011 (unaudited)	December 31, 2010
Assets of discontinued operations:		
Accounts receivable and other receivables	\$ 12,485	\$ 501,454
Prepaid expenses and other current assets	34,415	69,207
Other assets	4,941	47,543
Total current assets of discontinued operations	51,841	618,204
Security deposits on operating leases	21,724	21,724
Security deposit – escrow account for installation jobs	200,000	—
Total assets of discontinued operations	\$ 273,565	\$ 639,928

	June 30, 2011 (unaudited)	December 31, 2010
Liabilities of discontinued operations:		
Accounts payable	\$ —	\$ 130,282
Customer rebate payable	6,000	19,200
Accrued liabilities	136,848	131,139
Accrued warranty	1,192,701	1,246,594
Deferred revenue	50,520	93,751
Current portion of capital lease obligations	1,018	2,961
Total current liabilities	1,387,087	1,623,927
Capital lease obligations, less current portion	1,084	4,803
Other long-term liabilities	37,356	82,285
Total discontinued operations liabilities	\$ 1,425,527	\$ 1,711,015

We entered into a Supply and Warranty Agreement and Master Assignment Agreement with Real Goods Solar, Inc. (Real Goods), pursuant to which Real Goods has agreed to perform certain warranty work. The terms of the agreement provide that an escrow account be established as a source of funds from which to satisfy our obligation to pay Real Goods for its fees and reimburse it for its expenses for this warranty work. In March 2011, the company entered into an Escrow Agreement with Real Goods and deposited \$200,000 into an escrow account. The amount is reflected in long-term assets of discontinued operations in the balance sheet. The escrow deposit will be released to the company in the amount of \$40,000, or one-fifth of the remaining escrow funds, per year after each of the fifth through the ninth anniversary of the escrow agreement.

In connection with the announcement of our exit from the solar panel installation business, we reclassified certain assets as “Assets held for sale,” in the accompanying condensed consolidated balance sheets at June 30, 2011 and December 31, 2010, and consist of the following:

	June 30, 2011 (unaudited)	December 31, 2010
Assets held for sale:		
Inventory	\$ 80,294	\$ 253,370

Edgar Filing: Westinghouse Solar, Inc. - Form 10-Q

Office equipment	—	2,869
Furniture and fixtures	—	15,085
Vehicles	—	18,727
	\$ 80,294	\$ 290,051

Table of Contents

4. Accounts Receivable

Accounts receivable consists of the following:

	June 30, 2011 (Unaudited)	December 31, 2010
Trade accounts	\$ 1,253,279	\$917,588
Less: Allowance for bad debts	(15,000)	(5,000)
	\$ 1,238,279	\$912,588

5. Inventory

Inventory consists of the following:

	June 30, 2011 (Unaudited)	December 31, 2010
Work in process	\$ 227,296	\$591,463
Finished goods	2,725,056	3,631,337
	\$ 2,952,352	\$4,222,800

6. Property and Equipment, Net

Property and equipment, net consist of the following:

	June 30, 2011 (Unaudited)	December 31, 2010
Office equipment	\$ 529,401	\$513,862
Leasehold improvements	148,759	148,407
Vehicles	17,992	30,226
	696,152	692,495
Less: Accumulated depreciation and amortization	(460,056)	(357,631)
	\$ 236,096	\$334,864

Depreciation expense for the three and six months ended June 30, 2011 was approximately \$44,000 and \$109,000, respectively. Depreciation expense for the three and six months ended June 30, 2010 was approximately \$32,000 and \$65,000, respectively.

7. Accrued Liabilities

Accrued liabilities consist of the following:

	June 30, 2011 (Unaudited)	December 31, 2010
Accrued salaries, wages, benefits and bonus	\$ 104,327	\$168,616
Sales tax payable	5,448	21,823
Accrued interest	51,089	—
Accrued accounting and legal fees	72,275	92,390
Allowance for returns	124,000	294,590

Edgar Filing: Westinghouse Solar, Inc. - Form 10-Q

Customer deposit payable	20,173	—
Other accrued liabilities	149,314	30,404
	\$ 526,626	\$607,823

12

Table of Contents

8. Credit Facility

On March 3, 2009, we entered into a Loan and Security Agreement (Cash Collateral Account) with Comerica Bank, dated as of February 10, 2009 (the "2009 Bank Facility"), which had a limit of \$1.0 million, subject to our obligation to maintain cash as collateral for any borrowings incurred or any letters of credit issued on our behalf. In connection with the 2011 Credit Facility with Bridge Bank (as described below), our Cash Collateral Account with Comerica Bank was terminated in February 2011.

On February 15, 2011, we entered into a Business Financing Agreement (the "2011 Credit Facility") with Bridge Bank, National Association ("Bridge Bank") to finance our accounts receivables. The 2011 Credit Facility provides for a credit limit of \$750,000, representing the maximum amount of advances based on up to 50% of \$1.5 million of gross eligible accounts receivables. The 2011 Credit Facility may be terminated at any time by either party and may be renewed under similar terms if acceptable and agreed to by both parties. If any advance is not repaid in full within 90 days from the earlier of (a) invoice date, or (b) the date on which such advance is made, we are obligated to immediately pay the outstanding amount to Bridge Bank. Outstanding loans under the 2011 Credit Facility will accrue interest at the Bridge Bank Prime rate plus 3.0% (annualized) of the daily gross financed amount outstanding. The 2011 Credit Facility is secured by substantially all of our assets. As of June 30, 2011, there was nothing borrowed under the 2011 Credit Facility.

9. Stockholders' Equity

On May 17, 2010, we entered into a securities purchase agreement with certain institutional accredited investors relating to the sale of 679,348 shares of common stock at a price of \$3.68 per share and Series I Warrants to purchase up to 339,677 shares of common stock (50% of the number of shares of common stock initially issued) at an exercise price of \$4.40 per share, which warrants were not exercisable until six months after issuance and have a term of five and one-half years. The aggregate purchase price for the Securities was \$2,500,000. Under the securities purchase agreement, we also agreed to amend our then outstanding Series H Warrants to extend the term until December 1, 2011. The outstanding Series H Warrants were issued on June 1, 2009, and were due to expire on June 1, 2010. The remaining outstanding Series H Warrants represent the right to purchase up to an aggregate of 156,250 shares of common stock at an exercise price of \$5.36 per share.

On October 7, 2010, we entered into a securities purchase agreement with certain institutional accredited investors relating to the sale of 1,000,000 shares of common stock at a price of \$2.20 per share, along with the sale of Series J Warrants to purchase up to 400,001 shares of common stock (40% of the number of shares of common stock initially issued) at an exercise price of \$2.44 per share. The warrants were not exercisable until six months after issuance and have a term of five years from the date they are first exercisable. The aggregate purchase price for the shares and the warrants was \$2,200,000. Under the securities purchase agreement, we agreed to amend the outstanding Series I Warrants, such that the exercise price of the Series I Warrants is reduced from \$4.40 per share to \$2.44 per share. In addition, with respect to 45% of the shares of common stock subject to each of the Series I Warrants, (i) each warrant is not exercisable until the six month anniversary of the closing under the securities purchase agreement, and (ii) the expiration date is extended such that the warrant is exercisable for five years from the delayed initial exercise date. The outstanding Series I Warrants were originally issued on May 17, 2010, and represent the right to purchase up to an aggregate of 339,677 shares of common stock.

On February 17, 2011, we entered into a securities purchase agreement with certain institutional accredited investors relating to the sale of 4,000 units at a price of \$900 per unit. See Note 10 for a discussion of the sale of units.

On March 25, 2011, we entered into a Supply Agreement with Light Way Green New Energy Co., Ltd (Lightway). Lightway is a leading international vertically integrated manufacturer of polycrystalline silicon wafers, solar cells and

solar modules. Lightway will provide an additional source of supply for our proprietary Westinghouse solar panels. In consideration of the new contract manufacturing arrangement, we have agreed to issue to Lightway a number of shares of our common stock with a market value of \$520,000, based on the closing share price of our common stock on the date of the first shipment of products by Lightway. As of June 30, 2011, no shares had been issued pursuant to the agreement. The issued shares will vest ratably on a monthly basis over a one year period beginning on the date of first shipment, and will be subject to forfeiture in the event of termination of the Supply Agreement by either party.

Table of Contents

10. Convertible Redeemable Preferred Stock and Preferred Deemed Dividend

On February 17, 2011, we entered into a securities purchase agreement with certain institutional accredited investors relating to the sale of 4,000 units at a price of \$900 per unit (the “Securities Purchase Agreement”). Each unit consists of (i) one share of Series B Preferred Stock (the “Series B Preferred”), with each such share of Series B Preferred initially convertible into 500 shares of common stock at an initial conversion price of \$1.80 per share, subject to future adjustment for various events, and (ii) warrants to purchase 425 shares of common stock at an initial exercise price of \$2.40 per share, subject to future adjustment for various events, which warrants are not exercisable until six months after issuance and have a term of five years from the date of first exercisability (the “Series K Warrants” and together with the Series B Preferred, the “Securities”). The aggregate purchase price for the Securities was \$3,600,000, less \$522,000 in issuance costs. As of June 30, 2011, 410 shares of preferred stock were converted into 205,000 shares of common stock.

The Securities Purchase Agreement also includes standstill provisions under which we agree not to engage in other stock issuances for specified periods of time, and rights of participation under which the purchasers have rights to participate in future debt and equity offerings of our securities. The Certificate of Designation to create the Series B Preferred includes certain negative covenants regarding indebtedness and other matters, and includes provisions under which the holders of the Series B Preferred are entitled to demand redemption for cash upon specified triggering events. The Series B Preferred bears dividends at the rate 4% per year for the first year, and 8% per year thereafter, payable in stock or in cash at our election, subject to certain restrictions.

In connection with the sale of the Securities under the Securities Purchase Agreement, we entered into a registration rights agreement with the purchasers (the “Registration Rights Agreement”). In accordance with the Registration Rights Agreement, we filed a registration statement, on March 18, 2011, to register for resale the shares of common stock issued and issuable to the purchasers upon conversion of the Series B Preferred and the shares then issuable upon exercise of the Series K Warrants. The registration statement was declared effective on June 17, 2011. Under the terms of the Registration Rights Agreement, we are obligated to maintain the effectiveness of the resale registration statement until all securities registered thereunder are sold or otherwise can be sold pursuant to Rule 144, without restriction.

On the date of issuance, we recorded the value of the Series B Preferred of \$1.5 million and of the warrants of \$2.6 million on our balance sheet. The closing price of our common stock on the date of issuance was used to value the Series B Preferred and we used the Black-Scholes model to value the Series K Warrants. For purposes of calculating the fair value of the warrants we used a risk free rate of return of 1.4%, an expected life of 4.1 years and a volatility percentage of 103.2%. The intrinsic value of the beneficial conversion feature is considered a preferred deemed dividend totaling \$975,000 to the preferred shareholders, and was charged to additional paid-in capital on our condensed consolidated balance sheets and net loss attributable to common stockholders on our condensed consolidated statements of operations.

See Note 12 for a discussion of the accounting treatment of the stock warrant transactions described above.

11. Stock Option Plan and Stock Incentive Plan

On August 8, 2006, we adopted the Akeena Solar, Inc. 2006 Stock Incentive Plan (the “Stock Plan”) pursuant to which shares of common stock are available for issuance to employees, directors and consultants under the Stock Plan as restricted stock and/or options to purchase common stock. The Stock Plan allows for issuance of up to 3,000,000 shares and there were 2,305,980 shares available for issuance under the Stock Plan as of June 30, 2011.

Restricted stock and options to purchase common stock may be issued under the Stock Plan. The restriction period on restricted stock grants generally expires at a rate of 25% per year over four years, unless decided otherwise by our Compensation Committee. Options to purchase common stock generally vest and become exercisable as to one-third of the total amount of shares subject to the option on each of the first, second and third anniversaries from the date of grant. Options to purchase common stock generally have a 5-year term.

We use the Black-Scholes-Merton Options Pricing Model (Black-Scholes) to estimate fair value of our employee and our non-employee director stock-based awards. Black-Scholes requires various judgmental assumptions, including estimating stock price volatility, expected option life and forfeiture rates. If we had made different assumptions, the amount of our deferred stock-based compensation, stock-based compensation expense, gross margin, net loss and net loss per share amounts could have been significantly different. We believe that we have used reasonable methodologies, approaches and assumptions to determine the fair value of our common stock, and that our deferred stock-based compensation and related amortization were recorded properly for accounting purposes. If any of the assumptions we used change significantly, stock-based compensation expense may differ materially in the future from that recorded in the current period.

Table of Contents

We measure compensation expense for non-employee stock-based compensation under Accounting Standards Codification (ASC) 505-50, "Equity-Based Payments to Non-Employees." The fair value of the option issued is used to measure the transaction, as this is more reliable than the fair value of the services received. The estimated fair value is measured utilizing Black-Scholes using the value of our common stock on the date that the commitment for performance by the counterparty has been reached or the counterparty's performance is complete (generally the vesting date). The fair value of the equity instrument is charged directly to expense and additional paid-in capital.

We recognized stock-based compensation expense of approximately \$189,000 and \$348,000 during the three months ended June 30, 2011 and 2010, respectively, and approximately \$606,000 and \$818,000 during the six months ended June 30, 2011 and 2010, respectively, relating to compensation expense calculated based on the fair value at the time of grant for restricted stock and based on Black-Scholes for stock options granted under the Stock Plan.

The following table sets forth a summary of restricted stock activity for the six months ended June 30, 2011:

	Number of Restricted Shares	Weighted-Average Grant Date Fair Value
Outstanding and not vested beginning balance at January 1, 2011	101,446	\$ 7.57
Granted	179,086	\$ 2.10
Forfeited/cancelled	(23,903)	\$ 4.17
Released/vested	(56,207)	\$ 5.63
Outstanding and not vested at June 30, 2011	200,422	\$ 3.64

Restricted stock is valued at the grant date fair value of the common stock and expensed over the requisite service period or vesting period. We estimate forfeitures when recognizing stock-based compensation expense for restricted stock, and the estimate of forfeitures is adjusted over the requisite service period should actual forfeitures differ from such estimates. At June 30, 2011 and December 31, 2010, there was approximately \$612,000 and \$682,000, respectively, of unrecognized stock-based compensation expense associated with the granted but unvested restricted stock. Stock-based compensation expense relating to these restricted shares is being recognized over a weighted-average period of 2.2 years. The total fair value of shares vested during the three and six months ended June 30, 2011 was approximately \$34,000 and \$110,000. Tax benefits resulting from tax deductions in excess of the compensation cost recognized (excess tax benefits) are classified as financing cash flows on our consolidated statements of cash flows. During the three and six months ended June 30, 2011, there were no excess tax benefits relating to restricted stock and therefore there is no impact on the accompanying consolidated statements of cash flows.

The following table sets forth a summary of stock option activity for the six months ended June 30, 2011:

	Number of Shares Subject to Option	Weighted-Average Exercise Price
Outstanding at January 1, 2011	999,775	\$ 8.66
Granted	272,209	\$ 2.14
Forfeited/cancelled/expired	(279,730)	\$ 11.46
Exercised	—	\$ -
Outstanding at June 30, 2011	992,254	\$ 6.08
Exercisable at June 30, 2011	354,674	\$ 11.25

Table of Contents

Stock options are valued at the estimated fair value grant date or the measurement date and expensed over the requisite service period or vesting period. The weighted-average volatility was based upon the historical volatility of our common stock price. The fair value of stock option grants during the three and six months ended June 30, 2011 and 2010 was estimated using the Black-Scholes option-pricing model with the following assumptions:

	Three Months Ended		Six Months Ended June				
	June 30,		2011		2010		
	2011	2010					
Weighted-average volatility	—	109.0	%	103.1	%	109.0	%
Expected dividends	—	0.0	%	0.0	%	0.0	%
Expected life	—	3.0 years		3.0 years		3.0 years	
Weighted-average risk-free interest rate	—	1.4	%	1.2	%	1.4	%

The weighted-average fair value per share of the stock options as determined on the date of grant was \$1.34 for the stock options to purchase 272,209 shares of common stock granted during the six months ended June 30, 2011. The weighted-average remaining contractual term for the stock options outstanding (vested and expected to vest) and exercisable as of June 30, 2011 and December 31, 2010, was 2.6 years and 3.5 years, respectively. The total estimated fair value of stock options vested during the three and six months ended June 30, 2011 was approximately \$56,000 and \$384,000, respectively. The aggregate intrinsic value of stock options outstanding as of June 30, 2011 was zero.

We estimate forfeitures when recognizing stock-based compensation expense for stock options and the estimate of forfeitures is adjusted over the requisite service period should actual forfeitures differ from such estimates. At June 30, 2011 and December 31, 2010, there was approximately \$920,000 and \$1.3 million, respectively, of unrecognized stock-based compensation expense associated with stock options granted. Stock-based compensation expense relating to these stock options is being recognized over a weighted-average period of 2.0 years. Tax benefits resulting from tax deductions in excess of the compensation cost recognized (excess tax benefits) is classified as financing cash flows on our consolidated statements of cash flows. During the six months ended June 30, 2011, there were no excess tax benefits relating to stock options and therefore there is no impact on the accompanying consolidated statements of cash flows.

12. Stock Warrants

During March 2009, in connection with an equity financing, we issued We issued Series E Warrants to purchase 334,822 shares of common stock at an exercise price of \$5.36 per share. The fair value of the warrants was estimated using Black-Scholes with the following weighted average assumptions: risk-free interest rate of 2.69%, an expected life of five years; an expected volatility factor of 112% and a dividend yield of 0.0%. The value assigned to these warrants was approximately \$1.0 million, of which \$1.0 million was reflected as common stock warrant liability with an offset to additional paid-in capital as of the offering close date. As of June 30, 2011, the fair value of the warrants was estimated using Black-Scholes with the following weighted average assumptions: risk-free interest rate of 0.5%, an expected life of 2.7 years; an expected volatility factor of 109.7% and a dividend yield of 0.0%. The fair value of the warrants decreased to \$184,000 as of June 30, 2011 and we recognized a \$102,000 favorable non-cash adjustment from the change in fair value of these warrants for the six months ended June 30, 2011.

On June 1, 2009, we entered into an amendment agreement (the “Amendment Agreement”) with investors who had previously acquired Series G Warrants. Pursuant to the Amendment Agreement, the investors purchased 156,250 shares of our common stock through the exercise of a portion of their Series G Warrants, with gross proceeds to us of \$700,000. In conjunction with that exercise, we issued new Series H Warrants to purchase up to an aggregate of 156,250 shares of Common Stock at a strike price of \$5.36 per share. The Series H Warrants became exercisable on

December 1, 2009 and had a term of nine months from the day they first become exercisable. In conjunction with the May 17, 2010 transaction discussed below, the expiration date for the Series H Warrants was extended.

On May 17, 2010, we entered into a Securities Purchase Agreement and issued Series I Warrants to purchase 339,677 shares of common stock at an exercise price of \$4.40 per share (the "Series I Warrants"). The fair value of the warrants was estimated using Black-Scholes with the following weighted-average assumptions: risk-free interest rate of 1.28%, an expected life of 4.1 years; an expected volatility factor of 107% and a dividend yield of 0.0%. The estimated value of these warrants was approximately \$950,000. Under the May 17, 2010 Securities Purchase Agreement, we also agreed to extend the term of the remainder of our outstanding Series H Warrants until December 1, 2011. The estimated value assigned to the extension of these warrants was approximately \$210,000.

Table of Contents

On October 7, 2010, we entered into a securities purchase agreement and issued Series J Warrants to purchase 400,001 shares of common stock at an exercise price of \$2.44 per share (the “Series J Warrants”). The fair value of the warrants was estimated using Black-Scholes with the following weighted-average assumptions: risk-free interest rate of 0.54%, an expected life of 4.1 years; an expected volatility factor of 103.7% and a dividend yield of 0.0%. The estimated value of these warrants was approximately \$694,000, which was allocated to additional paid in capital. Under the securities purchase agreement, we also agreed to amend the outstanding Series I Warrants, such that the exercise price of the Series I Warrants was reduced to \$2.44 per share. In addition, with respect to 45% of the shares of common stock subject to each of the Series I Warrants, (i) each warrant was not exercisable until the six month anniversary of the closing under the securities Purchase agreement, and (ii) the expiration date was extended such that the warrant is exercisable for five years from the delayed initial exercise date. The outstanding Series I Warrants were originally issued on May 17, 2010, and represent the right to purchase up to an aggregate of 339,677 shares of our common stock.

On February 17, 2011, we entered into a securities purchase agreement and issued Series K Warrants (the “Series K Warrants”) to purchase up to 1,700,002 shares of common stock at an exercise price of \$2.40 per share, which warrants are not exercisable until six months after issuance and have a term of five and one-half years. The fair value of the warrants was estimated using Black-Scholes with the following weighted-average assumptions: risk-free interest rate of 1.4%, an expected life of 4.1 years; an expected volatility factor of 103.2% and a dividend yield of 0.0%. The estimated value of these warrants was approximately \$2.6 million, of which \$2.6 million was reflected as common stock warrant liability with an offset to preferred stock as of the offering close date. As of June 30, 2011, the fair value of the warrants was estimated using Black-Scholes with the following weighted average assumptions: risk-free interest rate of 0.8%, an expected life of 3.8 years; an expected volatility factor of 109.7% and a dividend yield of 0.0%. The fair value of the warrants decreased to \$1.6 million as of June 30, 2011 and we recognized a \$1.0 million favorable non-cash adjustment from the change in fair value of these warrants for the six months ended June 30, 2011.

In connection with the February 17, 2011 securities purchase agreement, we issued as a placement agent fee to our financial advisory firm warrants to purchase 60,000 shares of common stock at an exercise price of \$2.44 per share, with a term of five years. The fair value of the warrants was estimated using Black-Scholes with the following weighted-average assumptions: risk-free interest rate of 1.4%, an expected life of 3.8 years; an expected volatility factor of 103.2% and a dividend yield of 0.0%. The estimated value of these warrants was approximately \$89,000 which was reflected as a reduction in the net proceeds of the preferred stock with an offset to additional paid in capital as of the offering close date.

The following table summarizes the Warrant activity for the six months ending June 30, 2011:

	Warrants for Number of Shares	Weighted-Average Exercise Price
Outstanding at January 1, 2011	1,503,998	\$ 9.32
Issued	1,760,002	\$ 2.40
Exercised	—	\$ —
Cancelled/expired	—	\$ —
Outstanding at June 30, 2011	3,264,000	\$ 5.59

13. Earnings Per Share

On January 1, 2009, we adopted Accounting Standards Codification (ASC) 260 (formerly Financial Accounting Standards Board Staff Position (FSP) Emerging Issues Task Force (EITF) 03-6-1) (ASC 260), Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities (the “Staff Position”), which

states that unvested share-based payment awards that contain non-forfeitable rights to dividends or dividend equivalents are considered participating securities and shall be included in the computation of net income (loss) per share pursuant to the two-class method described in ASC 260 (formerly Statement of Financial Accounting Standards (SFAS) No. 128), Earnings Per Share.

In accordance with the Staff Position, basic net income (loss) per share is computed by dividing net income (loss), excluding net income (loss) attributable to participating securities, by the weighted average number of shares outstanding less the weighted average unvested restricted shares outstanding. Diluted net income (loss) per share is computed by dividing net income (loss), excluding net income (loss) attributable to participating securities, by the denominator for basic net income (loss) per share and any dilutive effects of stock options, restricted stock, convertible notes and warrants.

Table of Contents

On April 6, 2011, we filed a Certificate of Amendment to our Certificate of Incorporation with the Secretary of State of the State of Delaware to effect a reverse split of our common stock at a ratio of 1-for-4. The reverse stock split became effective at the close of business on April 13, 2011. All historical share and per share amounts have been adjusted to reflect this reverse stock split. The par value of our common stock did not change. The following table sets forth the computation of basic and diluted net loss per share (unaudited):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2011	2010	2011	2010
Basic:				
Numerator:				
Net loss	\$(1,327,762)	\$(2,453,421)	\$(2,641,251)	\$(4,888,858)
Less: Net loss allocated to participating securities	24,695	43,511	41,312	92,584
Net loss attributable to stockholders	(1,303,067)	\$(2,409,910)	(2,599,939)	\$(4,796,274)
Preferred deemed dividend	—	—	(975,460)	—
	\$(1,303,067)	\$(2,409,910)	\$(3,575,399)	\$(4,796,274)
Denominator:				
Weighted-average shares outstanding	11,603,691	9,722,413	11,555,616	9,469,683
Weighted-average unvested restricted shares outstanding	(215,817)	(172,425)	(180,744)	(179,335)
Denominator for basic net loss per share	11,387,874	9,549,988	11,374,872	9,290,348
Basic net loss per share attributable to common stockholders	\$(0.11)	\$(0.25)	\$(0.31)	\$(0.52)
Diluted:				
Numerator:				
Net loss	\$(1,327,762)	\$(2,453,421)	\$(2,641,251)	\$(4,888,858)
Less: Net loss allocated to participating securities	24,695	43,511	41,312	92,584
Net loss attributable to stockholders	(1,303,067)	\$(2,409,910)	(2,599,939)	\$(4,796,274)
Preferred deemed dividend	—	—	(975,460)	—
	\$(1,303,067)	\$(2,409,910)	\$(3,575,399)	\$(4,796,274)
Denominator:				
Denominator for basic calculation	11,387,874	9,549,988	11,374,872	9,290,348
Weighted-average effect of dilutive stock options	—	—	—	—
Denominator for diluted net loss per share	11,387,874	9,549,988	11,374,872	9,290,348
Diluted net loss per share attributable to common stockholders	\$(0.11)	\$(0.25)	\$(0.31)	\$(0.52)

The following table sets forth potential shares of common stock at the end of each period presented that are not included in the calculation of diluted net loss per share because to do so would be anti-dilutive:

	June 30, 2011	December 31, 2010
Stock options outstanding	992,254	999,775
Unvested restricted stock	200,422	101,446
Warrants to purchase common stock	3,264,000	1,503,998
Preferred stock convertible into common stock	1,795,000	—

Table of Contents

14. Concentration of Risk

Financial instruments that potentially subject us to credit risk are comprised of cash and cash equivalents, which are maintained at high quality financial institutions. At June 30, 2011 and December 31, 2010, there was approximately \$2.0 million and \$1.0 million, respectively, in excess of the Federal Deposit Insurance Corporation limit of \$250,000.

During the three and six months ended June 30, 2011, our two largest customers together accounted for 46.4% and 46.9%, respectively, of our net revenue from continuing operations. The relative magnitude and the mix of sales to our largest customers have varied significantly quarter to quarter. Over time, as we work to add additional distributors to our network and to grow our distribution business, we anticipate that the relative significance to our revenue of any particular customer will decline. We do not expect any one customer to continue to account for more than 10% of our revenue on an ongoing basis.

We maintain reserves for potential credit losses and such losses, in the aggregate, have generally not exceeded management's estimates. Our top three vendors accounted for approximately 58.0% and 59.4% of materials purchased during the six months ended June 30, 2011 and 2010, respectively. At June 30, 2011, accounts payable included amounts owed to the top three vendors of approximately \$1.8 million. At December 31, 2010, accounts payable included amounts owed to 2010 the top three vendors of approximately \$1.1 million.

We currently obtain virtually all of our solar panels from Suntech, which manufactures panels for us that are built to our unique specifications, and we currently purchase all of the microinverters used in our AC solar panels from Enphase. We recently announced our entry into a volume supply agreement for a new generation of our solar panel products from Light Way Green New Energy Co., Ltd. We believe that our commercial relationship with each of those suppliers is good. Although we had a significant amount of inventory on hand as of June 30 2011, and although we believe we could find alternative suppliers for solar panels manufactured to