

NEW JERSEY RESOURCES CORP

Form 10-Q/A

November 25, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q/A
Amendment No. 1

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

FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2009

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 001-8359

NEW JERSEY RESOURCES CORPORATION
(Exact name of registrant as specified in its charter)

New Jersey
(State or other jurisdiction of incorporation
or organization)

22-2376465
(I.R.S. Employer Identification Number)

1415 Wyckoff Road, Wall, New
Jersey 07719
(Address of principal executive offices)

732-938-1480
(Registrant's telephone number, including
area code)

Securities registered pursuant to Section 12 (b) of the Act:

Common Stock - \$2.50 Par Value
(Title of each class)

New York Stock Exchange
(Name of each exchange on which
registered)

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

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(§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, or a smaller reporting company. See definition 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: ☐ Smaller reporting company: ☐
(Do not check if a 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: ☒

The number of shares outstanding of \$2.50 par value Common Stock as of August 4, 2009, was 42,014,773.

EXPLANATORY NOTE

Overview

New Jersey Resources Corporation (the “Company”) is filing this Amendment No. 1 on Form 10-Q/A to our quarterly report on Form 10-Q for the quarter ended June 30, 2009, originally filed on August 5, 2009, to amend and restate our unaudited condensed consolidated financial statements for the three and nine month periods ended June 30, 2009 and 2008 and for the condensed consolidated balance sheets as of June 30, 2009 and September 30, 2008 to correct an error related to the accounting for park and loan transactions executed through the Company’s unregulated subsidiary, NJR Energy Services (NJRES).

Restatement

NJRES enters into park and loan transactions whereby it borrows natural gas from a counterparty with an obligation to return the gas at a future date. In the fourth quarter of fiscal 2009, management discovered an error in the accounting for gas in storage, purchase obligations, embedded derivatives and gas demand fees associated with these transactions. Specifically, NJR had been using a forward price to value the inventory and gas purchases liability. Both the natural gas that was received and the “park and loan” liability should have been initially valued at the spot price on the date NJRES received the gas. In addition, NJRES should have been accounting for the obligation to return the gas as an embedded derivative, which should have been fair valued (“marked to market”) at each subsequent balance sheet reporting date until the gas was returned to the counterparty. As well, the initial spread between the spot price of the borrowed gas liability on the date of the transaction and the forward price, based on the date NJRES would return the natural gas, should have been recognized into income on a ratable basis over the term of the park and loan agreement. In addition, demand fees related to these transactions were not but should have been recognized ratably over the term of the contract.

These errors, while impacting our reported results in accordance with generally accepted accounting principles (“GAAP”), have no impact on our Non-GAAP measure of Net Financial Earnings (“NFE”), which excludes the impact of unrealized derivative gains and losses, effects of economic hedging related to inventory and demand fees related to park and loan transactions. As discussed in the MD&A, NFE is the key financial metric by which we measure the profitability of the Company.

The Company is also filing amended Quarterly Reports on Form 10-Q/A for the quarters ended, December 31, 2008 and March 31, 2009 to correct the errors described above.

The Company originally filed its Form 10-Q with the Securities and Exchange Commission on August 5, 2009, and therefore, had initially evaluated subsequent events through that date. All of the information in this Form 10-Q/A is as of November 24 2009 and management has determined that there are no other subsequent events to be reported other than the restatement discussed in Note 2 to the Consolidated Financial Statements appearing in this Form 10-Q/A. For the convenience of the reader, this Form 10-Q/A sets forth the originally filed Form 10-Q in its entirety. However, the following items have been amended solely as a result of, and to reflect, the restatement, and no other information in the Form 10-Q/A is amended hereby as a result of the restatement:

- Part I, Item 1 - Financial Statements
- Part I, Item 2 - Management’s Discussion and Analysis of Financial Condition and Results of Operations
- Part I, Item 4 - Controls and Procedures

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Part II — Item 6. Exhibits.

In the Quarterly Reports on Form 10-Q as previously filed, the Company reported under Item 4 “Controls and Procedures,” that its disclosure controls and procedures were not effective due to a material weakness in internal control over financial reporting. Management, in consultation with the Audit Committee, has concluded that the errors set forth herein constituted a material weakness in the Company’s internal controls over financial reporting as of the date of the original filing, which has since been remediated. The revised assessment is included under Part II, Item 4 in this document.

The Company is including currently dated Sarbanes-Oxley Act Section 302 and Section 906 certifications of the Chief Executive Officer and Chief Financial Officer that are attached to this Form 10-Q/A as Exhibits 31.1, 31.2, 32.1 and 32.2.

This Form 10-Q/A amends or updates any other information set forth in the Form 10-Q including updated disclosures contained therein as applicable to reflect any events that occurred at a date subsequent to the filing of the originally filed Form 10-Q. Accordingly, this Form 10-Q/A should be read in conjunction with our filings made with the Securities and Exchange Commission subsequent to the filing of the original Form 10-Q, including any amendments to those filings.

New Jersey Resources Corporation

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Part I

INFORMATION CONCERNING FORWARD-LOOKING STATEMENTS

Certain statements contained in this report, including, without limitation, statements as to management expectations and beliefs presented in Part I, Item 2. "Management's Discussion and Analysis of Financial Condition and Results of Operations," Part I, Item 3. "Quantitative and Qualitative Disclosures about Market Risk," Part II, Item I. "Legal Proceedings" and in the notes to the financial statements are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements can also be identified by the use of forward-looking terminology such as "may," "intend," "expect," "believe" or "continue" or comparable terminology and made based upon management's expectations and beliefs concerning future developments and their potential effect upon New Jersey Resources Corporation (NJR or the Company). There can be no assurance that future developments will be in accordance with management's expectations or that the effect of future developments on the Company will be those anticipated by management.

The Company cautions readers that the assumptions that form the basis for forward-looking statements regarding customer growth, customer usage, financial condition, results of operations, cash flows, capital requirements, market risk and other matters for fiscal 2009 and thereafter include many factors that are beyond the Company's ability to control or estimate precisely, such as estimates of future market conditions, the behavior of other market participants and changes in the debt and equity capital markets. The factors that could cause actual results to differ materially from NJR's expectations include, but are not limited to, those discussed in Risk Factors in Part II, Item 1A, as well as the following:

- weather and economic conditions;
- demographic changes in the New Jersey Natural Gas (NJNG) service territory;
- the rate of NJNG customer growth;
- Volatility of natural gas commodity prices and its impact on customer usage, cash flow, NJR Energy Services' (NJRES) operations and on the Company's risk management efforts;
- Changes in rating agency requirements and/or credit ratings and their effect on availability and cost of capital to the Company;
- Continued volatility or seizure of the credit markets that would result in the decreased availability and access to credit at NJR to fund and support physical gas inventory purchases and other working capital needs at NJRES, and all other non-regulated subsidiaries, as well as negatively affect access to the commercial paper market and other short-term financing markets at NJNG to allow it to fund its commodity purchases and meet its short-term obligations as they come due;
- The impact to the asset values and resulting higher costs and funding obligations of NJR's pension and postemployment benefit plans as a result of declines in the financial markets;
- increases in borrowing costs associated with variable-rate debt;
- commercial and wholesale credit risks, including creditworthiness of customers and counterparties;
- The ability to obtain governmental approvals and/or financing for the construction, development and operation of certain non-regulated energy investments;
- risks associated with the management of the Company's joint ventures and partnerships;
- the impact of governmental regulation (including the regulation of rates);
- conversion activity and other marketing efforts;
- actual energy usage of NJNG's customers;
- the pace of deregulation of retail gas markets;
- access to adequate supplies of natural gas;

- the regulatory and pricing policies of federal and state regulatory agencies;
- the ultimate outcome of pending regulatory proceedings, including the possible expiration of the Conservation Incentive Program (CIP);
- changes due to legislation at the federal and state level;
- the availability of an adequate number of appropriate counterparties in the wholesale energy trading market;
- sufficient liquidity in the wholesale energy trading market and continued access to the capital markets;
- the disallowance of recovery of environmental-related expenditures and other regulatory changes;
- environmental-related and other litigation and other uncertainties;
- the effects and impacts of inflation on NJR and its subsidiaries operations;
- change in accounting pronouncements issued by the appropriate standard setting bodies; and
- terrorist attacks or threatened attacks on energy facilities or unrelated energy companies.

While the Company periodically reassesses material trends and uncertainties affecting the Company's results of operations and financial condition in connection with its preparation of management's discussion and analysis of results of operations and financial condition contained in its Quarterly and Annual Reports, the Company does not, by including this statement, assume any obligation to review or revise any particular forward-looking statement referenced herein in light of future events.

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New Jersey Resources Corporation
Part I

ITEM 1. FINANCIAL STATEMENTS

CONDENSED CONSOLIDATED STATEMENTS OF INCOME (Unaudited)

(Thousands, except per share data)	Three Months Ended June 30,		Nine Months Ended June 30,	
	2009 As Restated (See Note 2)	2008 As Restated (See Note 2)	2009 As Restated (See Note 2)	2008 As Restated (See Note 2)
OPERATING REVENUES	\$441,052	\$1,000,439	\$2,179,872	\$2,989,122
OPERATING EXPENSES				
Gas purchases	400,487	974,677	1,859,495	2,716,761