NextWave Wireless Inc.
Form 10-Q/A
April 20, 2007

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q/A
Amendment No. 1 to Form 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2006

OR

o **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 333-137388

NEXTWAVE WIRELESS INC.
(Exact name of registrant as specified in its charter)

Delaware	**20-5361360**
(State or other jurisdiction of incorporation or organization)	(IRS Employer Identification No.)
12670 High Bluff Drive, San Diego, California	**92130**
(Address of principal executive offices)	(Zip Code)

(858) 480-3100
(Registrant's telephone number, including area code)

NextWave Wireless LLC
(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 ý No o

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large accelerated filer o Accelerated filer o Non-accelerated filer ý

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

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 o No o

As of November 13, 2006, there were 82,207,649 shares of the Registrant's Common Stock outstanding.

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EXPLANATORY NOTE

On March 23, 2007, NextWave Wireless Inc. (the “Company” or “we”) announced that our unaudited financial statements for the quarterly periods ended April 1, 2006, July 1, 2006 and September 30, 2006 should no longer be relied upon as a result of required corrections in revenue recognition under certain software contracts of our PacketVideo Corporation ("PacketVideo") subsidiary and in the deferral of certain engineering costs at PacketVideo. More specifically, we determined that we were incorrectly deferring engineering design, maintenance and support and royalty revenues on contracts where post-contract customer support (“PCS”) was required and no separate objective evidence of its fair value, specific to PacketVideo, existed for the PCS. We also determined that we had incorrectly deferred certain technology costs prior to achieving technological feasibility. The change has been made to defer revenue and related costs determined to be related to the PCS portion of the contract and to expense previously capitalized engineering costs. These required corrections were reflected in the financial statements included in our Annual Report on Form 10-K for the fiscal year ended December 30, 2006 (the “2006 10-K”) filed with the United States Securities and Exchange Commission on March 30, 2007. In addition, our 2006 10-K included corrected interim unaudited condensed consolidated financial statements for the first three quarters of 2006, together with restatement adjustments, in Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations -- Restatement of Previously Reported Interim Financial Statements”.

Additionally, we determined that there was a material weakness in our internal control over financial reporting relating to revenue recognition pursuant to software contracts of PacketVideo. The Company's failure to correctly apply software revenue recognition principles resulted from a lack of a sufficient number of employees with appropriate levels of knowledge, expertise and training in the application of generally accepted accounting principles relevant to software revenue recognition. We will be required to provide an assessment of the effectiveness of the Company's internal control structure and procedures for financial reporting when the Company files its Annual Report on Form 10-K for the fiscal year ended December 29, 2007. Management has commenced action to remediate the material weakness described above including an evaluation of the accounting staff, systems, policies and procedures relating to revenue recognition at PacketVideo and has initiated a formal management review of sales contracts, see Part I - Item 4 - Controls and Procedures.

We are filing this Amendment No.1 to our Quarterly Report on Form 10-Q for the period ended September 30, 2006, to reflect the restatement described above and in our 2006 10-K. The following sections of this Form 10-Q have been revised to reflect the restatement: Part I - Item 1 - Financial Statements, Item 2 - Management’s Discussion and Analysis of Financial Condition and Results of Operations and Item 4 - Controls and Procedures. Except to the extent relating to the restatement of our financial statements described above, the financial statements and other disclosure in this Form 10-Q do not reflect any events that have occurred after this Form 10-Q was initially filed on November 14, 2006.

Summary of the Restatement Adjustments for the Three Months and Nine Months ended September 30, 2006

The impact of the change in revenues and related costs to our previously reported consolidated statements of operations for the three month period ended September 30, 2006 was a reduction to revenues and cost of revenues of $1.4 million and $1.1 million, respectively, and an increase in engineering, research and development expense of $0.2 million, resulting in an increase in net loss of $0.5 million.

The impact of the change in revenues and related costs to our previously reported consolidated statements of operations for the nine month period ended September 30, 2006 was a reduction to revenues and cost of revenues of $5.2 million and $2.5 million, respectively, and an increase in engineering, research and development expense of $1.7 million, resulting in an increase in net loss of $4.4 million.

The impact on our previously reported condensed consolidated balance sheet as of September 30, 2006 was an increase in prepaid expenses and other current assets and total assets of $0.8 million, an increase in deferred revenue and total current liabilities of $5.2 million and an increase in the accumulated deficit and total member's equity of $4.4 million.

Amendment to this Form 10-Q

Forward Looking Statements

Certain statements in this Amendment No.1 to our Quarterly Report on Form 10-Q are "forward-looking statements" under the Private Securities Litigation Reform Act of 1995. There can be no assurances that forward-looking statements will be achieved, and actual events or results could differ materially from the events or results predicted or from any other forward-looking statements made by, or on behalf of, NextWave, and should not be considered as an indication of future events or results. Important factors that could cause actual events or results to differ materially include:

- our limited relevant operating history;
- our ability to remediate the material weakness in internal controls over financial reporting identified in connection with our restatement of revenues of our PacketVideo subsidiary;
- our ability to manage growth or integrate recent or future acquisitions;
- competition from alternative wireless technologies and other technology companies;
- our ability to develop and commercialize mobile broadband products and technologies;
- the ability of vendors to manufacture commercial WiMAX equipment and devices;
- consumer acceptance of WiMAX technology;
- PacketVideo's ability to grow its resources to support larger numbers of device manufacturers and wireless carriers;
- changes in government regulations;
- changes in capital requirements;
- any loss of our key executive officers; and
- other risks described in filings with the Securities and Exchange Commission.

NextWave makes no commitment to revise or update any forward-looking statements in order to reflect changes in events or circumstances after the date any such statement is made, except as may be required pursuant to applicable law.

FINANCIAL INFORMATION

ITEM 1. Financial Statements

NEXTWAVE WIRELESS LLC
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands)

	September 30, 2006 (Restated) (Unaudited)	December 31, 2005
ASSETS		
Current assets:		
Cash and cash equivalents	$ 25,371	$ 93,649
Short-term investments	196,801	365,582
Accounts receivable, net of allowance for doubtful accounts of $300 and $391, respectively	5,728	3,712
Deposits for wireless spectrum bids	142,866	5,400
Prepaid expenses and other current assets	10,266	4,175
Total current assets	381,032	472,518
Restricted investments	76,792	—
Wireless spectrum licenses, net	374,137	45,467
Goodwill	32,829	24,782
Other intangible assets, net	16,306	18,100
Property and equipment, net	16,796	11,092
Other assets	8,279	7,815
Total assets	$ 906,171	$ 579,774
LIABILITIES AND MEMBERS' EQUITY		
Current liabilities:		
Accounts payable	$ 2,369	$ 3,406
Accrued expenses	19,465	5,152
Current portion of long-term obligations	2,681	2,200
Deferred revenue	8,053	4,103
Current tax liability	40	417
Other current liabilities and deferred credits	961	822
Total current liabilities	33,569	16,100
Deferred income tax liabilities	67,673	13
Long-term deferred credits and reserves	8,243	8,293
Long-term obligations, net of current portion	292,310	14,934
Minority interest in subsidiary	884	1,070
Commitments and contingencies		
Members' equity:		
Membership interests; 492,583 and 488,672 interests issued and outstanding as of September 30, 2006 and December 31, 2005, respectively	619,966	589,354
Accumulated other comprehensive loss	(571)	(832)

Retained deficit		(115,903)		(49,158)
Total members' equity		503,492		539,364
Total liabilities and members' equity	$	906,171	$	579,774

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

NEXTWAVE WIRELESS LLC
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands) (unaudited)

	Three Months Ended September 30, 2006 (Restated)	Three Months Ended September 30, 2005	Nine Months Ended September 30, 2006 (Restated)	Inception (April 13, 2005) to September 30, 2005
Revenues	$ 6,670	$ 1,202	$ 16,868	$ 1,350
Operating expenses:				
Cost of revenues	3,506	1,934	7,951	2,019
Engineering, research and development	11,634	5,100	36,017	8,013
General and administrative	14,896	6,603	35,528	9,890
Sales and marketing	2,992	1,185	7,144	1,185
Purchased in-process research and development	—	6,600	1,648	6,600
Total operating expenses	33,028	21,422	88,288	27,707
Loss from operations	(26,358)	(20,220)	(71,420)	(26,357)
Other income (expense)				
Interest income	3,419	3,934	9,803	7,404
Interest expense	(9,010)	(352)	(9,684)	(656)
Other income and expense, net	(26)	123	98	146
Total other income (expense), net	(5,617)	3,705	217	6,894
Loss before income taxes and minority interest	(31,975)	(16,515)	(71,203)	(19,463)
Income tax benefit (provision)	(93)	(145)	116	(145)
Minority interest	265	7	1,136	7
Net loss	$ (31,803)	$ (16,653)	$ (69,951)	$ (19,601)

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

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NEXTWAVE WIRELESS LLC
CONSOLIDATED STATEMENT OF MEMBERS' EQUITY
(in thousands) (unaudited)

	Membership Interests		Accumulated Other Comprehensive	Retained Deficit	Total Members' Equity
	Units	Amount	Loss		
Balance at December 31, 2005	488,672	$ 589,354	$ (832)	$ (49,158)	$ 539,364
Units issued for business acquisition	1,558	1,558	—	—	1,558
Units issued for unit options exercised	1,353	1,353	—	—	1,353
Sale of restricted units	1,000	1,000	—	—	1,000
Share-based compensation	—	3,548	—	—	3,548
Fair value of warrants to be issued in connection with the issuance of 7% Senior Secured Notes	—	24,600	—	—	24,600
Accumulated deficit of variable interest entity eliminated upon acquisition by NextWave	—	—	—	3,206	3,206
Distributions to members	—	(1,447)	—	—	(1,447)
Unrealized net gains on investments	—	—	261	—	261
Net loss	—	—	—	(69,951)	(69,951)
Balance at September 30, 2006 (Restated)	492,583	$ 619,966	$ (571)	$ (115,903)	$ 503,492

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

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NEXTWAVE WIRELESS LLC
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands) (unaudited)

	Nine Months Ended September 30, 2006 (Restated)	Inception (April 13, 2005) to September 30, 2005
OPERATING ACTIVITIES		
Net loss	$ (69,951)	$ (19,601)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	4,235	202
Amortization of intangible assets	3,752	1,773
Share-based compensation	3,548	677
Accretion of interest expense	4,643	611
Purchased in-process research and development	1,648	6,600
Loss on disposal of property and equipment	474	—
Losses incurred through strategic investment	1,041	—
Minority interest	(1,136)	—
Other non-cash adjustments	872	(551)
Changes in operating assets and liabilities:		
Accounts receivable	(2,221)	(178)
Prepaid expenses and other current assets	(4,113)	(4,351)
Other assets	1,336	(184)
Accounts payable and accrued liabilities	11,604	993
Deferred credits and reserves	(3,712)	1,594
Net cash used in operating activities	(40,556)	(12,415)
INVESTING ACTIVITIES		
Proceeds from maturities of available-for-sale securities	192,226	909,082
Proceeds from the sale of available-for-sale securities	452,951	—
Purchases of available-for-sale securities	(475,603)	(1,186,220)
Cash paid for business combination, net of cash acquired	(4,950)	(46,621)
Cash paid for wireless spectrum licenses	(397,817)	(50)
Purchase of property and equipment	(10,990)	(3,474)
Other, net	(1,866)	—
Net cash used in investing activities	(246,049)	(327,283)
FINANCING ACTIVITIES		
Proceeds from long-term obligations, net of costs to issue	295,098	—
Payments to restricted investments account securing long-term obligations	(77,324)	—
Payments on long-term obligations	(2,374)	(11)
Cash distributions paid to members	(1,447)	—
Proceeds from the sale of membership interests and subsidiary common stock	2,379	—
Proceeds from investment by joint venture partner	1,995	—
Net cash provided by (used in) financing activities	218,327	(11)
Net decrease in cash and cash equivalents	(68,278)	(339,709)

Cash and cash equivalents, beginning of period		93,649		555,099
Cash and cash equivalents, end of period	$	25,371	$	215,390

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

NEXTWAVE WIRELESS LLC
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. NextWave, Summary of Significant Accounting Policies and Significant Accounts

NextWave Wireless Inc., the successor to NextWave Wireless LLC (together with its subsidiaries, “NextWave”) is an early-stage wireless technology company engaged in the development of next-generation mobile broadband and wireless multimedia products, technologies and services. NextWave is developing proprietary chipsets and related network and device products based on the IEEE 802.16e WiMAX standard that it believes will significantly improve the performance and economics of fixed and mobile wireless broadband networks. A key design objective of its products and technologies is to improve the ability of mobile WiMAX to cost effectively handle the large volume of network traffic that it believes Voice Over Internet Protocol (“VoIP”) telephony, high speed web-surfing and next-generation wireless multimedia applications such as high resolution mobile TV, high fidelity streaming audio and interactive real-time gaming will generate. NextWave intends to sell and/or license its WiMAX certified products and technologies to network infrastructure and device manufacturers and network operators worldwide. To stimulate demand for products, NextWave plans to partner with service providers to build and operate shared mobile WiMAX networks that operate on its licensed spectrum and utilize network and device equipment which incorporate its products and technologies. In addition, through its PacketVideo subsidiary, NextWave is a global provider of embedded multimedia software for mobile phones. NextWave believes that its global deployments of mobile broadband networks and subscriber solutions, combined with its wireless multimedia software products and its spectrum assets, will offer wireless service providers, cable operators, multimedia content distributors, applications service providers and Internet service providers a platform to provide advanced wireless broadband services to their customers. To facilitate the deployment of its network products, NextWave has accumulated a spectrum footprint across the U.S. covering a population of approximately 206 million people, or POPs, that includes nine of the top ten and 15 of the top 20 markets which have population densities and demographics most suitable to wireless broadband in the U.S.

Corporate Conversion Merger

In order to convert NextWave Wireless LLC into a corporate form, the Board of Managers and a majority in interest of the holders of NextWave Wireless LLC membership units approved the merger of NextWave Wireless LLC with a wholly owned subsidiary of a newly formed Delaware corporation, NextWave Wireless Inc. On November 13, 2006, the corporate conversion merger was completed and NextWave Wireless LLC became a wholly-owned subsidiary of NextWave Wireless Inc. Under the terms of the merger agreement, NextWave Wireless Inc. issued shares of its common stock to holders of NextWave Wireless LLC’s membership units in exchange for all of the outstanding membership units of NextWave Wireless LLC, with NextWave Wireless LLC unitholders receiving one share of NextWave Wireless Inc. common stock for every six membership units of NextWave Wireless LLC that they held. Following the corporate conversion merger, NextWave Wireless LLC’s obligation to file periodic reports under the Securities Exchange Act of 1934 was suspended, and NextWave Wireless Inc. became the successor to NextWave Wireless LLC for Securities and Exchange Commission (“SEC”) reporting purposes.

Inception of NextWave Wireless LLC

NextWave Wireless Inc. (“Old NextWave Wireless”) was formed in 1996 as a wholly-owned operating subsidiary of NextWave Telecom, Inc. (“NTI”), which sought to develop a nationwide CDMA-based personal communication services (“PCS”) network. In 1998, Old NextWave Wireless, together with NTI and its other subsidiaries (the “NextWave Telecom group”), filed for protection under Chapter 11 of the United States Bankruptcy Code. In December 2004, Old NextWave Wireless was converted from a corporation to a limited liability company named NextWave Wireless LLC. On March 1, 2005, the Bankruptcy Court confirmed the plan of reorganization of the NextWave Telecom group. The cornerstone of the plan was the sale of NTI and its subsidiaries, excluding Old NextWave Wireless, to Verizon Wireless for approximately $3.0 billion. With the proceeds of the Verizon sale, as well as the proceeds of prior PCS spectrum license sales to Cingular Wireless, Verizon Wireless and MetroPCS, all creditors of the NextWave Telecom group were paid in full and the NTI equity holders received an aggregate cash distribution of approximately $2.6 billion. In addition, the plan provided for the capitalization and distribution to the NTI equity holders of NextWave Wireless LLC, a new wireless technology company. Pursuant to the plan, on April 13, 2005, the NextWave Telecom group abandoned substantially all of its PCS assets other than the spectrum licenses and all remaining non-PCS assets and liabilities were contributed to Old NextWave Wireless. Immediately thereafter limited liability company interests (“LLC Interests”) in NextWave Wireless LLC were distributed to the NTI equity holders and NextWave Wireless LLC was capitalized with $550.0 million in cash. Through this process, Old NextWave Wireless was reconstituted as a company with a new capitalization and a new wireless technology business plan. The significant underlying assets contributed to NextWave Wireless LLC included NTI’s residual cash referred to above, the common stock of NextWave Broadband Inc., the convertible Series A Preferred Stock and notes receivable from CYGNUS Communications, Inc. (“CYGNUS”), and wireless spectrum licenses from the Federal Communications Commission (“FCC”) useful to NextWave or its new wireless technology business. Pursuant to the plan, the NTI shareholders received undivided interests in the underlying assets of NextWave Wireless LLC as part of their consideration for the redemption of their NTI shares, which was followed by the deemed contribution of these undivided interests to NextWave Wireless LLC in return for unit membership interests.

Financial Statement Preparation

The unaudited condensed consolidated financial statements have been prepared by NextWave according to the rules and regulations of the SEC, and therefore, certain information and disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States have been condensed or omitted.

In the opinion of management, the accompanying unaudited condensed consolidated financial statements for the periods presented reflect all adjustments, which are normal and recurring, necessary to fairly state the financial position, results of operations and cash flows. These unaudited condensed consolidated financial statements should be read in conjunction with the audited financial statements for the period from inception (April 13, 2005) to December 31, 2005, included in NextWave Wireless Inc.'s 2006 Annual Report on Form 10-K filed with the United States Securities and Exchange Commission on March 30, 2007.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the 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.

Principles of Consolidation and Strategic Investments

NextWave's consolidated financial statements include the assets, liabilities and operating results of its wholly-owned and majority-owned subsidiaries as of September 30, 2006. NextWave's operating results through January 2006 also include those of a variable interest entity in which NextWave was the primary beneficiary until February 2006, when NextWave acquired all of the remaining ownership interests of the entity and it became a wholly-owned subsidiary. All significant intercompany accounts and transactions have been eliminated in consolidation.

Change in Fiscal Year End

NextWave's Board of Managers approved a change, effective January 1, 2006, in NextWave's fiscal year end and quarterly reporting periods from quarterly calendar periods ending on the Saturday nearest to December 31 of the current calendar year or the following calendar year. Normally, each fiscal year consists of 52 weeks, but every five or six years the fiscal year consists of 53 weeks. Fiscal year 2006 will be a 52-week year and the first 53-week year will occur in 2009. The three and nine month periods ended September 30, 2006 include 13 and 39 weeks, respectively.

Comprehensive Loss

Accumulated other comprehensive income includes unrealized gains and loses that are excluded from the consolidated statement of operations and are reported as a separate component in members' equity. Total comprehensive loss consists of the following:

(*in thousands*)	Three Months Ended September 30, 2006 (Restated)	Three Months Ended September 30, 2005	Nine Months Ended September 30, 2006 (Restated)	Inception (April 13, 2005) to September 30, 2005
Net loss, as reported	$ (31,803)	$ (16,653)	$ (69,951)	$ (19,601)
Unrealized net gain (loss) on investments	507	(409)	261	(551)
Total comprehensive loss	$ (31,296)	$ (17,062)	$ (69,690)	$ (20,152)

Recent Accounting Pronouncements

NextWave adopted Statement of Financial Accounting Standards No. 123 (revised 2004), "Share-Based Payment" ("SFAS 123R"), effective January 1, 2006. SFAS 123R requires companies to expense the estimated fair value of employee stock options and similar awards. NextWave has adopted the provisions of SFAS 123R using the prospective transition method, whereby it will continue to account for unvested equity awards to employees outstanding at December 31, 2005 using Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees" ("APB 25"), and apply SFAS 123R to all awards granted or modified after that date. In accordance with the transition rules of SFAS 123R, NextWave no longer provides the pro forma disclosures in reports issued for periods ending after December 31, 2005 as SFAS 123R precludes companies that use the minimum value method for pro forma disclosure from continuing to provide those pro forma disclosures for outstanding awards accounted for under the intrinsic value method of APB 25. Refer below to Employee Unit- and Share-Based Compensation for more discussion of the adoption of SFAS 123R.

In November 2005, the Financial Accounting Standards Board ("FASB") issued staff position 115-1, "The Meaning of Other-Than-Temporary Impairment and its Application to Certain Investments" ("FSP 115-1"). FSP 115-1 address the determination as to when an investment is considered impaired, whether that impairment is other than temporary and the measurement of an impairment loss. FSP 115-1 also includes accounting considerations subsequent to the recognition of an other-than-temporary impairment and requires certain disclosures about unrealized losses that have not been recognized as other-than-temporary impairments. The guidance in FSP 115-1 amends FASB Statements No. 115, Accounting for Certain Investments in Debt and Equity Securities, and APB Opinion No. 18, The Equity Method of Accounting for Investments in Common Stock.

FSP 115-1 replaces the impairment evaluation guidance of Emerging Issues Task Force Issue ("EITF") No. 03-1, "The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments", with references to existing other-than-temporary impairment guidance. EITF 03-1's disclosure requirements remain in effect, and are applicable for year-end reporting and for interim periods if there are significant changes from the previous year-end. FSP 115-1 also supersedes EITF Topic No. D-44, "Recognition of Other-Than-Temporary Impairment upon the Planned Sale of a Security Whose Cost Exceeds Fair Value," and clarifies that an investor should recognize an impairment loss no later than when the impairment is deemed other-than-temporary, even if a decision to sell an impaired security has not been made. FSP 115-1 applies to reporting periods beginning after December 15, 2005. FSP 115-1 did not have a material impact on NextWave's results of operations, or cash flows for the nine months ended September 30, 2006.

In June 2006, the FASB Issued Interpretation No. 48, "Accounting for Uncertainty in Income Taxes, an interpretation of FASB Statement No. 109" ("FIN 48"), effective for NextWave's fiscal year beginning December 31, 2006, with earlier application permitted. FIN 48 clarifies the accounting for uncertainty in income taxes recognized in financial statements in accordance with FASB Statement No. 109, "Accounting for Income Taxes," and prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. FIN 48 also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. NextWave's management believes that adoption of this interpretation is not expected to have a material impact on its financial statements.

Employee Unit- and Share-Based Compensation

NextWave adopted SFAS 123R on January 1, 2006. SFAS 123R requires the recognition of the fair value of unit- and share-based compensation in net income. NextWave recognizes unit- and share-based compensation expense over the requisite service period of the individual grants, which generally equals the vesting period. Prior to January 1, 2006, NextWave accounted for employee equity awards using APB 25 and related interpretations in accounting for unit- and share-based compensation.

NextWave has adopted the provisions of FAS 123R using the prospective transition method, whereby it will continue to account for nonvested equity awards to employees outstanding at December 31, 2005 using APB 25, and apply FAS 123R to all awards granted or modified after that date. In accordance with the transition rules of SFAS 123R, NextWave no longer provides the pro forma disclosures in reports issued for periods ending after December 31, 2005 as FAS 123R precludes companies that used the minimum value method for pro forma disclosure from continuing to provide those pro forma disclosures for outstanding awards accounted for under the intrinsic value method of APB 25.

Under the provisions of SFAS 123R, NextWave recognized $0.5 million and $2.2 million in employee share-based compensation expense for the three and nine months ended September 30, 2006, respectively. NextWave utilized the Black-Scholes valuation model for estimating the fair value of stock awards issued during the nine months ended September 30, 2006, to employees at the date of grant, with the following weighted-average assumptions for each of three separate option plans administered by NextWave and two of its subsidiaries for the nine months ended September 30, 2006:

	NextWave Wireless LLC 2005 Units Plan	**CYGNUS Communications, Inc. 2004 Stock Option Plan**	**PacketVideo Corporation 2005 Equity Incentive Plan**
Weighted average risk-free interest rate	4.82%	4.37%	4.91%
Weighted average expected life (in years)	3.2	4.1	3.7
Expected stock price volatility	50%	50%	50%
Expected dividend yield	0%	0%	0%
Annualized forfeiture rate	10%	10%	10%
Weighted average fair value of options granted	$ 0.39	$ 0.13	$ 0.42

The risk-free interest rates are based on the implied yield available on U.S. Treasury constant maturities in effect at the time of the grant with remaining terms equivalent to the respective expected terms of the options. As none of the plans have sufficient history for estimating the term from grant date to full exercise of the option, NextWave has considered expected terms applied, in part by peer companies to determine the expected life of each grant. Expected volatility is based on an average of peer companies' expected volatilities due to lack of trading history of NextWave membership units or its subsidiaries' shares. The dividend yield of zero is based on the fact that NextWave has never paid cash dividends and has no present intention to pay cash dividends.

NextWave has assumed an annualized forfeiture rate of 10% for its options based on a combined review of industry and employee turnover data, as well as an analytical review performed of historical pre-vesting forfeitures occurring over the previous year. Under the true-up provisions of SFAS 123R, NextWave will record additional expense if the actual forfeiture rate is lower than estimated, and will record a recovery of prior expense if the actual forfeiture rate is higher than estimated.

The Black-Scholes option-pricing model was developed for use in estimating the fair value of traded options that have no restrictions and are fully transferable and negotiable in a free trading market. This model does not consider the employment, transfer or vesting restrictions that are inherent in NextWave's employee unit and stock options. Use of an option valuation model, as required by SFAS 123R, includes highly subjective assumptions based on long-term predictions and average life of each unit and stock option grant. Because NextWave's unit- and share-based payments have characteristics significantly different from those of freely traded options, and because changes in the subjective input assumptions can materially affect NextWave's estimate of the fair values, in NextWave's opinion, existing valuation models may not be reliable single measures of the fair values of NextWave's unit- and share-based payments.

Total compensation cost of options granted since January 1, 2006 but not yet vested, as of September 30, 2006, was $5.8 million, which is expected to be recognized over a weighted average period of 3.6 years.

Share-based compensation expense of $0.1 million and $0.2 million was recognized during the three and nine months ended September 30, 2006, respectively, for membership interests issued to employee shareholders of one of the CYGNUS subsidiaries, stemming from a prior acquisition, for the attainment of certain product development milestones. The share based payments were recognized as compensation expense in accordance with EITF 95-8, "Accounting for Contingent Consideration Paid to the Shareholders of an Acquired Enterprise in a Purchase Business Combination."

Reclassifications

To conform to the current presentation in the financial statements for September 30, 2006, a reclassification of $5.4 million in deposits for wireless spectrum bids was made from prepaid expenses and other current assets to deposits for wireless spectrum bids and a reclassification of $13,000 was made from long-term deferred credits and reserves to deferred income tax liabilities in the condensed consolidated balance sheet at December 31, 2005. These reclassifications had no effect on reported current assets, total liabilities or the consolidated statement of cash flows.

2. Restatement of Previously Reported Interim Financial Statements

On March 23, 2007, NextWave announced the need to adjust its financial results for the first three quarters of 2006 to reflect a correction in its accounting for certain revenue contracts and for the incorrect capitalization of certain engineering costs in its PacketVideo subsidiary. Specifically, NextWave determined that it was incorrectly deferring engineering design, maintenance and support and royalty revenues on contracts where post-contract customer support ("PCS") was required and no separate objective evidence of its fair value, specific to Packet Video, existed for the PCS. NextWave also determined that it had incorrectly deferred certain engineering costs prior to achieving technological feasibility. The change has been made to defer revenue and related costs determined to be related to the PCS portion of the contract and to expense previously capitalized engineering costs.

The following interim unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States for interim financial information and with the instructions to SEC Form 10-Q and Article 10 of SEC Regulation S-X. In NextWave's opinion, this information has been prepared on a basis consistent with that of its audited consolidated financial statement and all necessary material adjustments, consisting of normal recurring accruals and adjustments, have been included to present fairly the unaudited quarterly and year-to-date financial data. NextWave's quarterly results of operations for these periods are not necessarily indicative of future results of operations. They do not include all of the information and footnotes required by generally accepted account principles for complete financial statements. Therefore, these condensed consolidated financial statements should be read in conjunction with NextWave's unaudited interim consolidated financial statements and notes thereto included herein and NextWave's audited consolidated financial statements and notes thereto for the year ended December 30, 2006 included in its 2006 Annual Report on Form 10-K.

The following table presents the impact of the change in revenues and related costs on NextWave's previously reported consolidated statements of operations for the first three quarters of 2006:

	Three Months Ended								
	April 1, 2006			July 1, 2006			September 30, 2006		
(in thousands)	**As Reported**	**Adjustments**	**As Restated**	**As Reported**	**Adjustments**	**As Restated**	**As Reported**	**Adjustments**	**As Restated**
Consolidated Statements of Operations									
Revenues	$ 5,673	$ (1,768)	$ 3,905	$ 8,331	$ (2,038)	$ 6,293	$ 8,051	$ (1,381)	$ 6,670
Operating expenses:									
Cost of revenues	2,686	(879)	1,807	3,198	(560)	2,638	4,568	(1,062)	3,506
Engineering, research and development	10,233	856	11,089	12,601	693	13,294	11,455	179	11,634
General and administrative	8,492	—	8,492	12,140	—	12,140	14,896	—	14,896
Sales and marketing	1,613	—	1,613	2,539	—	2,539	2,992	—	2,992
Purchased in-process research and development	—	—	—	1,648	—	1,648	—	—	—
Total operating expenses	23,024	(23)	23,001	32,126	133	32,259	33,911	(883)	33,028
Loss from operations	(17,351)	(1,745)	(19,096)	(23,795)	(2,171)	(25,966)	(25,860)	(498)	(26,358)
Other income (expense)									
Interest income	3,187	—	3,187	3,197	—	3,197	3,419	—	3,419
Interest expense	(308)	—	(308)	(366)	—	(366)	(9,010)	—	(9,010)
Other income and expense, net	(92)	—	(92)	216	—	216	(26)	—	(26)
Total other income (expense), net	2,787	—	2,787	3,047	—	3,047	(5,617)	—	(5,617)
Loss before provision for income taxes and minority interest	(14,564)	(1,745)	(16,309)	(20,748)	(2,171)	(22,919)	(31,477)	(498)	(31,975)
Income tax benefit (provision)	209	—	209	—	—	—	(93)	—	(93)

Minority interest	657	—	657	214	—	214	265	—	265
Net loss	$ (13,698)	$ (1,745)	$ (15,443)	$ (20,534)	$ (2,171)	$ (22,705)	$ (31,305)	$ (498)	$ (31,803)

The following table presents the impact of the change in revenues and related costs on NextWave's previously-reported consolidated balance sheets for the first three interim reporting dates in 2006:

	April 1, 2006			July 1, 2006			September 30, 2006		
(in thousands)	**As Reported**	**Adjustments**	**As Restated**	**As Reported**	**Adjustments**	**As Restated**	**As Reported**	**Adjustments**	**As Restated**
Consolidated Balance Sheets									
ASSETS									
Current assets:									
Cash and cash equivalents	$ 99,871	$ —	$ 99,871	$ 30,643	$ —	$ 30,643	$ 25,371	$ —	$ 25,371
Short-term investments	266,716	—	266,716	309,794	—	309,794	196,801	—	196,801
Accounts receivable, net	2,235	—	2,235	5,206	—	5,206	5,728	—	5,728
Deposits for wireless spectrum bids	—	—	—	—	—	—	142,866	—	142,866
Prepaid expenses and other current assets	7,201	21	7,222	10,623	(110)	10,513	9,494	772	10,266
Total current assets	376,023	21	376,044	356,266	(110)	356,156	380,260	772	381,032
Restricted cash	—	—	—	—	—	—	76,792	—	76,792
Wireless spectrum licenses, net	130,889	—	130,889	130,374	—	130,374	374,137	—	374,137
Goodwill	27,001	—	27,001	32,936	—	32,936	32,829	—	32,829
Other intangible assets, net	17,449	—	17,449	16,846	—	16,846	16,306	—	16,306
Property and equipment, net	15,040	—	15,040	14,632	—	14,632	16,796	—	16,796
Prepaid expenses and other noncurrent assets	7,708	—	7,708	6,761	—	6,761	8,279	—	8,279
Total assets	$ 574,110	$ 21	$ 574,131	$ 557,815	$ (110)	$ 557,705	$ 905,399	$ 772	$ 906,171
LIABILITIES AND MEMBERS' EQUITY									
Current liabilities:									
Accounts payable	$ 4,488	$ —	$ 4,488	$ 2,274	$ —	$ 2,274	$ 2,369	$ —	$ 2,369
	7,058	—	7,058	12,104	—	12,104	19,465	—	19,465

Accrued expenses									
Current portion of long-term obligations	2,575	—	2,575	2,822	—	2,822	2,681	—	2,681
Deferred revenue	4,021	1,766	5,787	3,100	3,806	6,906	2,867	5,186	8,053
Current tax liability	—	—	—	—	—	—	40	—	40
Other current liabilities and deferred credits	755	—	755	1,009	—	1,009	961	—	961
Total current liabilities	18,897	1,766	20,663	21,309	3,806	25,115	28,383	5,186	33,569
Deferred income tax liabilities	—	—	—	—	—	—	67,673	—	67,673
Long-term deferred credits and reserves	8,203	—	8,203	8,575	—	8,575	8,243	—	8,243
Long-term obligations	15,311	—	15,311	15,661	—	15,661	292,310	—	292,310
Minority interest in subsidiary	889	—	889	1,143	—	1,143	884	—	884
Commitments and contingencies									
Members' equity:									
Membership interests	591,452	—	591,452	592,389	—	592,389	619,966	—	619,966
Accumulated other comprehensive loss	(992)	—	(992)	(1,078)	—	(1,078)	(571)	—	(571)
Accumulated deficit	(59,650)	(1,745)	(61,395)	(80,184)	(3,916)	(84,100)	(111,489)	(4,414)	(115,903)
Total members' equity	530,810	(1,745)	529,065	511,127	(3,916)	507,211	507,906	(4,414)	503,492
Total liabilities and members' equity	$ 574,110	$ 21	$ 574,131	$ 557,815	$ (110)				