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

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2023

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: 001-34112

Energy Recovery, Inc.
(Exact Name of Registrant as Specified in its Charter)

Delaware	**01-0616867**
(State or Other Jurisdiction of Incorporation)	*(I.R.S. Employer Identification No.)*

1717 Doolittle Drive, San Leandro, California 94577
(Address of Principal Executive Offices) (Zip Code)

(510) 483-7370
(Registrant's Telephone Number, Including Area Code)

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, $0.001 par value	**ERII**	**The Nasdaq Stock Market LLC**

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, every Interactive Data File required to be submitted 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, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☑ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐ Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

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

As of October 26, 2023, there were 56,517,933 shares of the registrant's common stock outstanding.

ENERGY RECOVERY, INC.
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Forward-Looking Information

This Quarterly Report on Form 10-Q for the three and nine months ended September 30, 2023, including Part I, Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations" (the "MD&A"), contains forward-looking statements within the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995. Forward-looking statements in this report include, but are not limited to, statements about our expectations, objectives, anticipations, plans, hopes, beliefs, intentions or strategies regarding the future.

Forward-looking statements represent our current expectations about future events, are based on assumptions, and involve risks and uncertainties. If the risks or uncertainties occur or the assumptions prove incorrect, then our results may differ materially from those set forth or implied by the forward-looking statements. Our forward-looking statements are not guarantees of future performance or events.

Words such as "expects," "anticipates," "aims," "projects," "intends," "plans," "believes," "estimates," "seeks," "continue," "could," "may," "potential," "should," "will," "would," variations of such words and similar expressions are also intended to identify such forward-looking statements. These forward-looking statements are subject to risks, uncertainties and assumptions that are difficult to predict; therefore, actual results may differ materially and adversely from those expressed in any forward-looking statements. Readers are directed to risks and uncertainties identified under Part II, Item 1A, "Risk Factors," and elsewhere in this report for factors that may cause actual results to be different from those expressed in these forward-looking statements. Except as required by law, we undertake no obligation to revise or update publicly any forward-looking statements for any reason.

Forward-looking statements in this report include, without limitation, statements about the following:

- our belief that we have sufficient raw material and finished goods to mitigate supply chain issues;
- our belief that the scalability and versatility of our platform can help us achieve success in emerging markets similar to our energy recovery device used in the seawater reverse osmosis ("SWRO") process;
- our belief that pressure exchanger technology can provide benefits to our customers, including the reduction of capital expenditures and energy use;
- our belief that our PX® Pressure Exchanger® ("PX") has helped make SWRO an economically viable and more sustainable option in the production of potable water;
- our belief that our PX offers market-leading value with the highest technological and economic benefit;
- our belief that leveraging our pressure exchanger technology will unlock new commercial opportunities in the future;
- our belief that sales of carbon dioxide ("CO_2") refrigeration systems will increase in response to regulations for safe natural refrigerants;
- our belief that our pressure exchanger technology can significantly aid in the reduction of the operating costs of CO_2 refrigeration systems by recycling the pressure energy of CO_2 gas thereby significantly reducing the energy needed to operate these systems;
- our belief that the PX G1300™ could eventually alter the standard refrigeration system architecture by reducing costs for retail end users such as grocery stores;
- our objective of finding new applications for our technology and developing new products for use outside of desalination;
- our belief that our current facilities will be adequate for the foreseeable future;
- our belief that by investing in research and development, we will be well positioned to continue to execute on our product strategy;
- our expectation that sales outside of the U.S. will remain a significant portion of our revenue;
- our belief that our existing cash and cash equivalents, our short and/or long-term investments, and the ongoing cash generated from our operations, will be sufficient to meet our anticipated liquidity needs for the foreseeable future, with the exception of a decision to enter into an acquisition and/or fund investments in our latest technology arising from rapid market adoption that could require us to seek additional equity or debt financing;
- our belief that our cash deposit risk at uninsured or under insured financial institutions will not materially affect our current liquidity;
- our expectation that the lender under our current credit agreement, as amended, will continue to honor its commitments to us;
- our belief that we will be in compliance with the terms of the existing credit agreement, as amended, in the future;
- our expectation that we will continue to receive a tax benefit related to U.S. federal foreign-derived intangible income;

- the impact of changes in internal control over financial reporting; and
- other factors disclosed under the MD&A and Part I, Item 3, “Quantitative and Qualitative Disclosures about Market Risk,” and elsewhere in this Form 10-Q.

You should not place undue reliance on these forward-looking statements. These forward-looking statements reflect management’s opinions only as of the date of the filing of this Quarterly Report on Form 10-Q. All forward-looking statements included in this document are subject to additional risks and uncertainties further discussed under Part II, Item 1A, “Risk Factors,” and are based on information available to us as of November 1, 2023. We assume no obligation to update any such forward-looking statements. Certain risks and uncertainties could cause actual results to differ materially from those projected in the forward-looking statements. These forward-looking statements are disclosed from time to time in our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K filed with or furnished to the Securities and Exchange Commission (the “SEC”), as well as in Part II, Item 1A, “Risk Factors,” within this Quarterly Report on Form 10-Q.

It is important to note that our actual results could differ materially from the results set forth or implied by our forward-looking statements. The factors that could cause our actual results to differ from those included in such forward-looking statements are set forth under the heading Item 1A, “Risk Factors,” in our Quarterly Reports on Form 10-Q, and in our Annual Reports on Form 10-K, and from time-to-time, in our results disclosed on our Current Reports on Form 8-K. In addition, when preparing the MD&A below, we presume the readers have access to and have read the MD&A in our Annual Report on Form 10-K, pursuant to Instruction 2 to paragraph (b) of Item 303 of Regulation S-K.

We provide our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, Proxy Statements on Form DEF 14A, Forms 3, 4 and 5 filed by or on behalf of directors, executive officers and certain large shareholders, and any amendments to those documents filed or furnished pursuant to the Securities Exchange Act of 1934, free of charge on the Investor Relations section of our website, www.energyrecovery.com. These filings will become available as soon as reasonably practicable after such material is electronically filed with or furnished to the SEC. From time to time, we may use our website as a channel of distribution of material company information.

We also make available in the Investor Relations section of our website our corporate governance documents including our code of business conduct and ethics and the charters of the audit, compensation and nominating and governance committees. These documents, as well as the information on the website, are not intended to be part of this Quarterly Report on Form 10-Q. We use the Investor Relations section of our website as a means of complying with our disclosure obligations under Regulation FD. Accordingly, you should monitor the Investor Relations section of our website in addition to following our press releases, SEC filings and public conference calls and webcasts.

PART I — FINANCIAL INFORMATION

Item 1 — Financial Statements (unaudited)

ENERGY RECOVERY, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS

	September 30, 2023	December 31, 2022
	(In thousands)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 51,440	$ 56,354
Short-term investments	33,095	33,479
Accounts receivable, net	23,337	34,062
Inventories, net	33,888	28,366
Prepaid expenses and other assets	4,508	5,606
Total current assets	146,268	157,867
Long-term investments	21,394	3,058
Deferred tax assets, net	11,183	10,263
Property and equipment, net	18,747	19,580
Operating lease, right of use asset	11,892	13,115
Goodwill	12,790	12,790
Other assets, non-current	387	366
Total assets	$ 222,661	$ 217,039
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 1,809	$ 814
Accrued expenses and other liabilities	11,402	14,693
Lease liabilities	1,740	1,600
Contract liabilities	1,467	1,195
Total current liabilities	16,418	18,302
Lease liabilities, non-current	11,992	13,278
Other liabilities, non-current	222	121
Total liabilities	28,632	31,701
Commitments and contingencies (Note 7)		
Stockholders' equity:		
Common stock	65	64
Additional paid-in capital	211,782	204,957
Accumulated other comprehensive loss	(183)	(349)
Treasury stock	(80,486)	(80,486)
Retained earnings	62,851	61,152
Total stockholders' equity	194,029	185,338
Total liabilities and stockholders' equity	$ 222,661	$ 217,039

See Accompanying Notes to Condensed Consolidated Financial Statements

ENERGY RECOVERY, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(In thousands, except per share data)			
Revenue	$ 37,036	$ 30,462	$ 71,160	$ 83,300
Cost of revenue	11,154	9,417	23,580	25,835
Gross profit	25,882	21,045	47,580	57,465
Operating expenses:				
General and administrative	7,369	7,608	21,704	21,155
Sales and marketing	5,411	4,703	15,397	11,916
Research and development	3,969	3,828	12,043	14,170
Total operating expenses	16,749	16,139	49,144	47,241
Income (loss) from operations	9,133	4,906	(1,564)	10,224
Other income (expense):				
Interest income	1,083	259	2,486	486
Other non-operating expense, net	(38)	(5)	(129)	(9)
Total other income, net	1,045	254	2,357	477
Income before income taxes	10,178	5,160	793	10,701
Provision for (benefit from) income taxes	518	371	(906)	377
Net income	$ 9,660	$ 4,789	$ 1,699	$ 10,324
Net income per share:				
Basic	$ 0.17	$ 0.09	$ 0.03	$ 0.18
Diluted	$ 0.17	$ 0.08	$ 0.03	$ 0.18
Number of shares used in per share calculations:				
Basic	56,443	55,881	56,346	56,291
Diluted	57,969	57,372	57,761	57,708

See Accompanying Notes to Condensed Consolidated Financial Statements

ENERGY RECOVERY, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(In thousands)			
Net income	$ 9,660	$ 4,789	$ 1,699	$ 10,324
Other comprehensive income (loss), net of tax				
Foreign currency translation adjustments	(2)	34	95	38
Unrealized gain (loss) on investments	(54)	(28)	71	(398)
Total other comprehensive income (loss), net of tax	(56)	6	166	(360)
Comprehensive income	$ 9,604	$ 4,795	$ 1,865	$ 9,964

See Accompanying Notes to Condensed Consolidated Financial Statements

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ENERGY RECOVERY, INC.
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(In thousands, except shares)			
Common stock				
Beginning balance	$ 65	$ 64	$ 64	$ 64
Issuance of common stock, net	—	—	1	—
Ending balance	65	64	65	64
Additional paid-in capital				
Beginning balance	209,139	200,129	204,957	195,593
Issuance of common stock, net	805	1,259	1,183	2,244
Stock-based compensation	1,838	1,419	5,642	4,970
Ending balance	211,782	202,807	211,782	202,807
Accumulated other comprehensive loss				
Beginning balance	(127)	(515)	(349)	(149)
Other comprehensive income (loss)				
Foreign currency translation adjustments	(2)	34	95	38
Unrealized gain (loss) on investments	(54)	(28)	71	(398)
Total other comprehensive income (loss), net	(56)	6	166	(360)
Ending balance	(183)	(509)	(183)	(509)
Treasury stock				
Beginning balance	(80,486)	(80,455)	(80,486)	(53,832)
Common stock repurchased	—	(31)	—	(26,654)
Ending balance	(80,486)	(80,486)	(80,486)	(80,486)
Retained earnings				
Beginning balance	53,191	42,638	61,152	37,103
Net income	9,660	4,789	1,699	10,324
Ending balance	62,851	47,427	62,851	47,427
Total stockholders' equity	$ 194,029	$ 169,303	$ 194,029	$ 169,303
Common stock issued (shares)				
Beginning balance	64,553,969	63,935,378	64,225,391	63,544,419
Issuance of common stock, net	99,091	196,110	427,669	587,069
Ending balance	64,653,060	64,131,488	64,653,060	64,131,488
Treasury stock (shares)				
Beginning balance	8,148,512	8,146,859	8,148,512	6,721,153
Common stock repurchased	—	1,653	—	1,427,359
Ending balance	8,148,512	8,148,512	8,148,512	8,148,512
Total common stock outstanding (shares)	56,504,548	55,982,976	56,504,548	55,982,976

See Accompanying Notes to Condensed Consolidated Financial Statements

ENERGY RECOVERY, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

	Nine Months Ended September 30,	
	2023	2022
	(In thousands)	
Cash flows from operating activities:		
Net income	$ 1,699	$ 10,324
Adjustments to reconcile net income to cash provided by (used in) operating activities		
Stock-based compensation	5,811	5,101
Depreciation and amortization	3,075	3,803
Right of use asset depreciation	1,223	1,143
(Accretion) amortization of premiums and discounts on investments	(613)	647
Deferred income taxes	(920)	207
Other non-cash adjustments	241	235
Changes in operating assets and liabilities:		
Accounts receivable, net	10,756	2,208
Contract assets	1,720	(398)
Inventories, net	(5,745)	(11,848)
Prepaid and other assets	(1,292)	(461)
Accounts payable	1,043	1,121
Accrued expenses and other liabilities	(4,966)	(4,617)
Contract liabilities	240	(1,197)
Net cash provided by operating activities	12,272	6,268
Cash flows from investing activities:		
Sales of marketable securities	2,966	—
Maturities of marketable securities	58,705	34,107
Purchases of marketable securities	(78,949)	(35,964)
Capital expenditures	(1,179)	(2,999)
Proceeds from sales of fixed assets	82	734
Net cash used in investing activities	(18,375)	(4,122)
Cash flows from financing activities:		
Net proceeds from issuance of common stock	1,184	2,244
Repurchase of common stock	—	(26,654)
Net cash provided by (used in) financing activities	1,184	(24,410)
Effect of exchange rate differences on cash and cash equivalents	27	38
Net change in cash, cash equivalents and restricted cash	(4,892)	(22,226)
Cash, cash equivalents and restricted cash, beginning of year	56,458	74,461
Cash, cash equivalents and restricted cash, end of period	$ 51,566	$ 52,235

See Accompanying Notes to Condensed Consolidated Financial Statements

Note 1 — Description of Business and Significant Accounting Policies

Energy Recovery, Inc. and its wholly-owned subsidiaries (the “Company” or “Energy Recovery”) designs and manufactures solutions that make industrial processes more efficient and sustainable. Leveraging the Company’s pressure exchanger technology, which generates little to no emissions when operating, the Company’s solutions lower costs, save energy, reduce waste and minimize emissions for companies across a variety of industrial processes. As the world coalesces around the urgent need to address climate change and its impacts, the Company is helping companies reduce their energy consumption in their industrial processes, which in turn, reduces their carbon footprint. The Company believes that its customers do not have to sacrifice quality and cost savings for sustainability and is committed to developing solutions that drive long-term value – both financial and environmental. The Company’s solutions are marketed, sold in, or developed for, the fluid-flow and gas markets, such as seawater and wastewater desalination, natural gas, chemical processing and refrigeration systems, under the trademarks ERI®, PX®, Pressure Exchanger®, PX® Pressure Exchanger® (“PX”), Ultra PX™, PX G™, PX G1300™, PX PowerTrain™, AT ™, and Aquabold™. The Company owns, manufactures and/or develops its solutions, in whole or in part, in the United States of America (the “U.S.”).

Basis of Presentation

The Condensed Consolidated Financial Statements include the accounts of Energy Recovery, Inc. and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation.

The accompanying Condensed Consolidated Financial Statements have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission (the “SEC”). Certain information and footnote disclosures normally included in the financial statements prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) have been condensed or omitted pursuant to such rules and regulations. The December 31, 2022 Condensed Consolidated Balance Sheet was derived from audited financial statements and may not include all disclosures required by GAAP; however, the Company believes that the disclosures are adequate to make the information presented not misleading.

The September 30, 2023 unaudited Condensed Consolidated Financial Statements should be read in conjunction with the audited Consolidated Financial Statements and the notes thereto for the fiscal year ended December 31, 2022 included in the Company’s Annual Report on Form 10-K filed with the SEC on February 23, 2023 (the “2022 Annual Report”).

All adjustments consisting of normal recurring adjustments that are necessary to present fairly the financial position, results of operations and cash flows for the interim periods have been made. The results of operations for the interim periods are not necessarily indicative of the operating results for the full fiscal year or any future periods.

Reclassifications

Certain prior period amounts have been reclassified in the Condensed Consolidated Statements of Cash Flows and certain notes to the Condensed Consolidated Financial Statements to conform to the current period presentation.

ENERGY RECOVERY, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Use of Estimates

The preparation of Condensed Consolidated Financial Statements, in conformity with GAAP, requires the Company's management to make judgments, assumptions and estimates that affect the amounts reported in the Condensed Consolidated Financial Statements and accompanying notes.

The accounting policies that reflect the Company's significant estimates and judgments and that the Company believes are the most critical to aid in fully understanding and evaluating its reported financial results are revenue recognition; valuation of stock options; useful life and valuation of equipment; valuation and impairment of goodwill; deferred taxes and valuation allowances on deferred tax assets; and evaluation and measurement of contingencies. Those estimates could change, and as a result, actual results could differ materially from those estimates.

Although there has been uncertainty and disruption in the global economy, supply chain and financial markets, the Company is not aware of any specific event or circumstance that would require an update to its estimates or judgments or a revision of the carrying value of its assets or liabilities as of November 1, 2023, the date of issuance of this Quarterly Report on Form 10-Q. These estimates may change, as new events occur and additional information is obtained. Actual results could differ materially from these estimates under different assumptions or conditions. The Company undertakes no obligation to update publicly these estimates for any reason after the date of this Quarterly Report on Form 10-Q, except as required by law.

Significant Accounting Policies

There have been no material changes to the Company's significant accounting policies in Note 1, "Description of Business and Significant Accounting Policies," of the Notes to Consolidated Financial Statements included in Item 8, "Financial Statements and Supplementary Data," in the 2022 Annual Report.

ENERGY RECOVERY, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 2 — Revenue

Disaggregation of Revenue

The following tables present the disaggregated revenues by segment, and within each segment, by geographical market based on the customer "shipped to" address, and by channel customers. Sales and usage-based taxes are excluded from revenues. See Note 9, "Segment Reporting," for further discussion related to the Company's segments.

	Three Months Ended September 30, 2023			Nine Months Ended September 30, 2023		
	Water	Emerging Technologies	Total	Water	Emerging Technologies	Total
	(In thousands)					
Geographical market						
Middle East and Africa	$ 24,543	$ —	$ 24,543	$ 38,272	$ 108	$ 38,380
Asia	5,688	—	5,688	19,180	—	19,180
Americas	5,091	123	5,214	9,628	153	9,781
Europe	1,490	101	1,591	3,542	277	3,819
Total revenue	$ 36,812	$ 224	$ 37,036	$ 70,622	$ 538	$ 71,160
Channel						
Megaproject	$ 26,829	$ —	$ 26,829	$ 42,283	$ —	$ 42,283
Original equipment manufacturer	5,083	224	5,307	16,415	430	16,845
Aftermarket	4,900	—	4,900	11,924	108	12,032
Total revenue	$ 36,812	$ 224	$ 37,036	$ 70,622	$ 538	$ 71,160

	Three Months Ended September 30, 2022			Nine Months Ended September 30, 2022		
	Water	Emerging Technologies	Total	Water	Emerging Technologies	Total
	(In thousands)					
Geographical market						
Middle East and Africa	$ 16,722	$ —	$ 16,722	$ 53,629	$ 79	$ 53,708
Asia	8,168	—	8,168	17,771	—	17,771
Americas	3,156	—	3,156	6,951	30	6,981
Europe	2,416	—	2,416	4,840	—	4,840
Total revenue	$ 30,462	$ —	$ 30,462	$ 83,191	$ 109	$ 83,300
Channel						
Megaproject	$ 17,347	$ —	$ 17,347	$ 51,178	$ 79	$ 51,257
Original equipment manufacturer	9,032	—	9,032	21,392	—	21,392
Aftermarket	4,083	—	4,083	10,621	30	10,651
Total revenue	$ 30,462	$ —	$ 30,462	$ 83,191	$ 109	$ 83,300

Contract Balances

The following table presents contract balances by category.

	September 30, 2023	December 31, 2022
	(In thousands)	
Accounts receivable, net	$ 23,337	$ 34,062
Contract assets, current (included in prepaid expenses and other assets)	—	1,720
Contract liabilities:		
Contract liabilities, current	$ 1,467	$ 1,195
Contract liabilities, non-current (included in other liabilities, non-current)	89	121
Total contract liabilities	$ 1,556	$ 1,316

Contract Liabilities

The Company records contract liabilities, which consist of customer deposits and deferred revenue, when cash payments are received in advance of the Company's performance. The following table presents significant changes in contract liabilities during the period.

	September 30, 2023	December 31, 2022
	(In thousands)	
Contract liabilities, beginning of year	$ 1,316	$ 3,406
Revenue recognized	(1,117)	(3,123)
Cash received, excluding amounts recognized as revenue during the period	1,357	1,033
Contract liabilities, end of period	$ 1,556	$ 1,316

Future Performance Obligations

As of September 30, 2023, the following table presents the future estimated revenue by year expected to be recognized related to performance obligations that are unsatisfied or partially unsatisfied.

Year	Future Performance Obligations
	(In thousands)
2023 (remaining three months)	$ 5,924
2025	6,861
Total	$ 12,785

Note 3 — Net Income Per Share

Net income for the reported period is divided by the weighted average number of common shares outstanding during the reported period to calculate basic net income per common share.

- *Basic net income per common share* excludes any dilutive effect of stock options and restricted stock units (“RSUs”).
- *Diluted net income per common share* reflects the potential dilution that would occur if outstanding stock options to purchase common stock were exercised for shares of common stock, using the treasury stock method, and if the shares of common stock underlying each unvested RSU were issued.

Outstanding stock options to purchase common stock and unvested RSUs are collectively referred to as “stock awards.”

The following table presents the computation of basic and diluted net income per common share.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(In thousands, except per share amounts)			
Numerator				
Net income	$ 9,660	$ 4,789	$ 1,699	$ 10,324
Denominator (weighted average shares)				
Basic common shares outstanding	56,443	55,881	56,346	56,291
Dilutive stock awards	1,526	1,491	1,415	1,417
Diluted common shares outstanding	57,969	57,372	57,761	57,708
Net income per share				
Basic	$ 0.17	$ 0.09	$ 0.03	$ 0.18
Diluted	$ 0.17	$ 0.08	$ 0.03	$ 0.18

Certain shares of common stock issuable under stock awards have been omitted from the diluted net income per common share calculations because their inclusion is considered anti-dilutive. The following table presents the weighted potential common shares issuable under stock awards that were excluded from the computation of diluted net income per common share.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(In thousands)			
Anti-dilutive stock award shares	125	387	126	522

ENERGY RECOVERY, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 4 — Other Financial Information

Cash, Cash Equivalents and Restricted Cash

The Condensed Consolidated Statements of Cash Flows explain the changes in the total of cash, cash equivalents and restricted cash, such as cash amounts deposited in restricted cash accounts in connection with the Company's credit cards. The following table presents a reconciliation of cash, cash equivalents and restricted cash, reported within the Condensed Consolidated Balance Sheets that sum to the total of such amounts presented for each period presented on the Condensed Consolidated Statements of Cash Flows.

	September 30, 2023	December 31, 2022	September 30, 2022
		(In thousands)	
Cash and cash equivalents	$ 51,440	$ 56,354	$ 52,131
Restricted cash, non-current (included in other assets, non-current)	126	104	104
Total cash, cash equivalents and restricted cash	$ 51,566	$ 56,458	$ 52,235

Accounts Receivable, net

	September 30, 2023	December 31, 2022
	(In thousands)	
Accounts receivable, gross	$ 23,446	$ 34,210
Allowance for doubtful accounts	(109)	(148)
Accounts receivable, net	$ 23,337	$ 34,062

Inventories, net

	September 30, 2023	December 31, 2022
	(In thousands)	
Raw materials	$ 9,050	$ 11,178
Work in process	4,905	2,628
Finished goods	20,560	15,062
Inventories, gross	34,515	28,868
Valuation adjustments for excess and obsolete inventory	(627)	(502)
Inventories, net	$ 33,888	$ 28,366

Inventory amounts are stated at the lower of cost or net realizable value, using the first-in, first-out method.

Goodwill

Goodwill is tested for impairment annually in the third quarter of the Company's fiscal year or more frequently if indicators of potential impairment exist. The Company monitors the industries in which it operates, and reviews its business performance for indicators of potential impairment. The recoverability of goodwill is measured at the reporting unit level, which represents the operating segment. The carrying amount of goodwill as of September 30, 2023 and December 31, 2022 was $12.8 million.

On July 1, 2023, the Company estimated the fair value of its reporting units using both the discounted cash flow and market approaches. The forecast of future cash flows, which is based on the Company's best estimate of future net sales and operating expenses, is based primarily on expected category expansion, pricing, market segment, and general economic conditions. The Company incorporates other significant inputs to its fair value calculations, including discount rate and market multiples, to reflect current market conditions. The analysis performed indicated that the fair value of each reporting unit that is allocated goodwill significantly exceeds its carrying value. As a result of the Company's annual impairment test, there was no impairment charge recorded during the three months ended September 30, 2023.

Accrued Expenses and Other Liabilities

	September 30, 2023	December 31, 2022
	(In thousands)	
Current		
Payroll, incentives and commissions payable	$ 8,261	$ 10,479
Warranty reserve	944	968
Other accrued expenses and other liabilities	2,197	3,246
Total accrued expenses and other liabilities	11,402	14,693
Other liabilities, non-current	222	121
Total accrued expenses, and current and non-current other liabilities	$ 11,624	$ 14,814

Note 5 — Investments and Fair Value Measurements

Available-for-Sale Investments

The Company's investments in investment-grade short-term and long-term marketable debt instruments, such as U.S. treasury securities, corporate notes and bonds, and municipal and agency notes and bonds, are classified as available-for-sale. Available-for-sale investments are classified on the Condensed Consolidated Balance Sheets as either short-term and/or long-term investments.

The classification of available-for-sale investments on the Condensed Consolidated Balance Sheets and definition of each of these classifications are provided in Note 1, "Description of Business and Significant Accounting Policies - Significant Accounting Policies," subsections "Cash and Cash Equivalents" and "Short-term and Long-term Investments," of the Notes to Consolidated Financial Statements included in Item 8, "Financial Statements and Supplementary Data," in the 2022 Annual Report.

Expected maturities can differ from contractual maturities because borrowers may have the right to prepay obligations without prepayment penalties. The Company generally holds available-for-sale investments until maturity; however, from time-to-time, the Company may elect to sell certain available-for-sale investments prior to contractual maturity.

Fair Value of Financial Instruments

All of the Company's financial assets and liabilities are remeasured and reported at fair value at each reporting period, and are classified and disclosed in one of the following three pricing category levels:

Level 1 — Quoted prices (unadjusted) in active markets for identical assets or liabilities;
Level 2 — Inputs other than quoted prices included within Level 1 that are either directly or indirectly observable; and
Level 3 — Unobservable inputs in which little or no market activity exists, thereby requiring an entity to develop its own assumptions that market participants would use in pricing.

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The following table presents the Company's financial assets measured on a recurring basis by contractual maturity, including pricing category, amortized cost, gross unrealized gains and losses, and fair value. As of the dates reported in the table, the Company had no financial liabilities and no Level 3 financial assets.

		September 30, 2023				December 31, 2022			
	Pricing Category	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
		(In thousands)							
Cash equivalents									
Money market securities	Level 1	$ 17,408	$ —	$ —	$ 17,408	$ 33,268	$ —	$ —	$ 33,268
Short-term investments									
U.S. treasury securities	Level 2	2,894	—	(5)	2,889	3,629	1	—	3,630
Corporate notes and bonds	Level 2	19,939	—	(95)	19,844	26,060	—	(208)	25,852
Municipal and agency notes and bonds	Level 2	10,387	—	(25)	10,362	3,992	5	—	3,997
Total short-term investments		33,220	—	(125)	33,095	33,681	6	(208)	33,479
Long-term investments									
Corporate notes and bonds	Level 2	13,417	—	(74)	13,343	3,178	—	(120)	3,058
Municipal and agency notes and bonds	Level 2	8,084	—	(33)	8,051	—	—	—	—
Total long-term investments		21,501	—	(107)	21,394	3,178	—	(120)	3,058
Total short and long-term investments		54,721	—	(232)	54,489	36,859	6	(328)	36,537
Total		$ 72,129	$ —	$ (232)	$ 71,897	$ 70,127	$ 6	$ (328)	$ 69,805

The following table presents a summary of the fair value and gross unrealized losses on the available-for-sale securities that have been in a continuous unrealized loss position, aggregated by type of investment instrument. The available-for-sale securities that were in an unrealized gain position have been excluded from the table.

	September 30, 2023		December 31, 2022	
	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses
	(In thousands)			
U.S. treasury securities	$ 2,889	$ (5)	$ —	$ —
Corporate notes and bonds	31,687	(169)	28,911	(328)
Municipal and agency notes and bonds	18,413	(58)	—	—
Total available-for-sale investments with unrealized loss positions	$ 52,989	$ (232)	$ 28,911	$ (328)

ENERGY RECOVERY, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Sales of Available-for-Sale Investments

The following table presents the sales of available-for-sale investments.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(In thousands)			
Corporate notes and bonds	$ —	$ —	$ 2,966	$ —

Realized losses on sales of securities were immaterial during the nine months ended September 30, 2023.

Note 6 — Lines of Credit

Credit Agreement

The Company entered into a credit agreement with JPMorgan Chase Bank, N.A. ("JPMC") on December 22, 2021 (the "Credit Agreement"). The Credit Agreement, which will expire on December 21, 2026, provides a committed revolving credit line of $50.0 million and includes both a revolving loan and a letters of credit ("LCs") component. During September 2023, the Company and JPMC amended the Credit Agreement (the "Second Amendment") to increase the LC maximum allowable credit line component from $25.0 million to $30.0 million. No other components or features under the Credit Agreement (including the First Amendment dated July 15, 2022) were amended.

Under the Credit Agreement, as of September 30, 2023, there were no revolving loans outstanding. In addition, under the LCs component, the Company utilized $20.4 million of the maximum allowable credit line of $ 30.0 million, which includes newly issued LCs, and previously issued and unexpired stand-by letters of credits ("SBLCs") and certain non-expired commitments under the Company's previous Loan and Pledge Agreement with Citibank, N.A. which are guaranteed under the Credit Agreement.

Letters of Credit

The following table presents the total outstanding LCs and SBLCs issued by the Company to our customers related to product warranty and performance guarantees.

	September 30, 2023	December 31, 2022
	(In thousands)	
Outstanding letters of credit	$ 19,501	$ 15,487

Note 7 — Commitments and Contingencies

Litigation

From time-to-time, the Company has been named in and subject to various proceedings and claims in connection with its business. The Company may in the future become involved in litigation in the ordinary course of business, including litigation that could be material to its business. The Company considers all claims, if any, on a quarterly basis and, based on known facts, assesses whether potential losses are considered reasonably possible, probable and estimable. Based upon this assessment, the Company then evaluates disclosure requirements and whether to accrue for such claims in its consolidated financial statements. The Company records a provision for a liability when it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. These provisions are reviewed at least quarterly and are adjusted to reflect the impacts of negotiations, settlements, rulings, advice of legal counsel and other information and events pertaining to a particular case. As of September 30, 2023, the Company was not involved in any lawsuits, legal proceedings or claims that would have a material effect on the Company's financial position, results of operations, or cash flows. Therefore, there were no material losses which were probable or reasonably possible.

Note 8 — Income Taxes

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(In thousands, except percentages)			
Provision for (benefit from) income taxes	$ 518	$ 371	$ (906)	$ 377
Discrete items	357	331	986	1,134
Provision for income taxes, excluding discrete items	$ 875	$ 702	$ 80	$ 1,511
Effective tax rate	5.1 %	7.2 %	(114.2 %)	3.5 %
Effective tax rate, excluding discrete items	8.6 %	13.6 %	10.0 %	14.1 %

The Company's interim period tax provision for and (benefit from) income taxes, respectively, is determined using an estimate of its annual effective tax rate, adjusted for discrete items, if any, that arise during the period. Each quarter, the Company updates its estimate of the annual effective tax rate, and if the estimated annual effective tax rate changes, the Company makes a cumulative adjustment in such period. The Company's quarterly tax provision and estimate of its annual effective tax rate are subject to variation due to several factors, including variability in accurately predicting its pre-tax income or loss and the mix of jurisdictions to which they relate, intercompany transactions, the applicability of special tax regimes, and changes in how the Company does business.

For the three and nine months ended September 30, 2023, the recognized provision for and (benefit from) income taxes, respectively, included benefits related to the U.S. federal foreign-derived intangible income ("FDII") and federal research and development ("R&D") tax credit, along with a discrete tax benefit due primarily to stock-based compensation windfalls and prior years' discrete tax benefit largely related to increased tax credits. For the three and nine months ended September 30, 2022, the recognized provision for income taxes included a benefit primarily related to the FDII and federal R&D tax credit, along with a discrete tax benefit due primarily to stock-based compensation windfalls.

The effective tax rate excluding discrete items for the three and nine months ended September 30, 2023, as compared to the comparable period in the prior year, differed primarily due to higher projected FDII and R&D tax credits and lower book income.

Note 9 — Segment Reporting

The Company's chief operating decision-maker ("CODM") is its chief executive officer. The Company continues to monitor and review its segment reporting structure in accordance with authoritative guidance to determine whether any changes have occurred that would impact its reportable segments.

The following tables present a summary of the Company's financial information by segment and corporate operating expenses.

	Three Months Ended September 30, 2023			Nine Months Ended September 30, 2023		
	Water	Emerging Technologies	Total	Water	Emerging Technologies	Total
			(In thousands)			
Revenue	$ 36,812	$ 224	$ 37,036	$ 70,622	$ 538	$ 71,160
Cost of revenue	11,114	40	11,154	23,136	444	23,580
Gross profit	25,698	184	25,882	47,486	94	47,580
Operating expenses						
General and administrative	2,039	1,061	3,100	5,837	2,976	8,813
Sales and marketing	3,272	1,560	4,832	9,567	4,171	13,738
Research and development	1,098	2,871	3,969	3,121	8,922	12,043
Total operating expenses	6,409	5,492	11,901	18,525	16,069	34,594
Operating income (loss)	$ 19,289	$ (5,308)	13,981	$ 28,961	$ (15,975)	12,986
Less: Corporate operating expenses			4,848			14,550
Income (loss) from operations			$ 9,133			$ (1,564)

	Three Months Ended September 30, 2022			Nine Months Ended September 30, 2022		
	Water	Emerging Technologies	Total	Water	Emerging Technologies	Total
			(In thousands)			
Revenue	$ 30,462	$ —	$ 30,462	$ 83,191	$ 109	$ 83,300
Cost of revenue	9,417	—	9,417	25,817	18	25,835
Gross profit	21,045	—	21,045	57,374	91	57,465
Operating expenses						
General and administrative	1,911	878	2,789	4,909	3,140	8,049
Sales and marketing	3,242	960	4,202	8,197	2,120	10,317
Research and development	1,216	2,612	3,828	3,159	11,011	14,170
Total operating expenses	6,369	4,450	10,819	16,265	16,271	32,536
Operating income (loss)	$ 14,676	$ (4,450)	10,226	$ 41,109	$ (16,180)	24,929
Less: Corporate operating expenses			5,320			14,705
Income from operations			$ 4,906			$ 10,224

Note 10 — Concentrations

Customer Revenue Concentration

The following table presents the customers that account for 10% or more of the Company's revenue and their related segment for each of the periods presented. Although certain customers might account for greater than 10% of the Company's revenue at any one point in time, the concentration of revenue between a limited number of customers shifts regularly, depending on when revenue is recognized. The percentages by customer reflect specific relationships or contracts that would concentrate revenue for the periods presented and do not indicate a trend specific to any one customer.

		Three Months Ended September 30,		Nine Months Ended September 30,	
	Segment	2023	2022	2023	2022
Customer A	Water	**	29%	**	15%
Customer B	Water	20%	**	16%	**
Customer C	Water	**	**	**	17%
Customer D	Water	15%	**	**	**
Customer E	Water	15%	**	**	**
Customer F	Water	10%	**	**	**

** Zero or less than 10%.

Item 2 — Management’s Discussion and Analysis of Financial Condition and Results of Operations

Overview

Energy Recovery, Inc. (the “Company”, “Energy Recovery”, “we”, “our” and “us”) designs and manufactures solutions that make industrial processes more efficient and sustainable. Leveraging our pressure exchanger technology, which generates little to no emissions when operating, our solutions lower costs, save energy, and minimize emissions for companies across a variety of industrial processes. As the world coalesces around the urgent need to address climate change and its impacts, we are helping companies reduce their energy consumption in their industrial processes, which in turn, reduces their carbon footprint. We believe that our customers do not have to sacrifice quality and cost savings for sustainability and are committed to developing solutions that drive long-term value – both financial and environmental.

The original product application of our technology, the PX ® Pressure Exchanger® (“PX”) energy recovery device, was a major contributor to the advancement of seawater reverse osmosis desalination (“SWRO”), significantly lowering the energy intensity and cost of water production globally from SWRO. We have since introduced our pressure exchanger technology to the fast growing wastewater filtration market, such as battery manufacturers, mining operations, and manufacturing plants that discharge wastewater with significant levels of metals and pollutants, as well as the commercial and industrial refrigeration market.

Engineering, and research and development (“R&D”), have been, and remain, an essential part of our history, culture and corporate strategy. Since our formation, we have developed leading technology and engineering expertise through the continual evolution of our pressure exchanger technology, which can enhance environmental sustainability and improve productivity by reducing waste and energy consumption in high-pressure industrial fluid-flow systems. This versatile technology works as a platform to build product applications and is at the heart of many of our products. In addition, we have engineered and developed ancillary devices, such as our hydraulic turbochargers and circulation “booster” pumps, that complement our energy recovery devices.

Segments

Our reportable operating segments consist of the water and emerging technologies segments. These segments are based on the industries in which the technology solutions are sold, the type of energy recovery device or other technology sold and the related solution and service or, in the case of emerging technologies, where revenues from new and/or potential devices utilizing our pressure exchanger technology can be brought to market. Other factors for determining the reportable operating segments include the manner in which management evaluates our performance combined with the nature of the individual business activities. In addition, our corporate operating expenses include expenditures in support of the water and emerging technologies segments. We continue to monitor and review our segment reporting structure in accordance with authoritative guidance to determine whether any changes have occurred that would impact our reportable segments.

Highlights

In September 2023, we released our fourth annual Sustainability Report (formally referred to as our Environmental, Social, and Governance ("ESG") report), which details our efforts to accelerate the environmental sustainability of our customers' operations and enhance the management of ESG issues in our own operations. The report provides examples and data illustrating our products' positive environmental impacts across the industries where we operate. We understand the importance of being a responsible corporate citizen and believe our sustainability objectives provide us with a strategic roadmap to become a more resilient business, as well as a way to maintain our competitive advantage. Our 2022 Sustainability Report outlines our goals and aligns to leading sustainability frameworks and reporting standards, including the Sustainability Accounting Standards Board as well as select disclosures from the Global Reporting Initiative, Task Force on Climate-related Financial Disclosures, and the United Nations Sustainable Development Goals. Our complete 2022 Sustainability Report can be found on our website at: https://energyrecovery.com/sustainability/. The foregoing link to our 2022 Sustainability Report is an inactive textual reference, and the 2022 Sustainability Report is not incorporated by reference into, and is not a part of, this Form 10-Q.

Water

Our Water segment includes the continued development, sales and support of the PX, hydraulic turbochargers and pumps used in seawater desalination and treatment of wastewater (hereinafter referred to as "wastewater").

During the quarter, we announced:

- Contract awards for our Water segment totaling nearly $17 million to supply our PX for desalination facilities in the Gulf region. These contracts include a municipal desalination facility that will produce over 500,000 cubic meters per day (132 million gallons) to a significantly water stressed region. These PXs are expected to prevent over 400,000 metric tons of carbon emissions from entering the atmosphere each year, the equivalent of removing over 85,000 passenger cars from the road each year. These facilities mark a major milestone in addressing the region's critical water scarcity challenges and reinforcing sustainable water security. The facilities are for both municipal and industrial applications.

Emerging Technologies

Our Emerging Technologies segment includes the continued development, sales and support of activities related to emerging technologies, such as the PX G1300™ energy recovery device used in industrial and commercial refrigeration applications.

During the quarter, we announced:

- Together, we and Epta Group ("Epta") were awarded Refrigeration Innovation of the Year for the XTE (Extra Transcritical Efficiency), which is Epta's next-generation commercial CO_2 refrigeration system. The award for Refrigeration Innovation of the Year recognizes systems, products, or processes that utilize new technology to provide definitive innovations to refrigeration. The innovative and patent pending XTE solution utilizes the energy savings and efficiency benefits of the PX G1300™ and packages the PX G1300 into a complete next-generation refrigeration system.

Results of Operations

A discussion regarding our financial condition and results of operations for the three and nine months ended September 30, 2023, compared to the three and nine months ended September 30, 2022, is presented below.

Revenue

Variability in revenue from quarter to quarter is typical, therefore year-on-year comparisons are not necessarily indicative of the trend for the full year due to these variations. There is no specific seasonality in our revenues to highlight that occurs throughout a calendar year.

	Three Months Ended September 30,					
	2023		2022			
	$	% of Revenue	$	% of Revenue	Change	
	(In thousands, except percentages)					
Megaproject	$ 26,829	73 %	$ 17,347	57 %	$ 9,482	55 %
Original equipment manufacturer	5,307	14 %	9,032	30 %	(3,725)	(41 %)
Aftermarket	4,900	13 %	4,083	13 %	817	20 %
Total revenue	$ 37,036	100 %	$ 30,462	100 %	$ 6,574	22 %

	Nine Months Ended September 30,					
	2023		2022			
	$	% of Revenue	$	% of Revenue	Change	
	(In thousands, except percentages)					
Megaproject	$ 42,283	59 %	$ 51,257	62 %	$ (8,974)	(18 %)
Original equipment manufacturer	16,845	24 %	21,392	26 %	(4,547)	(21 %)
Aftermarket	12,032	17 %	10,651	12 %	1,381	13 %
Total revenue	$ 71,160	100 %	$ 83,300	100 %	$ (12,140)	(15 %)

	Three Months Ended September 30,					
	2023			2022		
	Water	Emerging Technologies	Total	Water	Emerging Technologies	Total
	(In thousands)					
Middle East and Africa	$ 24,543	$ —	$ 24,543	$ 16,722	$ —	$ 16,722
Asia	5,688	—	5,688	8,168	—	8,168
Americas	5,091	123	5,214	3,156	—	3,156
Europe	1,490	101	1,591	2,416	—	2,416
Total revenue	$ 36,812	$ 224	$ 37,036	$ 30,462	$ —	$ 30,462

	Nine Months Ended September 30,					
	2023			2022		
	Water	Emerging Technologies	Total	Water	Emerging Technologies	Total
Middle East and Africa	$ 38,272	$ 108	$ 38,380	$ 53,629	$ 79	$ 53,708
Asia	19,180	—	19,180	17,771	—	17,771
Americas	9,628	153	9,781	6,951	30	6,981
Europe	3,542	277	3,819	4,840	—	4,840
Total revenue	$ 70,622	$ 538	$ 71,160	$ 83,191	$ 109	$ 83,300

The Megaproject ("MPD") channel has been the main driver of our long-term growth as revenue from this channel benefits from a growing number of projects as well as an increase in the capacity of these projects in some cases. The change in revenue for the three and nine months ended September 30, 2023, as compared to the comparable periods in the prior year, was due primarily to customers' project timing, and execution of these projects, specifically in the Middle East and Africa ("MEA") markets.

The Original Equipment Manufacturer ("OEM") channel, where we sell into a wide variety of industries in the desalination, wastewater, and industrial and commercial refrigeration markets, contains projects smaller in size and of shorter duration compared to those projects in the MPD channel.

- *Desalination:* The decrease in revenue in the three and nine months ended September 30, 2023, as compared to the comparable periods in the prior year, was due primarily to timing of project shipments, and several medium and large project delays that we expect to execute and complete in 2024.
- *Wastewater:* The increase in revenue in the three and nine months ended September 30, 2023, as compared to the comparable periods in the prior year, by $1.0 million and $1.4 million, respectively, was due primarily to growth within the Europe and Asia markets.
- *CO_2:* The increase in revenue in the three and nine months ended September 30, 2023, as compared to the comparable periods in the prior year, was due to growth in the Europe and Americas markets.

The Aftermarket ("AM") channel revenue generally fluctuates from quarter-to-quarter, and year-to-year depending on support and services rendered to our installed customer base. AM revenue is also dependent on our customers' timing of product upgrades, and replenishment of spare parts and supplies. Generally, the AM channel revenue trend has been increasing over time.

Concentration of revenue

See Note 10, "Concentrations," of the Notes to Condensed Consolidated Financial Statements in Part I, Item 1, "Financial Statements (unaudited)," of this Quarterly Report on Form 10-Q (the "Notes") for further discussion regarding our concentration of revenue.

Gross Profit and Gross Margin

Gross profit represents our revenue less our cost of revenue. Our cost of revenue consists primarily of raw materials, personnel costs (including share-based compensation), manufacturing overhead, warranty costs, depreciation expense and other manufactured components.

	Three Months Ended September 30,				
	2023		2022		
	$	Gross Margin	$	Gross Margin	Change in Product Gross Profit	
	(In thousands, except percentages)					
Gross profit and gross margin	$ 25,882	69.9 %	$ 21,045	69.1 %	$ 4,837	23.0 %

The increase in gross profit in the three months ended September 30, 2023, as compared to the comparable period in the prior year, was due primarily to increased sales of PXs, pumps and turbochargers in the MPD channels, and an increase in gross margin. Gross margin increased due primarily to a change in product mix, partially offset by change in pricing attributed to timing of OEM shipments.

	Nine Months Ended September 30,					
	2023		2022			
	$	Gross Margin %	$	Gross Margin %	Change in Product Gross Profit	
	(In thousands, except percentages)					
Gross profit and gross margin	$ 47,580	66.9 %	$ 57,465	69.0 %	$ (9,885)	(17.2 %)

The decrease in gross profit for the nine months ended September 30, 2023, as compared to the comparable period in the prior year, was due primarily to lower recognized revenue and lower gross margin. The decrease in gross margin during the nine months ended September 30, 2023, as compared to the comparable period in the prior year, was due primarily to higher manufacturing costs and lower average selling prices driven by change in channel mix, partially offset by changes in product mix.

Operating Expenses

The total material changes of general and administrative ("G&A"), sales and marketing ("S&M") and research and development ("R&D") operating expenses in the three and nine months ended September 30, 2023, as compared to the comparable periods in the prior year, are discussed within the following segment and corporate operating expense discussions below.

	Three Months Ended September 30, 2023				Three Months Ended September 30, 2022			
	Water	Emerging Technologies	Corporate	Total	Water	Emerging Technologies	Corporate	Total
	(In thousands)							
General and administrative	$ 2,039	$ 1,061	$ 4,269	$ 7,369	$ 1,911	$ 878	$ 4,819	$ 7,608
Sales and marketing	3,272	1,560	579	5,411	3,242	960	501	4,703
Research and development	1,098	2,871	—	3,969	1,216	2,612	—	3,828
Total operating expenses	$ 6,409	$ 5,492	$ 4,848	$ 16,749	$ 6,369	$ 4,450	$ 5,320	$ 16,139

Overall operating expenditures increased $0.6 million, or 3.8%, in the three months ended September 30, 2023, as compared to the comparable period in the prior year, due primarily to higher S&M employee compensation related to an increase in headcount and an increase in CO_2 marketing expenditures, partially offset by lower consulting costs in G&A and S&M. In addition, in the third quarter of 2022, we incurred a litigation settlement cost with no comparable cost in the current year.

Water Segment. Water segment operating expenses in the three months ended September 30, 2023, was similar to the comparable period in the prior year. Although overall expenses were comparable, 2023 expenses included higher employee compensation and share-based compensation costs related to an increase in headcount, and an increase in marketing and commission costs and lower consulting costs. In addition, in the third quarter of 2022, we incurred a litigation settlement cost with no comparable cost in the current year.

Emerging Technologies Segment. Emerging Technologies segment operating expenses increased by $1.0 million, or 23.4%, in the three months ended September 30, 2023, as compared to the comparable period in the prior year. This increase was due primarily to an increase in employee compensation expense and share-based compensation costs related to additional headcount, an increase in travel costs, an increase in R&D costs due primarily to our CO_2 product development, and an increase in marketing costs.

Corporate Operating Expenses. Corporate operating expenses decreased by $0.5 million, or (8.9%), as compared to the comparable period in the prior year, due primarily to lower consulting costs.

	Nine Months Ended September 30, 2023				Nine Months Ended September 30, 2022			
	Water	Emerging Technologies	Corporate	Total	Water	Emerging Technologies	Corporate	Total
				(In thousands)				
General and administrative	$ 5,837	$ 2,976	$ 12,891	$ 21,704	$ 4,909	$ 3,140	$ 13,106	$ 21,155
Sales and marketing	9,567	4,171	1,659	15,397	8,197	2,120	1,599	11,916
Research and development	3,121	8,922	—	12,043	3,159	11,011	—	14,170
Total operating expenses	$ 18,525	$ 16,069	$ 14,550	$ 49,144	$ 16,265	$ 16,271	$ 14,705	$ 47,241

Overall operating expenditures increased $1.9 million, or 4.0%, in the nine months ended September 30, 2023, as compared to the comparable period in the prior year, due primarily to an increase in employee costs and share-based compensation expense related to additional headcount, and higher wages and benefit costs in G&A, S&M and R&D. In addition, G&A included higher consultant costs, professional fees related to management projects, and board member search fees; S&M included higher marketing expenses to further develop the CO_2 market; and R&D costs increased due primarily to further develop our CO_2 product. These increases were offset by expenses incurred in 2022 with no comparable costs in the current year, such as VorTeq-related accelerated depreciation expense of certain assets and employee severance costs, and a litigation settlement cost.

Water Segment. Water segment operating expenses increased by $2.3 million, or 13.9%, in the nine months ended September 30, 2023, as compared to the comparable period in the prior year. This increase was due primarily to an increase in employee costs, including share-based compensation expense, in G&A, S&M and R&D to support our existing desalination operations and our growth in wastewater, and an increase in marketing costs, partially offset by lower product development costs. The increase in employee costs was due primarily to an increase in headcount, and higher wage and benefit costs. In addition, in the third quarter of 2022, we incurred a litigation settlement cost with no comparable cost in the current year.

Emerging Technologies Segment. Emerging Technologies operating expenses decreased by $0.2 million, or (1.2%), in the nine months ended September 30, 2023, as compared to the comparable period in the prior year. This decrease was due primarily to the 2022 VorTeq-related accelerated depreciation expense of certain assets and employee severance costs with no comparable cost in the current year. Excluding the VorTeq-related costs, operating expenses increased which was due primarily to higher employee costs, including share-based compensation expense, related to an increase in headcount in G&A, S&M and R&D, higher marketing costs to further develop the CO_2 market, and an increase in R&D costs to further develop our CO_2 product.

Corporate Operating Expenses. Corporate operating expenses decreased by $0.2 million, or (1.1%), in the nine months ended September 30, 2023, as compared to the comparable period in the prior year. This decrease was due primarily to lower employee and consultant costs, partially offset by higher professional fees related to management projects, and board member search fees.

Other Income, Net

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(In thousands)			
Interest income	$ 1,083	$ 259	$ 2,486	$ 486
Other non-operating expense, net	(38)	(5)	(129)	(9)
Total other income, net	$ 1,045	$ 254	$ 2,357	$ 477

The increase in Total other income, net in the three and nine months ended September 30, 2023, as compared to the comparable period in the prior year, was due primarily to higher interest yields on our investment-grade marketable debt instruments.

Income Taxes

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(In thousands, except percentages)			
(Benefit from) provision for income taxes	$ 518	$ 371	$ (906)	$ 377
Discrete items	357	331	986	1,134
Provision for income taxes, excluding discrete items	$ 875	$ 702	$ 80	$ 1,511
Effective tax rate	5.1 %	7.2 %	(114.2 %)	3.5 %
Effective tax rate, excluding discrete items	8.6 %	13.6 %	10.0 %	14.1 %

The interim period tax provision for and (benefit from) income taxes, respectively, is determined using an estimate of our annual effective tax rate, adjusted for discrete items, if any, that arise during the period. Each quarter, we update our estimate of the annual effective tax rate, and if the estimated annual effective tax rate changes, we make a cumulative adjustment in such period. The quarterly tax provision and estimate of our annual effective tax rate are subject to variation due to several factors, including variability in accurately predicting our pre-tax income or loss and the mix of jurisdictions to which they relate, intercompany transactions, the applicability of special tax regimes, and changes in how we do business.

For the three and nine months ended September 30, 2023, the recognized provision for and (benefit from) income taxes, respectively, included benefits related to the U.S. federal foreign-derived intangible income (“FDII”) and federal research and development (“R&D”) tax credit, along with a discrete tax benefit due primarily to stock-based compensation windfalls and prior years’ discrete tax benefit largely related to increased tax credits. For the three and nine months ended September 30, 2022, the recognized provision for income taxes included a benefit primarily related to the FDII and federal R&D tax credit, along with a discrete tax benefit due primarily to stock-based compensation windfalls.

The effective tax rate excluding discrete items for the three and nine months ended September 30, 2023, as compared to the comparable period in the prior year, differed primarily due to higher projected FDII and R&D tax credits and lower book income.

Liquidity and Capital Resources

Overview

From time-to-time, management and our Board of Directors review our liquidity and future cash needs and may make a decision to (1) return capital to our shareholders through a share repurchase program or dividend payout; or (2) seek additional debt or equity financing. As of September 30, 2023, our principal sources of liquidity consisted of (i) unrestricted cash and cash equivalents of $51.4 million; (ii) investment-grade short-term and long-term marketable debt instruments of $54.5 million that are primarily invested in U.S. treasury securities, corporate notes and bonds, and municipal and agency notes and bonds; and (iii) accounts receivable, net of allowances, of $23.3 million. As of September 30, 2023, there was unrestricted cash of $0.9 million held outside the U.S. We invest cash not needed for current operations predominantly in investment-grade, marketable debt instruments with the intent to make such funds available for operating purposes as needed. Although these securities are available for sale, we generally hold these securities to maturity, and therefore, do not currently see a need to trade these securities in order to support our liquidity needs in the foreseeable future. We believe the risk of this portfolio to us is in the ability of the underlying companies to cover their obligations at maturity, not in our ability to trade these securities at a profit. Based on current projections, we believe existing cash balances and future cash inflows from this portfolio will meet our liquidity needs for at least the next 12 months.

Credit Agreement

We entered into a credit agreement with JPMorgan Chase Bank, N.A. (“JPMC”) on December 22, 2021 (“Credit Agreement”) to provide us with additional capital to fuel our growth and expansion into emerging markets utilizing our pressure exchanger technology. The Credit Agreement, which will expire on December 21, 2026, provides a committed revolving credit line of $50.0 million and includes both a revolving loan and a letters of credit (“LCs”) component. During September 2023, the Company and JPMC amended the Credit Agreement (the “Second Amendment”) to increase the maximum allowable credit line component from $25.0 million to $30.0 million. No other components or features under the Credit Agreement (including the First Amendment dated July 15, 2022) were amended. As of September 30, 2023, we were in compliance with all covenants under the Credit Agreement.

Under the Credit Agreement, as of September 30, 2023, there were no revolving loans outstanding. In addition, as of September 30, 2023, under the LCs component, we utilized $20.4 million of the maximum allowable credit line of $30.0 million, which included newly issued LCs, and previously issued and unexpired stand-by letters of credits (“SBLCs”) and certain non-expired commitments under the previous Loan and Pledge Agreement with Citibank, N.A., which are guaranteed under the Credit Agreement. As of September 30, 2023, there was $19.5 million of outstanding LCs. These LCs had a weighted average remaining life of approximately 17 months.

See Note 6, “Lines of Credit,” of the Notes for further discussion related to the Credit Agreement.

Cash Flows

	Nine Months Ended September 30, 2023	2022	Change
	(In thousands)		
Net cash provided by operating activities	$ 12,272	$ 6,268	$ 6,004
Net cash used in investing activities	(18,375)	(4,122)	(14,253)
Net cash provided by (used in) financing activities	1,184	(24,410)	25,594
Effect of exchange rate differences on cash and cash equivalents	27	38	(11)
Net change in cash, cash equivalents and restricted cash	$ (4,892)	$ (22,226)	$ 17,334

Cash Flows from Operating Activities

Net cash provided by operating activities is subject to the project driven, non-cyclical nature of our business. Operating cash flow can fluctuate significantly from year to year, due to the timing of receipts of large project orders. Operating cash flow may be negative in one year and significantly positive in the next, consequently individual quarterly results and comparisons may not necessarily indicate a significant trend, either positive or negative.

The higher net cash provided by operating assets and liabilities in the nine months ended September 30, 2023, as compared to the nine-month period in the prior year, was due primarily to the following two factors:

- an increase in cash related to timing of collections on accounts receivable balances in 2023; and
- lower cash used for inventory builds. In 2022, cash used for inventory builds was higher due to the additional purchases of raw material to mitigate supply risk and building of finished goods inventory to satisfy the 2023 and 2024 projects.

Cash Flows from Investing Activities

Net cash used in investing activities primarily relates to sales, maturities and purchases of investment-grade marketable debt instruments, such as corporate notes and bonds, and capital expenditures supporting our growth. We believe our investments in marketable debt instruments are structured to preserve principal and liquidity while at the same time maximizing yields without significantly increasing risk. The $14.3 million increase in net cash used in investing activities in the nine months ended September 30, 2023, as compared to the comparable period in the prior year, was driven by a $15.4 million increase in cash used in investing of marketable debt instruments, partially offset by high cash used for facility improvements and a purchase of a kiln in 2022.

Cash Flows from Financing Activities

Net cash provided by (used in) financing activities primarily relates to the share repurchases under our board authorized share repurchase program, which was completed in 2022, and offset by issuance of equity from our equity incentive plans. The net cash provided by financing activities for the nine months ended September 30, 2023, as compared to the net cash used in financing activities in the comparable period in the prior year, was due primarily to share repurchases of $26.7 million in 2022 under the March 2021 Authorization and lower cash from issuance of equity from our equity incentive plans.

Liquidity and Capital Resource Requirements

We believe that our existing resources and cash generated from our operations will be sufficient to meet our anticipated capital requirements for at least the next 12 months. However, we may need to raise additional capital or incur additional indebtedness to continue to fund our operations or to support acquisitions in the future and/or to fund investments in our latest technology arising from rapid market adoption. These needs could require us to seek additional equity or debt financing. Our future capital requirements will depend on many factors including the continuing market acceptance of our products, our rate of revenue growth, the timing of new product introductions, the expansion of our R&D, manufacturing and S&M activities, and the timing and extent of our expansion into new geographic territories. In addition, we may enter into potential material investments in, or acquisitions of, complementary businesses, services or technologies in the future which could also require us to seek additional equity or debt financing. Should we need additional liquidity or capital funds, these funds may not be available to us on favorable terms, or at all.

Off-balance Sheet Arrangements. During the periods presented, we did not have any relationships with unconsolidated entities or financial partnerships such as entities often referred to as structured finance or special purpose entities which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

Recent Accounting Pronouncements

Refer to Note 1, “Description of Business and Significant Accounting Policies – Significant Accounting Policies,” of the Notes to Condensed Consolidated Financial Statements in Part I, Item 1, “Financial Statements (unaudited),” of this Quarterly Report on Form 10-Q.

Item 3 — Quantitative and Qualitative Disclosures About Market Risk

Our exposure to market risk may be found primarily in two areas, foreign currency and interest rates.

Foreign Currency Risk

Our foreign currency exposures are due to fluctuations in exchange rates for the U.S. dollar (“USD”) versus the British pound, Saudi riyal, Emirati dirham, European euro, Chinese yuan, Indian rupee and Canadian dollar. Changes in currency exchange rates could adversely affect our consolidated operating results or financial position.

Our revenue contracts have been denominated in the USD. At times, our international customers may have difficulty in obtaining the USD to pay our receivables, thus increasing collection risk and potential bad debt expense. To the extent we expand our international sales, a larger portion of our revenue could be denominated in foreign currencies. As a result, our cash and operating results could be increasingly affected by changes in exchange rates.

In addition, we pay many vendors in foreign currency and, therefore, are subject to changes in foreign currency exchange rates. Our international sales and service operations incur expense that is denominated in foreign currencies. This expense could be materially affected by currency fluctuations. Our international sales and services operations also maintain cash balances denominated in foreign currencies. To decrease the inherent risk associated with translation of foreign cash balances into our reporting currency, we do not maintain excess cash balances in foreign currencies.

We have not hedged our exposure to changes in foreign currency exchange rates because expenses in foreign currencies have been insignificant to date and exchange rate fluctuations have had little impact on our operating results and cash flows. In addition, we do not have any exposure to the Russian ruble.

Interest Rate and Credit Risks

The primary objective of our investment activities is to preserve principal and liquidity while at the same time maximizing yields without significantly increasing risk. We invest primarily in investment-grade short-term and long-term marketable debt instruments that are subject to counter-party credit risk. To minimize this risk, we invest pursuant to an investment policy approved by our board of directors. The policy mandates high credit rating requirements and restricts our exposure to any single corporate issuer by imposing concentration limits.

As of September 30, 2023, our investment portfolio of $54.5 million, in investment-grade marketable debt instruments, such as U.S. treasury securities, corporate notes and bonds, and municipal and agency notes and bonds, are classified as either short-term and/or long-term investments on our Condensed Consolidated Balance Sheets. These investments are subject to interest rate fluctuations and decrease in market value to the extent interest rates increase, which occurred during the nine months ended September 30, 2023. To minimize the exposure due to adverse shifts in interest rates, we maintain investments with a weighted average maturity of approximately eleven months. As of September 30, 2023, a hypothetical 1% increase in interest rates would have resulted in a less than $0.4 million decrease in the fair value of our investments in marketable debt instruments as of such date.

Item 4 — Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our President and Chief Executive Officer and our Chief Financial Officer, have evaluated the effectiveness of our disclosure controls and procedures as defined in Rule 13a-15(e) of the Securities Exchange Act of 1934 as of the end of the period covered by this report.

Based on that evaluation, our President and Chief Executive Officer and our Chief Financial Officer have concluded that, as of September 30, 2023, our disclosure controls and procedures were effective.

Changes in Internal Controls

There were no changes in our internal control over financial reporting during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

Item 1 — Legal Proceedings

We have been, and may be from time to time, involved in legal proceedings or subject to claims incident to the ordinary course of business. We are not presently a party to any legal proceedings that we believe are likely to have a material adverse effect on our business, financial condition, or operating results. Regardless of the outcome, such proceedings or claims can have an adverse impact on us because of defense and settlement costs, diversion of resources and other factors, and there can be no assurances that favorable outcomes will be obtained.

Item 1A — Risk Factors

Other than noted below, there have been no material changes in our risk factors from those disclosed in Part I, Item 1A, “Risk Factors,” in the 2022 Annual Report other than those disclosed in Part II, Item 1A, “Risk Factors,” in the Company’s Form 10-Q filed with the SEC on May 3, 2023.

The current armed conflict in Israel and the Gaza Strip could have an adverse effect on our businesses within the Middle East region.

The recent escalation of events by Hamas and Israel’s declaration of war on Hamas could expand in unpredictable ways by drawing in other countries in the region with potentially catastrophic consequences. The Middle East is an important region to us as key customers and planned projects are located within the region. Depending on the scope of the conflict, the hostilities could result in regional and worldwide economic disruption, disruption of regional trade, disruptions to our direct and indirect customers, and the planning, financing and execution of key projects. Further escalations or hostilities within the region could exacerbate the effect of these risks on our business and could have a broader impact that expands into other markets where we do business, which could adversely affect our business and/or our supply chain, business partners or customers in the broader region.

Item 2 — Unregistered Sales of Equity Securities and Use of Proceeds

None.

Item 3 — Defaults Upon Senior Securities

None.

Item 4 — Mine Safety Disclosures

Not applicable.

Item 5 — Other Information

(c) As set forth below, during the three months ended September 30, 2023, one officer (within the meaning of Rule 16a-1(f) under the Securities Exchange Act of 1934, as amended) has adopted or terminated any Rule 10b5-1 trading arrangement and/or any non-Rule 10b5-1 trading arrangement (as defined in Item 408 of Regulation S-K).

Name	Title	Date of Adoption or Termination [1]	Status [2]	Plan Type
Joshua Ballard	Chief Financial Officer	9/13/2023	Adoption	Rule 10b5-1 trading arrangement [3]

(1) Effective (1) date of adoption; or (2) date of termination, of registrant's Rule 10b5-1 trading arrangement.

(2) Activity related to registrant's Rule 10b5-1 trading arrangement.

(3) This Rule 10b5-1 trading arrangement had a term beginning on January 2, 2024 and ending on September 13, 2024. Under the trading arrangement, stock options may be exercised to purchase up to 12,500 shares of Energy Recovery's common stock and the same amount of Energy Recovery shares that are purchased are to be sold on the same day.

Item 6 — Exhibits

A list of exhibits filed or furnished with this report or incorporated herein by reference is found in the Exhibit Index below.

Exhibit Number	Exhibit Description
10.1*	Second Amendment to the Credit Agreement by and between Energy Recovery, Inc. as Borrower, and JPMorgan Chase Bank N.A. as Lender dated September 30, 2023.
31.1*	Certification of Principal Executive Officer, pursuant to Exchange Act Rule 13a-14(a) or 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification of Principal Financial Officer, pursuant to Exchange Act Rule 13a-14(a) or 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1**	Certification of Principal Executive Officer and Principal Financial Officer, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	Inline XBRL Document Set for the consolidated financial statements and accompanying notes in Part I, "Financial Information" of this Quarterly Report on Form 10-Q.
104	Inline XBRL for the cover page of this Quarterly Report on Form 10-Q, included in the Exhibit 101 Inline XBRL Document Set.

* Filed herewith.

** The certification furnished in Exhibit 32.1 is not deemed "filed" for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, nor shall they be deemed incorporated by reference into any filing under the Securities Act or the Exchange Act.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ENERGY RECOVERY, INC.

Date:	November 1, 2023	By:	/s/ DAVID W. MOON
			David W. Moon
			Interim President and Chief Executive Officer
			(Principal Executive Officer)
Date:	November 1, 2023	By:	/s/ JOSHUA BALLARD
			Joshua Ballard
			Chief Financial Officer
			(Principal Financial and Accounting Officer)

Exhibit 10.1

EXECUTION VERSION

SECOND AMENDMENT TO CREDIT AGREEMENT

THIS SECOND AMENDMENT TO CREDIT AGREEMENT (this "Amendment"), dated as of September 11, 2023, is entered into by and among ENERGY RECOVERY, INC., a Delaware corporation (the "Company" and together with any other Person that becomes a Borrower under the Credit Agreement as defined below) from time to time, each individually, a "Borrower", and collectively, jointly and severally, the "Borrowers"), the other Loan Parties party hereto, and JPMORGAN CHASE BANK, N.A., as Lender (the "Lender"). Unless otherwise specified herein, capitalized terms used in this Amendment shall have the meanings ascribed to them in the Credit Agreement, as applicable, in each case, as hereinafter defined.

WHEREAS, the Company, the other Loan Parties party thereto from time to time and the Lender are parties to that certain Credit Agreement, dated as of December 22, 2021 (as it may be amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the "Existing Credit Agreement"; and the Existing Credit Agreement, as amended by this Amendment, the "Credit Agreement");

WHEREAS, the Company has requested that Lender amend the Existing Credit Agreement as set forth herein; and

WHEREAS, on the terms and conditions set forth herein, the Lender has agreed to amend the Existing Credit Agreement as set forth herein.

NOW, THEREFORE, for and in consideration of the premises and mutual agreements herein contained and for the purposes of setting forth the terms and conditions of this Amendment and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be bound, hereby agree as follows:

1. Amendments to Credit Agreement. Subject to the terms and conditions of this Amendment, the Existing Credit Agreement is hereby amended by amending and restating Section 2.04(b) in its entirety to read as follows:

> "(b) Notice of Issuance, Amendment, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment or extension of an outstanding Letter of Credit), the Borrower Representative shall hand deliver or fax (or transmit through Electronic System, if arrangements for doing so have been approved by the Lender) to the Lender (reasonably in advance of the requested date of issuance, amendment or extension, but in any event no less than three (3) Business Days) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof, and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. In addition, as a condition to any such Letter of Credit issuance, the applicable Borrower shall have entered into a continuing agreement (or other letter of credit agreement) for the issuance of letters of credit and/or shall submit a letter of credit application, in each case, as reasonably required by the Lender and using Lender's standard form (each, a "Letter of Credit Agreement"). In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any Letter of Credit Agreement, the terms and conditions of this Agreement shall control. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment or extension of each Letter of Credit the Borrowers shall be deemed to represent and warrant that),

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after giving effect to such issuance, amendment or extension (i) the LC Exposure shall not exceed $30,000,000 and (ii) the Revolving Exposure shall not exceed the Revolving Commitment.

The Lender shall not be under any obligation to issue any Letter of Credit if: any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Lender from issuing such Letter of Credit, or any Requirement of Law relating to the Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Lender shall prohibit, or request that the Lender refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the Lender with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the Lender is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon the Lender any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which the Lender in good faith deems material to it, or (ii) the issuance of such Letter of Credit would violate one or more policies of the Lender applicable to letters of credit generally."

2. Conditions Precedent to Effectiveness. This Amendment shall become effective upon the satisfaction of each of the following conditions precedent:

(a) the Lender (or its counsel) shall have received a counterpart of this Amendment, signed by the Company, the other Loan Parties and the Lender; and

(b) the Lender shall have received all reasonable and documented out-of-pocket fees required to be paid under the Loan Documents, and all expenses required to be reimbursed for which invoices have been presented (including the reasonable and documented out-of-pocket fees and expenses of legal counsel), on or before the date hereof.

3. Representations. Each Loan Party hereby represents and warrants to the Lender that: (a) the execution and delivery of this Amendment and the performance of its obligations hereunder are within each Loan Party's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational actions and, if required, actions by equity holders, (b) no Default or Event of Default exists both before and after giving effect to this Amendment, (c) this Amendment has been duly executed and delivered by such Loan Party and constitutes a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law, (d) all Liens created under the Loan Documents continue to be perfected and have priority over all other Liens on the Collateral except in the case of Liens permitted under Section 6.02 of the Credit Agreement, to the extent any such Liens would have priority over the Liens in favor of the Lender pursuant to any applicable law, (e) the representations and warranties of the Loan Parties set forth in the Credit Agreement and the other Loan Documents are true and correct in all material respects (it being understood and agreed that any representation or warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects only as of such specified date, and that any representation or warranty which is subject to any materiality qualifier shall be required to be true and correct in all respects); and (f) the execution and delivery of this Amendment and the performance of its obligations hereunder (i) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect and except for filings necessary to perfect Liens created pursuant to the Loan Documents, (ii) will not violate any Requirement of Law applicable to any Loan Party or any Subsidiary, (iii) will not violate or result in a default under any indenture, agreement or other instrument binding upon any Loan Party or any Subsidiary or the assets of any Loan Party or any Subsidiary, or give rise to a right

thereunder to require any payment to be made by any Loan Party or any Subsidiary, except for such violations or defaults that would not reasonably be expected to have a Material Adverse Effect, and (iv) will not result in the creation or imposition of, or other requirement to create, any Lien on any asset of any Loan Party or any Subsidiary, except Liens permitted pursuant to Section 6.02 of the Credit Agreement.

4. Ratification. Except as expressly modified by this Amendment, all of the terms, provisions and conditions of the Credit Agreement, as heretofore amended, shall remain unchanged and in full force and effect. Each Loan Party, as debtor, grantor, pledgor, guarantor, assignor, or in any other similar capacity in which such Person grants liens or security interests in its property or otherwise acts as accommodation party or guarantor, as the case may be, hereby (i) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under the Credit Agreement and each other Loan Document to which it is a party (after giving effect hereto) and (ii) to the extent such Person granted liens on or security interests in any of its property pursuant to any Loan Documents as security for or otherwise guaranteed the Obligations under or with respect to the Loan Documents, ratifies and reaffirms such guarantee and grant of security interests and liens and confirms and agrees that such security interests and liens hereafter secure all of the Obligations as amended hereby. Except as herein specifically agreed, the Credit Agreement and each other Loan Document are hereby ratified and confirmed and shall remain in full force and effect according to their terms. Except as specifically set forth herein, the execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power, privilege or remedy of the Lender under the Credit Agreement or any of the other Loan Documents, or constitute a waiver of any provision of the Credit Agreement or any of the other Loan Documents. This Amendment shall not constitute a course of dealing with the Lender at variance with the Credit Agreement or the other Loan Documents such as to require further notice by such Person to require strict compliance with the terms of the Credit Agreement and the other Loan Documents in the future. Each Loan Party acknowledges and expressly agrees that the Lender reserves the right to, and does in fact, require strict compliance with all terms and provisions of the Credit Agreement (as expressly modified by this Amendment) and the other Loan Documents.

5. Miscellaneous.

(a) Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of New York, but giving effect to federal laws applicable to national banks.

(b) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AMENDMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE OR OTHER AGENT (INCLUDING ANY ATTORNEY) OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AMENDMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(c) Counterparts; Effectiveness. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Amendment shall become effective as provided in Section 3 hereof and when the Lender shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon

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and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Amendment that is an Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Amendment, such other Loan Document or such Ancillary Document, as applicable. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Amendment, such other Loan Document or such Ancillary Document, as applicable shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(d) Entire Agreement. This Amendment, the other Loan Documents and any separate letter agreements with respect to fees payable to the Lender constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

(e) Severability of Provisions. Any provision of this Amendment held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

(f) Successors and Assigns. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted under the Credit Agreement.

(g) Headings. Article and Section headings used herein are for convenience of reference only, are not part of this Amendment and shall not affect the construction of, or be taken into consideration in interpreting, this Amendment.

(h) Incorporation. This Amendment shall form a part of the Credit Agreement, and all references to the Credit Agreement shall mean that document as hereby modified. Upon the effectiveness of this Amendment, each reference in the Credit Agreement or any other Loan Document to "this Agreement", "hereunder", "hereof", "herein" or words of similar import shall mean and be a reference to the Credit Agreement as amended hereby.

(i) Loan Document. This Amendment shall constitute a Loan Document.

(j) No Prejudice; No Impairment. This Amendment shall not prejudice, limit, restrict or impair any rights, privileges, powers or remedies of the Lender under the Credit Agreement or any other Loan Documents as hereby amended. The Lender reserves, without limitation, all rights which the Lender has now or in the future against any guarantor or endorser of the Obligations.

[Signatures Immediately Follow]

IN WITNESS WHEREOF, the undersigned have executed this Second Amendment to Credit Agreement as of the date first written above.

BORROWER:

ENERGY RECOVERY, INC.

By: ______________________

Name: Joshua Ballard

Title: CFO

LENDER:

JPMORGAN CHASE BANK, N.A., as the Lender

By: ________________________
Name: Bryson Varley
Title: Executive Director

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO EXCHANGE ACT RULE 13a-14(a) OR 15d-14(a), AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, David W. Moon, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Energy Recovery, Inc. for the period ended September 30, 2023;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. I am responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's Board of Directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 1, 2023

/s/ DAVID W. MOON

Name:	David W. Moon
Title:	Interim President and Chief Executive Officer
	(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO EXCHANGE ACT RULE 13a-14(a) OR 15d-14(a), AS ADOPTED PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Joshua Ballard, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Energy Recovery, Inc. for the period ended September 30, 2023;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. I am responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's Board of Directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 1, 2023	/s/ JOSHUA BALLARD
	Name: Joshua Ballard
	Title: Chief Financial Officer
	(Principal Financial and Accounting Officer)

Exhibit 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER, PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002*

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities and Exchange Act of 1934, as amended (the “Exchange Act”), and Section 1350 of Chapter 63 of Title 18 of the United States Code, David W. Moon, Interim President and Chief Executive Officer of Energy Recovery, Inc., and Joshua Ballard, Chief Financial Officer of Energy Recovery, Inc., each hereby certify that, to the best of his knowledge:

1. The Company’s Quarterly Report on Form 10-Q for the period ended September 30, 2023, to which this Certification is attached as Exhibit 32.1 (the “Quarterly Report”), fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act, and
2. The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition of the Company at the end of the period covered by the Quarterly Report and results of operations of the Company for the period covered by the Quarterly Report.

IN WITNESS WHEREOF, the undersigned has set his hand hereto:

Date: November 1, 2023

/s/ DAVID W. MOON
David W. Moon
Interim President and Chief Executive Officer

Date: November 1, 2023

/s/ JOSHUA BALLARD
Joshua Ballard
Chief Financial Officer

* This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Energy Recovery, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-Q), irrespective of any general incorporation language contained in such filing.