

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 10-Q**

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

For the quarterly period ended March 31, 2003

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 0-22418

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**ITRON, INC.**

(Exact name of registrant as specified in its charter)

**Washington**  
(State of Incorporation)

**91-1011792**  
(I.R.S. Employer Identification Number)

**2818 North Sullivan Road  
Spokane, Washington 99216-1897  
(509) 924-9900**

(Address and telephone number of registrant's principal executive offices)

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 is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).  
Yes  No

The number of shares outstanding of the registrant's common stock as of April 30, 2003 was 20,365,822.

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Itron, Inc.

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## Part 1: FINANCIAL INFORMATION

## Item 1: FINANCIAL STATEMENTS (UNAUDITED)

ITRON, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS*(Unaudited, \$ in thousands, except per share data)*

	Three Months Ended March 31,	
	2003	2002
<b>Revenues</b>		
Sales	\$63,917	\$50,186
Service	10,728	11,889
Total revenues	74,645	62,075
<b>Cost of revenues</b>		
Sales	29,861	25,543
Service	7,922	9,245
Total cost of revenues	37,783	34,788
<b>Gross profit</b>	36,862	27,287
<b>Operating expenses</b>		
Sales and marketing	8,437	6,659
Product development	10,158	7,507
General and administrative	7,773	4,859
Amortization of intangibles	1,888	337
Restructurings	2,165	–
In-process research and development	900	7,400
Total operating expenses	31,321	26,762
<b>Operating income</b>	5,541	525
<b>Other income (expense)</b>		
Equity in affiliates	22	(4)
Interest income	169	321
Interest expense	(456)	(1,292)
Other income, net	25	138
Total other income (expense)	(240)	(837)
<b>Income (loss) before income taxes</b>	5,301	(312)
Income tax provision	(2,385)	(2,658)
<b>Net income (loss)</b>	\$ 2,916	\$ (2,970)
<b>Earnings per share</b>		
Basic net income (loss) per share	\$ 0.14	\$ (0.18)
Diluted net income (loss) per share	\$ 0.14	\$ (0.18)
<b>Weighted average number of shares outstanding</b>		
Basic	20,239	16,510
Diluted	21,428	16,510

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

**ITRON, INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**

(Unaudited, \$ in thousands)

	March 31, 2003	December 31, 2002
<b>ASSETS</b>		
<b>Current assets</b>		
Cash and cash equivalents	\$ 12,863	\$ 32,564
Accounts receivable, net	49,795	57,571
Inventories	16,015	15,660
Deferred income taxes	5,248	5,927
Other	5,741	2,770
<b>Total current assets</b>	<b>89,662</b>	<b>114,492</b>
Property, plant and equipment, net	31,824	30,168
Equipment used in outsourcing, net	11,345	11,589
Intangible assets, net	32,998	18,305
Goodwill	85,920	44,187
Deferred income taxes, net	40,678	24,050
Other	4,771	4,455
<b>Total assets</b>	<b>\$ 297,198</b>	<b>\$ 247,246</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>Current liabilities</b>		
Accounts payable and accrued expenses	\$ 26,531	\$ 25,526
Wages and benefits payable	12,117	18,259
Accrued litigation	7,400	7,400
Current portion of debt	17,376	691
Unearned revenue	12,056	11,580
<b>Total current liabilities</b>	<b>75,480</b>	<b>63,456</b>
Long-term debt	33,333	—
Project financing debt	4,583	4,762
Warranty and other obligations	18,014	17,427
<b>Total liabilities</b>	<b>131,410</b>	<b>85,645</b>
Commitments and contingencies (Notes 8 and 12)		
<b>Shareholders' equity</b>		
Common stock	196,415	195,546
Preferred stock	—	—
Accumulated other comprehensive income (loss)	122	(280)
Accumulated deficit	(30,749)	(33,665)
<b>Total shareholders' equity</b>	<b>165,788</b>	<b>161,601</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 297,198</b>	<b>\$ 247,246</b>

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

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**ITRON, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**

(Unaudited, \$ in thousands)

	Three Months Ended March 31,	
	2003	2002
<b>Operating activities</b>		
Net income (loss)	\$ 2,916	\$ (2,970)
Noncash charges (credits) to income:		
Depreciation and amortization	4,121	2,356
Deferred income taxes provision	2,511	1,771
Acquired in-process research and development	900	7,400
Stock option income tax benefits	122	885
Equity in affiliates	(22)	4
Gain on early extinguishment of debt	—	(200)
Other, net	162	73
Changes in operating assets and liabilities, net of effects of acquisitions:		
Accounts receivable	11,348	10,543
Inventories	(355)	(3,428)
Accounts payable and accrued expenses	(1,200)	(1,488)
Wages and benefits payable	(9,276)	(5,749)
Unearned revenue	(2,249)	(2,976)
Other, net	(2,609)	429
Cash provided by operating activities	6,369	6,650
<b>Investing activities</b>		
Proceeds from sales and maturities of investment securities	—	12,643
Purchase of short-term investments	—	(7,025)
Reclassification of restricted cash	—	5,100
Acquisition of property, plant and equipment	(2,705)	(2,647)
Issuance of notes receivable	(405)	(2,000)
Acquisitions, net of cash and cash equivalents	(73,061)	(21,731)
Other, net	(313)	164
Cash used by investing activities	(76,484)	(15,496)
<b>Financing activities</b>		
New borrowings	50,000	—
Change in short-term borrowings, net	—	(1,973)
Payments on project financing debt	(166)	(1,100)
Issuance of common stock	585	3,006
Repurchase of common stock	—	(225)
Payments on mortgage note payable	—	(4,853)
Other, net	(5)	(11)
Cash provided (used) by financing activities	50,414	(5,156)
Decrease in cash and cash equivalents	(19,701)	(14,002)
Cash and cash equivalents at beginning of period	32,564	20,582
Cash and cash equivalents at end of period	\$ 12,863	\$ 6,580
<b>Noncash transactions:</b>		
Acquisition of LineSoft in partial exchange for common stock	\$ —	\$ 21,801
Debt to equity conversion	\$ —	\$ 65

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

**ITRON, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**March 31, 2003**  
**(Unaudited)**

**Note 1: Summary of Significant Accounting Policies***Basis of Consolidation*

The condensed consolidated financial statements presented in this Form 10-Q are unaudited and reflect, in the opinion of management, entries necessary for a fair presentation of the Condensed Consolidated Statements of Operations for the three months ended March 31, 2003 and 2002, Condensed Consolidated Balance Sheets for March 31, 2003 and December 31, 2002, and Condensed Consolidated Statements of Cash Flows for the three months ended March 31, 2003 and 2002. Significant inter-company transactions and balances are eliminated upon consolidation. We consolidate all entities in which we have a greater than 50% ownership interest and over which we have control. We account for entities in which we have a 50% or less investment and exercise significant influence under the equity method of accounting. Entities in which we have less than a 20% investment and do not exercise significant influence are accounted for under the cost method. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles in the United States of America (generally accepted accounting principles) have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission regarding interim results. These condensed consolidated financial statements include the results of Silicon Energy Corp. (Silicon) from the date of acquisition (see Note 4), and should be read in conjunction with the audited consolidated financial statements and the notes included in our Form 10-K for the year ended December 31, 2002, as filed with the Securities and Exchange Commission on March 27, 2003. The results of operations for the three months ended March 31, 2003 are not necessarily indicative of the results expected for the full fiscal year or for any other fiscal period.

*Warranty*

The Company offers warranty terms on our product sales of between one and three years and a longer warranty term for certain components of our products. An accrual for estimated warranty costs is recorded at the time of sale and periodically adjusted to reflect actual experience. The short-term warranty accrual is included in accounts payable and accrued expenses. The long-term warranty accrual covers estimated warranty costs for the period beyond one year of customer use and future expected costs of testing and replacement of radio meter module batteries. Warranty expense was approximately \$2.4 million and \$1.8 million for the three months ended March 31, 2003 and 2002, respectively.

A summary of the warranty accrual account activity is as follows:

	Three Months Ended March 31,	
	2003	2002
	(\$ in thousands)	
Beginning balance	\$ 9,439	\$ 6,327
Additions to the accrual	1,783	1,471
Adjustments to preexisting items	656	376
Utilization of accrual	(1,091)	(352)
Ending balance	\$ 10,787	\$ 7,822

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### *Contingencies*

The Company is subject to various legal proceedings and claims of which the outcomes are subject to significant uncertainty. An estimated loss from a contingency is accrued by a charge to income if it is probable that an asset has been impaired or a liability has been incurred and the amount of the loss can be reasonably estimated. The Company evaluates, among other factors, the degree of probability of an unfavorable outcome and the ability to make a reasonable estimate of the amount of loss. Changes in these factors could materially impact the Company's financial position or its results of operations.

### *Revenue Recognition*

Sales consist of hardware, software license fees, custom software development, field and project management services, and engineering, consulting and installation services. Service revenues include post-sale maintenance support and outsourcing services. Outsourcing services encompass installation, operation and maintenance of meter reading systems to provide meter information to a customer for billing and management purposes. Outsourcing services can be provided for systems we own as well as those owned by our customers.

The Company recognizes revenues from hardware at the time of shipment, receipt, or, if applicable, upon completion of customer acceptance provisions. Revenues for software licenses, custom software development, field and project management services, engineering and consulting, installation, outsourcing and maintenance services are recognized when (1) persuasive evidence of an arrangement exists, (2) delivery has occurred or services have been rendered, (3) the sales price is fixed or determinable, and (4) collectibility is reasonably assured. For software arrangements with multiple elements, revenue is recognized dependent upon whether vendor-specific objective evidence (VSOE) of fair value exists for each of the elements. If the services are essential to the arrangement, revenue is recognized using the percentage of completion methodology.

Under outsourcing arrangements, revenue is recognized as services are provided. Hardware and software post-contract customer support fees are recognized over the life of the related service contracts.

Unearned revenue is recorded for products or services that have not been provided but have been invoiced under contractual agreements or paid for by a customer, or when products or services have been provided but the criteria for revenue recognition have not been met. Unbilled receivables are recorded when revenues are recognized upon product shipment or service delivery and invoicing occurs at a later date.

### *Use of Estimates*

The preparation of financial statements in conformity with generally accepted accounting principles requires us to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Because of various factors affecting future costs and operations, actual results could differ from estimates.

### *Stock-Based Compensation*

Statement of Financial Accounting Standards (SFAS) No. 123, *Accounting for Stock-Based Compensation*, allows companies to either expense the estimated fair value of stock options or to continue to follow the intrinsic value method set forth in Accounting Principles Board Opinion 25, *Accounting for Stock Issued to Employees* (APB 25), but disclose the pro forma effects on net

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income (loss) had the fair value of the options been expensed. The Company has elected to continue to apply APB 25 in accounting for our stock option incentive plans and disclose the pro forma effects of applying the fair value provisions of SFAS No. 123.

Had the compensation cost for our stock-based compensation plans been determined based on the fair value at the grant dates for awards under those plans consistent with the method prescribed in SFAS No. 123, our net income and earnings per share would have been reduced to the pro forma amounts indicated below:

	Three Months Ended March 31,	
	2003	2002
	(\$ in thousands, except per share data)	
Net income (loss)		
As reported	\$ 2,916	\$ (2,970)
Deduct: Total fair value of stock-based compensation expense, net of related tax effect	(999)	(441)
Pro forma net income (loss)	\$ 1,917	\$ (3,411)
Basic earnings per share		
As reported	\$ 0.14	\$ (0.18)
Pro forma	\$ 0.09	\$ (0.21)
Diluted earnings per share		
As reported	\$ 0.14	\$ (0.18)
Pro forma	\$ 0.09	\$ (0.21)

The weighted average price of options granted was \$14.09 and \$24.35 for the three months ended March 31, 2003 and 2002, respectively. The fair value of each option granted is estimated on the date of grant using the Black-Scholes option-pricing model using the following assumptions:

	Three Months Ended March 31,	
	2003	2002
Dividend yield	—	—
Expected volatility	76.4%	86.7%
Risk-free interest rate	2.9%	5.4%
Expected life (years)	5	5

### *Reclassifications*

Certain amounts in 2002 have been reclassified to conform to the 2003 presentation.

### *New Accounting Pronouncements*

In June 2002, the FASB issued SFAS No. 146, *Accounting for Costs Associated with Exit or Disposal Activities*. The standard requires companies to recognize costs associated with exit or disposal activities when they are incurred rather than at the date of a commitment to an exit or disposal plan. The provisions of this statement are effective for exit or disposal activities that are initiated after December 31, 2002, with early application encouraged. The adoption of SFAS No. 146 impacted the timing of restructuring cost recognition (see Note 9).

In November 2002, the FASB issued Interpretation 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*. The Interpretation elaborates on the existing disclosure requirements for most guarantees, including loan



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guarantees such as standby letters of credit. It also clarifies that at the time a company issues a guarantee, the company must recognize an initial liability for the fair value, or market value, of the obligations it assumes under the guarantee and must disclose that information in its interim and annual financial statements. The provisions related to recognizing a liability at inception of the guarantee for the fair value of the guarantor's obligations does not apply to product warranties. The initial recognition and initial measurement provisions apply on a prospective basis to guarantees issued or modified after December 31, 2002. The recognition and measurement provisions of Interpretation 45 did not have a significant impact on the financial position or results of operations of the Company.

In November 2002, the FASB's Emerging Issues Task Force (EITF) reached a consensus on EITF Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables*. This Issue addresses certain aspects of the accounting by a company for arrangements under which it will perform multiple revenue-generating activities. In applying this Issue, generally, separate contracts with the same customer that are entered into at or near the same time are presumed to have been negotiated as a package and should, therefore, be evaluated as a single contractual arrangement. This Issue also addresses how contract consideration should be measured and allocated to the separate deliverables in the arrangement. The application of this Issue could impact the timing of revenue recognition when a contractual arrangement combines installation and hardware. This Issue is applicable to revenue arrangements entered into beginning in 2004. We are in the process of evaluating the impact of the Issue.

In January 2003, the FASB issued Interpretation 46, *Consolidation of Variable Interest Entities*. In general, a variable interest entity is a corporation, partnership, trust, or any other legal structure used for business purposes that either (a) does not have equity investors with voting rights or (b) has equity investors that do not provide sufficient financial resources for the entity to support its activities. Interpretation 46 requires a variable interest entity to be consolidated by the company that is subject to a majority of the risk of loss from the variable interest entity's activities or entitled to receive a majority of the entity's residual returns or both. The consolidation requirements of Interpretation 46 applied to variable interest entities created after January 31, 2003. The consolidation requirements had no impact on the Company, as no variable interest entities were created after January 31, 2003. The consolidation requirements apply to older entities in the first fiscal year or interim period beginning after June 15, 2003. The Company does not have any variable interest entities.

In May 2003, the FASB issued SFAS No. 149, *Amendment of Statement 133 on Derivative Instruments and Hedging Activities*. The statement amends financial accounting and reporting for derivative instruments, including certain derivative instruments embedded in other contracts and for hedging activities under SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*. The statement requires that contracts with comparable characteristics be accounted for similarly. The statement clarifies under what circumstances a contract with an initial net investment meets the characteristic of a derivative, clarifies when a derivative contains a financing component, and amends the definition of an underlying to conform it to language used in FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, and amends certain other existing pronouncements. The provisions of this statement are effective for contracts entered into or modified after June 30, 2003, except as specifically identified in the statement, and for hedging relationships designated after June 30, 2003. We are in the process of evaluating the impact of the statement.

### **Note 2: Earnings Per Share and Capital Structure**

The following table sets forth the computation of basic and diluted earnings per share:

	Three Months Ended March 31,	
	2003	2002
	(\$ in thousands)	
<b>Basic earnings per share:</b>		
Net income (loss) available to common shareholders	\$ 2,916	\$ (2,970)
Weighted average shares outstanding	20,239	16,510
Basic net income (loss) per share	\$ 0.14	\$ (0.18)

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<b>Diluted earnings per share:</b>		
Net income (loss) available to common shareholders	\$ 2,916	\$ (2,970)
	<u>          </u>	<u>          </u>
<b>Weighted average shares outstanding</b>		
	20,239	16,510
Effect of dilutive securities:		
Employee stock options	1,189	—
	<u>          </u>	<u>          </u>
Adjusted weighted average shares	21,428	16,510
	<u>          </u>	<u>          </u>
Diluted net income (loss) per share	\$ 0.14	\$ (0.18)
	<u>          </u>	<u>          </u>

We have granted options to purchase shares of our common stock to directors, employees and other key personnel at fair market value on the date of grant.

The dilutive effect of options is calculated using the treasury stock method. Under this method, earnings per share is computed as if the options were exercised at the beginning of the period (or at time of issuance, if later) and as if the funds obtained thereby were used to purchase common stock at the average market price during the period. Weighted average common shares outstanding, assuming dilution, include the incremental shares that would be issued upon the assumed exercise of stock options. At March 31, 2003 and 2002, we had options outstanding of approximately 3.6 million and 3.3 million, at average option exercise prices of \$11.60 and \$10.44, respectively. For the three months ended March 31, 2003, approximately 2.4 million stock options were excluded from the calculation of diluted earnings per share because they were anti-dilutive. These options could be dilutive in future periods. For the same period in 2002, all of our stock options were excluded from the calculation because they were anti-dilutive.

The dilutive effect of our convertible subordinated notes is calculated using the if converted method. Under this method, the after-tax amount of interest expense related to the convertible debt is added back to net income. In the first quarter of 2002, we had subordinated convertible debt outstanding with conversion prices of \$9.65, representing approximately 1.5 million shares, and \$23.70, representing approximately an additional 1.6 million shares. During April and May of 2002, we exercised our option to redeem our subordinated convertible debt. All holders of the notes chose to convert their notes into common stock as opposed to redeem them. For the three months ended March 31, 2002, the convertible debt shares were excluded from the earnings per share calculation as they were anti-dilutive.

In May 1998, our Board of Directors authorized the repurchase of up to 1.0 million shares of our common stock. During the three months ended March 31, 2002, we purchased 9,200 shares at an average price of \$24.46. By December 31, 2002, all authorized shares were repurchased.

In November 2002, our Board of Directors authorized the repurchase of up to 1.0 million shares of our common stock. No shares have been repurchased under the new repurchase authorization.

There was no preferred stock issued or outstanding at March 31, 2003 or December 31, 2002.

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**Note 3: Certain Balance Sheet Components**

	March 31, 2003	December 31, 2002
(\$ in thousands)		
<b>Accounts receivable</b>		
Trade (net of allowance for doubtful accounts of \$1,502 and \$1,291)	\$ 39,476	\$ 47,496
Unbilled revenue	10,319	10,075
<b>Total accounts receivable</b>	<b>\$ 49,795</b>	<b>\$ 57,571</b>
<b>Inventories</b>		
Materials	\$ 5,187	\$ 4,304
Work in process	944	804
Finished goods	9,757	10,322
<b>Total manufacturing inventories</b>	<b>15,888</b>	<b>15,430</b>
Service inventories	127	230
<b>Total inventories</b>	<b>\$ 16,015</b>	<b>\$ 15,660</b>
<b>Property, plant and equipment</b>		
Machinery and equipment	\$ 31,970	\$ 31,133
Equipment used in outsourcing	16,066	15,987
Computers and purchased software	31,036	34,029
Buildings, furniture and improvements	20,779	20,373
Land	1,735	1,735
<b>Total cost</b>	<b>101,586</b>	<b>103,257</b>
Accumulated depreciation	(58,417)	(61,500)
<b>Property, plant and equipment, net</b>	<b>\$ 43,169</b>	<b>\$ 41,757</b>

Depreciation expense was approximately \$2.2 million and \$2.0 million for the three months ended March 31, 2003 and 2002, respectively.

**Note 4: Business Combinations**

*Silicon Energy Corp.:* On March 4, 2003, Itron acquired Silicon for merger consideration equal to \$71.2 million in cash, plus other direct transaction costs of approximately \$3.3 million, less cash acquired of approximately \$1.4 million. Of the merger consideration, approximately \$6.4 million was retained in an indemnification escrow account with regards to certain representations and warranties issued by Silicon. The amount of merger consideration was subject to a working capital adjustment that was finalized within 45 days from closing. No working capital adjustment was required.

Itron acquired Silicon utilizing cash on hand and the proceeds from a new \$50 million term loan, repayable over three years with equal principal payments. The annual interest rate on the term loan at closing was approximately 3.8% and will vary according to market rates and the Company's consolidated leverage ratio.

As of March 4, 2003, Silicon was in the process of developing new software products that had not yet reached technological feasibility. The fair value of the in-process research and development (IPR&D) was preliminarily estimated by an independent valuation using the income approach, which reflects the net present value of the projected cash flows expected to be generated by the products incorporating the in-process technology. The discount rate applicable to the cash flows of the products reflects the stage of completion and other risks inherent in the projects. The discount rate used in the valuation of IPR&D was 29 percent. The fair value of IPR&D is estimated to be \$900,000 with an estimated cost to complete of approximately \$1.2 million. The in-process technology will be substantially completed in 2003. The IPR&D fair value of \$900,000 was expensed in March 2003. The other identifiable intangible assets will be amortized over the lives of the estimated discounted cash flows assumed in the valuation models.

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The following condensed financial information reflects a preliminary allocation of the purchase price based on the estimated fair values of the assets and liabilities. The valuations of the assets and liabilities acquired are currently being performed by the Company and an independent appraiser and are subject to future adjustments.

	Fair Value	Weighted Average Life
	(\$ in thousands)	(in months)
Fair value of net assets assumed	\$ 14,537	
In-process research and development	900	
Identified intangible assets—amortizable		
Core-developed technology	5,900	27
Customer relationships/contracts	4,500	33
Customer backlog	2,500	14
Trademarks and trade names	2,200	40
Partner relationships	1,200	13
Goodwill	41,324	
Net assets acquired	\$ 73,061	

The following pro forma results are based on the individual historical results of Itron, Inc. and Silicon (prior to acquisition on March 4, 2003) with adjustments to give effect to the combined operations as if the acquisition had been consummated January 1, 2002. The significant adjustments relate to an increase in amortization expense related to the acquired identified intangible assets, a reduction in depreciation expense due to fair value adjustments of the acquired fixed assets, the elimination of Silicon's debt related expense as the debt was paid in full upon acquisition, the addition of interest expense related to the debt incurred upon acquisition, and a change in the income tax provision. The pro forma results are presented solely as supplemental information and do not necessarily represent what the combined results of operations or financial position would actually have been had the transaction in fact occurred at an earlier date, nor are they representative of results for any future date or period.

	Pro Forma	
	Three Months Ended March 31,	
	2003	2002
	(\$ in thousands, except per share data)	
Revenues	\$ 76,367	\$ 66,091
Gross profit	36,637	29,307
Operating expenses	36,408	33,819
Other income (expense)	(560)	(1,676)
Net income (loss)	\$ (204)	\$ (3,806)
Basic net income (loss) per share	\$ (0.01)	\$ (0.23)
Diluted net income (loss) per share	\$ (0.01)	\$ (0.23)
Weighted average shares assumed outstanding		
Basic	20,239	16,510
Diluted	20,239	16,510

*LineSoft Corporation:* In March 2002, the Company acquired LineSoft Corporation (LineSoft), a leading provider of engineering design software applications and consulting services for optimizing the construction or rebuild of utility transmission and distributions. The Company is required to pay

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additional amounts to certain LineSoft shareholders of up to \$13.5 million in the event that certain defined revenue targets in 2003 and/or 2004 are exceeded. Any earnout payments will be paid half in cash and half in Company common stock. If an earnout payment is required, the purchase price will be increased by the fair value of the payment. The Company expects that the 2003 revenue target will not be exceeded and an earnout payment will not be required.

*Regional Economic Research:* In October 2002, the Company acquired Regional Economic Research, Inc. (RER), a California based company specializing in energy consulting, analysis and forecasting services and software. The Company is required to pay additional amounts to certain RER shareholders of up to \$4.0 million to the extent that certain defined revenue targets in 2003 and 2004 are exceeded. The Company expects that the 2003 revenue target will be exceeded and an earnout payment of approximately \$2.0 million will be required. The form of the anticipated earnout payment, payable in cash and/or Company common stock, will be based solely upon Company discretion. The purchase price will be increased by the fair value of any earnout disbursements.

### **Note 5: Identified Intangible Assets**

The gross carrying amount and accumulated amortization of the Company's amortizable intangible assets as of March 31, 2003 and December 31, 2002 were as follows:

	<u>Gross Assets 3/31/03</u>	<u>Accumulated Amortization 3/31/03</u>	<u>Gross Assets 12/31/02</u>	<u>Accumulated Amortization 12/31/02</u>
	(\$ in thousands)			
Core-developed technology	\$18,595	\$ (1,816)	\$12,437	\$ (855)
Patents	7,088	(3,655)	7,088	(3,524)
Capitalized software	5,065	(5,065)	5,065	(5,065)
Distribution and production rights	3,935	(2,468)	2,480	(2,347)
Customer contracts	5,750	(454)	2,710	(354)
Other	7,031	(1,008)	1,107	(437)
<b>Total identified intangible assets</b>	<b>\$47,464</b>	<b>\$ (14,466)</b>	<b>\$30,887</b>	<b>\$ (12,582)</b>

Amortization expense on identified intangible assets was approximately \$1.9 million and \$337,000 for the three months ended March 31, 2003 and 2002, respectively. Amortization expense to be recognized over the remaining quarterly periods in 2003 is approximately \$7.9 million. Estimated future annual amortization expense is as follows (\$ in thousands):

<u>Years ending December 31,</u>	<u>Estimated Amortization</u>
2004	\$ 8,283
2005	6,416
2006	3,696
2007	2,285
Beyond 2007	4,369

**Note 6: Goodwill**

Goodwill increased in the first quarter of 2003 primarily due to the acquisition of Silicon on March 4, 2003. In addition, the goodwill balance increased approximately \$400,000 due to changes in currency exchange rates from December 31, 2002 to March 31, 2003. The change in goodwill for the three months ended March 31, 2003 is as follows (\$ in thousands):

Beginning balance, January 1, 2003	\$	44,187
Silicon goodwill acquired		41,324
Other		409
<hr/>		
Ending balance, March 31, 2003	\$	85,920
<hr/>		

During the three months ended March 31, 2002, goodwill increased approximately \$25.6 million primarily due to the acquisition of Linesoft in March 2002.

**Note 7: Loans to Affiliates**

In March 2003, we loaned an additional \$405,000 to Lanthorn Technologies (Lanthorn), an early stage startup firm that is developing internet-based energy monitoring and management software and services. Lanthorn has not yet produced any significant revenue. The form of the loan is a secured convertible note with a term of four years. In March 2002, we loaned \$2.0 million to Lanthorn as a secured convertible note with a five year term. The loan balance is included within the other noncurrent assets balance. We may convert the notes at any time into common stock of Lanthorn. If we had converted our notes into equity at March 31, 2003, they would have been converted into approximately 22% of Lanthorn's common stock assuming that all granted stock options and other convertible debt of the firm were exercised or converted.

**Note 8: Debt**

On March 4, 2003, we entered into a new three year credit agreement for \$105 million. The new credit agreement is secured by substantially all tangible and intangible assets, including the stock of domestic subsidiaries and a portion of the stock of foreign subsidiaries if the later meet certain size tests, except assets related to outsourcing contracts that are or may be financed with project financing debt.

The agreement provided a \$50 million term bank loan to finance a portion of the Silicon acquisition. The term bank loan is payable over three years with equal principal payments. Approximate principal payments under the term loan are \$12.5 million in 2003, \$16.7 million in 2004, \$16.7 million in 2005, and \$4.1 million in 2006. There was \$50 million outstanding on the term loan at March 31, 2003. The annual interest rate on the term loan at closing was approximately 3.8% and will vary according to market rates and the Company's consolidated leverage ratio. Within 90 days after the closing date of the loan, the Company is required to enter into an interest rate agreement which will substantially fix or limit the interest rate on at least 50% of the term loan principal for a minimum of two years. Interest expense related to the term loan for the three months ended March 31, 2003 was approximately \$148,000.

In addition to the term loan, the new credit agreement has a \$55 million revolving line of credit with a three year term. Of this amount, \$20 million may only be used to collateralize an appeals bond in connection with the Benghiat patent litigation matter if we appeal an unfavorable judgment. Of the remaining \$35 million available, \$16.1 million is currently utilized by outstanding standby letters of credit. There were no borrowings outstanding on the revolving line of credit at March 31, 2003. We paid an origination fee of 0.125% for the revolving line of credit. We will incur an annual commitment fee on the unused portion of the available revolving line of credit, which will vary according to the Company's consolidated leverage ratio. The annual commitment fee at closing was 0.375%. We will incur annual letter of credit fees based on (a) a fronting fee of 0.125% and (b) a

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letter of credit fee based on our consolidated leverage ratio for outstanding letters of credit. The letter of credit fees at closing were 2.625%. The annual commitment and letter of credit fees will be paid and expensed on a quarterly basis. Approximately \$1.8 million of upfront fees for the credit agreement were paid at closing. The upfront fees consisted primarily of origination fees and will be amortized over the life of the credit agreement.

The Company complies with several quarterly covenants in accordance with the credit agreement.

The former \$35 million line of credit was terminated simultaneously with the signing of the new credit facility in March 2003. At December 31, 2002, the maximum amount we could borrow under the former line of credit was \$20 million due to outstanding standby letters of credit of \$15 million. No borrowings were outstanding at December 31, 2002. No other changes were made to outstanding debt during the three months ended March 31, 2003.

Total interest expense and financing costs were approximately \$456,000 and \$1.3 million for the three months ended March 31, 2003 and 2002, respectively. The 2002 interest primarily related to approximately \$53.2 million in subordinated debt, which was converted to common stock during the second quarter of 2002.

### **Note 9: Restructurings**

During the first quarter of 2003, the Company announced plans to restructure its Energy Information Systems (EIS) group located in Raleigh, North Carolina. The restructure plan included a workforce reduction of approximately 40 employees and a consolidation of facility utilization. Effective January 1, 2003, the Company implemented SFAS No. 146, *Accounting for Costs Associated with Exit or Disposal Activities*, which requires that a liability for a cost associated with an exit or disposal activity be recognized when the liability is incurred. As a result of this guidance, the Company recognized approximately \$1.9 million related to severance. Substantially all of the 40 employees were terminated as of March 31, 2003 and severance payments were made. Efforts to consolidate the Raleigh facility have commenced and will be completed by the end of the second quarter of 2003. The consolidation will create unutilized leased square footage, which will require an additional provision of less than \$300,000 in the second quarter.

In the fourth quarter of 2002, the Company announced its plans to restructure the European operations and recorded a provision of approximately \$3.1 million. The provision included approximately \$866,000 related to lease terminations, \$1.3 million related to employee severance liabilities, \$347,000 related to inventory and fixed asset writedowns, and \$641,000 related to the reclassification of cumulative translation adjustments. An additional restructure charge of approximately \$216,000 was recorded in the three months ended March 31, 2003 to writedown additional fixed assets. The restructure will result in the closure of the Company's Vienne, France office, a reduction in workforce, the consolidation of product development efforts into existing Company locations and the outsourcing of select production efforts. The Company anticipates completion of the restructure plan by mid-2003. The liability for lease terminations is recorded within accrued expenses and the liability for employee severance is recorded within wages and benefits payable.

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The restructure involved a reduction in workforce of approximately 30 employees in Vienne, France. These employees consisted of personnel from product development, sales and support services, and general administration. As of March 31, 2003, substantially all of the employees were terminated, and approximately 35% of the benefits were paid or charged against the accrual based on applicable French law regarding timing of severance disbursements.

The accrued liabilities associated with company-wide restructuring efforts were approximately \$1.9 and \$2.4 million at March 31, 2003 and December 31, 2002, respectively and consisted of the following:

	Severance and Related Costs	Lease Termination and Related Costs
	(\$ in thousands)	
Accrual balance at December 31, 2002	\$ 1,263	\$ 1,177
Addition/adjustments to accruals	1,949	—
Cash payments	(2,408)	(90)
Accrual balance at March 31, 2003	\$ 804	\$ 1,087

Lease termination and related costs recorded prior to January 1, 2003 are dependent on our continued ability to sublease vacant space under a non-cancelable operating lease through 2006.

### **Note 10: Income Taxes**

During the three months ended March 31, 2003, total net deferred tax assets increased approximately \$15.9 million primarily due to the assignment of approximately \$18.5 million of net deferred tax assets related to the acquisition of Silicon. Silicon's deferred tax assets primarily represent net operating loss carryforwards that will be limited in use on an annual basis. The net value assigned to the Silicon related deferred tax assets is based on preliminary estimates and is subject to adjustment.

### **Note 11: Other Related Party Transactions**

In connection with the acquisition of LineSoft in March 2002, the Company assumed a pre-existing loan in the amount of \$2.0 million to the former Chief Executive Officer of LineSoft by renewing and replacing it with a new non-recourse promissory note, secured with the Company's common stock, in the same amount. The replacement note matures May 11, 2003, and bears interest at an annual rate of 6%. The balance of the loan at March 31, 2003 was approximately \$473,000. A partial payment in the amount of approximately \$117,000 was received subsequent to March 31, 2003.

In March 2003, we loaned an additional \$405,000 to Lanthorn who is developing internet-based energy monitoring and management software and services. Lanthorn has not yet produced any significant revenue. The form of the loan is a secured convertible note with a term of four years. In March 2002, we loaned \$2.0 million to Lanthorn as a secured convertible note with a five year term. The loan balance is included within the other noncurrent assets balance. We may convert the notes at any time into common stock of Lanthorn. If we had converted our notes into equity at March 31, 2003, they would have been converted into approximately 22% of Lanthorn's common stock assuming that all granted stock options and other convertible debt of the firm were exercised or converted.

The Company leases a facility from a former employee of Silicon, who is now a current employee of Itron. The base monthly lease payment is approximately \$4,000 and the agreement terminates in August 2004.



**Note 12: Contingencies**

*Guarantees and Indemnifications*

Under FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* (FIN45), the Company must record a liability for certain types of guarantees and indemnifications for agreements entered into or amended subsequent to December 31, 2002. No liabilities were required for the agreements entered into during the three months ended March 31, 2003.

We maintain performance and bid bonds for certain customers. Bonds in force were \$40.5 million and \$40.2 million at March 31, 2003 and 2002, respectively. The performance bonds provide a guarantee to the customer for Itron's future performance which usually covers the installation phase of a contract and may on occasion cover the operations and maintenance phase of outsourcing contracts. We also have standby letters of credit to guarantee our performance under certain contracts. The outstanding amounts of standby letters of credit were \$16.1 million and \$11.6 million at March 31, 2003 and 2002, respectively. The letters of credit include amounts of \$10.0 and \$6.6 million at March 31, 2003 and 2002, respectively, held as collateral for a \$25.0 million bond. Additionally, we guarantee lease payments for certain equipment leased by an affiliated company. In the event that the affiliate is unable to pay a monthly lease obligation, Itron would be required to make the payment. If Itron does not make the payment, the equipment would be returned to the lessor. The maximum future lease obligation of the guarantee at March 31, 2003 was approximately \$557,000. In the event that the equipment is not in working condition, Itron would be obligated to pay for the equipment to be returned to working condition. The lease and guarantee terminate in 2006.

The Company generally provides an indemnification related to the infringement of any patent, copyright, trademark or other intellectual property right on software or equipment within its sales contracts. Itron indemnifies the customer from and pays the resulting costs, damages and attorney fees awarded against a customer with respect to such claim provided that (a) the customer promptly notifies Itron in writing of the claim, and (b) Itron has the sole control of the defense and all related settlement negotiations. The terms of the indemnification normally do not limit the maximum potential future payments. Itron also provides an indemnification for third party claims resulting from damages caused by the negligence or willful misconduct of its employees/agents in connection with the performance of certain contracts. The terms of the indemnification generally do not limit the maximum potential payments.

In March 2003, the Company issued two standby letters of credit in the amounts of approximately \$1.0 million and \$100,000 to third party landlords to guarantee a subsidiary's lease payments on two facilities. If the Company fails to make a scheduled lease payment, the third party landlords could draw up to the maximum amount specified on the respective standby letter of credit. The standby letters of credit renew on an annual basis during the term of the respective leases, which expire in 2005 and 2008.

*Legal Matters*

The Company accrued a liability of \$7.4 million in 2002 related to the Benghiat patent infringement matter. No adjustments to the accrual were deemed necessary during the three months ended March 31, 2003. The court has not rendered judgment based on the jury's verdict and will not do so until a number of post-trial motions by both parties have been ruled on by the court. Itron is considering what grounds if any it has to appeal the judgment of the court when rendered to the Federal Circuit Court of Appeals in Washington D.C. There can be no assurance, however, that Itron will prevail on appeal. Any further appeal or litigation related to this patent, regardless of its outcome, would probably be costly and may require significant time and attention of our key management and technical personnel.

The Company is a party to various other lawsuits and claims, both as plaintiff and defendant, and have contingent liabilities arising from the conduct of business, none of which, in our opinion, are expected to have a material effect on our financial position or results of operations. None of the lawsuits or claims required the recognition of a liability as of March 31, 2003, as negative outcomes are not considered probable.

**Note 13: Segment Information**

The Company's organizational structure consists of five business units that focus on the customer segments that we serve. These business units are Electric, Natural Gas, Water & Public Power, International, and End User Solutions. The Electric, Natural Gas, Water & Public Power, and End User Solutions business units focus on the United States (U.S.) and Canadian business territories. The International business unit focuses on the following business territories: (1) Pacific Rim and Latin America (which includes Japan, South Korea, Hong Kong, Caribbean and Latin America), (2) Europe, Middle East and Africa, and (3) Oceania and Southeast Asia.

Revenues for each business unit may include hardware, software license fees, custom software development, field and project management services, engineering, consulting and installation services, post-sale maintenance support and outsourcing services. Inter-segment revenues are immaterial. Within each business unit, costs of sales are based on standard costs, which include materials, direct labor and an overhead allocation based on projected production for the year.

Miscellaneous hardware costs and variances from standard costs are reported in Corporate costs of sales and are not allocated to the business units. Assets and liabilities are not allocated to the business units for management purposes. In addition to assets and liabilities, corporate operating expenses, interest revenue, interest expense, equity in the income of investees accounted for by the equity method, income tax expense, and amortization expense are not allocated to the business units, nor included in the measure of segment profit or loss for management purposes. Approximately 50% of depreciation expense is allocated to the business units.

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Management has two primary measures for each of the operating segments, revenue and operating income. Operating income is defined as revenue, less (a) direct costs associated with that revenue, (b) operating expenses directly incurred by the segment, and (c) allocations of basic services (such as floor space and communication expense), warranty and miscellaneous service related expenses. Operating expenses directly associated with each segment may include sales, marketing, product development or administrative expenses. Corporate expenses, which include product development, marketing, miscellaneous manufacturing and certain other corporate expenditures, are included in the table below to reconcile business unit activity to the consolidated statements of operations:

	Three Months Ended March 31,	
	2003	2002
(\$ in thousands)		
<b>Revenues</b>		
Electric	\$ 39,203	\$ 30,773
Natural Gas	14,505	10,374
Water & Public Power	18,103	17,429
International	2,716	3,499
End User Solutions	118	—
<b>Total revenues</b>	<b>\$ 74,645</b>	<b>\$ 62,075</b>
<b>Gross profit (loss)</b>		
Electric	\$ 20,595	\$ 14,191
Natural Gas	9,141	5,685
Water & Public Power	7,766	6,869
International	(93)	1,411
End User Solutions	17	—
Corporate	(564)	(869)
<b>Total gross profit</b>	<b>\$ 36,862</b>	<b>\$ 27,287</b>
<b>Operating income (loss)</b>		
Electric	\$ 17,994	\$ 12,375
Natural Gas	8,386	5,186
Water & Public Power	6,529	5,916
International	(1,787)	(401)
End User Solutions	(185)	—
Corporate	(25,396)	(22,551)
<b>Total operating income</b>	<b>\$ 5,541</b>	<b>\$ 525</b>

The Company had one Electric business unit customer, which individually accounted for approximately 10% and 16% of total Company revenues during the three months ended March 31, 2003 and 2002, respectively.

### **Note 14: Comprehensive Income**

Comprehensive income adjustments are reflected as an increase or (decrease) to shareholders' equity and are not reflected in results of operations. Operating results adjusted to reflect comprehensive income items during the period, net of tax, were as follows:

	Three Months Ended March 31,	
	2003	2002
(\$ in thousands)		
Net income (loss)	\$ 2,916	\$ (2,970)
Change in foreign currency translation adjustments, net of tax	402	(43)
Change in net unrealized holding gain (loss)	—	(34)
<b>Total comprehensive income (loss)</b>	<b>\$ 3,318</b>	<b>\$ (3,047)</b>

Accumulated foreign currency translation adjustment was the sole component of accumulated other comprehensive income (loss), net of tax, at March 31, 2003 and December 31, 2002. The accumulated foreign currency translation gain, net of tax, was approximately \$122,000 at March 31, 2003. The foreign currency translation loss, net of tax, was approximately \$280,000 at December 31, 2002.

**Note 15: Subsequent Events**

Effective May 1, 2003, the Company amended the warranty and maintenance agreement related to a network-based automated meter reading system in Pittsburgh, Pennsylvania with Duquesne Light Company (Duquesne) (refer to Note 13 of our audited consolidated financial statements included in Form 10-K for the year ended December 31, 2002, as filed with the Securities and Exchange Commission on March 27, 2003). The Company will continue to provide certain maintenance and support services for the system through December 31, 2013, however the scope and nature of the services to be provided has been reduced. The Company paid \$4 million to Duquesne in consideration for the reduced scope of services. The \$5 million standby letter of credit required under the original agreement has been reduced to \$4 million under the terms of the amended agreement. In connection with our performance responsibilities, we have entered into a 42 month operating lease on a facility in Pittsburgh. The base monthly lease payment is approximately \$1,200.

The forward loss reserve balance related to the original Duquesne agreement as of April 30, 2003 was approximately \$12.4 million. We will receive approximately \$7.3 million over the term of the amended agreement and we expect to incur approximately \$19.7 million in expenses, including the \$4 million paid to Duquesne. Thus the amendment of the agreement did not result in an adjustment to the forward loss reserve.

**Item 2: MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following discussion and analysis should be read in conjunction with the unaudited Condensed Consolidated Financial Statements and Notes included in this report, and with the 2002 audited financial statements and notes included in our Form 10-K, which we filed with the Securities and Exchange Commission on March 27, 2003.

The Company’s SEC filings are available under the Investor Relations section of Itron’s website at [www.itron.com](http://www.itron.com). The SEC filings are available free of charge on the website as soon as practicable after they are filed with or furnished to the SEC.

**Certain Forward-Looking Statements**

*The following discussion of our financial condition and results of operations contains forward-looking statements that involve risks and uncertainties, such as statements of our plans, objectives, expectations and intentions. When included in this discussion, the words “expects,” “intends,” “anticipates,” “believes,” “plans,” “projects,” “estimates,” “future” and similar expressions are intended to identify forward-looking statements. However, these words are not the exclusive means of identifying such statements. In addition, any statements that refer to expectations, projections or other characterizations of future events or circumstances are forward-looking statements. Such statements are inherently subject to a variety of risks and uncertainties that could cause our actual results to differ materially from those reflected in such forward-looking statements. Such risks and uncertainties include, among others, the rate and timing of customer demand and signing of orders for the Company’s products, rescheduling of current customer orders, the Company’s ability to effectuate additional initiatives for improving growth and profitability, the inability to predict the outcome of appeals or any negotiation efforts associated with the Benghiat litigation including the uncertainty as to whether the court will award enhanced damages or future royalties, estimating costs associated with litigation defense, forecast future revenues and costs on long-term contracts, changes in law and regulation (including FCC licensing actions), changes in the utility regulatory environment, delays or difficulties in introducing new products and acceptance of those products, increased competition and various other matters, many of which are beyond our control. You should not place undue reliance on these forward-looking statements, which apply only as of the date of this Form 10-Q. The Company expressly disclaims any obligation or undertaking to update or revise any forward-looking statement contained herein to reflect any change on the Company’s expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based. For a more complete description of these and other risks, see “Certain Risk Factors” included in our Form 10-K filed with the Securities and Exchange Commission on March 27, 2003.*

**Overview**

We currently derive the majority of our revenues from sales of products and services to utilities. However, our business may increasingly consist of sales to other energy and water industry participants such as energy service providers, end user customers, wholesale power market participants and others.

## Results of Operations

The Company's organizational structure consists of five business units that focus on the customer segments that we serve. These business units are Electric, Natural Gas, Water & Public Power, International, and End User Solutions. The Electric, Natural Gas, Water & Public Power, and End User Solutions business units focus on the U.S. and Canadian business territories. The International business unit focuses on the following business territories: (1) Pacific Rim and Latin America (which includes Japan, South Korea, Hong Kong, Caribbean and Latin America), (2) Europe, Middle East and Africa, and (3) Oceania and Southeast Asia.

Revenues for each business unit consist of hardware, software license fees, custom software development, field and project management services, and engineering, consulting and installation services. Service revenues include post-sale maintenance support and outsourcing services. Outsourcing services encompass installation, operation and maintenance of meter reading systems to provide meter information to a customer for billing and management purposes. Outsourcing services can be provided for systems we own as well as those owned by our customers. Inter-segment revenues are immaterial. Segment cost of sales are based on standard costs which include materials, direct labor and an overhead allocation based on projected production for the year. Miscellaneous hardware costs and variances from standard costs are included in Corporate cost of sales and are not allocated to the business units.

### Revenues and Gross Margins

#### Total Company Revenues and Gross Margins

The following tables summarize the Company's revenues and gross margin for the three months ended March 31, 2003 and 2002.

	Three Months Ended March 31,		
	2003	2002	% Change
	(\$ in millions)		
<i>Revenues</i>			
Sales	\$ 63.9	\$ 50.2	27%
Service	10.7	11.9	(10)%
	\$ 74.6	\$ 62.1	20%

	Three Months Ended March 31,		
	2003	2002	% Change
<i>Gross Margin</i>			
Sales	53%	49%	4%
Service	26%	22%	4%
Total gross margin	49%	44%	5%

Revenues for the three months ended March 31, 2003 were approximately \$74.6 million compared with approximately \$62.1 million during the same period in 2002. Domestic revenues for the three months ended March 31, 2003 increased approximately 23% over revenues for the three months ended March 31, 2002. Approximately \$7.0 million of the increase in revenues came from acquisitions completed in 2002 and 2003. The remaining increase is the result of increased hardware deliveries to domestic customers in the form of gas and water AMR modules, software and consulting sales. Revenues declined in the three months ended March 31, 2003 compared with the same period in 2002 in our international markets primarily due to a decrease in software sales.

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One customer represented approximately 10% and 16% of total Company revenues in the three months ended March 31, 2003, and 2002, respectively. Sales to this customer will continue into the fourth quarter of 2003 but will continue to decrease as a percentage of total Company revenues. For the three months ended March 31, 2003, the top ten customers accounted for approximately 46% of revenues, compared with approximately 45% for the same period in 2002.

Gross margins improved year-over-year, growing to 49% for the three months ended March 31, 2003 compared with 44% for the same period in 2002. Improved sales gross margins from 2002 to 2003 resulted from a combination of factors, including an increase in high margin software license sales, changes in product mix, lower general market prices for electronic components and other supply-chain management initiatives. For the three months ended March 31, 2003, service gross margins improved compared to the same period in 2002, however the increase was partially offset by non-recurring warranty accrual adjustments. Service gross margins for the three months ended March 31, 2002 were negatively impacted by a one-time increase in costs associated with a long-term service contract.

Gross margins may vary period to period depending on the mix of products and services.

### Segment Revenues and Gross Margins

The following tables and discussion highlights significant changes in trends or components of revenues and gross margin for each segment.

	Three Months Ended March 31,		
	2003	2002	% Change
	(\$ in millions)		
<i>Segment Revenues</i>			
Electric	\$39.2	\$30.8	27%
Natural Gas	14.5	10.4	39%
Water & Public Power	18.1	17.4	4%
International	2.7	3.5	(23)%
End User Solutions	0.1	—	100%
	<u>      </u>	<u>      </u>	
Total revenues	\$74.6	\$62.1	20%

	Three Months Ended March 31,		
	2003	2002	% Change
<i>Segment Gross Margin</i>			
Electric	53%	46%	7%
Natural Gas	63%	55%	8%
Water & Public Power	43%	39%	4%
International	(3)%	40%	(43)%
End User Solutions	14%	—%	14%
Corporate (1)	(1)%	(1)%	—%
Total gross margin	49%	44%	5%

(1) Corporate is included to reconcile total segment gross margin to total gross margin above.

**Electric:** Net revenues for the three months ended March 31, 2003 increased by approximately \$8.4 million, or 27%, compared with the same period in 2002 primarily as a result of the acquisitions completed in 2002 and 2003. Excluding the revenues from these acquisitions, revenue growth was approximately 8% compared to the same period in 2002. For the three months ended March 31, 2003, one customer represented approximately 19% of the Electric business unit revenues and approximately 10% of total Company revenues. For the three months ended March 31, 2002, this

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customer represented approximately 32% of the Electric business unit revenues and approximately 16% of total Company revenues. Sales to this customer will continue into the fourth quarter of 2003 but will continue to decrease as a percentage of Electric and total Company revenues. The improved Electric segment gross margins resulted primarily from high margin software sales, lower component costs and other manufacturing efficiencies, as well as a shift in the mix of products.

**Natural Gas:** Net revenues for the three months ended March 31, 2003 increased by approximately \$4.1 million, or 39%, compared with the same period in 2002 primarily due to increased AMR module shipments driven by contracts signed during 2002. For the three months ended March 31, 2003, one customer represented approximately 16% of the Natural Gas business unit revenues and approximately 3% of total Company revenues. The improved Natural Gas segment gross margins resulted primarily from lower hardware costs caused by higher production volumes and other manufacturing efficiencies.

**Water and Public Power:** Net revenues for the three months ended March 31, 2003 increased by approximately \$674,000, or 4%, compared with the same period in 2002 as a result of increased hardware shipments. The increase in hardware revenues was partially offset by a decrease in installation revenues. Sales through meter manufacturers and other indirect sales channels grew approximately 64% for the three months ended March 31, 2003, compared with the same period in 2002. Water and Public Power segment gross margin for the three months ended March 31, 2002 was negatively impacted by a one-time increase in costs associated with a long-term service contract.

**International:** Net revenues for the three months ended March 31, 2003 decreased by approximately \$783,000, or 23%, compared with the same period in 2002. This decrease is primarily due to a decrease in software sales. International segment gross margin for the three months ended March 31, 2003 decreased due to the reduction of software sales and increased warranty charges related to products we are no longer selling or supporting. The decrease in margin was partially offset by higher margin hardware sales in the three months ended March 31, 2003.

**End User Solutions:** As a result of the acquisition of Silicon on March 4, 2003, the Company created the End User Solutions business unit. The End User Solutions business unit, which represents a portion of the Silicon group, sells products and services to commercial and industrial domestic customers. Net revenues were approximately \$118,000 for the post-acquisition period of 27 days.

**Corporate:** The business units outlined above utilize standard costs, which include materials, direct labor and an overhead allocation, to record product cost of sales. Miscellaneous hardware costs and variances from standard costs are reported within Corporate cost of sales and are not allocated to the business units. Corporate costs of sales were comparable as a percentage of revenue for the three months ended March 31, 2003 and 2002.

### **Backlog of Orders**

We enter into short-term and long-term contracts to supply hardware, software and services to our customers. Long-term (multi-year or annual) contracts are subject to rescheduling or cancellation by our customers. Bookings and backlog can be highly variable from period to period primarily due to the nature and timing of large orders.



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Backlog is not a complete measure of our business and pertains only to manufactured products and associated software and services, such as installation services. Bookings for a reported period represent the revenue value of contracts signed during a specified period except for those related to annual maintenance, joint use (utility pole surveys) and engineering services. Instead, revenues from these contracts are included in bookings during the quarter in which the revenues are earned.

Total backlog represents the revenue value of undelivered contractual orders, excluding annual maintenance, joint use and engineering services contracts. Twelve-month backlog represents the estimated portion of total backlog that will be earned over the next twelve months.

Bookings and backlog information is summarized by quarter as follows:

Quarter Ended	Total Bookings	Total Backlog	12-month Backlog
	(\$ in millions)		
March 31, 2003	\$ 60	\$ 203	\$ 102
December 31, 2002	61	197	100
September 30, 2002	87	200	109
June 30, 2002	45	179	95
March 31, 2002	38	202	112
December 31, 2001	63	203	115
September 30, 2001	61	195	98
June 30, 2001	45	184	79

Note that beginning total backlog, plus current quarter bookings, less current quarter sales and service revenues will not always equal ending total backlog due to miscellaneous contract adjustments and other factors.

### Operating Expenses

The following table details our total operating expenses in dollars and as a percent of revenues. Note that certain amounts in 2002 have been reclassified to conform to the 2003 presentation.

	Three Months Ended March 31,			
	2003	% of Revenue	2002	% of Revenue
	(\$ in millions)			
<i>Operating Expenses</i>				
Sales and marketing	\$ 8.4	11.3%	\$ 6.7	10.8%
Product development	10.1	13.5%	7.5	12.1%
General and administrative	7.8	10.5%	4.9	7.9%
Amortization of intangibles	1.9	2.5%	0.3	0.5%
Restructurings	2.2	3.0%	—	— %
In-process research and development	0.9	1.2%	7.4	11.9%
Total operating expenses	\$31.3	42.0%	\$26.8	43.2%

Operating expenses for the three months ended March 31, 2003 compared with the same period 2002 were generally higher primarily due to the acquisitions completed in 2002 and 2003.

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Sales and marketing expenses increased approximately \$1.7 million for the three months ended March 31, 2003 compared with the same period in 2002, and increased slightly as a percentage of revenue. The increase was a result of additional sales and marketing staff, product marketing activities and consulting.

Product development expenses increased approximately \$2.6 million, or 1.4% as a percentage of revenue, for the three months ended March 31, 2003 compared with the same period in 2002. The increase was due to increased development spending for next generation hardware and software products, and software quality initiatives.

General and administrative expenses increased approximately \$2.9 million, or 2.6% as a percentage of revenue, for the three months ended March 31, 2003 compared with the same period in 2002. The increase is primarily due to information technology investments, legal fees, depreciation related to assets acquired in the 2002 and 2003 acquisitions, increased compliance costs, additional office leases, and compensation due to the combination of salary increases and an increase in headcount.

Amortization of intangibles increased approximately \$1.6 million, or 2.0% as a percentage of revenue, for the three months ended March 31, 2003 compared with the same period in 2002. Amortization increased as a result of the addition of \$17.2 million and \$16.2 million in amortizable intangible assets from acquisitions completed in 2003 and 2002, respectively.

In January 2003, we announced plans to restructure our EIS product group in Raleigh, North Carolina. The restructure plan resulted in a charge of approximately \$1.9 million for the three months ended March 31, 2003 related to workforce reductions. In addition, approximately \$216,000 of restructuring expense resulted from the write-down of fixed assets for International restructuring activities during the three months ended March 31, 2003. EIS and International restructuring activities are anticipated to be complete by mid-2003.

### **In-Process Research and Development (IPR&D)**

During the three months ended March 31, 2003, we recorded a \$900,000 charge for IPR&D related to the acquisition of Silicon as follows:

(\$ in millions)	<u>IPR&amp;D</u>	<u>Estimated Cost to Complete Technology</u>	<u>Discount Rate Applied to IPR&amp;D</u>	<u>Silicon's Weighted Average Cost of Capital</u>
Silicon Energy Corp.	\$ 0.9	\$ 1.2	29%	19%

At the time of acquisition, Silicon was in the process of developing new software products that had not yet reached technological feasibility. We expect to benefit as products that contain the in-process technology are marketed and sold to end users.

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### Other Income (Expense)

The following table shows other income (expense) and percent change from the prior year.

	Three Months Ended March 31,		
	2003	2002	% Change
	(\$ in millions)		
Equity in affiliates	\$—	\$—	—%
Interest income	0.2	0.3	(33)%
Interest expense	(0.5)	(1.3)	62%
Other income, net	0.1	0.2	(50)%
<b>Total other income (expense)</b>	<b>\$(0.2)</b>	<b>\$(0.8)</b>	<b>75%</b>

Interest income decreased slightly for the three months ended March 31, 2003 compared with the same period of 2002 due to lower cash investments resulting in less interest income.

Interest expense decreased approximately \$836,000 for the three months ended March 31, 2003 compared with the same period in 2002 primarily due to the conversion of convertible debt to equity in 2002.

### Income Taxes

The effective income tax rate for the three months ended March 31, 2003 was approximately 45.0% compared to the estimated annual effective income tax rate of 38.5%. The quarterly rate exceeds the annual rate because no tax benefit was recognized for the in-process research and development charge incurred during the quarter since it is not tax deductible. Our effective income tax rate can vary from period to period because of fluctuations in foreign operating results, changes in the valuation allowances for deferred tax assets (which reduce the tax assets to an amount that more likely than not will be realized), new or revised tax legislation, and changes in the level of business performed in different tax jurisdictions.

### Financial Condition

	Three Months Ended March 31,		
	2003	2002	% Increase (Decrease)
	(\$ in millions)		
<i>Cash Flow Information</i>			
Operating activities	\$ 6.4	\$ 6.7	(4)%
Investing activities	(76.5)	(15.5)	(394)%
Financing activities	50.4	(5.2)	1,069%
<b>Net increase (decrease) in cash</b>	<b>\$(19.7)</b>	<b>\$(14.0)</b>	<b>(41)%</b>

*Operating activities:* We generated approximately \$6.4 million of cash from operations for the three months ended March 31, 2003 compared with \$6.7 million for the same period in 2002. Net cash generated from operating activities for the three months ended March 31, 2003 primarily resulted from net income of \$2.9 million, \$4.1 million in depreciation and amortization, and a decrease of \$11.3 million in accounts receivable. The cash generated was partially offset by a decrease of \$9.3 million in wages and benefits payable and a decrease of \$2.2 million in unearned revenue. Net cash generated from operating activities for the three months ended March 31, 2002 primarily resulted from an IPR&D charge of \$7.4 million and a decrease of \$10.5 million in accounts receivable. The cash generated was partially offset by a net loss of \$3.0 million, a decrease of \$5.7 million in wages and benefits payable and an increase in inventory of \$3.4 million.

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*Investing activities:* During the three months ended March 31, 2003, a total of \$73.1 million in cash was used for the Silicon acquisition, compared with \$21.7 million utilized during the same period in 2002 related to the LineSoft acquisition. During the three months ended March 31, 2002, we liquidated a portion of our short-term investments to fund business acquisition efforts. Net proceeds from short-term investments were \$5.6 million. No short-term investment activity occurred during the three months ended March 31, 2003. We used \$2.7 million in cash for property, plant and equipment purchases in the three months ended March 31, 2003 compared with \$2.6 million for the same period in 2002.

In the three months ended March 31, 2002, we reclassified \$5.1 million from restricted cash for a collateralized letter of credit into cash as a result of a new credit agreement that did not require the restriction.

*Financing activities:* For the three months ended March 31, 2003, \$50.0 million was received as a result of a new credit agreement in March 2003 in association with the Silicon acquisition. In addition, \$585,000 was received from employee stock purchase plan purchases and stock option exercises compared with \$3.0 million for the same period in 2002. During the three months ended March 31, 2002, \$225,000 in cash was used to repurchase 9,200 shares of Itron's common stock. In 2002, we used \$4.9 million for the early repayment of mortgage debt and approximately \$3.5 million to repay lines of credit and long-term debt assumed in the LineSoft acquisition.

We have no off-balance sheet financing agreements.

*Investments:* In March 2003, we loaned an additional \$405,000 to Lanthorn, who is developing internet-based energy monitoring and management software and services. Lanthorn has not yet produced any significant revenue. The form of the loan is a secured convertible note with a term of four years. In March 2002, we loaned \$2.0 million to Lanthorn as a secured convertible note with a five year term. We may convert the notes at any time into common stock of Lanthorn. If we had converted our notes into equity at March 31, 2003, they would have been converted into 22% of Lanthorn's common stock assuming that all granted stock options and other convertible debt of the firm were exercised or converted.

### *Liquidity, Sources and Uses of Capital:*

At March 31, 2003, we had \$12.9 million in cash and cash equivalents. During the three months ended March 31, 2003, we utilized \$73.1 million to complete the Silicon acquisition. We have historically funded our operations and growth with cash flow from operations, borrowings and sales of our stock. We are exposed to changes in interest rates on cash equivalents and short-term investments. The cash equivalents and short-term investments are rated A or better by Standard & Poor's or Moody's and have market interest rates.

As of March 31, 2003, we had a three year credit facility totaling \$105 million. The credit facility consists of a \$50 million three year term loan and a \$55 million revolving line of credit feature. Of this amount, \$20 million may only be used to collateralize an appeals bond in connection with the Benghiat patent litigation matter if we appeal an unfavorable judgment. Of the remaining \$35 million available, \$16.1 million is currently utilized by outstanding standby letters of credit. In accordance with the credit facility, we are required to comply with several covenants on a quarterly basis. If we fail to comply with the covenant requirements, the bank group may declare all or a portion of the unpaid principal and interest on the term loan, and any outstanding amounts under the letters of credit, due and payable. As of March 31, 2003, the Company complied with the covenants. We believe existing cash resources and available borrowings are adequate to meet our cash needs through 2003.

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We maintain performance and bid bonds for certain customers. Bonds in force were \$40.5 million and \$40.2 million at March 31, 2003 and 2002, respectively. The performance bonds provide a guarantee to the customer for Itron's future performance which usually covers the installation phase of a contract and may on occasion cover the operations and maintenance phase of outsourcing contracts. We also have standby letters of credit to guarantee our performance under certain contracts. The outstanding amounts of standby letters of credit were \$16.1 million and \$11.6 million at March 31, 2003 and 2002, respectively. The letters of credit include amounts of \$10.0 and \$6.6 million at March 31, 2003 and 2002, respectively, held as collateral for a \$25.0 million bond. Additionally, we guarantee lease payments for certain equipment leased by an affiliated company. In the event that the affiliate is unable to pay a monthly lease obligation, Itron would be required to make the payment. If Itron does not make the payment, the equipment would be returned to the lessor. The maximum future lease obligation of the guarantee at March 31, 2003 was approximately \$557,000. In the event that the equipment is not in working condition, Itron would be obligated to pay for the equipment to be returned to working condition. The lease and our guarantee terminate in 2006.

The Company generally provides an indemnification related to the infringement of any patent, copyright, trademark or other intellectual property right on software or equipment within its sales contracts. Itron indemnifies the customer from and pays the resulting costs, damages and attorney fees awarded against a customer with respect to such claim provided that (a) the customer promptly notifies Itron in writing of the claim, and (b) Itron has the sole control of the defense and all related settlement negotiations. The terms of the indemnification normally do not limit the maximum potential future payments. Itron also provides an indemnification for third party claims resulting from damages caused by the negligence or willful misconduct of its employees/agents in connection with the performance of certain contracts. The terms of the indemnification generally do not limit the maximum potential payments.

In March 2003, the Company issued two standby letters of credit in the amounts of approximately \$1.0 million and \$100,000 to third party landlords to guarantee a subsidiary's lease payments on two facilities. If the Company fails to make a scheduled lease payment, the third party landlords could draw up to the maximum amount specified on the respective standby letter of credit. The standby letters of credit renew on an annual basis during the term of the respective leases, which expire in 2005 and 2008.

The Company accrued a liability of \$7.4 million in 2002 related to the Benghiat patent infringement matter. No adjustments to the accrual were deemed necessary for the three months ended March 31, 2003. The court has not rendered judgment based on the jury's verdict and will not do so until a number of post-trial motions by both parties have been ruled on by the court. Itron is considering what grounds if any it has to appeal the judgment of the court when rendered to the Federal Circuit Court of Appeals in Washington D.C. There can be no assurance, however, that Itron will prevail on appeal. Any further appeal or litigation related to this patent, regardless of its outcome, would probably be costly and may require significant time and attention of our key management and technical personnel.

The Company is a party to various other lawsuits and claims, both as plaintiff and defendant, and have contingent liabilities arising from the conduct of business, none of which, in our opinion, are expected to have a material effect on our financial position or results of operations. None of the lawsuits or claims required the recognition of a liability as of March 31, 2003, as negative outcomes are not considered probable.

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In March 2002, the Company acquired LineSoft, a leading provider of engineering design software applications and consulting services for optimizing the construction or rebuild of utility transmission and distributions. The Company is required to pay additional amounts to certain LineSoft shareholders of up to \$13.5 million in the event that certain defined revenue targets in 2003 and/or 2004 are exceeded. Any earnout payments will be paid half in cash and half in Company common stock. If an earnout payment is required, the purchase price will be increased by the fair value of the payment. The Company expects that the 2003 revenue target will not be exceeded and an earnout payment will not be required.

In October 2002, the Company acquired RER, a California based company specializing in energy consulting, analysis and forecasting services and software. The Company is required to pay additional amounts to certain RER shareholders of up to \$4.0 million to the extent that certain defined revenue targets in 2003 and 2004 are exceeded. The Company expects that the 2003 revenue target will be exceeded and an earnout payment of approximately \$2.0 million will be required. The form of the anticipated earnout payment, payable in cash and/or Company common stock, will be based solely upon Company discretion.

During the three months ended March 31, 2003, total net deferred tax assets increased approximately \$15.9 million primarily due to the assignment of approximately \$18.5 million of net deferred tax assets related to the acquisition of Silicon. Silicon's deferred tax assets primarily represent net operating loss carryforwards that will be limited in use on an annual basis pursuant to Internal Revenue Code Section 382. The net value assigned to the Silicon related deferred tax assets is based on preliminary estimates and is subject to adjustment. The Company's deferred tax assets are also the result of its own accumulated net operating losses and Section 382 limited deferred tax assets acquired in connection with the acquisitions of LineSoft and RER. During 2003, the Company expects to make approximately \$1.0 million in cash payments for federal alternative minimum tax and various state tax obligations. The Company expects to utilize tax loss carryforwards and available tax credits to offset taxes otherwise due on regular taxable income in upcoming years. We expect a material increase in cash payments for taxes upon the expiration of our nonacquired tax losses and tax credits.

Working capital as of March 31, 2003 was \$14.2 million compared with \$51.0 million at December 31, 2002. The decrease in working capital is primarily due to the acquisition of Silicon in March 2003 which resulted in a cash outflow of \$73.1 million inclusive of a three year term loan of \$50.0 million, \$16.7 million of which is short-term debt.

The number of days outstanding for billed and unbilled accounts receivable was 66 and 72 days as of March 31, 2003 and 2002, respectively. Historically, the number of days outstanding ratio for the Company has been driven more by specific contract billing terms as compared to collection issues.

We expect to continue to expand our operations and grow our business through a combination of internal new product development, licensing technology from or to others, distribution agreements, partnership arrangements and acquisitions of technology or other companies. We expect these additional activities to be funded from existing cash, cash flow from operations, borrowings, and the issuance of common stock or other securities. We believe existing sources of liquidity will be

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sufficient to fund our existing operations and obligations for the foreseeable future, but offer no assurances. Our liquidity requirements could be affected by our dependence on the stability of the energy industry, competitive pressures, international risks, intellectual property claims, as well as other factors described under “Certain Risk Factors” and “Qualitative and Quantitative Disclosures About Market Risk” included in our Form 10-K filed with the Securities and Exchange Commission on March 27, 2003.

### **New Accounting Pronouncements**

In June 2002, the FASB issued SFAS No. 146, *Accounting for Costs Associated with Exit or Disposal Activities*. The standard requires companies to recognize costs associated with exit or disposal activities when they are incurred rather than at the date of a commitment to an exit or disposal plan. The provisions of this statement are effective for exit or disposal activities that are initiated after December 31, 2002, with early application encouraged. The adoption of SFAS No. 146 impacted the timing of restructuring cost recognition.

In November 2002, the FASB issued Interpretation 45, *Guarantor’s Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*. The Interpretation elaborates on the existing disclosure requirements for most guarantees, including loan guarantees such as standby letters of credit. It also clarifies that at the time a company issues a guarantee, the company must recognize an initial liability for the fair value, or market value, of the obligations it assumes under the guarantee and must disclose that information in its interim and annual financial statements. The provisions related to recognizing a liability at inception of the guarantee for the fair value of the guarantor’s obligations does not apply to product warranties. The initial recognition and initial measurement provisions apply on a prospective basis to guarantees issued or modified after December 31, 2002. The recognition and measurement provisions of Interpretation 45 did not have a significant impact on the financial position or results of operations of the Company.

In November 2002, the FASB’s Emerging Issues Task Force (EITF) reached a consensus on EITF Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables*. This Issue addresses certain aspects of the accounting by a company for arrangements under which it will perform multiple revenue-generating activities. In applying this Issue, generally, separate contracts with the same customer that are entered into at or near the same time are presumed to have been negotiated as a package and should, therefore, be evaluated as a single contractual arrangement. This Issue also addresses how contract consideration should be measured and allocated to the separate deliverables in the arrangement. The application of this Issue could impact the timing of revenue recognition when a contractual arrangement combines installation and hardware. This Issue is applicable to revenue arrangements entered into beginning in 2004. We are in the process of evaluating the impact of the Issue.

In January 2003, the FASB issued Interpretation 46, *Consolidation of Variable Interest Entities*. In general, a variable interest entity is a corporation, partnership, trust, or any other legal structure used for business purposes that either (a) does not have equity investors with voting rights or (b) has equity investors that do not provide sufficient financial resources for the entity to support its activities. Interpretation 46 requires a variable interest entity to be consolidated by the company that is subject to a majority of the risk of loss from the variable interest entity’s activities or entitled to receive a majority of the entity’s residual returns or both. The consolidation requirements of

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Interpretation 46 applied to variable interest entities created after January 31, 2003. The consolidation requirements had no impact on the Company, as no variable interest entities were created after January 31, 2003. The consolidation requirements apply to older entities in the first fiscal year or interim period beginning after June 15, 2003. The Company does not have any variable interest entities.

In May 2003, the FASB issued SFAS No. 149, *Amendment of Statement 133 on Derivative Instruments and Hedging Activities*. The statement amends financial accounting and reporting for derivative instruments, including certain derivative instruments embedded in other contracts and for hedging activities under SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*. The statement requires that contracts with comparable characteristics be accounted for similarly. The statement clarifies under what circumstances a contract with an initial net investment meets the characteristic of a derivative, clarifies when a derivative contains a financing component, and amends the definition of an underlying to conform it to language used in FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, and amends certain other existing pronouncements. The provisions of this statement are effective for contracts entered into or modified after June 30, 2003, except as specifically identified in the statement, and for hedging relationships designated after June 30, 2003. We are in the process of evaluating the impact of the statement.

### **Subsequent Event**

Effective May 1, 2003, the Company amended the warranty and maintenance agreement related to a network-based automated meter reading system in Pittsburgh, Pennsylvania with Duquesne Light Company (Duquesne) (refer to Note 13 of our audited consolidated financial statements included in Form 10-K for the year ended December 31, 2002, as filed with the Securities and Exchange Commission on March 27, 2003). The Company will continue to provide certain maintenance and support services for the system through December 31, 2013, however the scope and nature of the services to be provided has been reduced. The Company paid \$4 million to Duquesne in consideration for the reduced scope of services. The \$5 million standby letter of credit required under the original agreement has been reduced to \$4 million under the terms of the amended agreement. In connection with our performance responsibilities, we have entered into a 42 month operating lease on a facility in Pittsburgh. The base monthly lease payment is approximately \$1,200.

The forward loss reserve balance related to the original Duquesne agreement as of April 30, 2003 was approximately \$12.4 million. We will receive approximately \$7.3 million over the term of the amended agreement and we expect to incur approximately \$19.7 million in expenses, including the \$4 million paid to Duquesne. Thus the amendment of the agreement did not result in an adjustment to the forward loss reserve.



**Item 3: QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

*Interest Rate Risk:* The table below provides information about our financial instruments that are sensitive to changes in interest rates. At March 31, 2003, we had fixed rate debt of approximately \$5.3 million and variable rate debt of \$50.0 million. Weighted average variable rates in the table are based on implied forward rates in the LIBOR yield curve as of April 25, 2003 and the Company's estimated ratio of funded debt to EBITDA. The table below illustrates the scheduled repayment of principal over the remaining lives of the debt at March 31, 2003:

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>Beyond 2007</u>
	(\$ in millions)					
Fixed rate debt	\$ 0.5	\$ 0.7	\$ 0.8	\$0.9	\$ 0.9	\$ 1.5
Average interest rate	7.6%	7.6%	7.6%	7.6%	7.6%	7.6%
Variable rate debt	\$12.5	\$16.7	\$16.7	\$4.1	\$—	\$ —
Average interest rate	3.5%	4.0%	5.4%	6.0%	— %	— %

We are exposed to risk resulting from changes in interest rates as a portion of our variable rate debt is based on market rates. Within 90 days after the closing date of the variable rate term loan on March 4, 2003, we are required to enter into an interest rate agreement which will substantially fix or limit the interest rate on at least 50% of the term loan principal for a minimum of two years. The forecasted interest rates provided in the tabular format above do not include the benefits of the interest rate agreement which will be entered into subsequent to the date of this document.

Based on a sensitivity analysis as of March 31, 2003, it was estimated that if market interest rates average 1% higher than in the table above in 2003, earnings before income taxes in 2003 would decrease by approximately \$387,000.

*Foreign Currency Exchange Rate Risk:* We conduct business in a number of foreign countries and, therefore, face exposure to adverse movements in foreign currency exchange rates. International revenue was 4% of total revenue for the three months ended March 31, 2003. Since we do not use derivative instruments to manage all foreign currency exchange rate risks, the consolidated results of operations in U.S. dollars are subject to fluctuation as foreign exchange rates change. In addition, our foreign currency exchange rate exposures may change over time as business practices evolve and could have a material impact on our financial results.

Our primary exposure has related to non-U.S. dollar denominated sales, cost of sales and operating expenses in our international subsidiary operations. This means we have been subject to changes in the consolidated results of operations expressed in U.S. dollars. Other international business, consisting primarily of shipments from the U.S. to international distributors and customers in the Pacific Rim and Latin America, is predominantly denominated in U.S. dollars, which reduces our exposure to fluctuations in foreign currency exchange rates. In some cases where sales from the U.S. are not denominated in U.S. dollars, we have and may hedge our foreign exchange risk by selling the expected foreign currency receipts forward. There have been and there may continue to be large period-to-period fluctuations in the relative portions of international revenue that are denominated in foreign currencies.

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Risk-sensitive financial instruments in the form of inter-company trade receivables are mostly denominated in U.S. dollars, while inter-company notes are denominated in local foreign currencies. As foreign currency exchange rates change, inter-company trade receivables impact current earnings, while inter-company notes are re-valued and result in translation gains or losses that are reported in other comprehensive income.

Because our earnings are affected by fluctuations in the value of the U.S. dollar against foreign currencies, we have performed a sensitivity analysis assuming a hypothetical 10% increase or decrease in the value of the dollar relative to the currencies in which our transactions are denominated. As of March 31, 2003, the analysis indicated that such market movements would not have had a material effect on our consolidated results of operations or on the fair value of any risk-sensitive financial instruments. The model assumes foreign currency exchange rates will shift in the same direction and relative amount. However, exchange rates rarely move in the same direction. This assumption may result in the overstatement or understatement of the impact of changing exchange rates on assets and liabilities denominated in a foreign currency. Consequently, the actual effects on operations in the future may differ materially from results of the analysis for the three months ended March 31, 2003. We may, in the future, experience greater fluctuations in U.S. dollar earnings from fluctuations in foreign currency exchange rates. We will continue to monitor and assess the impact of currency fluctuations and may institute more hedging alternatives.

### **Item 4: DISCLOSURE CONTROLS AND PROCEDURES**

- (a) Evaluation of disclosure controls and procedures. As of May 5, 2003, an evaluation was performed under the supervision and with the participation of our Company's management, including the Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures (as such term is defined in Rules 13a-14(c) and 15d-14(c)) under the Securities Exchange Act of 1934 as amended. Based on that evaluation, the Company's management, including the Chief Executive Officer and Chief Financial Officer, concluded that the Company's disclosure controls and procedures were effective as of March 31, 2003.
- (b) Changes in internal controls. There have been no significant changes in our internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

## Part 2: OTHER INFORMATION

### Item 1: LEGAL PROCEEDINGS

#### Benghiat Patent Litigation

On April 3, 1999, the Company served Ralph Benghiat, an individual, with a complaint seeking a declaratory judgment in the U.S. District Court for the District of Minnesota (Civil Case No. 99-cv-501) that a patent owned by Benghiat (patent no. 5,757,456, the '456 patent) is invalid and not infringed by Itron's handheld meter reading devices. On April 23, 1999 Benghiat filed, in the same court, a counterclaim alleging patent infringement by the same devices. The case went to trial before a jury on December 9, 2002. On December 20, 2002 the jury returned a verdict and found that Itron's manual entry handheld meter reading devices sold in the U.S. since April 1993 infringed the '456 patent. The jury awarded Benghiat damages in an amount of \$7.4 million dollars, which represents a royalty of approximately 5% on revenues from infringing products sold from 1993 to the date of the verdict. Itron accrued a liability for that amount in 2002. The jury also found that Itron's infringement was willful. As such, Benghiat has asked the court to treble the damages and award him attorney's fees. Benghiat may seek to enjoin the sale of infringing products. Although Itron continues to believe that its products do not infringe the '456 patent, it has nevertheless redesigned its current products that were found to infringe by the jury and has received an opinion of its outside patent counsel that the redesigned products do not infringe the '456 patent. The redesign has changed the functionality of the products, which may impact future customer acceptance. It is difficult to predict whether this will have a material impact on future revenues or net income. Revenues related to the infringing products were approximately \$20 million in 2002. The court has not rendered judgment based on the jury's verdict and will not do so until a number of post-trial motions by both parties have been ruled on by the court. Final judgment is expected to be entered during 2003. Itron is also evaluating grounds for appeal. There can be no assurance, however, that Itron will prevail on appeal.

The Company is not involved in any other material legal proceedings.

### Item 4: SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No items were submitted to a vote of security holders during the quarter.

### Item 6: EXHIBITS AND REPORTS ON FORM 8-K

#### a) Exhibits

- Exhibit 10.13 — Amended and Restated Warranty and Maintenance Agreement between Itron, Inc. and Duquesne Light Company dated May 1, 2003.
- Exhibit 10.18 — First Amendment to Credit Agreement dated March 20, 2003 and entered into by and among Itron, Inc., the lenders listed, LaSalle Bank, N.A., KeyBank N.A., and Wells Fargo Bank, N.A., and is made with reference to the Credit Agreement dated March 4, 2003.
- Exhibit 99.1 — Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- Exhibit 99.2 — Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

#### b) Reports on Form 8-K this quarter:

- On March 19, 2003 we filed a Form 8-K under Items 2 and 7 announcing the terms of the acquisition of Silicon Energy Corp.
- On March 26, 2003 we filed a Form 8-K/A under Item 7 detailing terms of the acquisition and pro forma financial information related to the acquisition of Silicon Energy Corp.



**CERTIFICATION PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, LeRoy D. Nosbaum, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Itron, Inc.;
2. Based on my knowledge, this quarterly 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 quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
  - a) designed such disclosure controls and procedures 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 quarterly report is being prepared;
  - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
  - c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
  - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: May 9, 2003

/s/ LeRoy D. Nosbaum

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LeRoy D. Nosbaum  
Chairman of the Board and Chief Executive  
Officer

**CERTIFICATION PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, David G. Remington, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Itron, Inc.;
2. Based on my knowledge, this quarterly 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 quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and we have:
  - a) designed such disclosure controls and procedures 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 quarterly report is being prepared;
  - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
  - c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
  - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: May 9, 2003

/s/ David G. Remington

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David G. Remington  
Vice President and Chief Financial Officer

**AMENDED AND RESTATED  
WARRANTY AND MAINTENANCE AGREEMENT**

This Amended and Restated Warranty and Maintenance Agreement (this "**Agreement**") is effective May 1, 2003, (the "**Effective Date**") and is between Duquesne Light Company, a Pennsylvania corporation ("**DLC**"), and Itron, Inc., a Washington corporation ("**Itron**").

**RECITALS**

A. DLC and Itron had been parties to the Amended and Restated Utility Automated Meter Data Acquisition Equipment Lease and Services Agreement dated January 15, 1996, as amended (the "**Duquesne Contract**"), pursuant to which Itron provided installed equipment and provided software and services for the operation and maintenance of the Fixed Network (as defined below).

B. DataCom Information Systems, LLC, a Delaware limited liability company, ("**DataCom**") is an affiliate of DLC. On or about March 30, 2000, DataCom bought from Itron certain equipment, and licenses to software, that Itron had used to supply services to DLC. DataCom and Itron entered into a Warranty and Maintenance Agreement, dated as of March 30, 2000, (the "**First Maintenance Agreement**") pursuant to which Itron has provided certain maintenance and support services for the operation and maintenance of the Fixed Network.

C. Concurrently with the execution and delivery of the First Maintenance Agreement, DLC and Itron terminated the Duquesne Contract by mutual agreement.

D. As permitted by the terms of the First Maintenance Agreement, DataCom assigned the First Maintenance Agreement to DLC as of January 1, 2003.

E. The Parties now desire to amend and restate the First Maintenance Agreement as set forth herein, pursuant to which Itron will continue to provide certain maintenance and support services for the Fixed Network.

**AGREEMENT**

**Section 1. Definitions**

Where not defined elsewhere in this Agreement, the following capitalized terms have the following meanings whether used in this Agreement or any Schedule attached hereto:

"**AAA**" is defined in Section 11.11(b).

"**Agreement**" is defined in the preamble to this Agreement.

**“Applicable Laws”** means any law, statute, rule, regulation, ordinance, order, code, interpretation, judgment, decree, directive, or decision in effect from time to time of any national, state or local government, any political subdivision thereof or any other governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, commission or other governmental entity, which is applicable to or affects this Agreement.

**“Bankruptcy Code”** means Title 11 of the United States Code, 11 U.S.C. Section 101-1330, as in effect on the date hereof.

**“Business Day”** means a day other than a day on which commercial banks in Pittsburgh, Pennsylvania, are required or authorized to be closed. Unless qualified by the term “Business,” references in this Agreement to “day” or “days” shall refer to a calendar day or calendar days, respectively.

**“CCU”** means cell control unit.

**“Change in Control”** means any of the following events: (i) any Person becomes the beneficial owner (as defined in Rule 13(d)(3) under the Securities Exchange Act of 1934), directly or indirectly, of securities of Itron representing 50% or more of the combined voting power of Itron’s then outstanding voting securities; (ii) the individuals who as of the date of this Agreement are members of the Board of Directors of Itron (the **“Incumbent Board”**), cease for any reason to constitute at least a majority of the Board of Directors of Itron (provided, however, that if the election, or nomination for election by Itron’s shareholders, of any new director was approved by a vote of at least a majority of the Incumbent Board, such new director will be considered to be a member of the Incumbent Board); (iii) an agreement by Itron to consolidate or merge with any other entity pursuant to which Itron will not be the continuing or surviving corporation or pursuant to which shares of the common stock of Itron would be converted into cash, securities or other property, other than a merger of Itron in which holders of the common stock of Itron immediately prior to the merger would have the same proportion of ownership of common stock of the surviving corporation immediately after the merger; (iv) an agreement of Itron to sell, lease, exchange or otherwise transfer in one transaction or a series of related transactions substantially all the assets of Itron; (v) the adoption of any plan or proposal for a complete or partial liquidation or dissolution of Itron; or (vi) an agreement to sell more than 50% of the outstanding voting securities of Itron in one or a series of related transactions.



**“CCU Transition Date”** is defined in Section 2.9(a).

**“Compliant System Components”** means, collectively, the Itron Proprietary Components and the Third Party Components.

**“Confidential Information”** means all nonpublic information disclosed by a Disclosing Party to the Receiving Party that is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, should reasonably be considered as confidential. Confidential Information includes, but is not limited to, security codes, computer passwords, customer information, trade secrets, documents, designs, drawings, manufacturing processes, research developments, business activities and operations, inventions and engineering concepts. The Parties acknowledge and agree that all information concerning DLC’s customers is highly confidential and is the Confidential Information of DLC. Confidential Information does not include any information that (i) has become publicly available without breach of this Agreement, (ii) can be shown by documentation to have been known to the Receiving Party at the time of its receipt from the Disclosing Party, (iii) is received from a third party who did not acquire or disclose such information by a wrongful act or (iv) can be shown by documentation to have been independently developed by the Receiving Party without reference to any Confidential Information.

**“Configuration Change”** means any change to the Fixed Network requested by DLC and approved via the Change Control procedures attached as Schedule A solely to optimize the Fixed Network within its designed functionality and wide area and local area infrastructures as they exist on the Effective Date.

**“Critical Maintenance Release”** means a revision to Software that corrects a Critical Nonconformity.

**“Critical Nonconformity”** means a Nonconformity resulting in a material degradation in (a) the operation, performance and reliability of the Fixed Network, or (b) the ability of DLC to (i) read, collect or pass daily or interval meter data, (ii) collect or pass customer billing data; (iii) operate the Fixed Network; or (iv) aggregate monthly CCU Nonconformities in excess of 4% of the deployed CCUs in the Fixed Network.

**“Cure Period”** is defined in Section 7.1(b).

**“Custom Release”** means any revision to Software that (i) Itron may prepare or have prepared in response to a written request received from DLC and (ii) is not a Maintenance Release, Critical Maintenance Release or Configuration Change.

**“DataCom”** is defined in Recital B.

“**DCU**” means a data command unit.

“**Disaster Recovery Equipment**” means all equipment and software located in the Spokane Operations Center that is used for Disaster Recovery Services, as listed on the attached Schedule F.

“**Disaster Recovery Services**” is defined in Section 2.8(a).

“**Disaster Recovery Service Period**” is defined in Section 2.8(a).

“**Disclosing Party**” means a Party that discloses Confidential Information to the other Party under this Agreement.

“**Dispute**” is defined in Section 11.11(a).

“**DLC Default**” means any failure by DLC to comply in any material respect with any covenant, obligation, responsibility, representation or warranty of DLC contained in this Agreement.

“**DLC Disaster Recovery Center**” is defined in Section 2.8(d).

“**DLC Operations Center**” means the operations center for the Fixed Network, as operated by DLC, currently located at 2841 New Beaver Avenue, Bldg. #3, 2nd Floor, N3-DP, Pittsburgh, PA 15233, as the same may be moved from time to time.

“**DLC Service Administrator**” is defined in Section 5.2(a).

“**Duquesne Contract**” is defined in Recital A.

“**Effective Date**” is defined in the preamble to this Agreement.

“**Environmental Laws**” is defined in Section 3.8(f)(ii).

“**Equipment**” means the items of Compliant System Components which are not Software.

“**ERT**” means an Itron manufactured or branded encoder receiver transmitter device installed in a meter for the purpose of communicating meter data over the Fixed Network. ERTs include, without limitation, the 40ER model ERT, the 41ER-1 model ERT and the 50ESS model ERT.

“**Escrow Agreement**” shall mean the escrow agreement, dated as of March 30, 2000, by and among Itron, DLC, as assignee of DataCom, and Fort Knox Escrow Services, Inc., attached as Exhibit A hereto.

**“Event of Default”** is defined in Section 7.1.

**“Excluded Equipment”** means equipment that is not a Compliant System Component.

**“FCC”** means the Federal Communications Commission.

**“Final Cure Date”** is defined in Section 3.8(a)(ii).

**“First Maintenance Agreement”** is defined in Recital B.

**“Fixed Network”** means the Compliant System Components and communications system infrastructure consisting of fixed wireless and wired local area and wide area networks that communicate remotely with meters that measure electric power usage or other applications, as installed pursuant to the Duquesne Contract, and as modified, maintained and expanded from time to time pursuant to the First Maintenance Agreement and this Agreement.

**“Force Majeure Event”** means epidemics, major storms, floods, lightning, earthquakes, fires, riots, civil disturbances, labor strikes or unrest, vandalism, terrorist attack, or sabotage beyond the reasonable control of a Party, acts of God, or any cause or condition beyond a Party’s reasonable control, provided that a Party shall not be excused from liability or performance hereunder where its delay or failure to perform is due to its financial inability to perform.

**“Genesis System”** means the Itron communications network bearing the “Genesis” trademark name.

**“Infringing Material”** is defined in Section 9.3.

**“Initial Cure Period”** is defined in Section 3.8(a)(i).

**“Itron Equipment”** means the equipment and materials, as set forth in Schedule E, that are in Pittsburgh as of the Effective Date and used extensively for certain maintenance of the Compliant System Components and that will remain Itron assets and be used in performing the Services.

**“Itron Commercial Replacement ERTs”** is defined in Section 2.3(a).

**“Itron Commercial Replacement Meter”** is defined in Section 2.3(b).

**“Itron Proprietary Components”** means (a) the components of the Fixed Network identified in Schedule C hereto as “Itron Proprietary Components”; (b) all Critical Maintenance Releases, Maintenance Releases, Custom Releases; (c) any Itron-

manufactured hardware added to the Fixed Network pursuant to the Transition Plan; and (d) any other components added to Schedule C as “Itron Proprietary Components” as agreed upon by the Parties in writing from time to time.

“**Itron Service Administrator**” is defined in Section 5.2(a).

“**Itron Residential Replacement ERTs**” is defined in Section 2.3(a).

“**Itron Residential Replacement Meter**” is defined in Section 2.3(b).

“**Itron Removal Meters**” is defined in Section 2.4(b).

“**Itron Servicing Location**” means the warehouse located at 357 Flaugherty Run Road, Building 101, Moon Township, PA 15108, which location may not be moved outside of the Pittsburgh area without DLC’s prior written consent.

“**JAMS**” is defined in Section 11.11(b).

“**L/C Amount**” means an amount equal to Four Million Dollars (\$4,000,000.00) less all amounts drawn by DLC against the Letter of Credit.

“**Letter of Credit**” is defined in Section 6.5.

“**Losses**” is defined in Section 9.1.

“**Maintenance Inventory**” has the meaning set forth in Section 5.2(h).

“**Maintenance Release**” means any revision to Software that Itron may prepare, or that Itron may have prepared by or may receive from any third party, from time to time after the Effective Date that maintains or enhances Software operability and functionality, including available fixes for reported or identified Software problems and Nonconformities which are not Critical Nonconformities, but not including Custom Releases.

“**Mandatory Maintenance Release**” means any Maintenance Release to Software listed as an Itron Proprietary Component on Schedule C that is designated as a Mandatory Maintenance Release by Itron.

“**Materials of Environmental Concern**” means chemicals, pollutants, contaminants, wastes, toxic or hazardous substances, petroleum and petroleum products and residual wastes.

“**MV90**” means a system component of the Fixed Network that processes meter reading data generally originating from commercial and industrial meters.

**“Mobile Collector Units”** means Itron’s portable “Mobile Data Collector” units.

**“NCN”** means network control node.

**“Nonconforming”** means having a Nonconformity.

**“Nonconformity”** means a deviation of an Itron Proprietary Component from normal functionality or a failure of an Itron Proprietary Component to conform to the requirements of this Agreement (including, without limitation, the warranties set forth herein), in each case that is not caused by a DLC Default.

**“Optional Maintenance Release”** means any Itron Maintenance Release to Software listed as an Itron Proprietary Component on Schedule C that is not designated by Itron as a Mandatory Maintenance Release.

**“Outage Management System”** means the system implemented by DLC for the purpose of processing ERT daily reads and CCU outage messages from the Fixed Network as of the Effective Date.

**“Operations Process Clock”** is defined in Section 3.2(c).

**“Party”** or **“Parties”** means DLC and Itron, individually or collectively as the case may be.

**“Person”** means any individual, company, corporation, partnership or other legal entity.

**“Preferred Price”** means, with respect to any goods or services, the lowest of (i) the most favorable price or rate then offered by Itron to any Person for the same quantity of such goods or services, (ii) if such goods or services are the subject of a then current list price published by Itron, (a) for goods, a quantity discount based on the accumulated quantity of such goods purchased by DLC since the Effective Date and (b) for services, a 20% discount off the list price, (iii) the price determined by Itron as commercially reasonable for such goods or services, or (iv) if DLC is not satisfied with the price under (i), (ii) or (iii), then such price as the Parties may negotiate in good faith.

**“Premium Standard Service”** is defined in Section 3.5.

**“PUC”** means the Pennsylvania Public Utility Commission.

**“Qualifying Bank”** means ABN AMRO Bank N.V. or a commercial bank reasonably acceptable to DLC with a minimum credit rating of at least two of the following ratings: (i) AA as determined by Standard & Poor’s Corporation, or (ii) Aa2 as determined by Moody’s Investors Service, Inc., or (iii) a comparable rating by another nationally recognized rating service reasonably acceptable to DLC.

**“Radio Frequency Sharing Agreement”** means the Radio Frequency Sharing Agreement dated as of March 30, 2000, between DLC, as assignee of DataCom, and Itron, attached as Exhibit B hereto.

**“Receiving Party”** means a Party that receives Confidential Information from the other Party under this Agreement.

**“Replacement Target Date”** means the later of (a) nine (9) months after the Effective Date, or (b) December 31, 2003.

**“Reserve Inventory”** is defined in Section 5.2(g).

**“RMA”** is defined in Section 5.2(f).

**“Services”** means Itron’s responsibilities identified in Sections 2 and 3 of this Agreement, as such may be expanded from time to time pursuant to this Agreement or by the agreement of the Parties in a writing signed by their respective authorized representatives.

**“Siris Device”** means the telephone based meter device used for reading residential and small commercial meters over the Fixed Network.

**“Software”** means (a) all licensed and unlicensed Genesis System network software, computer programming object code, DNI software, and other software for the Genesis System now or hereafter owned by Itron or licensed from third parties and necessary for effective system operation of the Fixed Network from time to time, as listed on Schedule C, as may be amended from time to time by written agreement of the Parties, and (b) all related documentation for the foregoing furnished by or through Itron.

**“Software License”** means the Software License Agreement, dated as of March 30, 2000, between Itron and DLC, as assignee of DataCom, attached as Exhibit C hereto.

**“Software Releases”** means Maintenance Releases, Critical Maintenance Releases and Custom Releases.

**“Spokane Operations Center”** means the Itron customer support center located in Spokane, Washington, which will be consolidated into the DLC Operations Center as provided herein.

**“Standard Services”** is defined in Section 3.1.

“**Supplemental Services**” is defined in Section 3.7.

“**Term**” is defined in Section 8.1.

“**Third Party Components**” means (a) the components of the Fixed Network identified in Schedule C hereto as “Third Party Components”; and (b) any other components added to Schedule C as “Third Party Components” as agreed upon by the Parties in writing from time to time.

“**Transition Plan**” means the transition plan set forth in the attached Exhibit D.

## **Section 2. Transition Services**

### **2.1 Transition Plan**

The Parties will fulfill their respective obligations as set forth below and in the Transition Plan. The Parties will provide reasonable cooperation with each other in executing their respective obligations set forth below and under the Transition Plan. The Parties presently anticipate that they will complete and each party will sign the Transition Plan no later than thirty (30) days after the Effective Date.

### **2.2 Project Coordination**

Within thirty (30) days after the Effective Date, each Party will identify to the other Party its respective project team and project manager that will be primarily responsible for coordinating the execution of such Party’s responsibilities and obligations under the Transition Plan. Each Party may add, remove or exchange members of its project team or its project manager from time to time upon notice to the other Party.

### **2.3 ERT and Meter Supply Obligations**

(a) ERT Supply Obligations

(i) *Itron Residential Replacement ERTs*. Itron will furnish, at no additional cost to DLC, the number of 41ER-1 ERTs specified in the Transition Plan, not to exceed 24,000, for installation and deployment by Itron pursuant to Section 2.4(a) (“**Itron Residential Replacement ERTs**”).

(ii) *Itron Commercial Replacement ERTs*. Upon approval and acceptance by DLC, Itron will furnish, at no additional cost to DLC, the number of 50ESS ERTs specified in the Transition Plan, not to exceed 17,500, to ABB Electricity Metering, Inc. (“**ABB**”) for installation in new ABB A3 Alpha meters to be purchased by DLC and deployed by Itron pursuant to Section 2.4(b) (“**Itron Commercial Replacement ERTs**”).

(b) Meter Supply Obligations

(i) *Itron Residential Replacement Meters.* On the schedule specified in the Transition Plan or as otherwise agreed by the Parties, DLC will deliver to Itron the initial seed stock of meters specified as Itron Residential Replacement Meters in the Transition Plan (“**Itron Residential Replacement Meters**”). Such of these meters that Itron removes from service will be retrofitted by Itron with 41ER-1 ERTs and redeployed per the Transition Plan.

(ii) *Itron Commercial Replacement Meters.* DLC will purchase from ABB the ABB A3 Alpha meters containing the 50ESS ERTs supplied by Itron pursuant to Section 2.3(a)(ii) (each such ABB A3 Alpha meter containing a 50ESS ERT, an “**Itron Commercial Replacement Meter**”), and will provide such Itron Commercial Replacement Meters to Itron in “field ready” condition for installation (e.g., not requiring any additional calibration prior to installation).

**2.4 ERT and Meter Installation Obligations**

(a) Itron Residential Replacement Meters. Itron will (i) remove the Siris Devices in each Itron Residential Replacement Meter, (ii) install a Itron Residential Replacement ERT (not to exceed 24,000) in each Itron Residential Replacement Meter, (iii) perform all necessary “as found” and “as left” testing in connection with the Itron Residential Replacement Meters after the Siris Device is replaced by an Itron Residential Replacement ERT, and (iv) on or before the Replacement Target Date, install the Itron Residential Replacement Meters containing the Itron Residential Replacement ERTs in the applicable field locations specified in the Transition Plan.

(b) Itron Commercial Replacement Meters. On or before the Replacement Target Date, Itron will (i) remove the meters designated as Itron Removal Meters in the Transition Plan (“**Itron Removal Meters**”), (ii) install the Itron Commercial Replacement Meters (not to exceed 17,500) to replace the Itron Removal Meters, and (iii) return the Itron Removal Meters to DLC.

**2.5 Other ERT Obligations**

(a) Necessary Permissions and Approvals. DLC hereby grants to Itron the right to perform the services set forth in Section 2.3 and 2.4, and subject to the procedures mutually agreed upon in the Transition Plan, DLC will use its reasonable best efforts to ensure that Itron (including, without limitation, Itron’s employees and subcontractors) will have access to the meters specified in the Transition Plan at the times, in the manner, and upon the terms and conditions specified in the Transition Plan. The Transition Plan shall clearly define the obligations, responsibilities and actions required for non-access situations. If required, DLC, at its expense, will secure



and maintain any and all consents, approvals, licenses, permissions, agreements and other actions required of any third party (under any third party agreement, Applicable Law, regulatory approval or otherwise) for DLC and Itron to perform their respective obligations in accordance with Sections 2.3 and 2.4.

(b) Ownership and Treatment of ERTs. Upon installation thereof in the field locations specified in the Transition Plan, DLC will own title to the Itron Residential Replacement ERTs and the Itron Commercial Replacement ERTs. Upon installation, calibration and testing in accordance with Itron-approved procedures (and, in the case of Itron Residential Replacement ERTs, generation of meter reads consistent with performance of the Fixed Network), the Itron Residential Replacement ERTs and the Itron Commercial Replacement ERTs will be deemed Itron Proprietary Components.

(c) Daily Reads. Notwithstanding anything to the contrary in this Agreement, any inability of the Itron Residential Replacement ERTs and/or Itron Commercial Replacement ERTs to deliver a particular level of daily reads due to circumstances beyond Itron's reasonable control (such as no communication coverage for the Itron Residential Replacement ERTs and/or Itron Commercial Replacement ERTs) shall not be deemed a Nonconformity or a Critical Nonconformity hereunder. For avoidance of doubt, "reasonable control" will not be interpreted or construed to require Itron to erect any new communications tower, rent space on any existing communications tower, add to or modify the Genesis LAN/WAN infrastructure, or take any steps to enhance in any way the existing communications coverage to the location of any residential or commercial customer of DLC.

## **2.6 Disposition of Siris Devices**

(a) Ownership and Treatment of Siris Devices. All Siris Devices shall become Itron property and shall no longer be deemed Compliant System Components upon the earlier of (i) replacement of a particular Siris Device with an ERT as provided in Section 2.4, (ii) twenty four (24) months after the Effective Date, or (iii) for all Siris Devices referenced in Section 2.6(d), upon the earlier of (A) return of such Siris Device to Itron, or (B) thirty (30) days after the Effective Date.

(b) Return of Removed Siris Devices. On or before thirty (30) days after the Replacement Target Date, DLC will remove all Siris Devices from the Itron Removal Meters and return them to Itron, or, at DLC's option, certify destruction thereof in accordance with Section 2.6(c).

(c) Certification of Destruction. DLC may, at its option, elect not to remove one or more Siris Devices from meters removed pursuant to Sections 2.4(b); provided, that DLC will (i) destroy such removed meters (including the Siris Device contained therein) in accordance with all Applicable Laws (including, without limitation, all applicable guidelines of the Environmental Protection Agency), and (ii) DLC will furnish Itron with a signed, written record certifying such destruction.

(d) Return of All Other Siris Devices. On or before thirty (30) days after the Effective Date, DLC will at DLC's sole cost and expense, (i) return to Itron all Siris Devices comprising part of the Reserve Inventory, (ii) return to Itron all Siris Devices comprising part of the Maintenance Inventory, and (iii) return to Itron any other Siris Devices in DLC's possession (in inventory or otherwise).

## 2.7 Mobile Collector Units and DataPaks

Itron will deliver to DLC three (3) Mobile Collector Units upon the delivery schedule set forth in the Transition Plan. Upon delivery to DLC, such Mobile Collector Units shall be deemed Itron Proprietary Components. DLC will return to Itron, upon the schedule set forth in the Transition Plan, all DataPaks. Upon return to Itron, such DataPaks shall no longer be deemed Compliant System Components.

## 2.8 Disaster Recovery Services

(a) Disaster Recovery During the Disaster Recovery Service Period. Itron shall operate and maintain a disaster recovery program at its Spokane Operations Center for the DLC Operations Center from the Effective Date until such time as the Parties transition operational responsibility for such disaster recovery services to DLC as provided in the Transition Plan, in no event later than March 31, 2004 (the "**Disaster Recovery Service Period**"). During the Disaster Recovery Service Period, Itron shall provide DLC with the disaster recovery services listed in Schedule F (the "**Disaster Recovery Services**") for the identified Compliant System Components, on a twenty-four (24) hour per day basis for a period of up to ninety-six (96) consecutive hours following commencement of Disaster Recovery Services. After the first ninety-six (96) hours of Disaster Recovery Services, (i) Itron will provide Disaster Recovery Services, including operations personnel for up to eight (8) hours per day, and (ii) DLC shall be responsible for providing operations personnel for the remaining hours per day, unless DLC's requirement for Disaster Recovery Services was caused by Itron's negligence, willful misconduct or failure to perform its obligations hereunder, in which case, Itron shall continue to provide, at its cost and expense, Disaster Recovery Services on a twenty-four (24) hour per day basis until completed. All Disaster Recovery Services after the first ninety-six (96) hours will be deemed Supplemental Services at the Preferred Price.

(b) Disaster Recovery After the Disaster Recovery Service Period. After the expiration of the Disaster Recovery Period through the remainder of the Term, DLC will be solely responsible for, and Itron will have no obligation to provide, (i) any Disaster Recovery Services, and (ii) any third party hardware or software licenses, support, maintenance, additions or upgrades to the Disaster Recovery Equipment

or otherwise related to the Disaster Recovery Services. Any changes required to the production system will, if applicable, be implemented with respect to the Disaster Recovery System at (a) Itron's sole cost and expense in the case of a Critical Maintenance Release or a Mandatory Maintenance Release, and (b) DLC's sole cost and expense in the case of an Optional Maintenance Release or a Custom Maintenance Release.

(c) Transfer of Disaster Recovery Equipment. Prior to the expiration of the Disaster Recovery Service Period, Itron will transfer to DLC at no additional cost to DLC all of Itron's right, title and interest to the Disaster Recovery Equipment, to the extent that the same may be legally transferred. Such transfer shall include all applicable manufacturer's specifications for such Disaster Recovery Equipment, to the extent available and not previously provided to DLC. The transfer of the Disaster Recovery Equipment shall be "AS IS, WHERE IS" and with no representation or warranty (express or implied) of any kind, including, without limitation, as to merchantability, fitness for a particular purpose, completeness, noninfringement or assignability. For avoidance of doubt, following such transfer, all Itron-manufactured hardware and Itron-owned Software comprising part of the Disaster Recovery Equipment shall be deemed an Itron Proprietary Component. Schedule C shall be updated by the Parties within thirty (30) days after the expiration of the Disaster Recovery Services Period to reflect the transfer of the Disaster Recovery Equipment as contemplated by this Section 2.8(c).

(d) Disaster Recovery Transition Assistance. Itron will, at no cost to DLC, provide reasonable technical support and assistance to facilitate the establishment of a DLC-operated disaster recovery operations facility ("**DLC Disaster Recovery Center**") and the transfer of the Disaster Recovery Equipment thereto, as such obligations are defined in the Transition Plan.

(e) Delay in Disaster Recovery Transition. In the event that DLC causes a delay beyond the transition date mutually agreed upon in the Transition Plan, in the transition of the Disaster Recovery Services and Disaster Recovery Equipment from Itron to DLC pursuant to this Section 2.8, (i) Itron will continue to provide Disaster Recovery Services on the terms set forth in Section 2.8(a) until the actual date of such transition, (ii) any such Disaster Recovery Services provided by Itron after the transition date mutually agreed upon in the Transition Plan, will be deemed Supplemental Services for which DLC will pay Itron accordingly, and (iii) DLC will reimburse Itron for the additional costs reasonably incurred by Itron to accommodate such delay.

(f) Annual Disaster Recovery Test. After the expiration of the Disaster Recovery Services Period, DLC will conduct an annual test of Disaster Recovery Services and Disaster Recovery Equipment in accordance with the attached Schedule E. DLC will give Itron reasonable advanced written notice of such annual testing and allow Itron a reasonable opportunity to attend and participate in such test. DLC will furnish to Itron a report detailing the findings of each such annual test within thirty (30) days after the completion thereof.

## 2.9 CCU Maintenance

(a) CCU Field Repair and Maintenance. Not later than January 1, 2004 and for the remainder of the Term, (the “*CCU Transition Date*”) DLC will assume from Itron all responsibility for installation and de-installation of CCUs comprising part of the Fixed Network, including replacement of batteries for the CCUs, as provided in Section 3.4(d). In addition, DLC, as Itron’s subcontractor, will be responsible for field investigation and field de-install and re-install of CCUs comprising part of the Fixed Network pursuant to a mutually agreed upon process.

(b) CCU Shop Repair and Maintenance. Before and after the CCU Transition Date, Itron will provide corrective maintenance for Nonconforming CCUs as set forth in Section 3.4(b) during regular hours at the Itron’s Servicing Location, except that after the CCU Transition Date (i) DLC will deliver any Nonconforming CCU to Itron’s Servicing Location at no cost to Itron; (ii) DLC will take delivery of the repaired or replaced CCU at Itron’s Servicing Location; and (iii) DLC will be responsible for all labor to replace batteries for the CCU units, as provided in Section 3.4(d).

## 2.10 Support of 50ESS ERT Technology

Itron, at its sole cost and expense, will upgrade and modify the Software to support the 50ESS ERT technology as provided in the Transition Plan. DLC, at its sole cost and expense, will upgrade and modify its DISCUS customer information system to support the 50ESS ERT technology as provided in the Transition Plan. For avoidance of doubt, the Transition Plan will provide for the use of 50ESS technology implemented around a P+2, MVRS, or P+4 application architecture (as determined by Itron) and the existing Genesis System Software for monthly and daily reads. If Itron selects an MVRS or P+4 solution, Itron will at its sole cost provide up to 25 handhelds to DLC that are compatible with the selected platform. DLC may choose a solution different than what Itron selects, and in such case DLC will pay for any additional work required to develop the option chosen by DLC on a mutually agreed upon schedule.

## Section 3 Itron Services

### 3.1 Standard Services

During the Term, Itron will perform the Services described in Sections 3.2, 3.3, 3.4 and 3.5 for the Fixed Network and all Itron Proprietary Components (“*Standard Services*”).

### 3.2 Software Releases and Support

(a) Critical Maintenance Releases. Whenever Itron prepares or has prepared a Critical Maintenance Release, Itron shall provide DLC an electronic copy of, and obtain all necessary licenses for DLC to use, the Critical Maintenance Release. Unless directed otherwise by DLC in writing, Itron shall (i) give any request for a Critical Maintenance Release priority over all other DLC reported problems and (ii) provide DLC with corrective action reports and project timetables with respect to the Critical Nonconformity on not less than a weekly frequency. Itron shall provide, at its sole cost and expense, assistance and on-site support to DLC for the implementation of Critical Maintenance Releases in the form of installation, testing and training of designated DLC personnel identified in writing to Itron. All Critical Maintenance Releases shall be deemed Itron Proprietary Components.

(b) Maintenance Releases. Itron shall provide DLC an electronic copy of and, if necessary, a license to use, all Maintenance Releases as soon as they have been prepared or received, and tested for release, by Itron. All Maintenance Releases and related training of DLC personnel as may be reasonably required will be provided upon DLC's request without any additional cost or expense to DLC. Itron shall notify DLC promptly upon scheduling of and completion of any Maintenance Release and upon its receipt of a Maintenance Release from a third party. Such notice shall describe, in reasonable detail, the nature and subject of the forthcoming Maintenance Release. All Maintenance Releases shall be deemed Itron Proprietary Components.

(c) Upgrades Required by Critical Maintenance Releases or Mandatory Maintenance Releases. If any Critical Maintenance Release or Mandatory Maintenance Release prevents or materially impairs DLC's meter reads during the "operations process clock" as specified in Schedule A (the "**Operations Process Clock**"), Itron shall, at its expense, provide DLC with all necessary software and hardware upgrades or modifications to permit DLC to conduct such meter reads during the Operations Process Clock.

(d) Upgrades Required by Optional Maintenance Releases. Optional Maintenance Releases will be compatible with Itron Proprietary Components. If DLC elects to install an Optional Maintenance Release, any and all upgrades of Third Party Components and third party hardware and software will be at DLC's sole cost and expense.

(e) Documentation. Itron shall, as-is and as available, provide DLC such documentation, including commands and/or scripts, as may be necessary to install and operate the Fixed Network, the Compliant System Components, Software, Software Releases, and Disaster Recovery Equipment. Such publications need not, however,

include engineering blueprints, source code, proprietary protocols, and other Itron technical documents unless otherwise agreed to in writing by the Parties. Technical publications, object and source codes, protocols, and other proprietary Itron information shall be made available to DLC pursuant to the terms of the Escrow Agreement. DLC may modify any scripts provided by Itron at DLC's sole risk, but Itron shall have no obligation to modify, enhance or otherwise support any scripts provided to DLC hereunder.

(f) Third Party Software. As of the Effective Date, Itron represents and warrants that the Software is compatible and functional with respect to the Compliant System Components, including, without limitation, the third party software comprising part of the Compliant System Components.

(g) Compatibility. Itron shall provide Mandatory Maintenance Releases to ensure compatibility of the Software with all Compliant System Components. Itron will also provide Custom Releases to ensure compatibility of the Software with other third party software related to the Fixed Network upon the terms provided in Section 3.7(b).

(h) Software Release Support. During the installation of, and for a period of ninety (90) days after the installation of any Software Release, Itron shall make one or more qualified technical representatives available via the toll-free telephone number set forth in Schedule D during the routine support hours set forth in Schedule D, to assist the DLC Service Administrator with installation, use and maintenance of the Software Release.

### **3.3 Technical Support**

(a) Fixed Network and Itron Proprietary Components Routine Technical Support. Itron shall make one or more qualified technical representatives available via the toll-free telephone number set forth in Schedule D during the routine support hours set forth in Schedule D, to assist the DLC Service Administrator with technical support for routine Nonconformities and other general technical support for the Itron Proprietary Components that may be required from time to time.

(b) Fixed Network and Itron Proprietary Components Critical Technical Support. Itron shall make one or more qualified technical representatives available via the toll-free telephone number set forth in Schedule D on a twenty-four (24) hour basis to assist the DLC Service Administrator with any Critical Nonconformity. Such assistance shall include, if requested by the DLC Service Administrator, the dispatch of a technician to correct the Critical Nonconformity within the time periods set forth in Schedule D and in accordance with the other requirements set forth in this Agreement.

(c) Configuration Changes. Upon approval by the Change Control board, Itron shall take such actions as shall be mutually agreed upon to support a Configuration Change; provided, that Itron shall not unreasonably withhold or delay its approval of such Configuration Change. If the Parties have a good faith dispute over whether a requested change is a Configuration Change, such dispute shall be submitted for resolution to an officer of DLC and an officer of Itron who shall have the authority to settle the dispute.

### 3.4 Fixed Network Installation, Investigation and Maintenance

Subject to the obligations of the Parties as set forth in Section 2, Itron will undertake the following:

(a) Field Investigations. In situations where DLC's standard troubleshooting activities in accordance with Section 5.3(f) and 5.3(j) cannot identify or correct a Nonconformity and problem analysis by telephone or remote system access is neither successful nor expedient, and upon receipt of a service request from DLC, (i) Itron will provide services as set forth in Schedule D, and shall dispatch appropriate employees or contract personnel to investigate any Nonconformity; and (ii) as part of its field investigation process, Itron will make available all labor, material, exchange equipment, tools, and consumable supplies (e.g., wire, batteries, brackets, and cables) necessary for de-installation and re-installation of such Nonconforming Itron Proprietary Components. If necessary for DLC to relocate a CCU in order to maintain performance of the Fixed Network, Itron shall provide technical assistance to DLC with respect to such relocation to ensure the integrity of the Fixed Network is not materially impaired solely from such necessary relocation. DLC accepts that Itron will not ensure that previous daily read performance will be maintained at levels before such relocation.

(b) Itron Proprietary Components Corrective Maintenance. Itron shall (i) provide corrective maintenance for Nonconforming Itron Proprietary Components during regular hours at Itron's servicing location, within the response/return times documented in Schedule D; (ii) upon receiving the Itron Proprietary Component at the servicing location, complete the corrective maintenance, or arrange for all corrective maintenance necessary, to return the Itron Proprietary Component to its original operating specifications, excluding minor cosmetic deficiencies (e.g., minor cracks, dents, and scratches); and (iii) furnish all parts and materials necessary to complete the corrective maintenance and eliminate any Nonconformity. Parts so furnished will be new, or in a condition equivalent to new, and shall be functionally equivalent to those parts removed from service. Nonconforming, malfunctioning or inoperative parts so replaced by Itron will become Itron property.

(c) Itron Proprietary Component Installation and Maintenance. Itron will ensure all Itron Proprietary Components installed by Itron pursuant to the Transition Plan have been installed properly as of the Effective Date, and subsequently if installed by or under Itron's direction pursuant to this Agreement. Itron will maintain all Itron Proprietary Components within manufacturer specifications, including performing all necessary or appropriate preventative maintenance on such Itron Proprietary Components.

(d) CCU Batteries. On and after January 1, 2004, Itron will supply batteries for the CCUs to DLC in accordance with Itron's initial forecast of the number of CCU batteries needed in the next twelve (12) months. Thereafter, on or before each subsequent six (6) month anniversary of the Effective Date during the Term, DLC shall provide Itron with a rolling twelve (12) month forecast in writing of DLC's good faith best estimate of the number of CCU batteries needed in each of the coming twelve (12) months. Itron will notify DLC within thirty (30) days of receipt of a DLC forecast if DLC's forecast is not reasonably consistent with Itron's CCU battery life projections. In case of such inconsistency, the Parties will negotiate in good faith to agree upon a revised forecast. Itron will use commercially reasonable efforts to make available to DLC CCU batteries in sufficient quantities to meet the demand forecast by DLC and accepted by Itron. Itron will have no obligation to supply any CCU batteries in excess of DLC's approved forecast. DLC will be solely responsible for (i) proper removal and disposal of all CCU batteries from CCU units in accordance with all Applicable Laws (including, without limitation, all applicable guidelines of the Environmental Protection Agency), and (ii) proper installation of new CCU batteries in such CCU units, whether such service is done in the field or elsewhere.

### **3.5 Additional Charge for Standard Services**

If, but only to the extent that, Itron is required to perform any Standard Services as a result of any of the following events or circumstances (a "**Premium Standard Service**"), then (i) Itron shall use its reasonable best efforts to perform said Premium Standard Services, in which case the provisions of Schedule D and Section 3.9(a) shall not apply, and (ii) at Itron's option, DLC shall pay for such Premium Standard Service as if it were a Supplemental Service at the Preferred Price:

(a) Any repair, maintenance, service, modification to or alteration of the Fixed Network performed after the Effective Date by any personnel other than Itron personnel (including its employees, agents and contractors) or Itron-trained DLC personnel (including its employees, agents and contractors) after the Effective Date without prior notice to and approval by Itron, which approval shall not be unreasonably withheld;



(b) Any damage to or accident involving the Fixed Network or Compliant System Components due primarily to the negligence of, or an intentional act of sabotage by, DLC or any of its employees, contractors, subcontractors or agents;

(c) Any DLC Default;

(d) Any Nonconformity resulting from a major modification to or alteration of the Fixed Network by DLC which had not been approved or otherwise permitted pursuant to the Change Control procedures attached as Schedule A; or

(e) Any Service required because DLC did not operate the Fixed Network or Compliant System Components within the normal operating standards employed at the DLC Operations Center as of the Effective Date and as modified from time to time pursuant to this Agreement.

### **3.6 Failure to Perform Standard Services**

Subject to DLC's fulfillment of its obligations under this Agreement, Itron shall perform the Standard Services within the time periods set forth in Schedule D or as otherwise required by this Agreement, and such Standard Services shall comply with all performance standards and other requirements of this Agreement. In the event that Itron fails to perform any of the Standard Services as and when required under the terms of this Agreement, and provided that DLC has followed the escalation process provided in Schedule G, then, in addition to any other rights and remedies it may have hereunder, at law, in equity or otherwise, upon written notice to Itron, DLC may perform or cause a third party to perform such Standard Services and shall be entitled to (a) offset the costs and expenses of performing or having performed such Standard Services against any amounts owed to Itron pursuant to Section 6, and (b) upon offsetting all such amounts then due and payable to Itron pursuant to Section 6, draw upon the Letter of Credit for payment of the costs and expenses of such Standard Services.

### **3.7 Supplemental Services**

Upon receipt of a written request from DLC, Itron shall provide the following services ("**Supplemental Services**") to DLC, each of which shall be at the Preferred Price:

(a) Excluded Equipment. At DLC's request and after Itron's agreement, which will not be unreasonably withheld, Itron shall make commercially reasonable efforts to provide Services at a commercially reasonable price for any Excluded Equipment.

(b) Custom Releases. Within thirty (30) days of receipt of a written request from DLC for a Custom Release, Itron shall provide DLC with a budgetary estimate of Itron's price and time required to prepare or cause preparation of the Custom Release. The budgetary estimate shall include, but not be limited to, the following information: a requirements definition, and estimates and descriptions of project management, design, tooling, programming, documentation, testing, implementation and ongoing service. Itron will prepare a firm estimate of Itron's price and time required to prepare or cause preparation of the Custom Release within sixty (60) days of such request. If DLC provides Itron with a written notice to proceed within thirty (30) days of the receipt of the budgetary estimate or firm estimate, as applicable, Itron shall, as soon as commercially reasonable, (i) prepare or cause to be prepared, (ii) provide DLC an electronic form copy of, and (iii) obtain all necessary licenses for DLC to use, the Custom Release in accordance with such estimate, and shall otherwise perform all services and obligations as set forth in such estimate.

(c) Optional Support and Training Services. Within fifteen (15) days of receipt of a written request from DLC, Itron shall provide DLC with a firm estimate of Itron's price and time required to provide DLC with support and/or training services that are not Standard Services, in each case as may be set forth in the request. If DLC provides Itron with a written notice to proceed within 30 days of the receipt of the firm estimate, Itron shall provide the services in accordance with the firm estimate.

(d) Itron Proprietary Component Upgrades. Within thirty (30) days of receipt of a written request from DLC, Itron shall provide DLC with a budgetary estimate of Itron's price and time required to prepare or cause preparation of and to implement an upgrade of or enhancement to a Itron Proprietary Component that is not otherwise provided for in this Agreement. Within sixty days of receipt of a written request from DLC, Itron shall provide DLC with a firm estimate of Itron's price and time required to prepare or cause preparation of and to implement an upgrade of or enhancement to a Itron Proprietary Component that is not otherwise provided for in this Agreement. If DLC provides Itron with a written notice to proceed within 30 days of the receipt of the budgetary estimate or firm estimate, as applicable, Itron shall prepare and implement the upgrade or enhancement in accordance with such estimate.

(e) Other Supplemental Services. Upon request from DLC, Itron shall provide the following Supplemental Services at the Preferred Price for labor, materials, and expenses:

- (i) Services and expenses outlined as obligations of DLC in this Agreement;

- (ii) Service requests that include services, overtime or holiday coverage, response/return times, special freight or expenses over and above the Standard Services;
- (iii) Additional services that are required due to DLC's inability to provide Itron with reasonable access to system performance data and use of operational tools available to the Fixed Network;
- (iv) Any field investigations or corrective maintenance that are not otherwise caused by Nonconformities or Critical Nonconformities;
- (v) Field investigation support for meters, ERTs, Siris Devices and Excluded Equipment;
- (vi) Installation and/or acceptance tests, data, reports, documentation, upgrades and/or enhancements not specifically related to Itron Proprietary Components or included as part of this Agreement; and
- (vii) Assistance to DLC for the implementation of a Maintenance Release in the form of installation and testing.

### 3.8 Warranties and Performance Standards

(a) Critical Nonconformities. Notwithstanding anything to the contrary set forth elsewhere in this Agreement and except as otherwise provided in Section 3.6, in performing the Standard Services, the following requirements shall apply to any and all Critical Nonconformities:

(i) Itron shall exercise its reasonable best efforts to eliminate a Critical Nonconformity within 120 hours after it receives written notice from DLC that a Critical Nonconformity exists (the "**Initial Cure Period**"). If a Critical Nonconformity has not been eliminated within the Initial Cure Period, DLC shall have the option, exercisable in its sole discretion, to require Itron to pay a penalty of \$5,000 to DLC within ten days after the end of the Initial Cure Period.

(ii) With respect to any Critical Nonconformity which has not been eliminated within the Initial Cure Period, Itron shall exercise its reasonable best efforts to eliminate such Critical Nonconformity as soon as possible, but in any event on or before the date which is 15 days after the end of the Initial Cure Period (the "**Final Cure Date**"). If a Critical Nonconformity has not been eliminated on or before the Final Cure Date (as it may be extended pursuant to (iii) below), an Event of Default under Section 7.1 shall be deemed to exist.

(iii) If it would not be possible through the exercise of reasonable best efforts for Itron or any other similar company to eliminate the Critical Nonconformity on or before the Final Cure Date, then the Final Cure Date may be extended at DLC's sole discretion if DLC is satisfied that continuing reasonable best efforts by Itron will eliminate the Critical Nonconformity.

(b) Itron Warranties. Itron represents, warrants and guarantees that any Services provided under this Agreement shall be (i) provided in accordance with the requirements of this Agreement; and (ii) provided in a timely, skillful, workmanlike and professional manner.

(c) Third Party Warranties. To the extent permitted and subject to Section 9.1, Itron will assign to DLC, without recourse to Itron, all third party manufacturer's warranties related to the items listed on Schedule C which are in effect on the Effective Date. The expiration of such warranties, however, shall not be acceptable cause for non-delivery, or unsatisfactory delivery, of Services under this Agreement.

(d) Applicable Standards. Itron will perform, and will cause its contractors to perform, any Services safely, reliably, efficiently, in compliance with all Applicable Laws, including FCC and PUC requirements, in conformance with industry standards and under conditions reasonably required by DLC's insurers.

(e) Relations with Labor. Itron shall maintain good relations with its employees and contractors with regard to its performance of the Services. Itron shall promptly notify DLC in writing of any material complaint made by or any material dispute that arises with any of these Persons in connection with the Services.

(f) Environmental Compliance.

(i) Prior to commencement of any Services involving Materials of Environmental Concern, Itron shall provide to DLC a list of all Materials of Environmental Concern that may be used or generated in connection with the Services.

(ii) In furtherance of and not in limitation of any other portion of this Agreement, Itron shall, and shall cause its subcontractors to, comply with all Applicable Laws relating to safety and the protection of the environment including, but not limited to, handling, protection, transportation and disposal of all Materials of Environmental Concern ("**Environmental Laws**"). The Services shall at all times comply with Environmental Laws.

(g) CCU, NCN and Communications Equipment Performance. A CCU will be considered Nonconforming when communications have failed for three (3) consecutive days or if its continued operation interferes with other Fixed Network

components; provided, however, such failure is not caused by a DLC Default. Itron's Services shall be performed in a manner that ensures that CCU/NCN reads (data collection) are successful for ninety-six percent (96%) of the attempts during each month during the Term; provided, however, such shortcoming is not caused by a DLC Default. Itron agrees that maintenance and support activities will be reviewed and revised, if necessary, in consultation with DLC, if aggregate CCU/NCN read performance falls below ninety-six percent (96%) for any consecutive seven day period; provided, however, such shortcoming is not caused by a DLC Default.

### **3.9 Personnel and Qualifications**

(a) General. Itron shall provide all labor and personnel required in connection with the performance of the Services. All personnel used by Itron in the performance of Services shall be qualified by training, licenses or certifications, as required, and experienced to perform their assigned tasks. Itron shall ensure that all personnel assigned to perform Services that involve contact with DLC customers are subject to the same current background checks, security requirements and other protective personnel procedures, including, without limitation, drug testing procedures, as are personnel of DLC in similar positions. At DLC's request, Itron shall remove from performing Services any employee whom DLC, in its reasonable discretion and with sufficient cause, deems unqualified, incompetent, disorderly, insubordinate, careless or otherwise objectionable (except that Itron shall have no obligation to remove any employee if such removal would violate Applicable Law).

(b) Use of Contractors. Itron may, at its sole discretion, use contract personnel to perform any Services pursuant to this Agreement. Such contract personnel shall possess the required qualifications, training and experience necessary to perform the required tasks in accordance with applicable industry standards. Such contract personnel will be dispatched by and responsible to Itron. DLC shall not direct Itron's contract personnel to perform any tasks not included as Standard Services or Supplemental Services under this Agreement.

### **3.10 Interference With DLC's Facilities**

Itron shall not materially and adversely interfere or tamper with any of DLC's facilities in any way that is not necessary or appropriate to the performance of the Services without the prior written consent of DLC, and Itron shall take all actions necessary or appropriate to prevent its employees, other contractors or subcontractors from doing so.

### 3.11 Assumption of Risk and Insurance

(a) Assumption of Risk. Each party acknowledges that the services to be provided by either party under this Agreement may involve work at or near energized electric lines or equipment, above and below ground, and potential exposure to Materials of Environmental Concern and that, for this reason, there are certain risks attendant to the performance of services provided by either party under this Agreement. Each party explicitly assumes these risks and the risks of pre-existing conditions during the performance of such party's services, excluding any conditions to the extent caused by the other party's negligence or willful misconduct.

(b) Insurance. During the Term, Itron shall maintain, at no cost to DLC, at least the following kinds and amounts of insurance to cover bodily injury (including death) and tangible property damage suffered or (in the case of liability insurance) caused by Itron or its employees, if any, in connection with the performance of the Services:

(i) *Employer's Liability Insurance*. Limit of not less than \$500,000.

(ii) *Comprehensive General Liability Insurance*. Includes premises operation, independent contractor's protective, products, completed operation, and blanket contractual liability coverage with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, and coverage for blasting or explosion, collapse and underground work if applicable. The property damage liability insurance shall include the broad form comprehensive general liability coverage and shall include coverage (on a replacement cost basis) for Compliant System Components while in the care, custody and possession of Itron.

(iii) *Excess Umbrella Liability Insurance*. Single limit of not less than \$15,000,000.

(iv) *Worker's Compensation*. A worker's compensation policy in such coverage and with such limits as may be required from time to time by Applicable Law.

Itron's liability policies required under this section shall contain a waiver of subrogation in favor of DLC. DLC shall be named as an additional insured on Itron's liability policies required under this section, as its interests may appear. Upon DLC's request, Itron shall provide written evidence that Itron complies with the requirements of this section, stating the policy number and the inception and expiration data of all policies. A "notice of cancellation/material alteration" clause shall be included in Itron's liability policies required under this section that shall require the policy issuer or policy holder to give DLC at least thirty (30) days' notice prior to cancellation or material alteration under such policy.

### **3.12 Change Control**

The Change Control Procedure attached as Schedule A will govern material changes to the Fixed Network and the Fixed Network test environment.

### **3.13 Review and Inspection**

During the Term, each party will, upon at least ten (10) Business Days' prior written request by the other party, allow the other party to review and inspect the nonrequesting party's operating records, equipment, facilities and other relevant materials related to the Fixed Network or nonrequesting party's obligations set forth in this Agreement to the extent necessary to verify the nonrequesting party's compliance or non-compliance with the obligations provided in this Agreement; provided, that any such inquiry is conducted during normal business hours and in a manner designed to not unreasonably interfere with the nonrequesting party's ordinary business operations.

## **Section 4. Licenses**

### **4.1 Licenses**

During the Term and to the extent permitted by third party licensors (if applicable) and with no additional cost to Itron, Itron hereby grants DLC a non-exclusive, unrestricted, royalty-free license (for Itron-owned Software) or sublicense (for third-party-owned Software listed on Schedule C) to use, in connection with the Fixed Network, all Software, including commands and/or scripts, and all subsequent Software Releases. The terms of Itron's end-user license for any third party Software as in effect on the Effective Date shall apply to any sublicense for such third party Software under this section. Notwithstanding the foregoing, if the effective operation of the Fixed Network requires that DLC own any Software or Software Release, Itron shall, at its sole cost and expense, take such commercially reasonable steps as may be necessary to procure for DLC a license of such Software or Software Release.

### **4.2 Ownership of Software and Software Releases**

All Software and Software Releases not owned by a third-party are owned by Itron unless and until such ownership has been licensed to DLC pursuant to Section 4.1 hereof.

## **Section 5. Implementation**

### **5.1 Cooperation**

The Parties will cooperate in good faith in performing their respective obligations under this Agreement.

## 5.2 General Obligations

(a) Service Administrators. DLC will identify at least two (2) employees to act as primary and backup service administrators (each, an “**DLC Service Administrator**”), and Itron will identify at least two (2) employees to act as primary and backup service administrators (each, an “**Itron Service Administrator**”). The DLC Service Administrators and the Itron Service Administrators shall act as liaisons between DLC and Itron for all Service issues.

(b) Service Requests.

(i) Itron shall maintain and make available to DLC a staff of service personnel to respond to DLC service requests in accordance with Schedule D.

(ii) Service requests for Nonconformities other than Critical Nonconformities shall be reported to Itron by DLC’s Service Administrator via Itron’s Customer Support Hotline at (800) 635-8725.

(iii) Service requests for Critical Nonconformities shall be reported by the DLC Service Administrator to the on-duty Itron Service Administrator at (800) 635-8725. The on-duty Itron Service Administrator will take all necessary action to remedy such Critical Nonconformity on an urgent basis, including immediately dispatching a technician to the DLC Operations Center if necessary or if requested by DLC as set forth in Schedule D.

(iv) Upon initiating a Service Request, DLC’s Service Administrator should provide, at a minimum, the following information:

Contact Name:

Telephone Number:

Description of Problem:

Type of Equipment:

Equipment Item/Part Number:

Software (Version):

Materials to be Returned: Y/N

(c) Security. DLC, at its expense, shall establish and maintain physical and remote access to the Fixed Network, which will include security badges and facilities entry security for Itron service personnel and mutually designated service providers enabling Fixed Network access twenty-four (24) hours per day, seven (7) days per week and computer passwords will allow Itron service personnel to access, but not, without DLC’s consent, to make changes to, Fixed Network menus, commands, and databases as necessary for Itron to provide Services. Itron shall hold, and shall cause each of its



employees and contractors to hold, all security badges, computer passwords and other security codes and information relating to the Fixed Network in strict confidence, and neither Itron nor any of its employees, contractors or agents shall permit any unauthorized Person to have any access to or possession of any of said items.

(d) Technical Library. DLC shall maintain, and provide Itron with access to, a technical library at the DLC Operation Center for storage and maintenance of all related Fixed Network agreements, back-up software, installation guides, operators manuals, service manuals, engineering change orders, specifications, service bulletins and reports associated with installation, operation, maintenance and administration of the Fixed Network, Software and Software Releases. Itron will support DLC as the co-proprietor of this library. Unless specifically identified as "Public Information," all materials maintained in the technical library shall be Confidential Information, and each Party agrees to not copy, make available or distribute materials, documents, Software or Software Releases from the technical library to any third party for any reason without prior written consent from the other Party; except that Itron, with the prior approval of DLC, may make materials in the technical library available to third parties who have entered into a written agreement with Itron to protect the confidentiality of such materials.

(e) Communications. Itron will maintain the routers and other frame relay communications Equipment as set forth on Schedule C, as may be modified pursuant to this Agreement, between the NCN sites and the DLC and Spokane Operation Centers at its own cost and expense, other than the communications charges, which will be the responsibility of DLC. In addition to the circuits required for operation of the Fixed Network, Itron will, at DLC's sole cost and expense, maintain links to Itron for remote access support services. Itron shall use these support links solely for its system maintenance and support activities as documented herein, and shall not make material changes to the Fixed Network without prior authorization of DLC. DLC shall work with Itron and the communications service provider toward establishing a working relationship that will enable Itron to perform the Services hereunder.

(f) Returned Materials. Prior to returning any Itron Proprietary Component to Itron for Service, DLC will request Itron to assign a return materials authorization ("**RMA**") number to the request. Upon issuance of the RMA, DLC will return the Itron Proprietary Component via prepaid freight to Itron's servicing location with reference to the assigned RMA number on all shipping labels and documents. Upon receiving returned Itron Proprietary Components from DLC and completion of Services, if applicable, Itron will return materials to DLC via prepaid freight.

(g) Reserve Inventory. The following items (the “*Reserve Inventory*”) are owned by DLC:

<u>Item</u>	<u>Quantity</u>
ERTs	3,000
ERT 50ESS	100
CCUs	300
NCNs	2

DLC shall have the right to hold and use the Reserve Inventory as and when it, in its sole discretion, determines. Itron shall have no right to use any of the Reserve Inventory in connection with its services hereunder without the prior written approval of DLC. Itron shall have no obligation to replenish any of the Reserve Inventory used by DLC.

(h) Maintenance Inventory. The following items (the “*Maintenance Inventory*”) are owned by DLC:

<u>Item</u>	<u>Quantity</u>
DCU	1
ERTs	2,000
CCUs	200
NCNs	3
Routers	3
Telestructures	10

DLC, at its expense, will own, warehouse and make available to Itron the Maintenance Inventory for the performance of the maintenance responsibilities described herein and at no cost to Itron. DLC shall supply Itron with information regarding the disposition of any such assets used for maintenance or expansion purposes that are not Itron’s responsibility under this Agreement. DLC agrees that the Maintenance Inventory will be used exclusively in connection with the Fixed Network for exchange of field equipment on a “like for like basis”, or, upon payment of any associated incremental cost (including the cost of additional CCU or NCN equipment that may be required to be installed), on a “non-like for like” basis and will also make these materials available to Itron service representatives. As additional consideration for the fees payable by DLC pursuant to Section 6, from time to time, within 30 Business Days after its receipt of a written report from DLC showing that the quantities of the Maintenance Inventory held by DLC are less than the numbers shown above, Itron, upon DLC’s request, shall transfer title, free and clear of all liens and encumbrances, and deliver to DLC, such additional quantities of such materials as are necessary to maintain the quantities of Maintenance Inventory as listed above.

(i) Service Reports/Data. Itron and DLC will complete applicable installation, operation, and maintenance reports/data as documented and listed in Schedule B, relating to any/all services performed on Compliant System Components. Reports may be submitted in a machine-readable format via standard media or pre-determined file formats on a monthly basis.

(j) Software Testing. Upon Itron's written request, DLC will provide Itron, at mutually agreeable times and during normal business hours, at no additional cost to Itron, with reasonable opportunity and cooperation to test any software on the Fixed Network that Itron is contemplating offering as a Software Release to be used in the Fixed Network in order to assess compatibility, effect on system speed and other effects of such software implementation on the Fixed Network.

(k) Annual Meeting. The Parties will meet at least once per calendar year to discuss, among other things, the status of the Fixed Network, the Compliant System Components and the Software and any potential changes or upgrades to any of the same. In advance of any annual meeting pursuant to this Section 5.2(k), each Party will submit to the other Party a proposed agenda for the annual meeting. If neither Party thinks a face-to-face meeting is necessary, then a telephone conference will suffice. If either Party requests a face-to-face meeting, then such meeting will be held in a mutually agreeable location. Each Party will absorb its own travel and other costs to participate in such a meeting. Any agreements reached by the Parties during such annual meeting may be reduced to a writing signed by the authorized representative of each Party and attached to this Agreement as an addendum hereto.

### **5.3 Obligations of DLC**

In addition to the obligations of DLC set forth elsewhere in this Agreement, DLC shall be responsible for the following:

(a) Software Releases. Any Software Releases provided to DLC pursuant to this Agreement are exclusively for DLC's operation of the Fixed Network. DLC, in accordance with the terms of this Agreement, shall install or permit Itron to install all fully tested and approved Critical Maintenance Releases and Mandatory Maintenance Releases made available by Itron; such testing and approval not to be unreasonably withheld or delayed. For avoidance of doubt, if a Mandatory Maintenance Release does not maintain materially acceptable performance consistent with past performance of the Fixed Network, DLC's refusal to approve such Maintenance Release for installation shall be deemed reasonable. DLC, in accordance with the terms of this Agreement, may elect to install or permit Itron to install any Optional Maintenance Release or Custom Release in the manner and on a schedule as the Parties may agree from time to time.

(b) Compliant System Components. DLC shall maintain a database of all Equipment, Software, Software Releases and other Compliant System Components, including installed quantities, in a format that allows printing of a report similar to that set forth on Schedule C. The database information will initially be provided by Itron and will include manufacturer, model and serial numbers, equipment and software revision numbers, physical location, accessories, etc., and be maintained in machine-readable format with updated summaries prepared every thirty (30) days and made available to Itron upon request.

(c) Operation Standards. DLC agrees to operate the Fixed Network and Compliant System Components with appropriately trained personnel and in accordance with the standard operating practices that were in effect as of the Effective Date and modified from time to time thereafter pursuant to this Agreement as provided to DLC by Itron.

(d) Leases, License and Permits. DLC, with Itron's cooperation as necessary, shall maintain all NCN site leases, City of Pittsburgh license fees and FCC licenses required to operate the Fixed Network, except such licenses as may be sub-licensed to DLC by Itron pursuant to the Radio Frequency Sharing Agreement, which licenses shall be maintained by Itron at its sole cost and expense throughout the Term of this Agreement.

(e) Facilities. At no cost to Itron, DLC shall make available to Itron in connection with Itron's performance of its obligations hereunder warehouse space for the Itron Equipment as is currently provided as of the Effective Date. In addition, upon no less than ninety (90) days' advance written notice, DLC will provide at no additional cost to Itron reasonable and appropriate office space for up to four (4) people as is reasonably necessary for Itron to perform the Services hereunder.

(f) Troubleshooting. Prior to initiating any request for Standard Service under Article II of this Agreement, DLC shall follow the standard operating procedures (as they exist on the Effective Date and as they may be modified thereafter) for the Fixed Network data center to qualify and correct operationally related Compliant System Component problems. These efforts include activities that can be performed by DLC as part of its Fixed Network data center operations. Examples of such procedures include, but are not limited to, normal execution of monitoring or diagnostic software, system tests, communications tests, electrical power checks, component reset or recovery routines. Once these efforts have been made, the Itron Customer Support Center will be contacted for routine issues. DLC may contact the Itron Service Administrator immediately for Critical Nonconformity issues to review other alternatives and to take such action as may be required by this Agreement.

(g) System Data. Upon receipt of a written request from Itron, DLC shall provide such up-to-date Fixed Network configuration and system performance data as is reasonably requested in writing by Itron in connection with its delivery of Services as outlined herein, provided that if a Critical Nonconformity exists, such request may be oral.

(h) Test Environment. DLC shall have and operate a Fixed Network test environment that mirrors a portion of the production Fixed Network environment for acceptance testing of Compliant System Components. DLC and Itron will each have the same responsibilities with respect to maintaining the test environment as they do with respect to maintenance of the production Fixed Network environment. DLC will provide Itron with assistance for Fixed Network testing of Compliant System Components as required prior to installation into the Fixed Network. All Itron proprietary software and Itron manufactured hardware comprising any of the test environment equipment is considered a Itron Proprietary Component.

(i) DLC Contractors. DLC shall require that all contractors who may perform DLC's responsibilities as documented herein incorporate Itron's published installation and/or operating procedures as a contractor requirement. Itron may consider any request for Service (including any Supplemental Service for which the charges pursuant to this Agreement will apply) initiated by a contractor identified by DLC to Itron in writing as an "authorized DLC contractor."

(j) Field Investigation. DLC shall dispatch appropriate employee or contract personnel to investigate, and if necessary exchange, Nonconforming ERTs, Siris Devices, CCUs, telenetics equipment and meters. As part of its field investigation process, DLC shall make available all labor, materials, meters, equipment from the Maintenance Inventory, tools, and consumable supplies (meter seals, wire, equipment, etc.), necessary for de-installation and re-installation of ERTs, Siris Devices, CCUs and meters, as necessary to restore proper operation.

(k) Third Party Hardware. DLC shall, at its sole cost and expense, provide for corrective maintenance (including, without limitation, all parts, materials and labor necessary to complete such corrective maintenance) of all hardware used by DLC in any way connected with the Fixed Network that is not an Itron Proprietary Component. Without limiting the foregoing, DLC may request that Itron perform such corrective maintenance as Supplemental Services pursuant to Section 3.7.

(l) Third Party Software. Except as provided in Section 3.2(c), as of January 1, 2003, DLC has assumed all costs (including, without limitation, for license, maintenance and support obligations) for all software used by DLC that is in any way connected with the Fixed Network that is not an Itron Proprietary Component, and Itron shall have no obligation to provide any of the same to DLC.

(m) Disposal. DLC agrees to dispose of all DLC-owned materials removed from service in accordance with Applicable Laws and reasonable Itron recommendations. DLC agrees that any DLC-owned materials forwarded to Itron that require disposal, exclusive of units returned for repair or replacement at Itron's request, may be returned to DLC at DLC's expense.

(n) Backup. DLC shall follow standard operating practices to periodically check the operation of all Fixed Network backup Compliant System Components located in the DLC Operations Center and the DLC Disaster Recovery Center as of the Effective Date as modified thereafter pursuant to the Agreement.

(o) Use of Compliant System Components. DLC agrees to use all Compliant System Components solely for the purpose of operating, maintaining and expanding the Fixed Network pursuant to the Agreement.

## **Section 6. Compensation; Conditions Precedent**

### **6.1 Itron Payment to DLC Upon Effective Date**

As part consideration for the amendments to the First Maintenance Agreement as set forth in this Agreement, Itron will pay to DLC the sum of four million dollars (\$4,000,000.00) payable within two (2) Business Days after the Effective Date via wire transfer as instructed by DLC.

### **6.2 DLC Payment to Itron Upon Replacement Target Date**

DLC will make a one-time payment to Itron in the sum of forty-five thousand dollars (\$45,000.00) payable concurrently with the first quarterly payment in 2004.

### **6.3 Annual Fee for Standard Services**

(a) Annual Fee. For each twelve (12) month period of the Term, DLC will pay Itron for the Standard Services a fee of six hundred and ninety five thousand five hundred dollars (\$695,500.00), payable in four (4) equal installments due on the first day of each consecutive three (3) month period of the Term, beginning April 1, 2003. Undisputed payments not received within thirty (30) days after the date upon which such payment is due will bear interest at a rate equal to the lesser of one and one-half percent (1-1/2%) per month or the maximum rate permitted under Applicable Law. Payments to be made under this section are subject to offset and/or reduction pursuant to the applicable provisions of this Agreement.

(b) Increases in Annual Fee. The fee payable pursuant to Section 6.3(a) is subject to increase from time to time, as agreed by the Parties, upon the addition of additional Compliant System Components to the Fixed Network pursuant to Supplemental Services.

#### **6.4 Fees for Supplemental Services**

For all Supplemental Services, unless otherwise provided in this Agreement, Itron will invoice DLC at the Preferred Price. Payment will be due within 30 days of submission. Undisputed invoices not paid within 30 days of receipt will bear interest at a rate equal to the lesser of one and one-half percent (1-1/2%) per month or the maximum rate permitted under Applicable Law.

#### **6.5 Letter of Credit**

Itron shall, on or prior to the Effective Date, furnish and throughout the Term maintain for the benefit of DLC a standby letter of credit, issued by a Qualifying Bank acceptable to DLC (the "**Letter of Credit**"), containing the terms and conditions set forth in Section 6.6, and in the L/C Amount. The Letter of Credit shall be security for Itron's performance of all Services and its other obligations hereunder during the Term of this Agreement. Itron shall be responsible for making sure the Letter of Credit does not expire (without renewal) prior to the expiration of the Term.

#### **6.6 Conditions of Letter of Credit**

(a) Conditions of Draw. DLC shall be entitled to draw any amounts up to the total amount available under the Letter of Credit established under Section 6.5 upon any of the following conditions:

- (i) an Event of Default has occurred under Section 7.1;
- (ii) a replacement Letter of Credit has not been delivered to DLC on or before thirty (30) days before the expiration of the Letter of Credit; or
- (iii) a draw on the Letter of Credit is permitted pursuant to Section 3.6 or Section 9.5.

(b) Other Conditions. The Letter of Credit shall provide (i) that DLC may draw on such Letter of Credit in any amount up to the total amount of the Letter of Credit by providing a certificate executed by two officers of DLC stating that DLC is entitled to draw on the Letter of Credit pursuant to Section 6.6(a) and specifying the amount of such draw; and (ii) that draws will be in immediately available funds no later than the next three (3) Business Days following delivery of the certificate.

## Section 7. Events of Default

### 7.1 Events of Default

(a) To the extent not caused by a DLC Default, the following shall constitute events of default (each, an **“Event of Default”**), each of which shall entitle DLC to exercise the remedies set forth in Section 7.2 hereof:

(i) Itron’s failure to perform its obligations pursuant to Section 3.8(a);

(ii) Itron’s sale of all or substantially all of its assets or business to any Person and either (A) such Person does not specifically assume all of Itron’s obligations under this Agreement or (B) such Person is not acceptable to DLC in its reasonable discretion;

(iii) Itron assigns this Agreement in violation of Section 11.3; and

(iv) The appointment of a receiver, custodian, or trustee of Itron for all or substantially all of the property of Itron; Itron makes an assignment for the benefit of creditors other than an assignment for security or collateral purposes in connection with a financing; Itron convenes a meeting of its creditors, or any class thereof, for purposes of effecting a moratorium upon or extension or composition of its debts and thereafter is unable to obtain an agreement with such creditors for a moratorium upon or extension or composition of its debts; Itron shall have been adjudicated bankrupt or insolvent or all or substantially all of its property shall have been sequestered by an order of federal, state, foreign or other court of competent jurisdiction; there shall have been a filing of an involuntary petition against Itron seeking liquidation, reorganization, arrangement, readjustment of its debts or for any other relief under the Bankruptcy Code or under any other act or law pertaining to insolvency or debtor relief, whether state, federal or foreign, now or hereafter existing, which petition shall not be dismissed within sixty (60) days after such filing; Itron has commenced any bankruptcy, reorganization or insolvency proceeding or other proceeding under the Bankruptcy Code or under any other act or law pertaining to insolvency or debtor relief, whether federal, state or foreign, now or hereafter existing, or Itron has consented to the taking of any of the foregoing actions; or Itron voluntarily dissolves or terminates its corporate existence or is terminated or dissolved, liquidates or is liquidated.

(b) In the event that Itron materially breaches or fails to perform any of its covenants, agreements or obligations under this Agreement, and such material breach or failure continues for a period of forty-five (45) days following Itron’s receipt of written notice from DLC of such material breach or failure to perform (the **“Cure Period”**), then for each day following such Cure Period that the material breach or failure continues,



DLC shall have the option, exercisable in its sole discretion, to withhold and deduct from the next scheduled fee payment under Section 6.3, an amount equal to the annual fee then payable under Section 6.3, divided by 365. If such material breach or failure to perform continues for a period of thirty (30) days beyond the end of the Cure Period, then DLC shall have the right, at its option, to terminate the Agreement pursuant to Section 8.2, and upon such termination, DLC may exercise any or all of the remedies in Section 7.2 (in addition to any other rights and remedies it may have at law, in equity or otherwise, including those under this Agreement, the Escrow Agreement and the Radio Frequency Sharing Agreement). If Itron has advised DLC in writing that the material breach or failure is not capable of being cured within the Cure Period through the exercise of Itron's reasonable best efforts, and provided that (x) Itron has commenced and is continuing to use its reasonable best efforts to cure the material breach or failure, and (y) DLC is satisfied that such reasonable best efforts will result in a timely cure, then the Cure Period shall be extended for the additional time necessary to achieve such cure.

## **7.2 Remedies for Events of Defaults**

Upon the occurrence of an Event of Default under Section 7.1(a), and as permitted by Section 7.1(b), DLC shall be entitled to exercise any or all of the following remedies in addition to any other rights and remedies it may have, at law, in equity or otherwise, including those under this Agreement, the Escrow Agreement and the Radio Frequency Sharing Agreement:

- (a) DLC may immediately draw down all or any portion of the Letter of Credit required to be maintained at that time to cover damages cause by such Event of Default;
- (b) DLC may cause all items held in escrow pursuant to the Escrow Agreement to be delivered to it; and
- (c) DLC may terminate this Agreement pursuant to Section 8.2 hereof and draw down all or any portion of the Letter of Credit required to be maintained at that time.

## **7.3 Change in Control**

Upon the occurrence of a Change in Control, DLC may cause all items held in escrow pursuant to the Escrow Agreement to be delivered to it for its use, to the extent reasonably necessary, in connection with the Fixed Network.

## **Section 8. Term and Termination**

### **8.1 Term**

The term of this Agreement will commence on the Effective Date, unless earlier terminated as provided elsewhere in this Agreement, and will automatically terminate at the end of December 31, 2013 (the "**Term**"); provided, however, that the Term shall be automatically extended for an additional two (2) year period at the end of the Term and at the end of each subsequent two (2) year extension period unless either (a) Itron has given DLC written notice of its intent not to renew at least two (2) years prior to the end of the Term or any extension period or (b) DLC has given Itron notice of its intent not to renew at least twelve (12) months prior to the end of the Term or any extension period. Each extension of Term shall be subject to a commercially reasonable adjustment to the compensation payable under Sections 6.2 and 6.3 hereof. The Term shall include each such additional extension period.

### **8.2 Termination by DLC**

Without limiting any other rights or remedies (including, without limitation, any right to seek damages and other monetary relief) that DLC may have in law or otherwise, DLC may terminate this Agreement (a) upon the occurrence of an Event of Default, (b) as provided in Section 7.1(b), or (c) at any time at its convenience upon 120 days' notice to Itron. In the event of such termination for convenience, Itron shall discontinue Services hereunder in accordance with the termination notice. Effective on the date of such termination, the Parties shall mutually agree on the procedures for termination and DLC shall make payment to Itron in the amount of (i) \$1.0 million if the termination notice is given on or prior to March 30, 2005, (ii) \$500,000 if the termination notice is given after March 30, 2005 but on or prior to March 30, 2010, and (iii) \$250,000 if the termination notice is given after March 30, 2010. Upon making such payment, DLC shall receive from Itron all licenses and other rights necessary or appropriate to operate the Fixed Network and Compliant System Components.

### **8.3 Termination by Itron**

Without limiting any other rights or remedies (including, without limitation, any right to seek damages and other monetary relief) that Itron may have in law or otherwise, Itron may terminate this Agreement upon written notice if:

(a) DLC breaches its obligations to make payments under Section 6 hereof, unless such failure to pay is covered by a bona fide, good faith dispute, provided that (i) Itron sends written notice to DLC describing the breach, and (ii) DLC does not cure the breach within thirty (30) days following its receipt of such notice;

(b) Itron gives DLC no less than sixty (60) days prior written notice of a DLC Default (other than a failure to make payments as provided in Section 8.3(a)), which DLC Default remains uncured at the end of such 60-day period; or

(c) There is an appointment of a receiver, custodian, or trustee of DLC for all or substantially all of the property of DLC; DLC makes an assignment for the benefit of creditors other than an assignment for security or collateral purposes in connection with a financing; DLC convenes a meeting of its creditors, or any class thereof, for purposes of effecting a moratorium upon or extension or composition of its debts and thereafter is unable to obtain an agreement with such creditors for a moratorium upon or extension or composition of its debts; DLC shall have been adjudicated bankrupt or insolvent or all or substantially all of its property shall have been sequestered by an order of federal, state, foreign or other court of competent jurisdiction; there shall have been a filing of an involuntary petition against DLC seeking liquidation, reorganization, arrangement, readjustment of its debts or for any other relief under the Bankruptcy Code or under any other act or law pertaining to insolvency or debtor relief, whether state, federal or foreign, now or hereafter existing, which petition shall not be dismissed within sixty (60) days after such filing; DLC has commenced any bankruptcy, reorganization or insolvency proceeding or other proceeding under the Bankruptcy Code or under any other act or law pertaining to insolvency or debtor relief, whether federal, state or foreign, now or hereafter existing or DLC has consented to the taking of any of the foregoing actions; or DLC voluntarily dissolves or terminates its existence or is terminated or dissolved, liquidates or is liquidated.

## **Section 9. Indemnification**

### **9.1 Of DLC**

Itron will indemnify, hold harmless and defend DLC, its directors, officers, employees and agents from and against any and all losses, damages, liabilities, claims, penalties, fines and other costs and expenses, including reasonable attorneys' fees and costs of settlement ("**Losses**") that DLC reasonably incurs arising from Itron's performance of or failure to perform any Services required to be performed by Itron under this Agreement, including, without limitation, customer claims relating to Siris Device telephone line seizures. However, Itron will have no such obligation regarding any Losses to the extent they arise from DLC's negligence or willful misconduct or DLC's failure to meet its obligations under this Agreement.

### **9.2 Of Itron**

DLC will indemnify, hold harmless and defend Itron, its directors, officers, employees and agents from and against any and all Losses that Itron reasonably incurs from DLC's performance or failure to perform any obligation under this Agreement.

However, DLC will have no such obligation regarding any Losses to the extent they arise from Itron's negligence or willful misconduct or Itron's failure to meet its obligations under this Agreement.

### **9.3 Intellectual Property Indemnification**

Itron will indemnify, hold harmless and defend DLC, its directors, officers, employees and agents from and against all Losses that DLC reasonably incurs in connection with any third party claim that any Compliant System Component, Software or Software Release provided by Itron under this Agreement infringes or misappropriates the U.S. copyright, trade secret or trademark rights of a third party ("**Infringing Material**"). If the use of any Infringing Material is enjoined by a court of competent jurisdiction, Itron shall, at Itron's option and sole cost and expense, either (a) procure for DLC the right to continue use of the Infringing Material, (b) replace the Infringing Material with material that is substantially similar in functionality and performance, but noninfringing, (c) modify the Infringing Material to eliminate the infringement or misappropriation, or (d) terminate the enjoined activity with an appropriate reduction in the Annual Fee; provided, however, that such termination and reduction shall not excuse Itron from performance of its obligations pursuant to its Agreement. Itron will have no liability under this section for (i) any infringement or misappropriation due to any repair, maintenance, service modification to or alteration of the Fixed Network performed by any personnel other than Itron personnel (including its employees, agents and contractors) or Itron-trained DLC personnel (including its employees, agents and contractors) after the Effective Date which has not been approved by Itron as required by the terms of this Agreement; or (ii) any combination of the Fixed Network in whole or in part with any material or software not included in the Fixed Network which has not been installed by Itron personnel or Itron-trained DLC personnel and which has not been approved by Itron as required by the terms of this Agreement.

### **9.4 Procedure**

In connection with any claim or action described in this Section 9, the Party seeking indemnification will (a) give the indemnifying Party prompt written notice of the claim, (b) cooperate with the indemnifying Party (at the indemnifying Party's expense) in connection with the defense and settlement of the claim, and (c) permit the indemnifying Party to control the defense and settlement of the claim, provided that the indemnifying Party must diligently defend the claim and may not settle the claim without the indemnified Party's prior written consent (which will not be unreasonably withheld or delayed). Further, the indemnified Party (at its cost) may participate in the defense and settlement of the claim.

## **9.5 Payment of Indemnification Claims**

Losses which are indemnified against hereunder shall be paid by the Indemnifying Party within 30 days after such Party's receipt of notice of such Losses, which notice shall include such evidence as is reasonably necessary to establish the amount of the Losses and the Indemnifying Party's liability therefor. If and to the extent Itron does not pay for any indemnified Losses within such 30 day period, then, in addition to any other rights and remedies it may have at law, in equity or otherwise, including those under the Agreement, the Escrow Agreement and the Radio Frequency Sharing Agreement, DLC may, at its option, (a) set off the full amount of such unpaid Losses against the next payment(s) due under Sections 6.3 and/or 6.4 hereof and/or (b) draw up to the full amount of such unpaid Losses under the Letter of Credit.

## **Section 10. Limitation on Liability**

### **10.1 Disclaimer**

EXCEPT AS OTHERWISE SET FORTH HEREIN, ITRON HEREBY DISCLAIMS ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF ITRON, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ALL SERVICES, EQUIPMENT, SOFTWARE, GOODS, AND OTHER ITEMS FURNISHED BY ITRON HEREUNDER OR ANY OTHER ITEMS SUBJECT TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; (B) ANY IMPLIED WARRANTY ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE; AND (C) ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

### **10.2 Limitation on Liability**

THE TOTAL CUMULATIVE LIABILITY OF ITRON WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PERFORMANCE OF THE SERVICES (INCLUDING, WITHOUT LIMITATION, AMOUNTS DRAWN AGAINST THE LETTER OF CREDIT), SHALL IN NO CASE EXCEED \$30 MILLION, AND DLC HEREBY RELEASES ITRON FROM ANY LIABILITY IN EXCESS OF SUCH AMOUNT. THIS MONETARY LIMITATION SHALL SURVIVE THE FAILURE OF ANY EXCLUSIVE REMEDY.

ITRON SHALL NOT BE LIABLE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY,

PUNITIVE OR INCIDENTAL LOSS OR DAMAGE, LOSS BY REASON OF SERVICE INTERRUPTION, COSTS OF CAPITAL OR EXPENSES THEREOF, LOSS OF PROFITS OR REVENUES OR THE LOSS OF USE THEREOF, CLAIM OF ANY THIRD PARTY FOR LOSS CAUSED BY DELAYS IN MANUFACTURE OR OPERATION, AND DLC HEREBY RELEASES ITRON FROM ANY LIABILITY FOR ALL SUCH LOSSES AND DAMAGES.

THIS SECTION 10.2 SHALL NOT LIMIT OR RESTRICT THE AVAILABILITY OF SPECIFIC PERFORMANCE OR OTHER INJUNCTIVE RELIEF TO THE EXTENT OTHERWISE AVAILABLE UNDER APPLICABLE LAW.

## **Section 11. Miscellaneous**

### **11.1 Excusable Delay**

(a) Neither Party will be liable for, or be considered to be in breach of or default under this Agreement because of, a Force Majeure Event.

(b) A Party affected by a Force Majeure Event shall notify the other Party promptly after becoming aware of the Force Majeure Event, giving details of the circumstances constituting the Force Majeure Event and the likely duration thereof, if reasonably known, and shall keep the other Party informed of any changes in circumstances, including when such Force Majeure Event ends. Each Party shall also notify the other Party of any events of which it is aware which may reasonably be expected, with the lapse of time or otherwise, to become a Force Majeure Event. Following the receipt of such notice, the Parties shall consult in good faith to assess the Force Majeure Event and any ways in which the same may be avoided or its effects mitigated.

(c) A Party affected by a Force Majeure Event shall use reasonable best efforts to place itself in a position to fulfill its obligations hereunder, and if unable to fulfill any obligation by reason of a Force Majeure Event such Party shall exercise all reasonable best efforts to remove such disability at the earliest practicable time.

(d) A Party's performance shall be excused only for the minimum period necessary to return to performance hereunder through the exercise of all reasonable best efforts. To the extent a Force Majeure Event prevents Itron from performing any Services, DLC shall be relieved of the obligation to make payments for the pro rata period of time during which the Services are not performed only if Itron is not exercising all reasonable best efforts to perform the Services.

### **11.2 Nondisclosure**

Each Party will protect the Confidential Information of the other Party from misappropriation and unauthorized use or disclosure, and at a minimum, will take precautions at least as great as those taken to protect its own confidential information of a similar nature. Without limiting the foregoing, the Receiving Party will: (a) use such Confidential Information solely for the purposes for which it has been disclosed; and (b) disclose such Confidential Information only to those of its employees, agents, consultants, and others who have a need to know the same for the purpose of performing this Agreement and who are informed of and agree to a duty of nondisclosure. The Receiving Party may also disclose Confidential Information of the Disclosing Party to the extent necessary to comply with Applicable Law or legal process, provided that the Receiving Party uses reasonable efforts to give the Disclosing Party prompt advance notice thereof. Subject to the rights of DLC under the Escrow Agreement and the Purchase Agreement, upon request of the other Party, or in any event upon any termination or expiration of the Term, each Party shall return to the other all materials, in any medium, which contain, embody, reflect or reference all or any part of any Confidential Information of the other Party.

### **11.3 Assignment**

Neither Party will assign all or any part of this Agreement or any of its rights under this Agreement without the prior written consent of the other Party, which may be given or withheld in such other Party's sole discretion. However (a) either Party may assign all of its rights, title, and interest in this Agreement, upon thirty (30) days' prior written notice to the other Party, to an affiliate which controls, is controlled by or is under common control with, such Party, where such successor agrees in writing to be bound by all of the provisions of this Agreement and (b) DLC may assign all of its rights, title and interest in this Agreement with thirty (30) days' prior written notice to Itron, to a non-affiliated Party which is not a competitor of Itron. No assignment, with or without the other Party's consent, will relieve a Party from its obligations under this Agreement. Subject to the foregoing restriction on assignment, this Agreement will be fully binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns.

### **11.4 Notices**

Any notice or other communication under this Agreement given by either Party to the other Party shall be either (a) in writing and delivered by first class, registered, or certified U.S. mail or overnight delivery service, return receipt requested, postage prepaid, or (b) sent by telex or facsimile and then acknowledged as received by return telex or facsimile by the intended recipient. Notices shall be deemed received only upon

actual receipt. Notices shall be directed to the intended recipient at the address or numbers specified below. Either Party may from time to time change such address or numbers by giving the other Party notice of such change in accordance with this Section.

Itron: Itron, Inc.  
2818 North Sullivan Road  
Spokane, Washington 99215  
Attn: General Counsel  
Phone: (509) 924-9900  
Fax: (509) 928-1465

DLC: Duquesne Light Company  
2101 Beaver Ave.  
Pittsburgh, PA 15233  
Mail Drop M-MT

With a copy to: Duquesne Light Company  
411 Seventh Avenue  
Pittsburgh, PA 15219  
Attn: Legal Dept.  
Fax: (412) 393-6645

### **11.5 Waiver**

The failure of either Party to insist upon or enforce strict performance of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement will not be a waiver to any extent of such Party's right to assert or rely upon any such provisions, rights, or remedies in that or any other instance; rather, the same will be and remain in full force and effect.

### **11.6 Independent Contractor**

Each Party is engaged in an independent business and will perform its obligations under this Agreement as an independent contractor and not as an agent, partner, franchisee, or representative of any other Party. Neither Party will have any right or authority to create any obligation or make any representation or warranty in the name or on behalf of the other Party.



### 11.7 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

### 11.8 Headings

The headings of sections, paragraphs, and subsections of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of this Agreement.

### 11.9 Governing Law

The laws of the Commonwealth of Pennsylvania will govern this Agreement without regard to any choice of law principles to the contrary.

### 11.10 Entire Agreement

This Agreement and the exhibits hereto constitute the entire agreement, and supersedes any and all prior agreements (including, without limitation, the First Maintenance Agreement), between the Parties with regard to the subject matter hereof. No amendment, modification or waiver of any of the provisions of this Agreement will be valid unless set forth in a written instrument signed by the Party to be bound thereby. Notwithstanding the foregoing, the License Agreement, the Escrow Agreement, and the Radio Frequency Sharing Agreement shall continue in full force and effect.

### 11.11 Dispute Resolution

(a) Disputes. Any dispute, controversy or claim arising out of or relating to this Agreement (including all schedules and exhibits that are related to or incorporated by the Agreement) or the breach, termination or validity thereof (a “**Dispute**”) shall be submitted to management of the Parties for resolution. In the event said Dispute is not resolved within fourteen (14) days, then either Party may choose to bring an action in a court of competent jurisdiction, or the Parties may, by mutual agreement, agree to proceed with mediation in accordance with Section 11.11(b).

(b) Mediation. Any Dispute shall, at the option of any Party, and at such Party’s expense, be submitted in writing to mediation, using either the American Arbitration Association (“**AAA**”) or Judicial Arbitration and Mediation Services, Inc. (“**JAMS**”) within thirty (30) days of the date on which the alleged events occurred to form the basis of the Dispute. If mediation is not used, or if it fails to resolve the Dispute within 30 days from the date AAA or JAMS is engaged, then the Parties may, at their option, initiate legal action.

### 11.12 Consent

Whenever the consent or authorization of a Party is required hereunder, such consent or authorization shall not be unreasonably withheld or delayed, unless specifically provided otherwise herein. For avoidance of doubt, the Software License and the Radio Frequency Sharing Agreement were assigned from DataCom to DLC, effective as of the Effective Date, with the consent of Itron.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their duly authorized representatives as of the Effective Date with the intent to be legally bound.

**Itron:**

ITRON, INC.

By:           /s/ David G. Remington

David G. Remington  
Vice President and Chief Financial Officer

By:           /s/ Michael Cantelme

Michael Cantelme  
Vice President, Global Services

**DLC:**

DUQUESNE LIGHT COMPANY

By:           /s/ Joseph G. Belechak

Joseph G Belechak  
Senior Vice President, Operations and  
Customer Service

## ITRON, INC.

## FIRST AMENDMENT TO CREDIT AGREEMENT

This **FIRST AMENDMENT TO CREDIT AGREEMENT** (this "**Amendment**") is dated as of March 20, 2003 and entered into by and among Itron, Inc., a Washington corporation ("**Company**"), **THE FINANCIAL INSTITUTIONS LISTED ON THE SIGNATURE PAGES HEREOF** (each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"), **LASALLE BANK, N.A.**, as syndication agent for Lenders (in such capacity, "**Syndication Agent**"), **KEYBANK NATIONAL ASSOCIATION**, as documentation agent for Lenders (in such capacity, "**Documentation Agent**"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, as administrative agent ("**Administrative Agent**") for Lenders, and is made with reference to that certain Credit Agreement dated as of March 4, 2003, as amended to the date hereof (the Credit Agreement, as so amended, supplemented or otherwise modified and as it may hereafter be amended, supplemented or otherwise modified from time to time, being the "**Credit Agreement**"), by and among Company and Wells Fargo Bank, National Association, as Administrative Agent and a Lender. Capitalized terms used herein without definition shall have the same meanings herein as set forth in the Credit Agreement.

## RECITALS

**WHEREAS**, Assignment Agreements have been executed pursuant to which Lenders have acquired certain portions of the Loans and Commitments outstanding under the Credit Agreement; and

**WHEREAS**, Company and Lenders desire to amend the Credit Agreement to (i) make certain clarifying changes and other amendments as set forth below and (ii) reflect the updated allocation of Commitments and Loans among Lenders.

**NOW, THEREFORE**, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

**Section 1. AMENDMENTS TO THE CREDIT AGREEMENT****1.1 Amendments to Section 1: Definitions.**

**A.** Subsection 1.1 of the Credit Agreement is hereby amended by deleting the definitions of "**Agents**", "**Intellectual Property**" and "**Requisite Lenders**" in their entirety and substituting the following therefor, all in proper alphabetical order:

"**Agents**" means Administrative Agent, Documentation Agent, Syndication Agent and other agents."

“**Intellectual Property**’ means all patents, patent applications, trademarks, trade names, copyrights, technology, software, know-how, trade secrets, customer lists, processes, and other proprietary information.”

“**Requisite Lenders**’ means two or more Lenders having or holding at least 66 2/3% of the sum of (i) the aggregate Term Loan Exposure of all Lenders plus (ii) the aggregate Revolving Loan Exposure of all Lenders.”

B. Subsection 1.1 of the Credit Agreement is hereby further amended by inserting the following new definitions of “**Documentation Agent**”, “**First Amendment**” and “**Syndication Agent**”, all in proper alphabetical order:

“**Documentation Agent**’ has the meaning assigned to that term in the introduction to the First Amendment.”

“**First Amendment**’ means that certain First Amendment to Credit Agreement dated as of March 20, 2003, by and among Company, Administrative Agent, Documentation Agent, Syndication Agent and Lenders.”

“**Syndication Agent**’ has the meaning assigned to that term in the introduction to the First Amendment.”

**1.2 Amendments to Section 2: Amounts and Terms of Commitments and Loans.**

Subsection 2.5B of the Credit Agreement is hereby amended by adding a “.” at the end thereof.

**1.3 Amendments to Section 6: Company’s Affirmative Covenants.**

Subsection 6.5 of the Credit Agreement is hereby amended by deleting the “-” following the word “permit” in the first full sentence thereof.

**1.4 Amendments to Section 9: Duties of Other Agents.**

Subsection 9.7 of the Credit Agreement is hereby amended and restated to read in its entirety as follows:

“None of the Lenders identified in this Agreement as a “co-agent”, Documentation Agent or Syndication Agent shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of such Lenders shall have or be deemed to have a fiduciary relationship with any Lender.”

### **1.5 Amendments to Section 10: Miscellaneous.**

Subsection 10.6 of the Credit Agreement is hereby amended and restated to read in its entirety as follows:

#### **“10.6 Amendments and Waivers.**

No amendment, modification, termination or waiver of any provision of this Agreement or of the Notes, and no consent to any departure by Company therefrom, shall in any event be effective without the written concurrence of Requisite Lenders; provided that no such amendment, modification, termination, waiver or consent shall, without the consent of (a) each Lender with Obligations directly affected (whose consent shall be required for any such amendment, modification, termination or waiver in addition to that of Requisite Lenders) (1) reduce the principal amount of any Loan, (2) increase the maximum aggregate amount of Letters of Credit, (3) postpone the date or reduce the amount of any scheduled payment (but not prepayment) of principal of any Loan, (4) postpone the date on which any interest or any fees are payable, (5) decrease the interest rate borne by any Loan (other than any waiver of any increase in the interest rate applicable to any of the Loans pursuant to subsection 2.2E) or the amount of any fees payable hereunder including any change in the manner in which any financial ratio used in determining any interest rate or fee is calculated that would result in a reduction of any such rate or fee), (6) reduce the amount or postpone the due date of any amount payable in respect of any Letter of Credit, (7) extend the expiration date of any Letter of Credit beyond the Revolving Loan Commitment Termination Date, or (8) change in any manner the obligations of Revolving Lenders relating to the purchase of participations in Letters of Credit; (b) each Lender, (1) change in any manner the definition of “Pro Rata Share” or the definition of “Requisite Lenders” (except for any changes resulting solely from an increase in Commitments approved by Requisite Lenders), (2) change in any manner any provision of this Agreement that, by its terms, expressly requires the approval or concurrence of all Lenders, (3) increase the maximum duration of Interest Periods permitted hereunder, (4) release any Lien granted in favor of Administrative Agent with respect to all or substantially all of the Collateral or release all or substantially all of the Subsidiary Guarantors from their obligations under the Subsidiary Guaranty, in each case other than in accordance with the terms of the Loan Documents, or (5) change in any manner or waive the provisions contained in subsection 8.1 or this subsection 10.6. In addition, (i) any amendment, modification, termination or waiver of any of the provisions contained in Section 4 shall be effective only if evidenced by a writing signed by or on behalf of Administrative Agent and Requisite Lenders, (ii) no amendment, modification, termination or waiver of any provision of any Note shall be effective without the written concurrence of the Lender which is the holder of that Note, (iii) no amendment, modification, termination or waiver of any provision of subsection 2.1A(iii) or of any other provision of this Agreement relating to the Swing Line Loan Commitment or the Swing Line Loans shall be effective without the written concurrence of Swing Line Lender, (iv) no amendment, modification, termination or waiver of any provision of Section 3 shall be effective without the written concurrence of Administrative Agent and, with respect to the purchase of participations in Letters of Credit, without the written concurrence of the Issuing Lender that has issued an outstanding Letter of Credit or has not been reimbursed for a payment under a Letter of Credit,

(v) no amendment, modification, termination or waiver of any provision of Section 9 or of any other provision of this Agreement which, by its terms, expressly requires the approval or concurrence of Administrative Agent shall be effective without the written concurrence of Administrative Agent, and (vi) no Commitment of a Lender shall be increased without the consent of such Lender. Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of that Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Company in any case shall entitle Company to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this subsection 10.6 shall be binding upon each Lender at the time outstanding, each future Lender and, if signed by Company, on Company.”

#### **1.6 Substitution of Schedule 2.1.**

Schedule 2.1 to the Credit Agreement is hereby amended and restated in its entirety as set forth on Annex A attached hereto.

#### **Section 2. CONDITIONS TO EFFECTIVENESS**

Section 1 of this Amendment shall become effective only upon the satisfaction of all of the following conditions precedent (the date of satisfaction of such conditions being referred to herein as the “**First Amendment Effective Date**”):

**A.** On or before the First Amendment Effective Date, Company shall deliver to Lenders (or to Administrative Agent for Lenders with sufficient originally executed copies, where appropriate, for each Lender and its counsel) executed copies of this Amendment dated the First Amendment Effective Date.

**B.** On or before the First Amendment Effective Date, all corporate and other proceedings taken or to be taken in connection with the transactions contemplated hereby and all documents incidental thereto not previously found acceptable by Administrative Agent, acting on behalf of Lenders, and its counsel shall be satisfactory in form and substance to Administrative Agent and such counsel, and Administrative Agent and such counsel shall have received all such counterpart originals or certified copies of such documents as Administrative Agent may reasonably request.

#### **Section 3. COMPANY’S REPRESENTATIONS AND WARRANTIES**

In order to induce Lenders to enter into this Amendment and to amend the Credit Agreement in the manner provided herein, Company represents and warrants to each Lender that the following statements are true, correct and complete:

**A. Corporate Power and Authority.** Company has all requisite corporate power and authority to enter into this Amendment and to carry out the transactions contemplated by, and perform its obligations under, the Credit Agreement as amended by this Amendment (the “**Amended Agreement**”).

**B. Authorization of Agreements.** The execution and delivery of this Amendment and the performance of the Amended Agreement have been duly authorized by all necessary corporate action on the part of Company.

**C. No Conflict.** The execution and delivery by Company of this Amendment and the performance by Company of the Amended Agreement do not and will not (i) violate any provision of any law or any governmental rule or regulation applicable to Company or any of its Subsidiaries, the Certificate or Articles of Incorporation or Bylaws of Company or any of its Subsidiaries or any order, judgment or decree of any court or other agency of government binding on Company or any of its Subsidiaries, (ii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation of Company or any of its Subsidiaries, (iii) result in or require the creation or imposition of any Lien upon any of the properties or assets of Company or any of its Subsidiaries (other than Liens created under any of the Loan Documents in favor of Administrative Agent on behalf of Lenders), or (iv) require any approval of stockholders or any approval or consent of any Person under any Contractual Obligation of Company or any of its Subsidiaries.

**D. Governmental Consents.** The execution and delivery by Company of this Amendment and the performance by Company of the Amended Agreement do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any federal, state or other governmental authority or regulatory body.

**E. Binding Obligation.** This Amendment has been duly executed and delivered by Company and this Amendment and the Amended Agreement are the legally valid and binding obligations of Company, enforceable against Company in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

**F. Incorporation of Representations and Warranties From Credit Agreement.** The representations and warranties contained in Section 5 of the Credit Agreement are and will be true, correct and complete in all material respects on and as of the First Amendment Effective Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case they were true, correct and complete in all material respects on and as of such earlier date.

**G. Absence of Default.** No event has occurred and is continuing or will result from the consummation of the transactions contemplated by this Amendment that would constitute an Event of Default or a Potential Event of Default.

## Section 5. MISCELLANEOUS

### **A. Reference to and Effect on the Credit Agreement and the Other Loan Documents.**

(i) On and after the First Amendment Effective Date, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein” or words of like import referring to the Credit Agreement, and each reference in the other Loan Documents to the “Credit Agreement”, “thereunder”, “thereof” or words of like import referring to the Credit Agreement shall mean and be a reference to the Amended Agreement.

(ii) Except as specifically amended by this Amendment, the Credit Agreement and the other Loan Documents shall remain in full force and effect and are hereby ratified and confirmed.

(iii) The execution, delivery and performance of this Amendment shall not, except as expressly provided herein, constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of Administrative Agent or any Lender under, the Credit Agreement or any of the other Loan Documents.

**B. Fees and Expenses.** Company acknowledges that all costs, fees and expenses as described in subsection 10.2 of the Credit Agreement incurred by Administrative Agent and its counsel with respect to this Amendment and the documents and transactions contemplated hereby shall be for the account of Company.

**C. Headings.** Section and subsection headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

**D. Applicable Law.** THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA (INCLUDING WITHOUT LIMITATION SECTION 1646.5 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

**E. Counterparts; Effectiveness.** This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. This Amendment (other than the provisions of Section 1 hereof, the effectiveness of which is governed by Section 2 hereof) shall become effective upon the execution of a counterpart hereof by Company and Lenders and receipt by Company and Administrative Agent of written or telephonic notification of such execution and authorization of delivery thereof.



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**Section 6. ACKNOWLEDGEMENT AND CONSENT BY GUARANTORS**

Each guarantor listed on the signature pages hereof (“**Guarantors**”) hereby acknowledges that it has read this Amendment and consents to the terms thereof, and hereby confirms and agrees that, notwithstanding the effectiveness of this Amendment, the obligations of each Guarantor under its applicable Guaranty shall not be impaired or affected and the applicable Guaranty is, and shall continue to be, in full force and effect and is hereby confirmed and ratified in all respects. Each Guarantor further agrees that nothing in the Credit Agreement, this Amendment or any other Loan Document shall be deemed to require the consent of such Guarantor to any future amendment to the Credit Agreement.

[The remainder of page intentionally left blank.]



**WELLS FARGO BANK, NATIONAL ASSOCIATION**, individually, as Administrative Agent and as a Lender

By: \_\_\_\_\_ /s/ Tom Beil

Name: Tom Beil  
Title: Vice President and Senior Relationship Manager

Notice Address: 221 North Wall Street, Suite 310  
Spokane, Washington 99201

Attention: Tom Beil, Vice President and Senior Relationship Manager  
Telephone: (509) 363-6860  
Facsimile: (509) 363-6875

Payment Instructions:  
  
WELLS FARGO BANK, NATIONAL ASSOCIATION  
Spokane, Washington  
ABA#: \_\_\_\_\_  
For Acct.: \_\_\_\_\_  
Ref: Itron, Inc.

**BANNER BANK**

By: \_\_\_\_\_ /s/ *Steven Fazzari*

Name: Steven Fazzari  
Title: Senior Vice President

Notice Address: 501 North Riverpoint Blvd.,  
Suite 245  
Spokane, Washington 99201

Attention: Steven Fazzari, Senior Vice President  
Telephone: (509) 227-5404  
Facsimile: (509) 482-5765

**Payment Instructions:**

BANNER BANK  
Woodinville, Washington  
ABA#: \_\_\_\_\_  
For Acct.: \_\_\_\_\_  
Ref: Itron, Inc.

COMERICA BANK-CALIFORNIA

By: \_\_\_\_\_ /s/ Holly Dungan

Name: Holly Dungan  
Title: Venture Banking Officer

Notice Address: 5330 Carillon Point  
Kirkland, Washington 98033

Attention: Holly Dungan  
Telephone: (425) 576-2826  
Facsimile: (425) 576-2810

Payment Instructions:

COMERICA BANK-CALIFORNIA  
Livonia, Michigan

ABA#: \_\_\_\_\_

For Acct.: \_\_\_\_\_

Ref: Itron, Inc.

**KEYBANK NATIONAL ASSOCIATION**

By: \_\_\_\_\_ /s/ Keven D. Smith

Name: Keven D. Smith  
Title: Vice President

Notice Address: 601 108<sup>th</sup> Avenue N.E., 5<sup>th</sup> Floor  
Mail Code: WA-31-18-0512  
Bellevue, Washington 98004

Attention: Keven D. Smith  
Telephone: (425) 709-4579  
Facsimile: (425) 709-4587

**Payment Instructions:**

KEYBANK NATIONAL ASSOCIATION  
Cleveland, Ohio  
ABA#: \_\_\_\_\_  
For Acct.: \_\_\_\_\_  
Ref: Itron, Inc.

**LASALLE BANK, N.A.**

By: /s/ Matthew G. Leventhal

Name: Matthew G. Leventhal  
Title: Commercial Banking Officer

Notice Address: 135 South LaSalle Street  
Chicago, Illinois 60603

Attention: Matthew G. Leventhal  
Telephone: (312) 904-5534  
Facsimile: (312) 904-0432

**Payment Instructions:**

LASALLE BANK  
Chicago, Illinois  
ABA#: \_\_\_\_\_  
For Acct.: \_\_\_\_\_  
Ref: Itron, Inc.

**U.S. BANK, N.A.**

By: \_\_\_\_\_ /s/ James Henken

Name: James Henken  
Title: Vice President

Notice Address: 101 South Capitol Blvd.,  
Suite 807  
Boise, Idaho 83702

Attention: James Henken  
Telephone: (208) 383-7823  
Facsimile: (208) 383-7574

**Payment Instructions:**

U.S. BANK, N.A.  
Boise, Idaho  
ABA#: \_\_\_\_\_  
For Acct.: \_\_\_\_\_  
Ref: Itron, Inc.



**WASHINGTON TRUST BANK**

By: \_\_\_\_\_ /s/ *David S. Hayward*

Name: David S. Hayward  
Title: *Vice President*

Notice Address: P.O. Box 2127  
Spokane, Washington 99210-2127

Attention: David S. Hayward  
Telephone: (509) 353-3942  
Facsimile: (509) 353-4005

Payment Instructions:

WASHINGTON TRUST BANK  
Spokane, Washington  
ABA#: \_\_\_\_\_  
For Acct.: \_\_\_\_\_  
Ref: Itron, Inc.

**SUBSIDIARY GUARANTORS:**

**EMD HOLDING, INC.**

By:   /s/ David G. Remington  
Name: David G. Remington  
Title: Vice President, Chief Financial Officer and  
          Treasurer  
Address: 2818 N. Sullivan Road  
  Spokane, WA 99216

**EMOBILE DATA, INC.**

By:   /s/ David G. Remington  
Name: David G. Remington  
Title: Vice President, Chief Financial Officer and  
          Treasurer  
Address: 2818 N. Sullivan Road  
  Spokane, WA 99216

**ENERGY CONCEPTS, INC.**

By:   /s/ David G. Remington  
Name: David G. Remington  
Title: President  
Address: 2818 N. Sullivan Road  
  Spokane, WA 99216

**EPS SOLUTIONS INCORPORATED**

By: /s/ David G. Remington

---

Name: David G. Remington  
Title: President

Address: 2818 N. Sullivan Road  
Spokane, WA 99216

**GENESIS SERVICES PITTSBURGH, INC.**

By: /s/ David G. Remington

---

Name: David G. Remington  
Title: Vice President and Chief Financial Officer

Address: 2818 N. Sullivan Road  
Spokane, WA 99216

**ITRON FINANCE, INC.**

By: /s/ David G. Remington

---

Name: David G. Remington  
Title: Vice President, Chief Financial Officer and  
Treasurer

Address: 2818 N. Sullivan Road  
Spokane, WA 99216

**ITRON INTERNATIONAL, INC.**

By: /s/ David G. Remington

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Name: David G. Remington  
Title: Treasurer

Address: 2818 N. Sullivan Road  
Spokane, WA 99216

**ITRON SPECTRUM HOLDINGS, INC.**

By:                     /s/ David G. Remington                    

Name: David G. Remington  
Title: Vice President and Chief Financial Officer

Address: 2818 N. Sullivan Road  
Spokane, WA 99216

**REGIONAL ECONOMIC RESEARCH, INC.**

By:                     /s/ David G. Remington                    

Name: David G. Remington  
Title: President and Chief Financial Officer

Address: 2818 N. Sullivan Road  
Spokane, WA 99216

**SILICON ENERGY CORP.**

By:                     /s/ David G. Remington                    

Name: David G. Remington  
Title: President

Address: 2818 N. Sullivan Road  
Spokane, WA 99216

**SRC SYSTEMS, INC.**

By:                     /s/ David G. Remington                    

Name: David G. Remington  
Title: President

Address: 2818 N. Sullivan Road  
Spokane, WA 99216

## SCHEDULE 2.1

## LENDERS' COMMITMENTS AND PRO RATA SHARES

<u>Lender</u>	<u>Term Loan Commitment</u>	<u>Revolving Loan Commitment</u>	<u>Total Commitment</u>	<u>Pro Rata Share</u>
Wells Fargo Bank, National Association	\$ 17,142,857.14	\$ 18,857,142.86	\$ 36,000,000	34.29%
Banner Bank	\$ 4,285,714.29	\$ 4,714,285.71	\$ 9,000,000	8.57%
Comerica Bank – California	\$ 3,809,523.81	\$ 4,190,476.19	\$ 8,000,000	7.62%
KeyBank National Association	\$ 7,142,857.14	\$ 7,857,142.86	\$ 15,000,000	14.29%
La Salle Bank, N.A.	\$ 8,571,428.57	\$ 9,428,571.43	\$ 18,000,000	17.14%
US Bank	\$ 4,761,904.76	\$ 5,238,095.24	\$ 10,000,000	9.52%
Washington Trust Bank	\$ 4,285,714.29	\$ 4,714,285.71	\$ 9,000,000	8.57%
<b>TOTAL</b>	<b>\$ 50,000,000</b>	<b>\$ 55,000,000</b>	<b>\$ 105,000,000</b>	<b>100%</b>

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

In connection with the Quarterly Report of Itron, Inc. (the Company) on Form 10-Q for the period ending March 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the Report), I, LeRoy D. Nosbaum, Chairman of the Board and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

*/s/ LeRoy D. Nosbaum*

---

LeRoy D. Nosbaum  
Chairman of the Board and Chief Executive Officer May 9,  
2003

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

In connection with the Quarterly Report of Itron, Inc. (the Company) on Form 10-Q for the period ending March 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the Report), I, David G. Remington, Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

*/s/ David G. Remington*

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David G. Remington  
Vice President and Chief Financial Officer  
May 9, 2003