

FUELCELL ENERGY INC  
Form 8-K  
March 22, 2012

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, DC 20549**

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the**  
**Securities Exchange Act of 1934**

**Date of report (Date of earliest event reported): March 22, 2012**

**FUELCELL ENERGY, INC.**

**(Exact Name of Registrant as Specified in Charter)**

**Delaware**  
**(State or Other Jurisdiction**  
  
**of Incorporation)**

**001-14204**  
**(Commission**  
  
**File Number)**

**06-0853042**  
**(IRS Employer**  
  
**Identification No.)**

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**3 Great Pasture Road, Danbury, Connecticut**

**(Address of Principal Executive Offices)**

**Registrant's telephone number, including area code: (203) 825-6000**

**06813**

**(Zip Code)**

**Not Applicable**

**(Former Name or Former Address, if Changed Since Last Report)**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ..  Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ..  Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ..  Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ..  Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01 Entry into a Material Definitive Agreement.**

On March 22, 2012, FuelCell Energy, Inc. ( "FuelCell" ) entered into an underwriting agreement (the "Underwriting Agreement" ) with Lazard Capital Markets LLC, as the sole book-running manager, Stifel, Nicolaus & Company, Incorporated, as the co-lead manager and FBR Capital Markets & Co., as the co-manager (together, the "Underwriters" ) relating to the public offering (the "Offering" ) of 20,000,000 shares of FuelCell's common stock, \$0.0001 par value per share (the "Common Stock" ), at a price to the public of \$1.50 per share (the "Offering Price" ), less underwriting discounts and commissions. Under the terms of the Underwriting Agreement, FuelCell has also granted the Underwriters a 30-day option to purchase up to an additional 3,000,000 shares of Common Stock offered in the Offering to cover over-allotments, if any, at the Offering Price. The net proceeds to the Company from the sale of the Common Stock, after deducting the Underwriters' discount and commission and other estimated offering expenses payable by the Company, are expected to be approximately \$28.0 million, assuming no exercise by the Underwriters of their over-allotment option. The Offering is expected to close on March 27, 2012, subject to the satisfaction of customary closing conditions.

The net offering proceeds from this offering will be used as growth capital for market development, enabling project financing and general corporate purposes.

The Common Stock is being offered and sold pursuant to a prospectus dated September 21, 2010 and a prospectus supplement filed with the U.S. Securities and Exchange Commission (the "SEC" ) on March 22, 2012, in connection with a takedown from the Company's effective shelf registration statement on Form S-3 (File No. 333-164412) declared effective by the SEC on September 21, 2010.

The Underwriting Agreement contains customary representations, warranties and agreements by the Company, customary conditions to closing, indemnification obligations of the Company and the Underwriter, including for liabilities under the Securities Act of 1933, as amended, other obligations of the parties and termination provisions.

The Underwriting Agreement has been filed with this report to provide investors and security holders with information regarding its terms. It is not intended to provide any other factual information about the Company. The representations, warranties and covenants contained in the Underwriting Agreement were made only for purposes of such agreement and as of specific dates, were solely for the benefit of the parties to such agreement, and may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures exchanged between the parties in connection with the execution of the Underwriting Agreement.

The legal opinion of Robinson & Cole LLP relating to the Common Stock being offered is filed as Exhibit 5.1 to this Current Report on Form 8-K.

The foregoing is only a brief description of the material terms of the Underwriting Agreement, does not purport to be a complete description of the rights and obligations of the parties thereunder, and is qualified in its entirety by reference to the Underwriting Agreement that is filed as Exhibit 1.1 to this Current Report on Form 8-K and incorporated by reference herein.

**Item 8.01 Other Events.**

On March 21, 2012, the Company issued a press release announcing the Offering. On March 22, 2012, the Company issued a press release announcing pricing of the Offering. Copies of the press releases are attached as Exhibits 99.1 and 99.2 to this report and are incorporated by reference herein.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

- 1.1 Underwriting Agreement, dated as of March 22, 2012, among FuelCell Energy, Inc., Lazard Capital Markets LLC, Stifel, Nicolaus & Company, Incorporated and FBR Capital Markets & Co.
- 5.1 Opinion of Robinson & Cole LLP
- 23.1 Consent of Robinson & Cole LLP (included in Exhibit 5.1)
- 99.1 Press Release issued by FuelCell Energy, Inc. on March 21, 2012
- 99.2 Press Release issued by FuelCell Energy, Inc. on March 22, 2012

**SIGNATURES**

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

FUELCELL ENERGY, INC.

Date: March 22, 2012

By: /s/Michael Bishop  
Michael Bishop  
Senior Vice President and Chief Financial Officer

**EXHIBIT INDEX**

Exhibit No.	Description
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