

FUELCELL ENERGY INC
Form 8-K
February 05, 2019

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): January 28, 2019

FUELCELL ENERGY, INC.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction of
Incorporation)

1-14204
(Commission
File Number)

06-0853042
(IRS
Employer

Identification
No.)

3 Great Pasture Road,

Danbury, Connecticut
(Address of Principal Executive Offices)

06810
(Zip Code)

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

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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

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

Item 1.01 Entry into a Material Definitive Agreement.

In November 2015, FuelCell Energy, Inc. (the “Company”) entered into a definitive Assistance Agreement (the “Agreement”) with the State of Connecticut and received a disbursement of \$10 million to be used for the first phase of a two-phase expansion project to improve manufacturing and logistics efficiencies. In conjunction with this financing, the Company entered into a \$10 million promissory note and related security agreements securing the loan with equipment liens and a mortgage on its Danbury, Connecticut location. Under the Agreement, the Company was eligible for up to \$5 million in loan forgiveness if the Company created 165 full-time positions and retained 538 full-time positions for two consecutive years (the “Employment Obligation”) as measured on October 28, 2017 (the “Phase 1 Target Date”). The Agreement was subsequently amended in April 2017 to extend the Phase 1 Target Date by two years to October 28, 2019.

The first phase of the expansion project was completed in 2018, whereby the Company expanded the manufacturing facility in Torrington, CT by approximately 102,000 square feet for a total size of 167,000 square feet.

In January 2019, the Company signed a Second Amendment to the Assistance Agreement (the “Second Amendment”). The Company received the countersigned Second Amendment on February 4, 2019, which was approved by the State of Connecticut Office of the Attorney General on January 28, 2019. The Second Amendment extends the Phase 1 Target Date to October 31, 2022 and amends the Employment Obligation to require the Company to maintain 538 full-time positions for 24 consecutive months. If the Company meets the Employment Obligation, as modified by the Second Amendment, and creates an additional 91 full-time positions, the Company may receive a credit in the amount of \$2 million to be applied against the outstanding balance of the loan. The Second Amendment deletes and cancels the provisions of the Agreement related to the second phase of the expansion project and the loans related thereto, but the Company had not drawn any funds or received any disbursements under those provisions.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit

No. Description

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| 10.1 | <u>Second Amendment to Assistance Agreement, dated as of January 24, 2019, and approved by the State of Connecticut, Office of the Attorney General on January 28, 2019.</u> |
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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: February 5, 2019 By: /s/ Michael S. Bishop
Michael S. Bishop
Senior Vice President, Chief Financial Officer and Treasurer