

PLUG POWER INC
Form 8-K
February 14, 2013

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 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): February 13, 2013

PLUG POWER INC.

(Exact name of registrant as specified in charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

1-34392
(Commission
File Number)
968 Albany Shaker Road, Latham, New York 12110

22-3672377
(IRS Employer
Identification No.)

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(Address of Principal Executive Offices) (Zip Code)

(518) 782-7700

(Registrant's telephone number, including area code)

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 (*see* General Instruction A.2. below):

- ☐ 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 February 13, 2013, Plug Power Inc. (the "Company") entered into an underwriting agreement (the "Underwriting Agreement") with Roth Capital Partners, LLC as the sole book-running manager and Northland Securities, Inc. as co-manager (collectively, the "Underwriters"), related to the public offering of (i) an aggregate of 18,910,000 shares of the Company's common stock, par value \$0.01 per share ("Common Stock"), and (ii) warrants to purchase an aggregate of 18,910,000 shares of Common Stock (the "Warrants"). The shares of Common Stock and Warrants are being sold together as a fixed combination, each consisting of one share of Common Stock and one Warrant to purchase one share of Common Stock, at a public offering price of \$0.15 per combination, less the underwriting discounts and commissions payable by the Company (the "Offering"). The Underwriters will purchase the Common Stock and Warrants at a discounted price of \$0.1395 per combination, representing a seven percent (7.0%) discount to the public offering price. The Company has granted the Underwriters the option to purchase, at the same price, an aggregate of up to an additional (i) 2,836,500 shares of Common Stock and/or (ii) Warrants to purchase up to 2,836,500 shares of Common Stock as may be necessary to cover over-allotments made in connection with the Offering, if any. The Common Stock and/or Warrants purchased under this option may be sold either together or separately in any combination to be determined by the Underwriters.

The Warrants to be issued in the Offering are exercisable beginning on the date of issuance and will expire on February 20, 2018. The exercise price of the Warrants is \$0.15 per share of Common Stock. The exercise price and number of shares of Common Stock issuable upon exercise of the Warrants will be subject to adjustment in the event of any stock split, reverse stock split, stock dividend, recapitalization, reorganization or similar transaction, among other events as described in the Warrants. The Warrants also include full ratchet anti-dilution protection in the event of the issuance of any common stock, securities convertible into common stock, or certain other issuances at a price below the then-current exercise price of the Warrants, with certain exceptions. In the event of a sale of the Company, each holder of Warrants has the right, exercisable at its option, to require the Company to purchase such holder's Warrants at a price determined using a Black-Scholes option pricing model as described in the Warrants.

The Offering is expected to close on February 20, 2013, subject to the satisfaction of customary closing conditions. The net proceeds to the Company are expected to be approximately \$2.4 million, assuming no exercise of the Warrants and after deducting underwriting discounts and commissions but before other transaction expenses payable by the Company associated with the Offering. The Company believes that its current cash, cash equivalents and cash generated from future sales, as well as the cash proceeds from the Offering, will provide sufficient liquidity to fund operations into May of 2013. This projection is based on the Company's current expectations regarding product sales, cost structure, cash burn rate and operating assumptions. In the event that the Company's operating expenses are higher than anticipated or the gross margins and shipments of the Company's products do not increase as the Company expects, the Company may be required to implement contingency plans within its control to conserve and/or enhance its liquidity to meet operating needs. Such plans include: the Company's ability to further reduce discretionary expenses, monetize its real estate assets through a sale-leaseback arrangement and obtain additional funding from licensing the use of its technologies. As a result, the Company can provide no assurance that it will be able to fund its operations without additional external financing.

The Offering is being made pursuant to the Company's registration statement on Form S-1 (File No. 333-186041), which was initially filed with the Securities and Exchange Commission (the "Commission") on January 15, 2013, subsequently amended and declared effective by the Commission on February 13, 2013, as well as an additional registration statement on Form S-1 filed by the Company on February 14 pursuant to Rule 462(b) of the Securities Act.

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

Pursuant to the Underwriting Agreement, the Company agreed, subject to certain exceptions, not to offer, issue or sell any shares of Common Stock or securities convertible into or exercisable or exchangeable for shares of Common Stock for a period of ninety (90) days following the Offering without the prior written consent of the Underwriters.

The Underwriting Agreement has been attached hereto as an exhibit 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 the Underwriting Agreement and as of specific dates, were solely for the benefit of the parties to the Underwriting 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.

Copies of the Underwriting Agreement and the form of Warrant to be issued in connection with the Offering are filed herewith as Exhibits 1.1 and 4.1, respectively, and are incorporated herein by reference. The foregoing description of the Offering by the Company and the documentation related thereto does not purport to be complete and is qualified in its entirety by reference to such Exhibits.

On February 14, 2013, the Company issued a press release announcing the pricing of the Offering. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits

d) Exhibits.

Exhibit Number	Description
1.1	Underwriting Agreement dated as of February 13, 2013 by and between Plug Power Inc., Roth Capital Partners, LLC and Northland Securities, Inc.
4.1	Form of Warrant
99.1	Press release of Plug Power Inc. issued February 14, 2013

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.

PLUG POWER INC.

Date: February 14, 2013

By: /s/ Andrew Marsh
Andrew Marsh, President and
Chief Executive Officer.

EXHIBIT INDEX

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