



FuelCell Energy

FUELCELL ENERGY, INC.

Nominating and Corporate Governance Committee Charter

Purpose

The principal purpose of the Nominating and Corporate Governance Committee (the “Committee”), in its capacity as a committee of the Board of Directors, is to: (i) identify individuals qualified to become members of the Board of Directors; (ii) recommend the persons to be nominated by the Board of Directors for election as directors at the annual meeting of stockholders; (iii) monitor and oversee the Company’s compliance with sound principles of corporate governance, consistent with applicable law and best practices; and (iv) develop and recommend to the Board for adoption corporate governance principles applicable to the Company.

Structure and Membership

The Committee shall be comprised of not fewer than three members of the Board, and the Committee’s composition shall meet the requirements of applicable Nasdaq rules. Accordingly, all members of the Committee shall be “independent” directors, as defined by such rules. Members of the Committee shall be appointed by the Board of Directors. Unless the Board of Directors elects a Chair of the Committee, the Committee shall elect a Chair by majority vote. The compensation of Committee members shall be as determined by the Board of Directors. The Board of Directors may remove any member of the Committee from such Committee, with or without cause.

Authority and Responsibilities Relating to Nominations

1. Selection of Director Nominees. The Committee shall be responsible for (i) identifying individuals qualified to become members of the Board of Directors and (ii) recommending to the Board of Directors the persons to be nominated by the Board for election as directors at the annual meeting of stockholders and the persons to be elected by the Board of Directors to fill any vacancies on the Board.
2. Criteria for Selecting Directors. Directors shall be required to be at least 21 years old, but will not be required to meet any other specific or minimum qualifications. The Committee shall, however, use the criteria set forth on Exhibit A attached hereto to guide its selection process. The Committee shall be responsible for reviewing with the Board of Directors, on an annual basis, the requisite skills and criteria for new Board members as well as the composition of the Board as a whole.
3. Stockholder Nominees. The Committee shall consider nominees for the Board of Directors recommended by stockholders pursuant to Section 2.3 of the By-Laws.
4. Selection Process. The Committee shall review the qualifications and backgrounds of all directors and nominees (without regard to whether a nominee has been recommended by stockholders), as well as the overall composition of the Board of Directors, and recommend a slate of directors to be nominated for election at the annual meeting of

stockholders, or, in the case of a vacancy on the Board of Directors, recommend a director to be elected by the Board to fill such vacancy.

5. Search Firms. The Committee shall have the sole authority to retain and terminate any search firm to be used to identify director nominees, including sole authority to approve the search firm's fees and other retention terms. The Committee is empowered, without further action by the Board of Directors, to cause the Company to pay the compensation of any search firm engaged by the Committee.

Authority and Responsibilities Related To Corporate Governance

1. In General. The committee shall develop and recommend to the Board for its consideration a set of corporate governance principles to be applicable to the Company, and the Committee shall periodically review, assess and recommend to the Board for its consideration any changes deemed appropriate.
2. Board performance. The Committee shall periodically review, discuss and assess the performance of the Board and any Committees of the Board.
3. Board Committees. The Committee shall review the Board's committee structure and make recommendations to the full Board concerning the number and responsibilities of Board committees and committee assignments.
4. Conflicts of Interest. The Committee shall periodically review and report to the Board regarding any questions of possible conflicts of interest or related transactions involving Board members or members of senior management of the Company.

Procedures and Administration

1. Meetings. The Committee shall meet as often as it deems necessary in order to perform its responsibilities. A majority of the members of the Committee shall constitute a quorum. A majority of the quorum (or, in the case a quorum at the time consists of two members of the Committee, both members present) shall be required to take formal action of the Committee. The Committee shall keep such records of its meetings, as it shall deem appropriate.
2. Subcommittees. The Committee may form and delegate authority to one or more subcommittees (including a subcommittee consisting of a single member), as it deems appropriate from time to time under the circumstances.
3. Reports to the Board. The Committee shall report regularly to the Board.
4. Charter. The Committee shall, from time to time as it deems appropriate, review and reassess the adequacy of this Charter and recommend any proposed changes to the Board of Directors for approval.
5. Annual Self-Evaluation. At least annually, the Committee shall evaluate its own performance.

Exhibit A

FUELCELL ENERGY, INC.

Criteria for Nomination as Director

General Criteria

1. Nominees should have a reputation for integrity, honesty and adherence to high ethical standards.
2. Nominees should have demonstrated business acumen, experience and ability to exercise sound judgments in matters that relate to the current and long-term objectives of the Company and should be willing and able to contribute positively to the decision-making process of the Company.
3. Nominees should have a commitment to understand the Company and its industry and to regularly attend and participate in meetings of the Board of Directors and its committees.
4. Nominees should have the interest and ability to understand the sometimes conflicting interests of the various constituencies of the Company, which include stockholders, employees, customers, governmental units, creditors and the general public, and to act in the interests of all stockholders.
5. Nominees should not have, or appear to have, a conflict of interest that would impair the nominee's ability to represent the interests of all the Company's stockholders and to fulfill the responsibilities of a director.
6. Nominees shall not be discriminated against on the basis of race, religion, national origin, sex, sexual orientation, disability or any other basis proscribed by law. The value of diversity on the Board of Directors should be considered.
7. Nominees should normally be able to serve for at least five years before reaching the age of 70.

Application of Criteria to Existing Directors

The renomination of existing directors should not be viewed as automatic, but should be based on continuing qualification under the criteria set forth above. In addition, the Nominating Committee shall consider the existing directors' performance on the Board and any committee, which shall include consideration of the extent to which the directors undertook continuing director education.

Criteria for Composition of the Board

The backgrounds and qualifications of the directors considered as a group should provide a significant breadth of experience, knowledge and abilities that shall assist the Board of Directors in fulfilling its responsibilities.