

FUELCELL ENERGY INC

FORM 10-K/A (Amended Annual Report)

Filed 4/17/2001 For Period Ending 10/31/2000

Address	3 GREAT PASTURE RD DANBURY, Connecticut 06813
Telephone	203-825-6000
CIK	0000886128
Industry	Electronic Instr. & Controls
Sector	Technology
Fiscal Year	10/31

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**FORM 10-K/A
(Amendment No. 2)**

(Mark One)

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

For the fiscal year ended: **October 31, 2000**

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: **0-24852**

FUELCELL ENERGY, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

06-0853042

(I.R.S. Employer
Identification Number)

**3 Great Pasture Road
Danbury, Connecticut**

(Address of principal executive
offices)

06813

(Zip Code)

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

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to Section 12(g) of the Act:

Common Stock, \$.0001 par value per share

(Title of class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

The aggregate market value of voting stock held by non-affiliates of the registrant was approximately \$889,508,503, which is based on the closing price of \$69.688 on January 23, 2001. On January 23, 2001 there were 15,788,634 shares of common stock of the registrant issued and outstanding.

DOCUMENTS INCORPORATED BY REFERENCE Certain information contained in the registrant's definitive proxy statement relating to its forthcoming 2001 Annual Meeting of Stockholders to be filed not later than 120 days after the end of registrant's fiscal year ended October 31, 2000 is incorporated by reference in Part III of this Annual Report on Form 10-K.

The Annual Report on Form 10-K of FuelCell Energy, Inc. for the fiscal year ended October 31, 2000 (the "2000 Annual Report"), is hereby amended as follows:

The 2000 Annual Report is amended to revise a sentence in the section headed "**Business--Our Fuel Cell Development Program -- Successful Field Trial and Demonstration Projects --Danbury Project.**" The fourth sentence thereunder is hereby modified to read in its entirety as follows:

"Before being disconnected, this power plant delivered more than 1.8 million kWh to our Danbury facility and demonstrated a wear rate of 0.3% per 1,000 hours."

The 2000 Annual report is also amended to revise the section headed "**Business -- Proprietary Rights.**" The second and third paragraphs thereunder are hereby amended to read in their entirety as follows:

"Many of our United States patents are the result of government-funded research and development programs, including the DOE cooperative agreement. Five of our patents that were the result of DOE-funded research prior to January 1988 (the date that we qualified as a "small business") are owned by the United States government and have been licensed to us. This license is revocable only in the limited circumstances where it has been demonstrated that we are not making an effort to commercialize the invention. Our patents that were the result of DOE-funded research after January 1988 automatically belong to us because of our "small business" status. We expect to continue to qualify as a "small business" for the remainder of the three-year extension of the DOE cooperative agreement.

"Seventeen United States patents, that we own, have resulted from government-funded research are subject to the risk of exercise "march-in" rights by the government. "March-in" rights refer to the right of the United States government or government agency to exercise its non-exclusive, royalty-free, irrevocable worldwide license to any technology developed under contracts funded by the government if there is a national emergency (e.g. war, etc.) or if the contractor fails to continue to develop the technology. In addition, these "march-in" rights permit the United States government to take title to these patents and license the patented technology to third parties if the contractor fails to utilize the patents. We believe, however, that the likelihood of the United States government exercising these rights is remote and would only occur if we ceased our commercialization efforts."

The 2000 Annual Report is also amended to revise the section headed "**Business -- RISK FACTORS -- The United States government has certain rights relating to our intellectual property.**" The first and second paragraphs thereunder are hereby amended to read in their entirety as follows:

"Many of our United States patents are the result of government-funded research and development programs, including the DOE cooperative agreement. Five of our patents that were the result of DOE-funded research prior to January 1988 (the date that we qualified as a "small business") are owned by the United States government and have been licensed to us. This license is revocable only in the limited circumstances where it has been demonstrated that we are not making an effort to commercialize the invention. Our patents that were the result of DOE-funded research after January 1988 automatically belong to us because of our "small business" status.

"Seventeen United States patents, that we own, have resulted from government-funded research are subject to the risk of exercise of "march-in" rights by the government. "March-in" rights refer to the right of the United States government or government agency to exercise its non-exclusive, royalty-free, irrevocable worldwide license to any technology developed under contracts funded by the government if there is a national emergency (e.g. war, etc.), or if the contractor fails to continue to develop the technology. These "march-in" rights permit the United States government to take title to these patents and license the patented technology to third parties if the contractor fails to utilize the patents. In addition, our government-funded research and development agreements also require us to agree that we will not use or sell any invention subject to that agreement unless the products embodying the invention, or produced through the use of such invention, will be substantially manufactured in the U.S."

The 2000 Annual Report is also amended to revise the section headed "**Business -- RISK FACTORS -- C ommercialization of our products is dependent on conducting successful field trials.**" The last sentence of the first paragraph thereunder is hereby amended to read in its entirety as follows:

"We have planned several field trials and demonstration projects in 2001 and 2002 for our sub-megawatt and megawatt class stationary fuel cell power plants."

SIGNATURES

In accordance with Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on April 16, 2001.

FUELCELL ENERGY, INC.

/s/ Joseph G. Mahler

Joseph G. Mahler, Chief Financial Officer

End of Filing

Powered By **EDGAR**
Online

© 2005 | **EDGAR Online, Inc.**