

SOUTHWESTERN ENERGY CO

Form 8-K

January 17, 2008

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**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

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**FORM 8-K**

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**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 11, 2008**

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**SOUTHWESTERN ENERGY COMPANY**

**(Exact name of registrant as specified in its charter)**

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**Delaware**

**(State or other jurisdiction of incorporation)**

**1-08246**  
**(Commission File Number)**

**71-0205415**  
**(IRS Employer Identification No.)**

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2350 N. Sam Houston Pkwy. E., Suite 125,

Houston, Texas  
(Address of principal executive offices)

77032  
(Zip Code)

(281) 618-4700

(Registrant's telephone number, including area code)

Not Applicable

(Former name or former address, if changed since last report)

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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))

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## Section 1 - Registrant's Business and Operations

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

#### *Purchase Agreement*

On January 11, 2008, Southwestern Energy Company (the Company) and its subsidiaries, SEECO, Inc. (SEECO), Southwestern Energy Production Company (SEPCO) and Southwestern Energy Services Company (SES and together with SEECO and SEPCO, the Guarantors), entered into a Purchase Agreement (the Purchase Agreement) with the initial purchasers thereunder (the Initial Purchasers) relating to the offering by the Company of \$600 million aggregate principal amount of 7 ½ % Senior Notes due 2018 fully and unconditionally guaranteed (the Guarantees) by the Guarantors (the Notes). Pursuant to the terms of the Purchase Agreement, the purchase price paid by the Initial Purchasers for the Notes was 98.667% of the principal amount thereof and the aggregate discount to the Initial Purchasers was approximately \$8.0 million.

The closing of the sale of the Notes occurred on January 16, 2008. The aggregate net proceeds to the Company from this offering, after the Initial Purchasers' discount and offering expenses, are estimated to be approximately \$591 million. The Company intends to use the net proceeds from the sale of the Notes to repay amounts outstanding under the Company's revolving credit facility.

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The Company offered and sold the Notes to the Initial Purchasers in reliance on the exemption from registration provided by Section 4(2) of the Securities Act of 1933 (the "Securities Act"). The Initial Purchasers then sold the Notes to qualified institutional buyers pursuant to the exemption from registration provided by Rule 144A or pursuant to Regulation S under the Securities Act. The Company relied on these exemptions from registration based in part on representations made by the Initial Purchasers in the Purchase Agreement. The Notes have not been registered under the Securities Act and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements.

A copy of the Purchase Agreement is filed herewith as Exhibit 10.1 and the foregoing description is a summary and is qualified in its entirety by reference to Exhibit 10.1.

### ***Indenture***

The Notes were issued under the Indenture dated as of January 16, 2008, by and among the Company, the Guarantors and The Bank of New York Trust Company, N.A., as trustee (the "Trustee"). The notes will be the Company's senior unsecured obligations and will rank equally in right of payment with all of the Company's existing and future senior debt (including the Company's existing senior notes and the Company's revolving credit facility); rank senior to all of the Company's existing and future subordinated debt; be effectively subordinated to any future secured obligations to the extent of the value of the assets securing such obligations; and be structurally subordinated to all debt and other obligations of the Company's existing or future non-guarantor subsidiaries. The Guarantees will rank equally in right of payment with all of the existing and future senior debt of the Guarantors; rank senior to all of the existing and future subordinated debt of the Guarantors; be effectively subordinated to any future secured obligations of the Guarantors to the extent of the value of the assets securing such obligations; and be structurally subordinated to all debt and other obligations of the subsidiaries of the Guarantors. The Guarantees may be released under certain circumstances. For example, if the Company exercises its legal or covenant defeasance option with respect to the Notes or if the Company satisfies its obligations under the Indenture, then the Guarantees will be released.

The Indenture contains covenants that, among other things, restrict the ability of the Company and/or its subsidiaries to incur liens, to engage in sale and leaseback transactions and to merge, consolidate or sell assets.

The Notes are redeemable at the Company's election, in whole or in part, at any time at a redemption price equal to the greater of: (1) 100% of the principal amount of the Notes to be redeemed then outstanding; and (2) the sum of the present values of the remaining scheduled payments of principal and interest on the Notes to be redeemed (not including any portion of such payments of interest accrued to the date of redemption) discounted to the redemption date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) as determined in accordance with the Indenture, plus 50 basis points, plus, in either of such cases, accrued and unpaid interest to the date of redemption on the Notes to be redeemed.

In addition, if the Company undergoes a change of control, Note holders will have the option to require the Company to purchase all or any portion of the Notes at a purchase price equal to 101% of the principal amount of the Notes to be purchased plus any accrued and unpaid interest to, but excluding, the change of control date.

A copy of the Indenture is filed herewith as Exhibit 4.1. A copy of the form of the Note is filed herewith as Exhibit 4.2. The foregoing description of the Indenture and the Notes is a summary and is qualified in its entirety by reference to Exhibits 4.1 and 4.2.

### ***Registration Rights Agreement***

In connection with the closing under the Purchase Agreement, the Company entered into a Registration Rights Agreement (the "Registration Rights Agreement") with the Initial Purchasers. Under the Registration Rights Agreement, the Company agreed for the benefit of the holders of the notes that, unless the notes shall be freely tradable pursuant to Rule 144 under the Securities Act by the 365th day following the issue of the notes, the Company and the Guarantors will file with the Securities Exchange Commission (the "Commission"), and use its reasonable best efforts to cause to become effective, a registration statement relating to an offer to exchange the notes for an issue of registered notes with terms identical to the notes (except that the exchange notes will not be subject to restrictions on transfer or contain terms with respect to the payment of liquidated damages as described below).

If the Notes are not freely tradable pursuant to Rule 144 under the Securities Act by the 365th calendar day after the issue of the notes and the exchange offer is not completed (or, if required, the shelf registration statement is not declared effective) on or before the 365th calendar day after the closing date (the "Target Registration Date"), then the Company has agreed to pay each holder of Notes liquidated damages in an amount equal to 0.25% per annum of the principal amount of Notes held by such holder, with respect to the first 90 days after the Target Registration Date, (which rate shall be increased by an additional 0.25% per annum for each subsequent 90-day period that such liquidated damages continue to accrue) in each case until the exchange offer is completed or the shelf registration statement, if required hereby, is declared effective or the notes become freely tradable; provided, however, that at no time shall the amount of liquidated damages accruing exceed in the aggregate 1.0% per annum. Liquidated damages described in this paragraph will cease to accrue upon the earlier of the completion of the exchange offer (or, if required, the effectiveness of the shelf registration statement) or such time as the notes become freely tradable.

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A copy of the Registration Rights Agreement is filed herewith as Exhibit 4.3. The description of the Registration Rights Agreement in this report is a summary and is qualified in its entirety by the terms of the Registration Rights Agreement.

This Current Report on Form 8-K does not constitute an offer to sell, or a solicitation of an offer to buy, any security and shall not constitute an offer, solicitation or sale in any jurisdiction in which such offer, solicitation or sale would be unlawful.

### Section 2 - Financial Information

#### Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of the Registrant.

The description of the Indenture and the Notes set forth under the heading Indenture in Item 1.01 of this Form 8-K is incorporated by reference herein.

### Section 9 - Financial Statements and Exhibits

#### Item 9.01 Financial Statements and Exhibits.

(d) The following exhibits are filed as part of this report:

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| Exhibit Number | Description   |
|----------------|---|
| <u>4.1</u>     | Indenture by and among Southwestern Energy Company, SEECO, Inc., Southwestern Energy Production Company, Southwestern Energy Services Company and The Bank of New York Trust Company, N.A., as trustee, dated as of January 16, 2008. |
| <u>4.2</u>     | Form of the Notes (included as an exhibit to the Indenture filed as Exhibit 4.1 to this Form 8-K).  |
| <u>4.3</u>     | Registration Rights Agreement between Southwestern Energy Company and the Initial Purchasers thereunder, dated as of January 16, 2008.  |
| <u>10.1</u>    | Purchase Agreement by and among Southwestern Energy Company, SEECO, Inc., Southwestern Energy Production Company, Southwestern Energy Services Company and the Initial Purchasers thereunder, dated January 11, 2008.                 |

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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.

SOUTHWESTERN ENERGY COMPANY

Dated: January 16, 2008

By: /s/ GREG D. KERLEY

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Name: Greg D. Kerley  
Title: Executive Vice President and  
Chief Financial Officer