

PLUG POWER INC
Form 8-K
April 03, 2019

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): **March 29, 2019**

Plug Power Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

1-34392
(Commission File
Number)

22-3672377
(IRS Employer
Identification No.)

968 Albany Shaker Road,
Latham, New York
(Address of principal executive offices)

12110
(Zip Code)

Registrant's telephone number, including area code: **(518) 782-7700**

N/A

(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 (*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))

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.

On March 29, 2019, Plug Power Inc., a Delaware corporation (the "Company"), and its subsidiaries Emerging Power Inc., a Delaware corporation ("Emerging"), and Emergent Power Inc., a Delaware corporation ("Emergent"), entered into a loan and security agreement (the "Loan Agreement") with Generate Lending, LLC, a Delaware limited liability company ("Lender"), pursuant to which Lender agreed to make available to the Company a secured term loan facility in the amount of \$100 million (the "Term Loan Facility"), subject to certain terms and conditions. The Company borrowed \$85 million under the Loan Agreement on the date of closing. Pursuant to the Loan Agreement Amendment (as defined below) the Lender advanced an additional \$10 million on April 2, 2019. In addition, pursuant to the Loan Agreement Amendment the Lender will advance an additional \$5 million on or before April 12, 2019 subject to no default or event of default. The initial proceeds of the loan were used to (i) pay in full the Company's obligations of \$17.6 million under the loan and security agreement, dated as of July 21, 2017, by and among the Company, Emerging, Emergent and NY Green Bank, a Division of the New York State Energy Research & Development Authority (the "GreenBank Loan Agreement") and (ii) terminate \$50.3 million of certain equipment leases with Generate Plug Power SLB II, LLC and repurchase the associated leased equipment. The collective balance of \$32.1 million in loan proceeds will be used to fund working capital for ongoing deployments and other general corporate purposes of the Company.

Advances under the Term Loan Facility bear interest at a rate of 12.00% per annum. The Loan Agreement includes covenants, limitations, and events of default customary for similar facilities. The Term Loan Facility has a maturity date of December 13, 2022 (the "Maturity Date"). The principal and interest of the loan will be largely serviced with the release of the Company's restricted cash.

Interest and a portion of the principal amount is payable on a quarterly basis and the entire then outstanding principal balance of the Term Loan Facility, together with all accrued and unpaid interest, is due and payable on the Maturity Date. The Company may also be required to pay the Lender additional fees of up to \$1,500,000 if the Company is unable to meet certain goals related to the entering into structured project financing arrangements with the Lender prior to December 31, 2021.

All obligations under the Loan Agreement are unconditionally guaranteed by Emerging and Emergent. The Term Loan Facility is secured by substantially all of the Company's and the guarantors' assets, including, among other assets, all intellectual property, all securities in domestic subsidiaries and 65% of the securities in foreign subsidiaries, subject to certain exceptions and exclusions.

The Loan Agreement contains customary covenants for transactions of this type and other covenants agreed to by the parties, including, among others, (i) the provision of annual and quarterly financial statements, management rights and insurance policies, (ii) restrictions on incurring debt, granting liens, making acquisitions, making loans, paying dividends, dissolving, and entering into leases and asset sales and (iii) compliance with a collateral coverage covenant based on third party valuation. The Loan Agreement also provides for customary events of default, including, among others, payment, bankruptcy, covenant, representation and warranty, change of control and judgment defaults.

The Loan Agreement provides that if there is an event of default due to the Company's insolvency or if the Company fails to perform in any material respect the servicing requirements for fuel cell systems under certain customer agreements, which failure would entitle the customer to terminate such customer agreement, replace the Company or withhold the payment of any material amount to the Company under such customer agreement, then the Lender has the right to cause Proton Services Inc., a wholly owned subsidiary of the Company, to replace the Company in performing the maintenance services under such customer agreement.

The foregoing summary does not purport to be complete and is qualified in its entirety by reference to the Loan Agreement, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

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On March 29, 2019, the Company and its subsidiaries, Emerging and Emergent, entered into an amendment to the Loan Agreement (the Loan Agreement Amendment) with Lender, pursuant to which the additional \$15 million to

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be dispersed on April 12, 2019 under the Loan Agreement is available on or before April 12, 2019, subject to no default or event of default.

The foregoing summary does not purport to be complete and is qualified in its entirety by reference to the Loan Agreement Amendment, a copy of which is filed as Exhibit 10.2 to this Current Report on Form 8-K and incorporated herein by reference.

Item 1.02. Termination of a Material Definitive Agreement.

On March 29, 2019, the Company repaid in full all outstanding obligations under the GreenBank Loan Agreement, thereby terminating the GreenBank Loan Agreement.

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

See the disclosure set forth in Item 1.01, Entry into a Material Definitive Agreement, of this Current Report on Form 8-K, which disclosure is incorporated into this Item 2.03 by reference.

Item 7.01. Regulation FD Disclosure

On April 3, 2019, the Company issued a press release announcing its entry into the Loan Agreement. A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K and incorporated by reference into this Item 7.01.

The information contained in this Item 7.01, including Exhibit 99.1, shall not be deemed filed with the U.S. Securities and Exchange Commission nor incorporated by reference in any registration statement filed by the Company under the Securities Act of 1933, as amended.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Number	Title
10.1	<u>Loan and Security Agreement dated as of March 29, 2019 by and among Plug Power Inc., Emerging Power Inc., Emergent Power Inc. and Generate Lending, LLC, a Delaware limited liability company</u>
10.2	

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First Amendment to Loan and Security Agreement dated as of March 29, 2019 by and among Plug Power Inc., Emerging Power Inc., Emergent Power Inc. and Generate Lending, LLC, a Delaware limited liability company

99.1

Press Release of Plug Power Inc. dated April 3, 2019

SIGNATURE

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: April 3, 2019

By:	/s/ Paul Middleton
Name:	Paul Middleton
Title:	Chief Financial Officer