

ENVIRONMENTAL POWER CORP
Form 10-K/A
July 18, 2005

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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 December 31, 2004

OR

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

For the transition period from _____ to _____

Commission File Number 001-32393

Environmental Power Corporation

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(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

75-3117389
(IRS Employer
Identification No.)

One Cate Street, 4th Floor, Portsmouth, New Hampshire 03801

(Address of principal executive offices) (Zip code)

(603) 431-1780

Registrant's telephone number, including area code

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

| <u>Title of Each Class</u> | <u>Name of Exchange on Which Registered</u> |
|---|---|
| Common Stock, \$.01 par value per share | American Stock Exchange |

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the 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 the Form 10-K. Yes No

The aggregate market value of voting stock (common stock, \$.01 par value) held by non-affiliates, computed by reference to the closing price of such stock, was \$26,957,605 on June 30, 2004.

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Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2).

Yes No

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the last practicable date: On March 11, 2005 there were 7,505,988 outstanding shares of Common Stock, \$.01 par value, of the registrant.

EXPLANATORY NOTE

This Amendment No. 2 on Form 10-K/A to the Annual Report on Form 10-K for the fiscal year ended December 31, 2004 (the Annual Report) of Environmental Power Corporation (we, us, the Company or EPC) filed on March 31, 2005 with the Securities & Exchange Commission (the SEC), as amended by Amendment No. 1 to the Annual Report on Form 10-K/A filed on April 29, 2005 (Amendment No. 1) is filed for the following purposes:

To restate in its entirety the Summary Compensation Table set forth in Part III, Item 11 of Amendment No. 1 under the heading Compensation of Executive Officers . The Summary Compensation Table, as originally filed, inadvertently omitted certain information relating to restricted stock awards made to the named executive officers in 2004. Certain information relating to the awards was, however, included in Section 16 filings made by such officers, as well as in Part III, Item 10 of the Annual Report, as amended by Amendment No. 1, under the heading Section 16(a) Beneficial Ownership Reporting Compliance.

To amend Item 15(b) (Exhibits) of the Annual Report to add the additional exhibits reflected herein.

In addition, in connection with the filing of this Amendment No. 2 and pursuant to Rules 13a-14(a) or 15d-14(a) under the Securities Exchange Act of 1934, we are including with this Amendment No. 2 certain currently dated certifications. Except as described above and set forth herein, no other amendments are being made to the Annual Report or Amendment No. 1. This Form 10-K/A does not reflect events occurring after the March 31, 2005 filing of our Annual Report or modify or update the disclosure contained in the Annual Report or Amendment No. 1 in any way other than as required to reflect the amendments discussed above and reflected herein.

Part III**Item 11. Executive Compensation**

Item 11 of Part III of the Annual Report, as amended by Amendment No. 1, is hereby further amended by restating in its entirety the Summary Compensation Table and footnotes thereto included therein as set forth below:

Summary Compensation Table. The table below sets forth the total compensation paid or accrued for the fiscal years ended December 31, 2004, 2003 and 2002 to our chief executive officer and each of our three other executive officers who were serving as executive officers on December 31, 2004. We refer to these officers as our named executive officers.

| Name and Principal Position | Year | Annual Compensation | | | Long-Term Compensation Awards | | All Other Compensation |
|--|------|---------------------|-------|-----------|-------------------------------|-------------------------------|------------------------|
| | | Salary | Bonus | Other (1) | Restricted Stock Awards (2) | Securities Underlying Options | |
| Joseph E. Cresci Chairman | 2004 | \$ 222,908 | | \$ 14,452 | \$ 59,995 | 142,858 | |
| | 2003 | \$ 330,000 | | | | | |
| | 2002 | \$ 400,000 | | | | | |
| Kamlesh R. Tejwani (3) President and Chief Executive Officer | 2004 | \$ 225,000 | | \$ 9,080 | | 571,429(4) | |
| | 2003 | \$ 110,913 | | | | | |
| | 2002 | | | | | | |
| Donald A. Livingston Executive Vice President and President, Microgy, Inc. | 2004 | \$ 256,350 | | \$ 12,348 | \$ 19,998 | 142,858 | |
| | 2003 | \$ 378,900 | | | | | |
| | 2002 | \$ 400,000 | | | | | |
| R. Jeffrey Macartney (5) Chief Financial Officer and Treasurer | 2004 | \$ 185,583 | | \$ 6,600 | \$ 10,661 | | |
| | 2003 | \$ 148,667 | | | | 42,857 | |
| | 2002 | \$ 109,333 | | | | 14,286 | |

- (1) Consists of payment of lease expenses for automobiles that are partially used for personal use.
- (2) Consists of 9,966, 3,322 and 1,771 shares of our common stock underlying restricted stock awards granted to Messrs. Cresci, Livingston and Macartney in 2004 in accordance with the terms of our 2003 Incentive Compensation Plan in consideration of salary reductions taken in 2003 and 2004. Shares subject to awards vest in four equal installments for each full calendar quarter of service completed from and after March 31, 2005. The value of the awards is based on the closing price of \$6.02 for our common stock on the OTC Bulletin Board on March 15, 2004, the date of grant.
- (3) Mr. Tejwani joined us in July 2003. Accordingly, no information is shown for 2002.
- (4) On March 29, 2004, the Company and Mr. Tejwani entered into an amendment to the option agreement relating to these options pursuant to which the original option grant to Mr. Tejwani covering 714,286 shares was reduced by 142,857 shares.
- (5) Mr. Macartney joined us in April 2002.

Part IV

Item 15. Exhibits and Financial Statement Schedules

(b) Exhibits

Item 15(b) of Part IV of the Annual Report is hereby amended by adding the following exhibits to the exhibit list set forth therein:

Exhibit No. Description

| | |
|--------|---|
| 10.64+ | Restricted Stock Agreement, dated March 15, 2004, between the Registrant and Joseph E. Cresci |
| 10.65+ | Restricted Stock Agreement, dated March 15, 2004, between the Registrant and Donald A. Livingston |
| 10.66+ | Restricted Stock Agreement, dated March 15, 2004, between the Registrant and John R. Cooper |
| 10.67+ | Restricted Stock Agreement, dated March 15, 2004, between the Registrant and Jessie J. Knight Jr. |
| 10.68+ | Restricted Stock Agreement, dated March 15, 2004, between the Registrant and August Schumacher, Jr. |
| 10.69+ | Restricted Stock Agreement, dated March 15, 2004, between the Registrant and Robert I. Weisberg |
| 10.70+ | Restricted Stock Agreement, dated March 15, 2004, between the Registrant and R. Jeffrey Macartney |
| 10.71+ | Summary of Non-Employee Director Compensation |

+ Management contract or compensatory plan or arrangement

The following additional exhibits are filed with this Amendment No. 2. These exhibits do not amend the corresponding exhibits previously filed with the Annual Report or Amendment No. 1.

Exhibit No. Description

| | |
|-------|--|
| 31.01 | Section 302 Certificate of Chief Executive Officer |
| 31.02 | Section 302 Certificate of Chief Financial Officer |

SIGNATURES

Pursuant to the requirements of Section 13 or 15 (d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated:

July 18, 2005

ENVIRONMENTAL POWER CORPORATION

By: /s/ Kamlesh R. Tejwani

 Kamlesh R. Tejwani
 President & Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act 1934, this report has been signed below by the following persons on behalf of registrant and in the capacities and on the dates indicated.

| <u>Signature</u> | <u>Title</u> | <u>Date</u> |
|-------------------------------------|--|---------------|
| _____ /s/ Joseph E. Cresci | Chairman and Director | July 18, 2005 |
| _____ Joseph E. Cresci | | |
| _____ /s/ Kamlesh R. Tejwani | President & Chief Executive Officer and Director | July 18, 2005 |
| _____ Kamlesh R. Tejwani | (Principal Executive Officer) | |
| _____ /s/ Donald A. Livingston | Executive Vice President and Director | July 18, 2005 |
| _____ Donald A. Livingston | | |
| _____ /s/ John F. O Neill | Chief Financial Officer and Treasurer | July 18, 2005 |
| _____ John F. O Neill | (Principal Financial and Accounting Officer) | |
| _____ /s/ John Cooper | Director | July 18, 2005 |
| _____ John Cooper | | |
| _____ /s/ Jessie J. Knight, Jr. | Director | July 18, 2005 |
| _____ Jessie J. Knight, Jr. | | |
| _____ /s/ August Schumacher, Jr. | Director | July 18, 2005 |
| _____ August Schumacher, Jr. | | |
| _____ Robert I. Weisberg | Director | |

