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

**FORM S-8
REGISTRATION STATEMENT**
*UNDER
THE SECURITIES ACT OF 1933*

ENERGOUS CORPORATION
(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation or Organization)

46-1318953
(I.R.S. Employer
Identification No.)

**3590 North First Street, Suite 210
San Jose, CA 95134**
(Address of Principal Executive Offices) (Zip Code)

2017 Equity Inducement Plan
(Full Title of the Plan)

Cesar Johnston
Chief Executive Officer
Energous Corporation
3590 North First Street, Suite 210
San Jose, CA 95134
(Name and Address of Agent For Service)

(408) 963-0200
(Telephone Number, including area code, of agent for service)

Copies to:

Mark A. Leahy, Esq.
Amanda L. Rose, Esq.
Fenwick & West LLP
801 California Street
Mountain View, California 94041
(650) 988-8500

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
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 7(a)(2)(B) of the Securities Act.

INTRODUCTORY NOTE

REGISTRATION OF ADDITIONAL SHARES PURSUANT TO GENERAL INSTRUCTION E

Pursuant to General Instruction E of Form S-8, Energous Corporation (the “*Registrant*” or the “*Company*”) is filing this Registration Statement on Form S-8 (this “*Registration Statement*”) with the Securities and Exchange Commission (the “*Commission*”) to register 2,000,000 additional shares of common stock under the Registrant’s 2017 Equity Inducement Plan (the “*2017 Plan*”). This Registration Statement hereby incorporates by reference the contents of the Registrant’s previous registration statement on Form S-8 filed with the Commission March 16, 2018 (Registration No. 333-223747).

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information called for by Part I of Form S-8 is omitted from this Registration Statement in accordance with Rule 428 of the Securities Act of 1933, as amended (the “*Securities Act*”) and the instructions to Form S-8. In accordance with the rules and regulations of Commission and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Registrant hereby incorporates by reference into this Registration Statement the following documents previously filed with the Commission:

- (a) the Registrant’s Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2021, filed with the Commission on March 23, 2022, pursuant to Section 13 of the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”);
- (b) the description of the Registrant’s Common Stock contained in the Registrant’s Registration Statement on [Form 8-A](#) (Registration No. 001-36379) filed with the Commission on March 26, 2014, pursuant to Section 12(b) of the Exchange Act, and including any other amendments or reports filed for the purpose of updating such description; and
- (c) all other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the Registrant’s Annual Report referred to in (a) above.

All reports and definitive proxy or information statements filed by the Registrant pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the filing of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which de-registers all securities then remaining unsold shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of the filing of such documents, except as to documents or information deemed to have been furnished and not filed in accordance with the rules of the Commission. Unless expressly incorporated into this Registration Statement, a report furnished on Form 8-K prior or subsequent to the date hereof shall not be incorporated by reference into this Registration Statement. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such statement.

Item 8. Exhibits.

The following exhibits are filed herewith:

Exhibit Number	Exhibit Description	Form	Incorporated by Reference		Exhibit	Filed Herewith
			File No.	Filing Date		
5.1	Opinion of Fenwick & West LLP as to legality of securities being registered					X
10.1	2017 Equity Inducement Plan	10-K	001-36379	March 16, 2018	10.29	
23.1	Consent of Independent Registered Public Accounting Firm					X
23.2	Consent of Fenwick & West LLP (included in Exhibit 5.1)					X
24.1	Power of Attorney (included on signature page hereto)					X
107.1	Calculation of Filing Fee Table					X



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415.875.2300
Fenwick.com

August 16, 2022

Energous Corporation
3590 North First Street, Suite 210
San Jose, CA 95134

Ladies and Gentlemen:

At your request, as your counsel, we have examined the Registration Statement on Form S-8 (the “**Registration Statement**”) to be filed by Energous Corporation, a Delaware corporation (the “**Company**”), with the Securities and Exchange Commission (the “**Commission**”) on or about August 16, 2022 in connection with the registration under the Securities Act of 1933, as amended (the “**Securities Act**”), of 2,000,000 shares (the “**Shares**”) of the Company’s common stock, \$0.00001 par value per share (“**Common Stock**”), subject to issuance by the Company upon exercise or settlement of awards to be granted under the 2017 Equity Inducement Plan (the “**2017 Plan**”).

At your request we are providing this letter to express our opinion on the matters set forth below in this letter (“**our opinion**”).

In connection with our opinion, we have examined such matters of fact as we have deemed necessary, which included examination of originals or copies of: the Company’s current Second Amended and Restated Certificate of Incorporation and its amendments and Amended and Restated Bylaws (collectively, the “**Charter Documents**”), the 2017 Plan, the Registration Statement and the exhibits thereto; certain corporate proceedings of the Company’s Board of Directors (the “**Board**”) and the Company’s stockholders relating to adoption or approval of the Charter Documents, the reservation of the Shares for sale and issuance, the filing of the Registration Statement and the registration of the Shares under the Securities Act; documents (including a certificate from the Company’s transfer agent) regarding the Company’s outstanding and reserved capital stock and other securities and such other documents as we have deemed advisable, and we also have examined such questions of law as we have considered necessary.

In our examination of documents for purposes of this opinion, we have assumed, and express no opinion as to, the authenticity and completeness of all documents submitted to us as originals, the genuineness of signatures on documents reviewed by us, the conformity to originals and the completeness of all documents submitted to us as copies, the legal capacity of all parties executing any documents (other than the Company), the lack of any undisclosed termination or modification or waiver of any document, the absence of any extrinsic agreements or documents that might change or affect the interpretation or terms of documents, and the due authorization, execution and delivery of all documents by each party thereto other than the Company. We have also assumed that any certificates or instruments representing the Shares, when issued, will be executed by the Company by officers of the Company duly authorized to do so. In rendering our opinion, we have also relied upon a Certificate of Good Standing dated August 16, 2022 issued by the Delaware Secretary of State with respect to the Company and representations and certifications made to us by the Company, including without limitation representations in an Opinion Certificate addressed to us of even date herewith that the Company has available a sufficient number of authorized shares of Common Stock that are not currently outstanding or reserved for issuance under other outstanding securities or plans of the Company, to enable the Company to issue and deliver all of the Shares as of the date of this letter.

We render this opinion only with respect to, and we express no opinion herein concerning the application or effect of the laws of any jurisdiction other than, the existing Delaware General Corporation Law now in effect. We express no opinion with respect to the securities or “blue sky” laws of any state.

Based upon, and subject to, the foregoing, it is our opinion that when the Shares have been issued and sold by the Company against the Company’s receipt of payment therefor (in an amount and type of consideration not less than the par value per Share) in accordance with the terms (including without limitation payment and authorization provisions) of the 2017 Plan, and have been duly registered on the books of the transfer agent and registrar for the Shares in the name or on behalf of the holders thereof, such Shares will be validly issued, fully paid and non-assessable.

We consent to the use of this opinion as an exhibit to the Registration Statement and further consent to all references to us, if any, in the Registration Statement, the prospectus constituting a part thereof and any amendments thereto. We do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder. This opinion is intended solely for use in connection with issuance and sale of the Shares subject to the Registration Statement and is not to be relied upon for any other purpose. In providing this letter, we are opining only as to the specific legal issues expressly set forth above, and no opinion shall be inferred as to any other matter or matters. This opinion is rendered on, and speaks only as of, the date of this letter first written above, and does not address any potential change in facts or law that may occur after the date of this opinion letter. We assume no obligation to advise you of any fact, circumstance, event or change in the law or the facts that may hereafter be brought to our attention, whether or not such occurrence would affect or modify any of the opinions expressed herein.

Very truly yours,

/s/ Fenwick & West LLP
FENWICK & WEST LLP

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Energeous Corporation on Form S-8 of our report dated March 22, 2022, with respect to our audits of the financial statements of Energeous Corporation as of December 31, 2021 and 2020 and for the years ended December 31, 2021 and 2020 appearing in the Annual Report on Form 10-K of Energeous Corporation for the year ended December 31, 2021.

/s/ Marcum LLP

Marcum LLP
Melville, NY
August 15, 2022

Calculation of Filing Fee Tables

Form S-8
(Form Type)

Energous Corporation
(Exact Name of Registrant as Specified in its Charter)

Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered ⁽¹⁾	Proposed Maximum Offering Price Per Unit ⁽³⁾	Maximum Aggregate Offering Price ⁽³⁾	Fee Rate	Amount of Registration Fee ⁽⁴⁾
Equity	Common stock, par value \$0.00001 per share	Rule 457(c) and Rule 457(h)	2,000,000 ⁽²⁾	\$1.43	\$2,860,000	0.0000927	\$266
Total Offering Amounts							\$266
Total Fee Offsets ⁽⁵⁾							—
Net Fee Due							\$266

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “*Securities Act*”), this Registration Statement on Form S-8 shall cover any additional shares of common stock, \$0.00001 par value per share (“*Common Stock*”) of Energous Corporation (the “*Registrant*”) that become issuable in respect of the securities identified in the above table by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected without the Registrant’s receipt of consideration which results in an increase in the number of the outstanding shares of Common Stock.
- (2) Represents 2,000,000 additional shares of Common Stock reserved for issuance under the 2017 Equity Inducement Plan.
- (3) Estimated under Rules 457(c) and (h) of the Securities Act solely for the purpose of calculating the registration fee on the basis of the average of the high and low prices of the Common Stock as quoted by The Nasdaq Global Select Market on August 15, 2022, which date is within five business days prior to the filing of the Registration Statement.
- (4) Rounded up to the nearest cent.
- (5) The Registrant does not have any fee offsets.