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ABLE ENERGY INC
Form 8-K
January 09, 2006

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): JANUARY 4, 2006

ABLE ENERGY, INC.
(Exact name of registrant specified in charter)

| | | |
|--------------------------|--------------------------|--------------------------------------|
| DELAWARE | 001-15035 | 22-3520840 |
| (State of Incorporation) | (Commission File Number) | (IRS Employer Identification No.) |

198 GREEN POND ROAD, ROCKAWAY, NJ 07866
(Address of principal executive offices) (Zip Code)

(973) 625-1012
Registrant's Telephone Number

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))

ITEM 4.01 CHANGES IN REGISTRANT'S CERTIFYING ACCOUNTANT.

(A) PREVIOUS INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM.

(i) On January 4, 2006, Able Energy, Inc. (the "Company") dismissed Simontacchi & Company LLP ("Simontacchi") as its independent registered public accounting firm.

(ii) The report of Simontacchi on the Company's financial statements and financial statement schedule for the fiscal years ended June 30, 2005 and June 30, 2004 contained no adverse opinion or disclaimer of opinion and was not qualified or modified as to uncertainty, audit scope or accounting principles.

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(iii) The Company's Audit Committee recommended and approved the decision to change independent registered public accounting firms.

(iv) In connection with the audits of the Company's financial statements for each of the two most recently completed fiscal years and through June 30, 2005, there have been no disagreements with Simontacchi on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of Simontacchi, would have caused it to make reference to the subject matter of such disagreements in connection with its audit report. There were no reportable events as defined in Item 304(a)(1)(v) of Regulation S-K.

(v) The Company has given permission to Simontacchi to respond fully to the inquiries of the successor auditor, including those concerning the subject matter of this reportable event.

(vi) The Company has requested that Simontacchi furnish the Company with a letter addressed to the SEC stating whether it agrees with the above statements. Such letter is filed hereunder as Exhibit 16.1.

(B) NEW INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM.

(i) On January 9, 2006 and effective the same date, on the recommendation of the Company's Audit Committee, the Company engaged Marcum & Kliegman LLP ("Marcum") as its independent registered public accounting firm to audit the Company's financial statements as of and for the fiscal year ending June 30, 2006 and to perform procedures related to the financial statements included in the Company's quarterly reports on Form 10-Q, beginning with the quarter ended December 31, 2005.

(ii) During the two most recent fiscal years and through January 9, 2006, the Company has not consulted with Marcum regarding either the application of accounting principles to a specified transaction, either completed or proposed, or the type of audit opinion that might be rendered on the financial statements of the Company, as well as any matters or reportable events described in Items 304(a)(2)(i) or (ii) of Regulation S-K.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.

(C) EXHIBITS.

| EXHIBIT NO. | DESCRIPTION |
|-------------|---|
| 16.1 | Letter from Simontacchi & Company LLP to the Securities and Exchange Commission regarding change in certifying accountants. |

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.

Dated: January 9, 2006

ABLE ENERGY, INC.

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By: /s/ Gregory D. Frost

Gregory D. Frost, CEO