
**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): December 23, 2019

FTE NETWORKS, INC.

(Exact name of registrant as specified in its charter)

Nevada

(State or Other Jurisdiction
of Incorporation)

001-38322

(Commission
File Number)

81-0438093

(IRS Employer
Identification No.)

**237 West 35th Street, Suite 806
New York, NY**

(Address of Principal Executive Offices)

10001

(Zip Code)

Registrant's Telephone Number, Including Area Code: **877-878-8136**

(Former Name or Former Address, if Changed Since Last Report): Not Applicable

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))

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

Title of each class

Common Stock, \$0.001 par value

Trading Symbol(s)

FTNW

Name of each exchange on which registered

NYSE American

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 December 23, 2019, FTE Networks, Inc. (“FTE” or the “Company”) entered into a Preferred Stock Repurchase Agreement (the “Repurchase Agreement”) with Fred Sacramone and Brian McMahon (collectively, the “Sellers”), pursuant to which the Company repurchased from the Sellers one hundred (100) shares of Series H Preferred Stock, par value \$0.01 per share, of the Company (the “Series H Preferred Stock”), for an aggregate purchase price of \$100. The Series H Preferred Stock repurchased by the Company pursuant to the Repurchase Agreement represented all of the issued and outstanding shares of Series H Preferred Stock. Following such repurchase, these shares of Series H Preferred Stock were cancelled and returned to the status of authorized but unissued shares of Series H Preferred Stock. The Repurchase Agreement contains customary representations, warranties and covenants of each party.

The foregoing summary of the Repurchase Agreement does not purport to be complete and is subject to, and is qualified in its entirety by, the full text of the Repurchase Agreement, which is filed as Exhibit 10.1 hereto and incorporated herein by reference.

Item 5.01 Changes in Control of Registrant.

As a result of the Company’s repurchase and cancellation of all of the outstanding shares of Series H Preferred Stock, we experienced a change in control. Reference is made to the disclosures set forth in Item 1.01 of this Current Report on Form 8-K, which disclosures are incorporated by reference into this Item 5.01.

Prior to the cancellation of the Series H Preferred Stock, pursuant to the Certificate of Designation of Series H Preferred Stock filed with the Secretary of State of the State of Nevada effective as of June 29, 2019 (the “Certificate of Designation”), the holders of the Series H Preferred Stock, voting separately as a class, had the right to vote on all shareholder matters equal to fifty-one percent (51%) of the total number of votes to be cast by all classes or series of capital stock of the Company. Moreover, the Company was prohibited, without the affirmative vote of the holders of at least 66-2/3% of the outstanding shares of Series H Preferred Stock, from amending, altering or repealing any provision of the Certificate of Designation. The Series H Preferred Stock was not entitled to any dividends, liquidation preference, conversion rights or redemption rights, but by virtue of the foregoing voting provisions, it exercised control over all matters submitted to a vote of the shareholders.

Following the consummation of the transactions contemplated by the Repurchase Agreement, the Series H Preferred Stock has been cancelled and the former holders the Series H Preferred Stock no longer control the vote on all matters submitted to a vote of the shareholders.

As a result of the repurchase and cancellation of the outstanding Series H Preferred Stock, control over the Company has been restored to the holders of the Company’s outstanding voting stock, which currently consists of the Company’s Common Stock and the Company’s Series A Preferred Stock and Series A-1 Preferred Stock. Pursuant to the Company’s Amended and Restated Articles of Incorporation filed with the Secretary of State of the State of Nevada on April 24, 2008, subject to certain protective voting provisions with respect to the Company’s outstanding preferred stock, matters submitted to a vote of the shareholders may be approved by holders of a majority of the Company’s outstanding Common Stock and the Company’s Series A Preferred Stock and Series A-1 Preferred Stock, voting as a single class. Each share of Common Stock entitles the holder thereof to one vote per share, while each share of Series A Stock and Series A-1 Stock entitles the holder thereof to the number of votes equal to the number of whole shares of Common Stock into which such shares are convertible. No other class of voting securities is currently outstanding.

The Company is not aware of any arrangements or understandings among members of either the former or new control group and their associates with respect to election of directors or other matters. There are no arrangements known to the Company, including any pledge by any person of securities of the Company, the operation of which may at a subsequent date result in a change in control of the Company.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Changes in Fiscal Year.

On December 23, 2019, the Company filed a Certificate of Designation (the “Certificate of Designation”) with the Secretary of State of the State of Nevada to amend its Amended and Restated Articles of Incorporation. The Certificate of Designation, which was effective upon filing, fixes the designations, preferences, limitations and relative rights of 2,500 shares of the Company’s Series I Non-Convertible Preferred Stock, \$0.01 par value per share. The Series I Preferred Stock has no dividend rights, no liquidation preference, is not convertible and has no voting rights.

The foregoing description of the Series I Preferred Stock does not purport to be complete and is qualified in its entirety by reference to the Certificate of Designation, a copy of which is filed as Exhibit 3.1 hereto and incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit No. Description

3.1	Certificate of Designation for Series I Non-Convertible Preferred Stock filed with the Secretary of State of Nevada
10.1	Preferred Stock Repurchase Agreement dated as of December 23, 2019, by and among FTE Networks, Inc., Fred Sacramone and Brian McMahon.

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, thereunto duly authorized.

FTE NETWORKS, INC.
(Registrant)

Date: December 30, 2019

/s/ Michael P. Beys
Name: Michael P. Beys
Title: Interim Chief Executive Officer

**CERTIFICATE OF DESIGNATION
OF
SERIES I PREFERRED STOCK
OF
FTE NETWORKS, INC.**

I, the undersigned, hereby certify that I am the Interim Chief Executive Officer of FTE Networks, Inc. (the “**Corporation**”), a corporation organized and existing under the Nevada Revised Statutes (the “**NRS**”), and further do hereby certify:

FIRST: The original articles of incorporation of the Corporation were filed with the Secretary of State of Nevada on May 22, 2000, amended and restated on February 15, 2008, and amended and restated on April 24, 2008. The articles of incorporation of the Corporation as such may be amended or restated from time to time, are referred to herein as the “**Articles of Incorporation**.”

SECOND: The Certificate of Designation of Series B Preferred Stock was filed with the Secretary of State of Nevada on June 19, 2008, and amended and restated on July 14, 2008.

THIRD: The Certificate of Designation of Series C Preferred Stock was filed with the Secretary of State of Nevada on March 25, 2011, amended on May 11, 2011, and further amended on October 14, 2011.

FOURTH: The Certificate of Designation of Series D Preferred Stock was filed with the Secretary of State of Nevada on June 17, 2013.

FIFTH: The Certificate of Designation of Series E Preferred Stock was filed with the Secretary of State of Nevada on June 17, 2013.

SIXTH: The Certificate of Designation of Series F Preferred Stock was filed with the Secretary of State of Nevada on November 2, 2015.

SEVENTH: The Certificate of Designation of Series G Preferred Stock was filed with the Secretary of State of Nevada on December 4, 2017.

EIGHTH: The Certificate of Designation of Series H Preferred Stock was filed with the Secretary of State of Nevada on June 28, 2019.

NINTH: This Certificate of Designation of Series I Preferred Stock was duly adopted in accordance with the Articles of Incorporation and NRS Section 78.1955 by the written consent of the Board of Directors of the Corporation on December 19, 2019. No shares of Series I Preferred Stock have been issued as of the date hereof.

TENTH: This Certificate of Designation of Series I Preferred Stock is as follows:

1. Designation and Amount.

(a) Number of Shares. There is hereby created from the Five Million (5,000,000) shares of Preferred Stock, par value \$0.01 per share (the “**Preferred Stock**”), authorized under the Articles of Incorporation, a series of preferred stock designated as Series I Preferred Stock, par value \$0.01 per share (the “**Series I Preferred Stock**”). The authorized number of shares of the Series I Preferred Stock is Two Thousand (2,000) shares.

(b) Reacquired Shares. Any shares of Series I Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall become authorized but unissued shares of Series I Preferred Stock and may be reissued, subject to any conditions and restrictions on issuance that may be set forth in the Articles of Incorporation or otherwise required by law.

(c) Rank. The Series I Preferred Stock shall, with respect to voting rights, dividend rights, rights upon liquidation, winding up or dissolution, redemption rights and conversion rights, rank (i) junior to the Series A Preferred Stock and the Series A-1 Preferred Stock and all equity securities issued by the Corporation the terms of which specifically provide that such equity securities rank senior to the Series I Preferred Stock (the “**Senior Securities**”), (ii) on a parity with all equity securities issued by the Corporation the terms of which specifically provide that such equity securities rank on parity with the Series I Preferred Stock; and (iii) senior to all classes or series of the Corporation’s common stock, par value \$0.001 per share (the “**Common Stock**”) and all equity securities issued by the Corporation the terms of which specifically provide that such equity securities rank junior to such Series I Preferred Stock. For purposes of this Section 1(c), the term “equity securities” shall not include convertible debt securities.

2. Voting. The shares of Series I Preferred Stock shall have no voting rights.

3. Dividends. The holders of Series I Preferred Stock shall not be entitled to receive dividends paid on the Common Stock.

4. Liquidation, Dissolution or Winding Up.

(a) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of shares of Series I Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its shareholders, after payment shall be made to the holders of the Senior Securities, but before any payment shall be made to the holders of Common Stock or any other class or series of stock ranking on liquidation junior to the Series I Preferred Stock, by reason of their ownership thereof, an amount equal to One Hundred Thousand Dollars (\$100,000) per share, subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares.

(b) If upon any liquidation, dissolution or winding up of the Corporation, the assets of the Corporation available for distribution to its shareholders shall be insufficient to pay the holders of shares of Series I Preferred Stock the full preferential amounts to which they shall be entitled, the holders of Series I Preferred Stock and any class or series of stock ranking on liquidation on a parity with the Series I Preferred Stock shall share ratably in any distribution of the available assets and funds of the corporation in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

(c) After the payment of all preferential amounts required to be paid to the holders of Series I Preferred Stock and any other class or series of stock ranking on liquidation on a parity with the Series I Preferred Stock, the holders of the Series I Preferred Stock shall not be entitled to share in the distribution of the remaining assets and funds of the corporation available for distribution to its shareholders.

5. Conversion Rights. The shares of Series I Preferred Stock shall have no conversion rights.

6. Redemption Rights. The shares of Series I Preferred Stock shall have no redemption rights.

7. Votes to Issue, or Change the Terms of Shares of Series I Preferred Stock. Any amendment to this Certificate of Designation shall be effective upon (i) the approval of the Board of Directors of the Corporation and (ii) the affirmative vote of the holders of not less than a majority of the aggregate number of then-issued and outstanding shares of Series I Preferred Stock at a meeting duly called for such purpose, or by the written consent without a meeting of such holders of not less than a majority of the then outstanding shares of Series I Preferred Stock (the “**Required Series I Holders**”). No vote of any other class or series of capital stock of the Corporation shall be required to amend this Certificate of Designation. The affirmative vote of the Required Series I Holders shall be required for any amendment to the Corporation’s Articles of Incorporation which would adversely affect any of the powers, designations, preferences and rights of the shares of Series I Preferred Stock.

8. Lost or Stolen Certificates. Upon receipt by the Corporation of evidence reasonably satisfactory to the Corporation of the loss, theft, destruction or mutilation of any certificates representing shares of Series I Preferred Stock, and, in the case of loss, theft or destruction, of any indemnification undertaking by the holder of Series I Preferred Stock to the Corporation in customary form and in the case of mutilation, upon surrender and cancellation of the certificate(s) representing shares of Series I Preferred Stock, the Corporation shall execute and deliver new preferred share certificate(s) of like tenor and date.

9. Notices. Whenever notice is required to be given hereunder, unless otherwise provided herein, such notice shall be given in writing and will be mailed by certified mail, return receipt requested, or delivered against receipt to the party to whom it is to be given (a) if to the Corporation, at the Corporation’s executive offices or (b) if to a holder of the Series I Preferred Stock, at the address set forth on Corporation’s books and records.

* * * * *

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designation of Series I Preferred Stock of FTE Holdings, Inc. to be signed by its Chief Executive Officer on this 19th day of December, 2019.

By: /s/ Michael P. Beys

Name: Michael P. Beys

Title: Interim Chief Executive Officer

PREFERRED STOCK REPURCHASE AGREEMENT

This PREFERRED STOCK REPURCHASE AGREEMENT (the “**Agreement**”) is made as of the 23rd day of December, 2019, by and among FTE Networks, Inc., a Nevada corporation (the “**Company**”), and each of the parties set forth on Exhibit A hereto (each individually a “**Seller**” and collectively, the “**Sellers**”).

BACKGROUND

WHEREAS, the Sellers collectively desire to sell one hundred (100) shares of Series H Preferred Stock, par value \$0.01 per share (**Series H Preferred Stock**), of the Company, in the amounts set forth opposite the Sellers’ names on Exhibit A hereto; and

WHEREAS, the Company desires to repurchase and redeem the Series H Preferred Stock, on the terms and subject to the conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Purchase and Sale of Series H Preferred Stock. On the terms and subject to the conditions set forth herein, each Seller, severally and not jointly, hereby sells, assigns and transfers to the Company the Series H Preferred Stock owned by such Seller, and the Company hereby purchases and redeems such Series H Preferred Stock from such Seller, in each case for the aggregate consideration set forth opposite such Seller’s name on Exhibit A hereto (the “**Purchase Price**”). The Company shall pay the Purchase Price to each Seller on the date hereof by the Company’s plain check. Upon mutual execution and delivery of this Agreement, and upon delivery of the Purchase Price, transfer of the Series H Preferred Stock shall be deemed complete and effective as of the date first above set forth.

2. Representations and Warranties of the Sellers; Acknowledgements. Each Seller hereby represents and warrants to the Company, severally and not jointly, that:

(a) Authorization. Such Seller has the full power and authority to enter into this Agreement and that this Agreement, when executed and delivered by Seller, will constitute a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms.

(b) No Conflicts. The execution, delivery and performance by such Seller of this Agreement does not conflict with, violate or cause a default under any law, rule, regulation, judicial or administrative decree, judgment, organizational document or other agreement applicable to such Seller. No litigation or other governmental proceeding has been initiated or, to the knowledge of Seller, threatened seeking to invalidate or otherwise materially impair the transactions contemplated by this Agreement.

(c) Good Title to Securities. Such Seller has good title to the Series H Preferred Stock owned by such Seller and reflected on Exhibit A hereto, free and clear of any liens, security interests and other encumbrances of any kind. Such Seller has not transferred, assigned or otherwise disposed of any of the Series H Preferred Stock, nor entered into any agreement to do so, since the date of issuance thereof. Such Seller may freely transfer the Series H Preferred Stock to the Company without restriction or limitation.

(d) Acknowledgement. Such Seller is relying on its own knowledge of the financial outlook and affairs of the Company in making its decision to sell its Series H Preferred Stock.

(e) Full Satisfaction. The Purchase Price constitutes all of the consideration owed to such Seller for the redemption of the Series H Preferred Stock and full satisfaction of the Company's obligations to such Seller with respect to the Series H Preferred Stock.

3. Representations and Warranties of the Company. The Company represents and warrants to each Seller as follows:

(a) Authority. The Company is in good standing in the State of Nevada and has sufficient power and authority to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement by the Company have been duly authorized by all necessary corporate action.

(b) No Conflicts. The execution, delivery and performance of this Agreement by the Company do not conflict with, violate or cause a default under any law, rule, regulation, judicial or administrative decree, judgment, organizational document or other agreement applicable to the Company. No litigation or other governmental proceeding has been initiated or, to the knowledge of the Company, threatened seeking to invalidate or otherwise materially impair the transactions contemplated by this Agreement.

4. No Continuing Obligation. From and after the date hereof, all rights of the Sellers with respect to the Series H Preferred Stock being sold hereunder shall cease with respect to such Series H Preferred Stock, and such Series H Preferred Stock shall not thereafter be transferred on the books of the Company or be deemed to be outstanding for any purpose whatsoever.

5. Further Assurances. From and after the date of this Agreement, upon the request of any party hereto, the other parties will execute and deliver such instruments, documents or other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement.

6. Survival of Representations, Warranties and Covenants. The representations, warranties and covenants of the parties contained in or made pursuant to this Agreement will survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

7. Governing Law. This Agreement and any other documents referred to herein shall be governed by, construed, and enforced in accordance with the laws of the State of Nevada (without reference to its conflicts of laws principles or those of any other jurisdiction).

8. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, executors, administrators, representatives, successors, and assigns.

9. Amendments; Waivers. This Agreement may not be modified, amended, or terminated except by an instrument in writing, signed by each of the parties affected thereby. No failure to exercise and no delay in exercising any right, remedy, or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity,

10. Entire Agreement. All agreements, covenants, representations and warranties, express or implied, oral or written, of the parties hereto concerning the subject matter hereof are contained herein. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, covenants, representations, and warranties concerning the subject matter hereof are merged herein.

11. Counterparts. If this Agreement is executed in counterparts, each counterpart shall be deemed an original, and all counterparts so executed shall constitute one agreement binding on all of the parties hereto, notwithstanding that all of the parties are not signatory to the same counterpart.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement as of the date first above written.

COMPANY:

FTE NETWORKS, INC.

By: _____
Name: Michael P. Beys
Title: Interim Chief Executive Officer

SELLERS:

Fred Sacramone

Brian McMahon

EXHIBIT A

Seller Name and Address	Shares of Series H Preferred Stock Being Sold	Aggregate Purchase Price
Fred Sacramone [address]	33	\$ 33
Brian McMahon [address]	67	\$ 67

